Case No. 87943

IN THE SUPREME COURT OF THE STATE OF NEVADA

BLACKSTAR ENTERPRISES GROUP, INC.

Appellant,

v.

GS CAPITAL PARTNERS LL,

Respondent,

Appeal from the Eighth Judicial District Court, Clark County
The Honorable Mark R. Denton, District Judge
District Court Case No. A-23-881099-B

MOTION FOR STAY PENDING APPEAL

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RULE 26.1 DISCLOSURE

The undersigned counsel of record certifies that the foregoing are persons or entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the justices of this Court may evaluate possible disqualification or recusal.

Blackstar Enterprises Group ("Blackstar") has a parent company International Hedge Group, Inc. and no public companies own 10% or more of its stock.

Blackstar been represented by attorneys at the law firm Brownstein Hyatt Farber Schreck, LLP and the law firm Haynes Boone, LLP for the entire duration of this case.

DATED this 23nd day of January, 2024.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

/s/ Eric D. Walther

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Appellant Blackstar Enterprise Group ("Blackstar") moves for a stay pending appeal. The district court issued a 30-day stay to allow Blackstar to seek a further stay from this Court. That stay expires on **February 18, 2024**. Absent a stay, Blackstar will suffer irreparable harm: the permanent loss of 20% of its company.

I. BACKGROUND

This appeal from a preliminary injunction order involves an extraordinary exercise of judicial power that requires this Court's intervention. Respondent GS Capital Partners, LLC ("GS Capital") lent Blackstar $60,000, secured by Blackstar's stock. Several years later, GS Capital sued to compel Blackstar to increase its stock reserve. Its lawsuit sought immediate injunctive relief, claiming that if Blackstar failed to increase the stock reserves (the collateral available to GS Capital to satisfy the debt) then GS Capital may not ever get paid back on the outstanding $30,000 still owed. Within days of the filing, Blackstar paid off the entire balance of the debt—as calculated by GS Capital—and GS Capital accepted the full payment.

Yet, *after* accepting payment, and *after* a non-evidentiary hearing on GS Capital's request to freeze Blackstar's shares, GS Capital changed its requested relief; suddenly, GS Capital abandoned its original request to simply preserve the shares and asked the Court to compel Blackstar to convert 20% of its stock so that GS Capital could sell it to satisfy the (undisputedly paid-off) debt. The day after GS Capital made this extraordinary request, and without hearing from Blackstar at all,

the district court issued a mandatory injunction compelling Blackstar to transfer 20% of its company's stock to GS Capital for GS Capital to sell on the open market. This gave GS Capital hundreds of thousands of dollars in stock (collateral) to "pay-off" an already-paid-off $33,000 debt. Perhaps recognizing the magnitude of its original error, the Court stayed its mandatory injunction (issued in a preliminary posture) for 30-days so Blackstar could seek a further stay from this Court pending appeal. Blackstar now seeks to extend that stay of the preliminary, mandatory order to prevent further irreparable harm.

A. Blackstar borrows $60,000 from GS Capital, Blackstar stock is collateral for the Note, and GS Capital converts some stock.

Two years ago, Blackstar borrowed $60,000 from GS capital pursuant to a Securities Purchase Agreement (the "Securities Agreement"), Ex. 1, and a promissory note (the "Note"), Ex. 2. The Securities Agreement is a contract for the purchase of the Note and includes an exclusive New York forum selection clause. Ex. 1, § 5(a). Besides requiring litigation about the stock to occur in New York, the Securities Agreement also required Blackstar to issue and sell securities. *Id.* at § 1(a). The Note obligated Blackstar to payback GS Capital with principal and interest, and it prohibited prepayment within 180 days of execution. Ex. 2, § 4(c). The prepayment provision expired before GS Capital sued. Nothing in the Note prohibited Blackstar from paying back principal and interest to satisfy the Note.

As an alternative to cash, the Note allows the conversion of some shares in exchange for the principal; but it expressly prohibits any conversion if it means GS Capital will own more than 4.99% of the outstanding shares of the Common Stock of the Company. *Id.* at §4(a). The Note also requires certain shares to be held in reserve to permit a conversion. *Id.* at § 12. Where GS Capital exercises a conversion right (a "Notice of Conversion") but no Blackstar shares are available, the Note provides that the "Notice of Conversion may be rescinded." *Id*.

Failing to replenish the stock reserves and failing to timely pay the Note are both "Events of Default." *Id.* at § 8(l). The remedy for such an Event of Default is that the Note is considered "due and payable" immediately. *Id*.

B. GS Capital sues for a temporary restraining order and an injunction to require Blackstar to increase its share reserve.

In November 2023, GS Capital moved for injunctive relief in the form of an increased share reserve to protect GS Capital's "collateral." Ex. 3 (without exhibits). GS Capital's requested relief did not include any request for a transfer or conversion of any shares. GS Capital complained that Blackstar breached by failing to make "the necessary increases in reserves." *Id.* at 8. GS Capital claimed it had made one conversion request that Blackstar had failed to honor. *Id.* Under the heading of "Injunctive Relief Requested," GS Capital sought only a hold on Blackstar selling or transferring shares. *Id*. at 10-11. GS Capital expressly argued that it needed the reserve because it is collateral for the underlying payment:

> The Share Reserve is unique and the failure to hold any shares in reserve wholly undermines **the collateral** for which Plaintiff secured its loan to Defendant.

Id. at 12 (emphasis added). GS Capital reiterated that it sought "specific performance" in the form of the reserve to preserve its collateral: "Absent specific performance, Plaintiff is at risk of losing all of its collateral securing the Agreement, in turn compromising the Note." *Id.* at 13. **GS Capital did not request any relief in the form of a conversion of any shares of stock.**

The trial court issued an *ex parte* temporary restraining order preventing Blackstar from "any and all transfers, encumbrances, pledges, transfers, sales, assignment, issuances, or other disposition or reservation of the shares of [Blackstar's] Common Stock [.]" Ex. 4.

C. Before the hearing on GS Capital's requested preliminary injunction to freeze shares, Blackstar pays off the entire Note.

Blackstar paid the principal, interest, and penalties under the Note by wire transfer on November 15, 2023. Ex. 5. Blackstar tried to pay the Note sooner, but GS Capital refused to provide payoff information for several days. GS Capital accepted the payment, which was made based on GS Capital's calculation of the debt outstanding. The Note itself provides that payment "shall satisfy and discharge the liability for principal on this Note." Ex. 2, Intro.

D. In a reply brief before the preliminary injunction hearing, GS Capital reduces the number of shares it seeks to reserve.

GS Capital's Reply brief changed the requested relief to limit the amount it sought to require Blackstar to hold in reserve. Specifically, GS Capital no longer sought 700,000,000 shares in reserve, but instead GS Capital sought 257,701,499 shares in reserve. Ex. 6 at 13 (without exhibits). GS Capital calculated the new reserve amount because it now speculated it "would have" made four conversion requests between its first request on November 2, and when it accepted full payment on the Note. *Id*. at 6-7. GS Capital never actually made four conversion requests, nor did GS Capital identify any contractual provisions that allowed it to make multiple conversion requests. Moreover, GS Capital did not request new relief in the form of conversions, just an increase in reserves. *Id.* at 13.

Blackstar requested and received leave to file a sur-reply and responded to the new relief requested in GS Capital's Reply. In that sur-reply, Blackstar explained that GS Capital's new theory was flawed because a party with a paid-off note cannot enjoin the disposition of collateral securing a note. The parties held a non-evidentiary hearing where the Court briefly heard argument from counsel.

a. <u>After the hearing, and based on a post-hearing response to the sur-reply, the Court compels Blackstar to let GS Capital sell 20% of Blackstar's stock</u>.

The Monday after the hearing, GS Capital filed a response to the sur-reply arguing **<u>for the first time</u>** that it was entitled to extraordinary and brand-new relief in the form of a **<u>mandatory</u>** injunction requiring the specific conversions of 20% of Blackstar's stock in satisfaction of the Note. Ex. 7. Specifically, GS Capital suddenly

claimed a right to convert four different times based on speculation that GS Capital would have converted four times before the Note was paid off. *Id.* at 8. This post-hearing filing was the very first time that GS Capital advanced this theory; in other words, suddenly GS Capital no longer sought a restraining order preventing encumbrance of shares, it sought the right to sell the shares based on a counterfactual hypothetical about what it "would have" done to satisfy a Note that had already been paid off. *Id*. GS Capital's new requested relief would give GS Capital the right to sell 20% of Blackstar to satisfy a debt of $0.

Just one day later, and without any briefing, argument, or evidence from Blackstar about GS Capital's brand-new argument and brand-new requested relief, the district court issued a minute order granting the extraordinary relief that was first requested in the response to the sur-reply. Ex. 8 ("Court GRANTS Plaintiff's Motion and will issue the **mandatory** injunctive relief sought by Plaintiff … within Plaintiff's **Response to Blackstar's Surreply**) (emphasis added). This occurred without notice that the Court was considering granting "mandatory" injunctive relief requiring the sale of 20% of Blackstar. The Court's final written order recognizes that it granted "specific performance," and "mandatory injunctive relief." Ex. 9 at 3-4.

Blackstar sought reconsideration and a stay. GS Capital sold 10% of Blackstar's stock on the open market. The district court denied reconsideration but

granted a 30-day stay to allow Blackstar to seek a stay from this Court pending appeal. Ex. 10.

II. ARGUMENT

As the district court already determined, a stay pending appeal is appropriate in this case. All four factors in NRAP 8(c) favor a stay: (1) Whether the object of the appeal will be defeated if the stay is denied; (2) Whether appellant will suffer irreparable or serious injury if the stay is denied; (3) Whether respondent will suffer irreparable or serious injury if the stay is granted; and (4) Whether appellant is likely to prevail on the merits in the appeal. NRAP 8(c).

A. The object of the appeal will be defeated if the stay is denied because GS Capital will sell the remaining Blackstar stock in its Reserve.

The district court's mandatory injunction awards specific performance requiring Blackstar to authorize the conversion (and sale) of 20% of Blackstar's stock. If this Court does not stay that order pending the appeal, the remaining Blackstar stock in GS Capital's Reserve Account will be converted and sold on the open market and **cannot be recovered** if Blackstar is successful on appeal. This Court routinely grants a stay in circumstances like this where, without a stay, there is a high likelihood of defeating the point of the appeal. *See Sobol v. Cap. Mgmt Consultants, Inc.*, 102 Nev. 444, 446, 726 P.2d 335, 337 (1986) (granting a stay because lower court action will "unreasonably interfere with a business or destroy its credit or profits" which "may do an irreparable injury")

B. Blackstar is likely to prevail because the district court erred in granting a mandatory injunction in a preliminary context for a paid-off Note.

The district court will likely be reversed for several reasons. First, the district court lacked jurisdiction to order specific performance under the Security Agreement because that contract contains a mandatory New York forum selection clause. Ex. 1, § 5(a); *see Am First Fed. Credit Union v. Soro*, 131 Nev. 737, 740-41 (2015) (mandatory forum selection clauses must be enforced as written). The district court also committed clear error when it continued to entertain GS Capital's requested relief of compelling the sale of collateral to satisfy a paid-off Note. Once GS Capital received payment in full on the Note (per its own calculations) it was not entitled to further relief. *See, e.g.*, *Elyousef v. O'Reilly & Ferrario, LLC*, 126 Nev. 441, 443-444, 245 P.3d 547, 549 (2010) (explaining that a plaintiff can recover "only once for a single injury").

The district court compounded the error by making it in the context of a preliminary injunction hearing without any notice to Blackstar. Courts must "provide clear and unambiguous notice to the parties 'either before the hearing commences or at a time which will still afford the parties a full opportunity to present their respective cases.'" *Zupanicic v. Sierra Vista Recreation*, 97 Nev. 187, 192 (1981); N.R.C.P. 65(a)(2). This Court has endorsed federal precedent from the injunction context that holds "that generally notice is insufficient if given 'after the

evidentiary hearing has been concluded.'" *Id.* (quoting *Gellman v. State of Maryland*, 538 F.2d 603, 605 (4th Cir. 1976)).

The lack of any discovery, an evidentiary hearing, or even a response from Blackstar on the requested stock conversion will result in significant unintended consequences, including that the ordered stock conversion will violate federal securities laws. SEC Rule 144; 17 C.F.R. § 230.144 (establishing numerous requirements for the transfer and sale of securities, including on public information, holding periods, number of shares allowed, manner of sales, and notice to the SEC). By any measure, granting mandatory injunctive relief that was first requested in a post-hearing response to a sur-reply was procedurally deficient and improper—and a compelling reason for reversal on appeal.

Further, a preliminary injunction is limited to preserving the status quo. NRCP 65(a); *see Dixon v. Thatcher*, 103 Nev. 414, 415 (1987) (describing the elements of a preliminary injunction as to "preserve the status quo until trial"). The status quo "refers not simply to any situation before the filing of a lawsuit, but instead to the last uncontested status which preceded the pending controversy." *GoTo.com v. Walt Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2010). In contrast, specific performance is only available after a trial on the merits and where the moving party satisfies four elements: (1) the terms of the contract are definite and certain; (2) the remedy at law is inadequate; (3) the appellant has tendered

performance; and (4) the court is willing to order it. *See Serpa v. Darling*, 107 Nev. 299, 305 (1991); *see also H&W Industries, Inc. v. Foremost Plastics Corp.*, 860 F.2d 172, 174-75 (5th Cir. 1988) (breach of contract case holding that the trial court failed to comply with the "well-settled" rule "that there must be some notice to the parties that the trial court will rule on the merits following the preliminary injunction proceeding;" opining that it is "inappropriate" for a court "at a preliminary injunction stage to give final judgment on the merits." (quotation omitted)).

C. There is no risk of harm to GS Capital, which received full payment on the Note many times over already, including through prior conversions.

GS Capital does not suffer any prospect of harm if the stay is granted. GS Capital has already been made whole on the Note—including because it accepted payment in full of the outstanding amount owed. Indeed, GS Capital has already recovered hundreds of thousands of dollars (at least $600,000 total) beyond what it is owed from Blackstar—including interest, penalties, and attorneys' fees. Specifically, using the recent stock price, GS Capital has likely already recovered over $300,000, just from the sale of converted stock that occurred before the district court issued its stay. This is in addition to the $60,000 it recovered for selling stock previously, and the approximately $51,000 Blackstar paid directly (and GS Capital accepted) to satisfy the Note. Ex. 5. There is no risk of harm to GS Capital from a stay of the district court's erroneous order. The risk to Blackstar, on the other hand, is the permanent loss of 20% of its stock before this Court can review the case.

DATED this 23rd day of January, 2024.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

/s/ Eric D. Walther

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed and served the **MOTION FOR STAY PENDING APPEAL** with the Clerk of the Court of the Supreme Court of Nevada by using the Court's Electronic Filing System on January 23, 2024.

/s/ Wendy Cosby
an employee of Brownstein Hyatt Farber Schreck, LLP

EXHIBIT 1

SECURITIES PURCHASE AGREEMENT

This **SECURITIES PURCHASE AGREEMENT** (the "Agreement"), dated as of October 11, 2021, by and between **BLACKSTAR ENTERPRISE GROUP, INC**, a Delaware corporation, with headquarters located at 4450 Arapahoe Ave., Suite 100, Boulder, CO 80303 (the "Company") and **GS CAPITAL PARTNERS, LLC**, with its address at 30 Washington Street, Suite 5L, Brooklyn, NY 11201, (the "Buyer").

WHEREAS:

A. The Company and the Buyer are executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by the rules and regulations as promulgated by the United States Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "1933 Act");

B. Buyer desires to purchase and the Company desires to issue and sell, upon the terms and conditions set forth in this Agreement an 8% convertible note of the Company, in the form attached hereto as Exhibit A in the aggregate principal amount of $60,000.00 (together with any note(s) issued in replacement thereof or as a dividend thereon or otherwise with respect thereto in accordance with the terms thereof, the "Note"), convertible into shares of common stock, of the Company (the "Common Stock"), upon the terms and subject to the limitations and conditions set forth in such Note. The Note shall contain an original issue discount of $2,500.00 such that the purchase price of the Note shall be $57,500.00.

C. The Buyer wishes to purchase, upon the terms and conditions stated in this Agreement, such principal amount of Note as is set forth immediately below its name on the signature pages hereto; and

NOW THEREFORE, the Company and the Buyer severally (and not jointly) hereby agree as follows:

1. Purchase and Sale of Note.

a. Purchase of Note. On the Closing Date (as defined below), the Company shall issue and sell to the Buyer and the Buyer agrees to purchase from the Company such principal amount of Note as is set forth immediately below the Buyer's name on the signature pages hereto.

b. Form of Payment. On the Closing Date (as defined below), (i) the Buyer shall pay the purchase price for the Note to be issued and sold to it at the Closing (as defined below) (the "Purchase Price") by wire transfer of immediately available funds to the Company, in accordance with the Company's written wiring instructions, against delivery of the Note in the principal amount equal to the Purchase Price as is set forth immediately below the Buyer's name on the signature pages hereto, and (ii) the Company shall deliver such duly executed Note on behalf of the Company, to the Buyer, against delivery of such Purchase Price.

c. Closing Date. The date and time of the first issuance and sale of the Note pursuant to this Agreement (the "Closing Date") shall be on or about October 11, 2021, or such other mutually agreed upon time. The closing of the transactions contemplated by this Agreement (the "Closing") shall occur on the Closing Date at such location as may be agreed to by the parties.

2. Buyer's Representations and Warranties. The Buyer represents and warrants to the Company that:

a. Investment Purpose. As of the date hereof, the Buyer is purchasing the Note and the shares of Common Stock issuable upon conversion of or otherwise pursuant to the Note, such shares of Common Stock being collectively referred to herein as the "Conversion Shares" and, collectively with the Note, the "Securities") for its own account and not with a present view towards the public sale or distribution thereof, except pursuant to sales registered or exempted from registration under the 1933 Act; provided, however, that by making the representations herein, the Buyer does not agree to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption under the 1933 Act.

b. Accredited Investor Status. The Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D (an "Accredited Investor"). Any of Buyer's transferees, assignees, or purchasers must be "accredited investors" in order to qualify as prospective transferees, permitted assignees in the case of Buyer's or Holder's transfer, assignment or sale of the Note.

c. Reliance on Exemptions. The Buyer understands that the Securities are being offered and sold to it in reliance upon specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying upon the truth and accuracy of, and the Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of the Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of the Buyer to acquire the Securities.

d. Information. The Buyer and its advisors, if any, have been, and for so long as the Note remain outstanding will continue to be, furnished with all materials relating to the business, finances and operations of the Company and materials relating to the offer and sale of the Securities which have been requested by the Buyer or its advisors. The Buyer and its

advisors, if any, have been, and for so long as the Note remain outstanding will continue to be, afforded the opportunity to ask questions of the Company. Notwithstanding the foregoing, the Company has not disclosed to the Buyer any material nonpublic information and will not disclose such information unless such information is disclosed to the public prior to or promptly following such disclosure to the Buyer. Neither such inquiries nor any other due diligence investigation conducted by Buyer or any of its advisors or representatives shall modify, amend or affect Buyer's right to rely on the Company's representations and warranties contained in Section 3 below. The Buyer understands that its investment in the Securities involves a significant degree of risk. The Buyer is not aware of any facts that may constitute a breach of any of the Company's representations and warranties made herein.

e. Governmental Review. The Buyer understands that no United States federal or state agency or any other government or governmental agency has passed upon or made any recommendation or endorsement of the Securities.

f. Transfer or Re-sale. The Buyer understands that (i) the sale or re-sale of the Securities has not been and is not being registered under the 1933 Act or any applicable state securities laws, and the Securities may not be transferred unless (a) the Securities are sold pursuant to an effective registration statement under the 1933 Act, (b) in the case of subparagraphs (c), (d) and (e) below, the Buyer shall have delivered to the Company, at the cost of the Buyer, an opinion of counsel that shall be in form, substance and scope customary for opinions of counsel in comparable transactions to the effect that the Securities to be sold or transferred may be sold, or transferred pursuant to an exemption from such registration, including the removal of any restrictive legend which opinion shall be accepted by the Company, (c) the Securities are sold or transferred to an "affiliate" (as defined in Rule 144 promulgated under the 1933 Act (or a successor rule) ("Rule 144") of the Buyer who agrees to sell or otherwise transfer the Securities only in accordance with this Section 2(f) and who is an Accredited Investor, (d) the Securities are sold pursuant to Rule 144, or (e) the Securities are sold pursuant to Regulation S under the 1933 Act (or a successor rule) ("Regulation S"); (ii) any sale of such Securities made in reliance on Rule 144 may be made only in accordance with the terms of said Rule and further, if said Rule is not applicable, any re-sale of such Securities under circumstances in which the seller (or the person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC thereunder; and (iii) neither the Company nor any other person is under any obligation to register such Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder (in each case). Notwithstanding the foregoing or anything else contained herein to the contrary, the Securities may be pledged as collateral in connection with a bona fide margin account or other lending arrangement.

g. Legends. The Buyer understands that the Note and, until such time as the Conversion Shares have been registered under the 1933 Act will be sold pursuant to Rule 144 or Regulation S without any restriction as to the number of securities as of a particular date that can then be immediately sold, the Conversion Shares may bear a restrictive legend in substantially the following form (and a stop-transfer order may be placed against transfer of the certificates for such Securities):

"NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE EXERCISABLE HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL (WHICH COUNSEL SHALL BE SELECTED BY THE HOLDER), IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES."

The legend set forth above shall be removed and the Company shall issue a certificate without such legend to the holder of any Security upon which it is stamped, if, unless otherwise required by applicable state securities laws, (a) such Security is registered for sale under an effective registration statement filed under the 1933 Act or otherwise may be sold pursuant to Rule 144 or Regulation S without any restriction as to the number of securities as of a particular date that can then be immediately sold, and (b) such holder provides the Company with an opinion of counsel, in form, substance and scope customary for opinions of counsel in comparable transactions, to the effect that a public sale or transfer of such Security may be made without registration under the 1933 Act, and that legend removal is appropriate, which opinion shall be accepted by the Company so that the sale or transfer is effected. The Buyer agrees to sell all Securities, including those represented by a certificate(s) from which the legend has been removed, in compliance with applicable prospectus delivery requirements, if any. In the event that the Company does not accept the opinion of counsel provided by the Buyer with respect to the transfer of Securities pursuant to an exemption from registration, such as Rule 144 or Regulation S, within 2 business days, it will be considered an Event of Default under the Note.

h. Authorization; Enforcement. This Agreement has been duly and validly authorized. This Agreement has been duly executed and delivered on behalf of the Buyer, and this Agreement constitutes a valid and binding agreement of the Buyer enforceable in accordance with its terms.

i. Residency. The Buyer is a resident of the jurisdiction set forth immediately below the Buyer's name on the signature pages hereto.

j. No Short Sales. Buyer/Holder, its successors and assigns, agree that so long as the Note remains outstanding, neither the Buyer/Holder nor any of its affiliates

shall not enter into or effect "short sales" of the Common Stock or hedging transaction which establishes a short position with respect to the Common Stock of the Company. The Company acknowledges and agrees that upon delivery of a Conversion Notice by the Buyer/Holder, the Buyer/Holder immediately owns the shares of Common Stock described in the Conversion Notice and any sale of those shares issuable under such Conversion Notice would not be considered short sales.

3. Representations and Warranties of the Company. The Company represents and warrants to the Buyer that:

a. Organization and Qualification. The Company and each of its subsidiaries, if any, is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is incorporated, with full power and authority (corporate and other) to own, lease, use and operate its properties and to carry on its business as and where now owned, leased, used, operated and conducted.

b. Authorization; Enforcement. (i) The Company has all requisite corporate power and authority to enter into and perform this Agreement, the Note and to consummate the transactions contemplated hereby and thereby and to issue the Securities, in accordance with the terms hereof and thereof, (ii) the execution and delivery of this Agreement, the Note by the Company and the consummation by it of the transactions contemplated hereby and thereby (including without limitation, the issuance of the Note and the issuance and reservation for issuance of the Conversion Shares issuable upon conversion or exercise thereof) have been duly authorized by the Company's Board of Directors and no further consent or authorization of the Company, its Board of Directors, or its shareholders is required, (iii) this Agreement has been duly executed and delivered by the Company by its authorized representative, and such authorized representative is the true and official representative with authority to sign this Agreement and the other documents executed in connection herewith and bind the Company accordingly, and (iv) this Agreement constitutes, and upon execution and delivery by the Company of the Note, each of such instruments will constitute, a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms.

c. Issuance of Shares. The Conversion Shares are duly authorized and reserved for issuance and, upon conversion of the Note in accordance with its respective terms, will be validly issued, fully paid and non-assessable, and free from all taxes, liens, claims and encumbrances with respect to the issue thereof and shall not be subject to preemptive rights or other similar rights of shareholders of the Company and will not impose personal liability upon the holder thereof.

d. Acknowledgment of Dilution. The Company understands and acknowledges the potentially dilutive effect to the Common Stock upon the issuance of the Conversion Shares upon conversion of the Note. The Company further acknowledges that its obligation to issue Conversion Shares upon conversion of the Note in accordance with this

Agreement, the Note is absolute and unconditional regardless of the dilutive effect that such issuance may have on the ownership interests of other shareholders of the Company.

e. No Conflicts. The execution, delivery and performance of this Agreement, the Note by the Company and the consummation by the Company of the transactions contemplated hereby and thereby (including, without limitation, the issuance and reservation for issuance of the Conversion Shares) will not (i) conflict with or result in a violation of any provision of the Certificate of Incorporation or By-laws, or (ii) violate or conflict with, or result in a breach of any provision of, or constitute a default (or an event which with notice or lapse of time or both could become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture, patent, patent license or instrument to which the Company or any of its Subsidiaries is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws and regulations and regulations of any self-regulatory organizations to which the Company or its securities are subject) applicable to the Company or any of its Subsidiaries or by which any property or asset of the Company or any of its Subsidiaries is bound or affected (except for such conflicts, defaults, terminations, amendments, accelerations, cancellations and violations as would not, individually or in the aggregate, have a Material Adverse Effect). All consents, authorizations, orders, filings and registrations which the Company is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof. The Company is not in violation of the listing requirements of the OTC Markets Exchange (the "OTC MARKETS") and does not reasonably anticipate that the Common Stock will be delisted by the OTC MARKETS in the foreseeable future, nor are the Company's securities "chilled" by FINRA. The Company and its Subsidiaries are unaware of any facts or circumstances which might give rise to any of the foregoing.

f. Absence of Litigation. Except as disclosed in the Company's Periodic Report filings with the SEC, there is no action, suit, claim, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Company or any of its subsidiaries, threatened against or affecting the Company or any of its subsidiaries, or their officers or directors in their capacity as such, that could have a material adverse effect. Schedule 3(f) contains a complete list and summary description of any pending or, to the knowledge of the Company, threatened proceeding against or affecting the Company or any of its subsidiaries, without regard to whether it would have a material adverse effect. The Company and its subsidiaries are unaware of any facts or circumstances which might give rise to any of the foregoing.

g. Acknowledgment Regarding Buyer' Purchase of Securities. The Company acknowledges and agrees that the Buyer is acting solely in the capacity of arm's length purchasers with respect to this Agreement and the transactions contemplated hereby. The Company further acknowledges that the Buyer is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated hereby and any statement made by the Buyer or any of its respective representatives or agents in connection with this Agreement and the transactions contemplated hereby is not advice or a recommendation and is merely incidental to the Buyer' purchase of the Securities. The

Company further represents to the Buyer that the Company's decision to enter into this Agreement has been based solely on the independent evaluation of the Company and its representatives.

h. No Integrated Offering. Neither the Company, nor any of its affiliates, nor any person acting on its or their behalf, has directly or indirectly made any offers or sales in any security or solicited any offers to buy any security under circumstances that would require registration under the 1933 Act of the issuance of the Securities to the Buyer.

i. Title to Property. The Company and its subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by them which is material to the business of the Company and its subsidiaries, in each case free and clear of all liens, encumbrances and defects except such as are described in Schedule 3(i) or such as would not have a material adverse effect. Any real property and facilities held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as would not have a material adverse effect.

j. Bad Actor. No officer or director of the Company would be disqualified under Rule 506(d) of the Securities Act as amended on the basis of being a "bad actor" as that term is established in the September 19, 2013 Small Entity Compliance Guide published by the Securities and Exchange Commission.

k. Breach of Representations and Warranties by the Company. If the Company breaches any of the representations or warranties set forth in this Section 3, and in addition to any other remedies available to the Buyer pursuant to this Agreement, it will be considered an Event of default under the Note.

4. COVENANTS.

a. Expenses. At the Closing, the Company shall reimburse Buyer for expenses incurred by them in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the other agreements to be executed in connection herewith ("Documents"), including, without limitation, reasonable attorneys' and consultants' fees and expenses, transfer agent fees, fees for stock quotation services, fees relating to any amendments or modifications of the Documents or any consents or waivers of provisions in the Documents, fees for the preparation of opinions of counsel, escrow fees, and costs of restructuring the transactions contemplated by the Documents. When possible, the Company must pay these fees directly, otherwise the Company must make immediate payment for reimbursement to the Buyer for all fees and expenses immediately upon written notice by the Buyer or the submission of an invoice by the Buyer.

b. Listing. The Company shall promptly secure the listing of the Conversion Shares upon each national securities exchange or automated quotation system, if any, upon which shares of Common Stock are then listed (subject to official notice of issuance) and, so long as the Buyer owns any of the Note Securities, shall maintain, so long as any other shares of

Common Stock shall be so listed, such listing of all Conversion Shares from time to time issuable upon conversion of the Note. The Company will obtain and, so long as the Buyer owns any of the Securities, maintain the listing and trading of its Common Stock on the OTC MARKETS or any equivalent replacement market, the Nasdaq stock market ("Nasdaq"), or the New York Stock Exchange ("NYSE") and will comply in all respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Financial Industry Regulatory Authority ("FINRA") and such exchanges, as applicable. The Company shall promptly provide to the Buyer copies of any notices it receives from the OTC MARKETS and any other markets on which the Common Stock is then listed regarding the continued eligibility of the Common Stock for listing on such markets.

c. Corporate Existence. So long as the Buyer beneficially owns the Note, the Company shall maintain its corporate existence and shall not sell all or substantially all of the Company's assets, except in the event of a merger or consolidation or sale of all or substantially all of the Company's assets, where the surviving or successor entity in such transaction (i) assumes the Company's obligations hereunder and under the agreements and instruments entered into in connection herewith and (ii) is a publicly traded corporation whose Common Stock is listed for trading on the OTC MARKETS, Nasdaq or NYSE.

d. No Integration. The Company shall not make any offers or sales of any security (other than the Securities) under circumstances that would require registration of the Securities being offered or sold hereunder under the 1933 Act or cause the offering of the Securities to be integrated with any other offering of securities by the Company for the purpose of any stockholder approval provision applicable to the Company or its securities.

e. Breach of Covenants. If the Company breaches any of the covenants set forth in this Section 4, and in addition to any other remedies available to the Buyer pursuant to this Agreement, it will be considered an event of default under the Note.

5. Governing Law; Miscellaneous.

a. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of laws. Any action brought by either party against the other concerning the transactions contemplated by this Agreement shall be brought only in the state courts of New York or in the federal courts located in the state and county of New York. The parties to this Agreement hereby irrevocably waive any objection to jurisdiction and venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based upon *forum non conveniens*. The Company and Buyer waive trial by jury. The prevailing party shall be entitled to recover from the other party its reasonable attorney's fees and costs. In the event that any provision of this Agreement or any other agreement delivered in connection herewith is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any such provision which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision of any

agreement. Each party hereby irrevocably waives personal service of process and consents to process being served in any suit, action or proceeding in connection with this Agreement or any other Transaction Document by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law.

b. Counterparts; Signatures by Facsimile. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission of a copy of this Agreement bearing the signature of the party so delivering this Agreement.

c. Headings. The headings of this Agreement are for convenience of reference only and shall not form part of, or affect the interpretation of, this Agreement.

d. Severability. In the event that any provision of this Agreement is invalid or unenforceable under any applicable statute or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such statute or rule of law. Any provision hereof which may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

e. Entire Agreement; Amendments. This Agreement and the instruments referenced herein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor the Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be waived or amended other than by an instrument in writing signed by the majority in interest of the Buyer.

f. Notices. All notices, demands, requests, consents, approvals, and other communications required or permitted hereunder shall be in writing and, unless otherwise specified herein, shall be (i) personally served, (ii) deposited in the mail, registered or certified, return receipt requested, postage prepaid, (iii) delivered by reputable air courier service with charges prepaid, (iv) via electronic mail or (v) transmitted by hand delivery, telegram, or facsimile, addressed as set forth below or to such other address as such party shall have specified most recently by written notice. Any notice or other communication required or permitted to be given hereunder shall be deemed effective (a) upon hand delivery or delivery by facsimile, with accurate confirmation generated by the transmitting facsimile machine, at the address or number designated below (if delivered on a business day during normal business hours where such notice is to be received) or delivery via electronic mail, or the first business day following such delivery (if delivered other than on a business day during normal business hours where such notice is to be received) or (b) on the second business day following the date of mailing by express courier

service, fully prepaid, addressed to such address, or upon actual receipt of such mailing, whichever shall first occur. The addresses for such communications shall be:

If to the Company, to:
BLACKSTAR ENTERPRISE GROUP, INC.
4450 Arapahoe Ave., Suite 100
Boulder, CO 80303
Attn: John Noble Harris, CEO

If to the Buyer:
GS CAPITAL PARTNERS, LLC
30 Washington Street, Suite 5L
Brooklyn, NY 11201
Attn: Gabe Sayegh

Each party shall provide notice to the other party of any change in address.

g. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. Neither the Company nor the Buyer shall assign this Agreement or any rights or obligations hereunder without the prior written consent of the other. Notwithstanding the foregoing, the Buyer may assign its rights hereunder to any "qualified person", any "permitted assigns", or "prospective transferee" that acquires or purchases Note Securities in a private transaction from the Buyer or to any of its "affiliates," as that term is defined under the 1934 Act, without the consent of the Company with Buyer's Opinion of Counsel. A qualified person is an "accredited investor" transferee, assignee, or purchaser of the Note who succeeds to the Holder's right, title and interest to all or a portion of the Note accompanied with an Opinion of Counsel as provided for in Section 2(f).

h. Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

i. Survival. The representations and warranties of the Company and the agreements and covenants set forth in this Agreement shall survive the closing hereunder notwithstanding any due diligence investigation conducted by or on behalf of the Buyer. The Company agrees to indemnify and hold harmless the Buyer and all their officers, directors, employees and agents for loss or damage arising as a result of or related to any breach or alleged breach by the Company of any of its representations, warranties and covenants set forth in this Agreement or any of its covenants and obligations under this Agreement, including advancement of expenses as they are incurred.

j. Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in

order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

k. No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

l. Remedies. The Company acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Buyer by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Agreement will be inadequate and agrees, in the event of a breach or threatened breach by the Company of the provisions of this Agreement, that the Buyer shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Agreement and to enforce specifically the terms and provisions hereof, without the necessity of showing economic loss and without any bond or other security being required.

IN WITNESS WHEREOF, the undersigned Buyer and the Company have caused this Agreement to be duly executed as of the date first above written.

BLACKSTAR ENTERPRISE GROUP, INC.

By: _____
Name: John Noble Harris
Title: CEO

GS CAPITAL PARTNERS, LLC.

By: _____
Name: Gabe Sayegh
Title: Manager

AGGREGATE SUBSCRIPTION AMOUNT: $60,000.00

Aggregate Principal Amount of Note:

Aggregate Purchase Price:

Note: $60,000.00 less $2,500.00 in original issue discount, less $2,500.00 in legal fees.

EXHIBIT 2

THIS NOTE AND THE COMMON STOCK ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN AND WILL NOT BE REGISTERED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE RULES AND REGULATIONS PROMULGATED THEREUNDER (THE "1933 ACT")

US $60,000.00

BLACKSTAR ENTERPRISE GROUP, INC.
8% CONVERTIBLE REDEEMABLE NOTE
DUE OCTOBER 11, 2022

FOR VALUE RECEIVED, BLACKSTAR ENTERPRISE GROUP, INC. (the "Company") promises to pay to the order of GS CAPITAL PARTNERS, LLC and its authorized successors and Permitted Assigns, defined below, ("Holder"), the aggregate principal face amount Sixty Thousand Dollars exactly (U.S. $60,000.00) on October 11, 2022 ("Maturity Date") and to pay interest on the principal amount outstanding hereunder at the rate of 8% per annum commencing on October 11, 2021 ("Issuance Date"). The Company acknowledges this Note was issued with a $2,500.00 original issue discount and as such the purchase price was $57,500.00. The interest will be paid to the Holder in whose name this Note is registered on the records of the Company regarding registration and transfers of this Note. The principal of, and interest on, this Note are payable at 30 Washington Street, Suite 5L, Brooklyn, NY 11201, initially, and if changed, last appearing on the records of the Company as designated in writing by the Holder hereof from time to time. The Company will pay each interest payment and the outstanding principal due upon this Note before or on the Maturity Date, less any amounts required by law to be deducted or withheld, to the Holder of this Note by check or wire transfer addressed to such Holder at the last address appearing on the records of the Company. The forwarding of such check or wire transfer shall constitute a payment of outstanding principal hereunder and shall satisfy and discharge the liability for principal on this Note to the extent of the sum represented by such check or wire transfer. Interest shall be payable in Common Stock (as defined below) pursuant to paragraph 4(b) herein. Permitted Assigns means any Holder assignment, transfer or sale of all or a portion of this Note accompanied by an Opinion of Counsel as provided for in Section 2(f) of the Securities Purchase Agreement.

This Note is subject to the following additional provisions:

1. This Note is exchangeable for an equal aggregate principal amount of Notes of different authorized denominations, as requested by the Holder surrendering the same. No service charge will be made for such registration or transfer or exchange, except that Holder shall pay any tax or other governmental charges payable in connection therewith. To the extent that Holder subsequently transfers, assigns, sells or exchanges any of the multiple lesser denomination notes, Holder acknowledges that it will provide the Company with Opinions of Counsel as provided for in Section 2(f) of the Securities Purchase Agreement.

2. The Company shall be entitled to withhold from all payments any amounts required to be withheld under applicable laws.

3. This Note may be transferred or exchanged only in compliance with the Securities Act of 1933, as amended ("Act") and applicable state securities laws. Any attempted transfer to a non-qualifying party shall be treated by the Company as void. Prior to due presentment for transfer of this Note, the Company and any agent of the Company may treat the person in whose name this Note is duly registered on the Company's records as the owner hereof for all other purposes, whether or not this Note be overdue, and neither the Company nor any such agent shall be affected or bound by notice to the contrary. Any Holder of this Note electing to exercise the right of conversion set forth in Section 4(a) hereof, in addition to the requirements set forth in Section 4(a), and any prequalified prospective transferee of this Note, also is required to give the Company written confirmation that this Note is being converted ("Notice of Conversion") in the form annexed hereto as Exhibit A. The date of receipt (including receipt by telecopy) of such Notice of Conversion shall be the Conversion Date. All notices of conversion will be accompanied by an Opinion of Counsel.

4. (a) The Holder of this Note is entitled, at its option, at any time after cash payment, to convert all or any amount of the principal face amount of this Note then outstanding into shares of the Company's common stock (the "Common Stock") at a price for each share of Common Stock equal to **60%** of the **lowest trading price** of the Common Stock as reported on the National Quotations Bureau OTC Marketplace exchange which the Company's shares are traded or any exchange upon which the Common Stock may be traded in the future ("Exchange"), for the ***twenty*** prior trading days including the day upon which a Notice of Conversion is received by the Company or its transfer agent (provided such Notice of Conversion is delivered by fax or other electronic method of communication to the Company or its transfer agent after 4 P.M. Eastern Standard or Daylight Savings Time if the Holder wishes to include the same day closing price). If the shares have not been delivered within 3 business days, the Notice of Conversion may be rescinded. Such conversion shall be effectuated by the Company delivering the shares of Common Stock to the Holder within 3 business days of receipt by the Company of the Notice of Conversion. Accrued but unpaid interest shall be subject to conversion. No fractional shares or scrip representing fractions of shares will be issued on conversion, but the number of shares issuable shall be rounded to the nearest whole share. To the extent the Conversion Price of the Company's Common Stock closes below the par value per share, the Company will take all steps necessary to solicit the consent of the stockholders to reduce the par value to the lowest value possible under law. The Company agrees to honor all conversions submitted pending this increase. *In the event the Company experiences a DTC "Chill" on its shares, the Conversion Price shall be decreased to 50% instead of 60% while that "Chill" is in effect.* In no event shall the Holder be

Initials

allowed to effect a conversion if such conversion, along with all other shares of Company Common Stock beneficially owned by the Holder and its affiliates would exceed 4.99% of the outstanding shares of the Common Stock of the Company (which may be increased up to 9.9% upon 60 days' prior written notice by the Investor). The conversion discount, look back period and other terms will be adjusted on a ratchet basis if the Company offers a more favorable conversion discount, prepayment rate, interest rate, (whether through a straight discount or in combination with an original issue discount), look back period or other more favorable term to another party for any financings while this Note is in effect, including but not limited to defaults, penalties and the remedy for such defaults or penalties.

(b) Interest on any unpaid principal balance of this Note shall be paid at the rate of 8% per annum. Interest shall be paid by the Company in Common Stock ("Interest Shares"). Holder may, at any time, send in a Notice of Conversion to the Company for Interest Shares based on the formula provided in Section 4(a) above. The dollar amount converted into Interest Shares shall be all or a portion of the accrued interest calculated on the unpaid principal balance of this Note to the date of such notice.

(c) The Notes may be prepaid or assigned with the following penalties/premiums:

PREPAY DATE	PREPAY AMOUNT
$\leq$ 60 days	110% of principal plus accrued interest
61- 120 days	125% of principal plus accrued interest
121-180 days	135% of principal plus accrued interest

This Note may not be prepaid after the 180th day. Such redemption must be closed and funded within 3 days of giving notice of redemption of the right to redeem shall be null and void. Any partial prepayments will be made in accordance with the formula set forth in the chart above with respect to principal, premium and interest.

(d) Upon (i) a transfer of all or substantially all of the assets of the Company to any person in a single transaction or series of related transactions, (ii) a reclassification, capital reorganization (excluding an increase in authorized capital) or other change or exchange of outstanding shares of the Common Stock, other than a forward or reverse stock split or stock dividend, or (iii) any consolidation or merger of the Company with or into another person or entity in which the Company is not the surviving entity (other than a merger which is effected solely to change the jurisdiction of incorporation of the Company and results in a reclassification, conversion or exchange of outstanding shares of Common Stock solely into shares of Common Stock) (each of items (i), (ii) and (iii) being referred to as a "Sale Event"), then, in each case, the Company shall, upon request of the Holder, redeem this Note in cash for 150% of the principal amount, plus accrued but unpaid interest through the date of redemption, or at the election of the Holder, such Holder may convert the unpaid principal amount of this Note (together with the amount of accrued but unpaid interest) into shares of Common Stock immediately prior to such Sale Event at the Conversion Price.

(e) In case of any Sale Event (not to include a sale of all or substantially all of the Company's assets) in connection with which this Note is not redeemed or converted, the Company shall cause effective provision to be made so that the Holder of this Note shall have the right

Initials

thereafter, by converting this Note, to purchase or convert this Note into the kind and number of shares of stock or other securities or property (including cash) receivable upon such reclassification, capital reorganization or other change, consolidation or merger by a holder of the number of shares of Common Stock that could have been purchased upon exercise of the Note and at the same Conversion Price, as defined in this Note, immediately prior to such Sale Event. The foregoing provisions shall similarly apply to successive Sale Events. If the consideration received by the holders of Common Stock is other than cash, the value shall be as determined by the Board of Directors of the Company or successor person or entity acting in good faith.

5. No provision of this Note shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of, and interest on, this Note at the time, place, and rate, and in the form, herein prescribed.

6. The Company hereby expressly waives demand and presentment for payment, notice of non-payment, protest, notice of protest, notice of dishonor, notice of acceleration or intent to accelerate, and diligence in taking any action to collect amounts called for hereunder and shall be directly and primarily liable for the payment of all sums owing and to be owing hereto.

7. The Company agrees to pay all costs and expenses, including reasonable attorneys' fees and expenses, which may be incurred by the Holder in collecting any amount due under this Note.

8. If one or more of the following described "Events of Default" shall occur:

(a) The Company shall default in the payment of principal or interest on this Note or any other note issued to the Holder by the Company; or

(b) Any of the representations or warranties made by the Company herein or in any agreement entered into by the Company in connection with the execution and delivery of this Note, shall be false or misleading in any respect; or

(c) The Company shall fail to perform or observe, in any respect, any covenant, term, provision, condition, agreement or obligation of the Company under this Note or any other note issued to the Holder; or

(d) The Company shall (1) become insolvent (which does not include a "going concern opinion); (2) admit in writing its inability to pay its debts generally as they mature; (3) make an assignment for the benefit of creditors or commence proceedings for its dissolution; (4) apply for or consent to the appointment of a trustee, liquidator or receiver for its or for a substantial part of its property or business; (5) file a petition for bankruptcy relief, consent to the filing of such petition or have filed against it an involuntary petition for bankruptcy relief, all under federal or state laws as applicable; or

(e) A trustee, liquidator or receiver shall be appointed for the Company or for a substantial part of its property or business without its consent and shall not be discharged within sixty (60) days after such appointment; or

Initials

(f) Any governmental agency or any court of competent jurisdiction at the instance of any governmental agency shall assume custody or control of the whole or any substantial portion of the properties or assets of the Company; or

(g) One or more money judgments, writs or warrants of attachment, or similar process, in excess of fifty thousand dollars ($50,000) in the aggregate, shall be entered or filed against the Company or any of its properties or other assets and shall remain unpaid, unvacated, unbonded or unstayed for a period of fifteen (15) days or in any event later than five (5) days prior to the date of any proposed sale thereunder; or

(h) Defaulted on or breached any term of any other purchase agreement or note or similar debt instrument into which the Company has entered and failed to cure such default within the appropriate grace period; or

(i) The Company shall have its Common Stock delisted from an exchange (including the OTC Markets exchange) or, if the Common Stock trades on an exchange, then trading in the Common Stock shall be suspended for more than 10 consecutive days or ceases to file its 1934 act reports with the SEC;

(j) If a majority of the members of the Board of Directors of the Company on the date hereof are no longer serving as members of the Board;

(k) The Company shall not deliver to the Holder the Common Stock pursuant to paragraph 4 herein without restrictive legend within 3 business days of its receipt of a Notice of Conversion which includes an Opinion of Counsel expressing an opinion which supports the removal of a restrictive legend; or

(l) The Company shall not replenish the reserve set forth in Section 12, within 3 business days of the request of the Holder.

(m) The Company shall be delinquent in its periodic report filings with the Securities and Exchange Commission; or

(n) The Company shall cause to lose the "bid" price for its stock in a market (including the OTC marketplace or other exchange).

Then, or at any time thereafter, unless cured within 5 days, and in each and every such case, unless such Event of Default shall have been waived in writing by the Holder (which waiver shall not be deemed to be a waiver of any subsequent default) at the option of the Holder and in the Holder's sole discretion, the Holder may consider this Note immediately due and payable, without presentment, demand, protest or (further) notice of any kind (other than notice of acceleration), all of which are hereby expressly waived, anything herein or in any note or other instruments contained to the contrary notwithstanding, and the Holder may immediately, and without expiration of any period of grace, enforce any and all of the Holder's rights and remedies provided herein or any other rights or remedies afforded by law. Upon an Event of Default, interest shall

Initials

accrue at a default interest rate of 24% per annum or, if such rate is usurious or not permitted by current law, then at the highest rate of interest permitted by law. In the event of a breach of Section 8(k) the penalty shall be $250 per day the shares are not issued beginning on the 4th day after the conversion notice was delivered to the Company. This penalty shall increase to $500 per day beginning on the 10th day. In an event of a breach of Section 8(h) the Holder may elect to utilize the same remedy available under the defaulted interest and such remedy shall be incorporated by reference into the terms of this Note. The penalty for a breach of Section 8(n) shall be an increase of the outstanding principal amounts by 20%. Further, if a breach of Section 8(m) occurs or is continuing after the 6 month anniversary of the Note, then the Holder shall be entitled to use the lowest closing bid price during the delinquency period as a base price for the conversion. For example, if the lowest closing bid price during the delinquency period is $0.01 per share and the conversion discount is 50% the Holder may elect to convert future conversions at $0.005 per share.

If the Holder shall commence an action or proceeding to enforce any provisions of this Note, including, without limitation, engaging an attorney, then if the Holder prevails in such action, the Holder shall be reimbursed by the Company for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

The Company must pay the Failure to Deliver Loss by cash payment, and any such cash payment must be made by the third business day from the time of the Holder's written notice to the Company.

9. In case any provision of this Note is held by a court of competent jurisdiction to be excessive in scope or otherwise invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, so that it is enforceable to the maximum extent possible, and the validity and enforceability of the remaining provisions of this Note will not in any way be affected or impaired thereby.

10. Neither this Note nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument signed by the Company and the Holder.

11. The Company represents that it is not a "shell" issuer and has never been a "shell" issuer or that if it previously has been a "shell" issuer that at least 12 months have passed since the Company has reported form 10 type information indicating it is no longer a "shell" issuer. Further. The Company will instruct its counsel to either (i) write a 144 opinion to allow for salability of the conversion shares or (ii) accept such opinion from Holder's counsel.

12. The Company shall issue irrevocable transfer agent instructions reserving 13,245,000 shares of its Common Stock for conversions under this Note (the "Share Reserve"). Upon full conversion of this Note, any shares remaining in the Share Reserve shall be cancelled. The Company shall pay all transfer agent costs and legal fees associated with issuing and delivering the shares to the Holder. If such amounts are to be paid by the Holder, it may deduct such amounts from the amounts being converted. The Company should at all times reserve a minimum of four times the amount of shares required if the note would be fully converted. The Holder may reasonably request increases from time to time to reserve such amounts. The Company will instruct

Initials

its transfer agent to provide the outstanding share information to the Holder in connection with its conversions.

13. The Company will give the Holder direct notice of any corporate actions, including but not limited to name changes, stock splits, recapitalizations etc. This notice shall be given to the Holder as soon as possible under law.

14. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable provision shall automatically be revised to equal the maximum rate of interest or other amount deemed interest permitted under applicable law. The Company covenants (to the extent that it may lawfully do so) that it will not seek to claim or take advantage of any law that would prohibit or forgive the Company from paying all or a portion of the principal or interest on this Note.

15. This Note shall be governed by and construed in accordance with the laws of New York applicable to contracts made and wholly to be performed within the State of New York and shall be binding upon the successors and assigns of each party hereto. The Holder and the Company hereby mutually waive trial by jury and consent to exclusive jurisdiction and venue in the courts of the State of New York or in the Federal courts sitting in the county or city of New York. This Agreement may be executed in counterparts, and the facsimile transmission of an executed counterpart to this Agreement shall be effective as an original.

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Initials

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed by an officer thereunto duly authorized.

Dated: 10-11-2021

BLACKSTAR ENTERPRISE GROUP, INC.

By: _____

Title: CFO, COB

Initials

EXHIBIT A

NOTICE OF CONVERSION

(To be Executed by the Registered Holder in order to Convert the Note)

The undersigned hereby irrevocably elects to convert $_____ of the above Note into _____ Shares of Common Stock of BLACKSTAR ENTERPRISE GROUP, INC. ("Shares") according to the conditions set forth in such Note, as of the date written below.

If Shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer and other taxes and charges payable with respect thereto.

Date of Conversion: _____
Applicable Conversion Price: _____
Signature: _____
[Print Name of Holder and Title of Signer]
Address: _____
_____

SSN or EIN: _____
Shares are to be registered in the following name: _____

Name: _____
Address: _____
Tel: _____
Fax: _____
SSN or EIN: _____

Shares are to be sent or delivered to the following account:

Account Name: _____
Address: _____

_____
Initials

EXHIBIT 3

APP

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TEarl@lewisroca.com
Christine Hotchkin, Bar No. 15568
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Attorneys for Plaintiff GS Capital Partners LLC

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CLARK COUNTY

GS CAPITAL PARTNERS LLC, a Nevada limited liability company, Plaintiff, v. BLACKSTAR ENTERPRISES GROUP, INC. a Delaware limited liability company, and DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive, Defendants.	Case No.: A-23-881099-B Dept. No.: 13 **[EMERGENCY HEARING REQUESTED]** **EX PARTE EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING ORDER, APPLICATION FOR PRELIMINARY INJUNCTION, AND MOTION FOR SPECIFIC PERFORMANCE ON ORDER SHORTENING TIME** [Hon. Judge Mark R. Denton]

Plaintiff GS Capital Partners, LLC, a Nevada corporation ("GS Capital" or alternatively "Plaintiff"), by and through its counsel, Ogonna M. Brown, Trent Earl, and Christine R. Hotchkin of the law firm of Lewis Roca Rothgerber Christie LLP, hereby files this Ex Parte Emergency Application for Temporary Restraining Order, Application for Preliminary Injunction, and Motion for Specific Performance on Order Shortening Time against Blackstar Enterprises Group, Inc., a Delaware limited liability company ("Blackstar", or alternatively, "Defendant"), pursuant to the Remedies provision under the Agreement (defined below), whereunder Defendant agreed that irreparable harm is established upon the event of a breach permitting the imposition of an injunction

or injunctions restraining, preventing or curing any breach of the Agreement and to enforce specifically the terms and provisions hereof, without the necessity of showing economic loss and without any bond or other security being required. Plaintiff also seeks relief under Nevada Rule of Civil Procedure 65 and NRS 33.010.

This Motion is based upon the following grounds and the following reasons: (1) Defendant is in violation of the terms of the Securities Purchase Agreement, dated October 11, 2021 ("Agreement"); (2) Pursuant to the Convertible Promissory Note ("Note"), 13,245,000 shares of Common Stock of the company for issuance are to be reserved. Pursuant to the Note, Defendant is required to reserve a minimum of four times the amount of shares required if the note would be fully converted. Plaintiff may thus request increases to reserve such amounts; (3) Pursuant to the terms of the Agreement and the Note, two separate events of default occurred: first on August 23, 2023, and again on November 2, 2023, when Defendant did not comply with Plaintiff's request for additional shares to Plaintiff's reserves; (4) On August 23, 2023, after making its first request for an additional 75,000,000 shares to Plaintiff's reserve, Plaintiff was informed that there were no authorized shares available for issuance; (5) On November 2, 2023, Plaintiff made another request to increase Plaintiff's reserves by 700,000,000 shares. Plaintiff again was informed there were zero shares available; (6) Plaintiff is concerned that Defendant is going to encumber, transfer, conceal or liquidate Defendant's shares of Common Stock without Plaintiff's authorization which consists of Plaintiff's Collateral. Plaintiff is concerned Defendant will circumvent Plaintiff's efforts to enforce its rights against the Defendant; (7) Injunctive relief is necessary to protect Plaintiff's interest in the company's stock; and (8) Due to these events of default, Plaintiff is entitled to an immediate issuance of a minimum of 700,000,000 shares of Common Stock of Defendant's reserves consisting of the Plaintiff's Collateral, or in the alternative, a hearing for an order to show cause as to why such issuance should not occur and the issuance of a temporary restraining order restricting Defendant from selling, transferring, removing, relocating, encumbering, utilizing or destroying the Collateral pending such a hearing.

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A copy of the proposed Order Granting Temporary Restraining Order is attached hereto as **Exhibit "A"**, and a copy of the proposed Motion for Specific Performance is attached hereto as **Exhibit "B"**.

This Motion is made and based upon the accompanying Memorandum of Points and Authorities, the Declaration of Gabe Sayegh ("Sayegh Decl."), the President of GS Capital Partners, LLC, a true and correct copy of which is attached hereto as **Exhibit "C"**, and the Declaration of Mendy Piekarski ("Piekarski Decl."), a true and correct copy of which is attached hereto as **Exhibit "D"**, as well as any oral argument this Court may entertain.

DATED: November 7, 2023.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Ogonna M. Brown*

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Attorneys for Plaintiff GS Capital Partners LLC

REQUEST FOR HEARING ON SHORTENED TIME ON EX PARTE EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING ORDER, APPLICATION FOR PRELIMINARY INJUNCTION, AND MOTION FOR SPECIFIC PERFORMANCE ON ORDER SHORTENING TIME

GS Capital requests that after the granting of the Temporary Restraining Order ("TRO"), the Motion for Preliminary Injunction and the Motion for Specific Performance be heard on Order Shortening Time pursuant to EDCR 2.26 EDCR 2.26 provides for ex parte relief to shorten time:

> Ex parte motions to shorten time may not be granted except upon an unsworn declaration under penalty of perjury or affidavit of counsel or a self-represented litigant describing the circumstances claimed to constitute good cause and justify shortening of time. If a motion to shorten time is granted, it must be served upon all parties promptly. An order that shortens the notice of a hearing to less than 14 days may not be served by mail. In no event may the notice of the hearing of a motion be shortened to less than 1 day.

Any further delay will jeopardize Plaintiff's rights in Defendant's Common Stock.

Good cause exists as which justifies an Order Shortening Time concerning the hearing of these Motions. If the matter is heard in the ordinary course, it will allow Defendant time to further breach its contractual obligations and ongoing failure to reserve the agreed upon Common Stock, wholly undermining Plaintiff's protections under the Agreement.

DECLARATION OF OGONNA M. BROWN, ESQ. IN SUPPORT OF EX PARTE EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING ORDER, APPLICATION FOR PRELIMINARY INJUNCTION, AND MOTION FOR SPECIFIC PERFORMANCE ON ORDER SHORTENING TIME

I, Ogonna M. Brown, under oath and penalty of perjury say:

1. I am an attorney duly licensed to practice law in the State of Nevada. I am admitted to practice law before this court.

2. I am a partner with the law firm of Lewis Roca Rothgerber Christie LLP and counsel for Plaintiff GS Captial Partners, LLC, ("GS Capital" or alternatively "Plaintiff") in the above-captioned matter.

3. I am over the age of 18 and mentally competent. Except where stated on information and belief, I have personal knowledge of the facts in this matter, and if called upon to testify could and would competently testify thereto in a court of law.

4. I make this Declaration in support of Plaintiff's Emergency Application for Temporary Restraining Order, Application for Preliminary Injunction, and Motion for Specific Performance on Order Shortening Time, against Defendant Blackstar Enterprises Group, Inc. ("Blackstar", or alternatively, "Defendant").

5. An expedited hearing is requested because Defendant has failed to increase the reserve of shares in the company's common stock as required by the Convertible Redeemable Note, attached hereto as **Exhibit "2"** to Sayegh Decl.

6. Plaintiff is concerned that Defendant is going to encumber, transfer, conceal, or liquidate Defendant's shares of Common Stock without Plaintiff's authorization consisting of Plaintiff's Collateral.

. . .

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7. Plaintiff is concerned Defendant will circumvent Plaintiff's efforts to enforce its rights against the Defendant.

8. It is necessary for this Court to hold an emergency motion before the shares are diverted, and to enter an order instructing the company stock transfer agent not to transfer the shares to any other third party, as these shares are pledged to Plaintiff.

9. Absent an expedited hearing, the risk of dissipation and waste on Defendant's part will significantly and irreparably impact Plaintiff's interest in shares of Defendant's Common Stock.

10. This request is brought in good faith to expedite and is not brought for delay.

11. Plaintiff respectfully requests that the Court set the Motion for hearing on the earliest available date and time the Court's calendar permits.

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

Date this 7th day of November, 2023.

/s/ Ogonna M. Brown
OGONNA M. BROWN

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ORDER SHORTENING TIME

Plaintiff having filed a request to shorten time and good cause appearing,

~~**IT IS HEREBY ORDERED** that Defendant shall have up to and including _____, 2023, to file and serve its Opposition. Plaintiff will have up to and including _____, 2023, to file a Reply to Defendant's Opposition.~~

IT IS FURTHER ORDERED that the **EMERGENCY APPLICATION FOR** TEMPORARY RESTRAINING ORDER ~~**PRELIMINARY INJUNCTION AND MOTION FOR SPECIFIC PERFORMANCE ON ORDER SHORTENING TIME**~~ shall be heard on shortened time on the 9th day of November, 2023, at 9:00 a.m./~~p.m.~~ before the above-captioned Court.

IT IS SO ORDERED.

Dated this 7th day of November, 2023

TMB

E51 FB7 08B9 4D46
Mark R. Denton
District Court Judge

Respectfully submitted by:

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Ogonna M. Brown*
Ogonna M. Brown (NBN 7589)
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Attorneys for Plaintiff GS Capital Partners LLC

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPLICATION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I. STATEMENT OF RELEVANT FACTS

Plaintiff GS Capital Partners, LLC, hereby incorporates the facts set forth in the Declaration of Mendy Piekarski and the Declaration of Gabe Sayegh as set forth herein in their entirety.

II. LEGAL ARGUMENT

A. Standard for Injunctive Relief

This Court may issue a preliminary injunction pursuant to Nevada Rule of Civil Procedure 65 and pursuant to NRS 33.010. Pursuant to NRS 33.010:

> An injunction may be granted in the following cases:
> 1. When it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.
> 2. When it shall appear by the complaint or affidavit that the commission or continuance of some act, during the litigation, would produce great or irreparable injury to the plaintiff.
> 3. When it shall appear, during the litigation, that the defendant is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual.

Furthermore, as stated by the Nevada Supreme Court, a temporary restraining order or preliminary injunction is deemed proper when plaintiff demonstrates, "(1) a likelihood of success on the merits; and (2) a reasonable probability that the non-moving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is an inadequate remedy." *Univ. & Cmty. Coll. Sys. of Nevada v. Nevadans for Sound Government*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004); *see Boulder Oaks Community Ass'n v. B&J Andrews Enterprises, LLC,* 125 Nev. 397, 403, 215 P.3d 27, 31 (2009). The Nevada Supreme Court has also stated, "[i]n considering preliminary injunctions, courts also weigh the potential hardships to the relative parties . . . ." *Univ. & Cmty. Coll. Sys. of Nevada v. Nevadans for Sound Government*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004). Injunctive relief is also proper to restore the status quo and undo wrongful conditions. *Leonard v. Stoebling,* 102 Nev. 543, 550-51, 728 P.2d 1358, 1363 (1986).

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Here, injunctive relief is necessary. The potential hardship to Plaintiff is great if a preliminary injunction is not granted. As descried more fully above, Defendant breached and continues to breach its contractual duties to Plaintiff by failing to perform as required pursuant to the terms of the Agreement and the terms of the Note. *See* **Exhibit "1"** and **Exhibit "2"** to Decl. Sayegh. Pursuant to Section 12 of the Note:

> The Company shall issue irrevocable transfer agent instructions reserving 13,245,000 shares of its Common Stock for conversions under this Note (the "Share Reserve") … **The Company should at all times reserve a minimum of four times the amount of shares required if the note would be fully converted.** The Holder may reasonably request increases from time to time to reserve such amounts. [*emphasis added*]

To date, despite demands from Plaintiff, Defendant has failed and/or refused to complete the necessary increase in reserves, resulting in two separate events of default pursuant to the terms of the Agreement and the Note. *Id.*

As expressly stated in the Remedies section of the Agreement:

> [t]he Company [Defendant] acknowledges that a breach by it of its obligations hereunder will cause irreparable harm to the Buyer [Plaintiff] by vitiating the intent and purpose of the transaction contemplated hereby. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Agreement will be inadequate and agrees, in the event of a breach or threatened breach by the Company of the provisions of this Agreement, that the Buyer shall be entitled, in addition to all other available remedies at law or in equity, and in addition to the penalties assessable herein, to an injunction or injunctions restraining, preventing or curing any breach of this Agreement and to enforce specifically the terms and provisions hereof, without the necessity of showing economic loss and without any bond or other security being required.

See Agreement, **Exhibit "1"** to Decl. Sayegh. As the Agreement here is clear on its face, the Court must enforce it as written. *Canfora v. Coast Hotels & Casinos, Inc.*, 121 Nev. 771, 776, 121 P.3d 599, 603 (2005) ("[t]he court has no authority to alter the terms of an unambiguous contract.)

Injunctive relief is proper pursuant to the terms of the Agreement and pursuant to Nevada law. In the event injunctive relief is not ordered immediately to prevent Defendant from transferring, selling, encumbering, or assigning shares in the company to another third party, and in the event the stock transfer agent is not enjoined from effectuating the transfer of the shares to another third party at Defendant's request, Plaintiff's will effectively be

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denied its right of interest in Defendant's Common Stock. Preliminary injunction is necessary to restore the status quo and protect Plaintiff's interests.

1. Plaintiff Has Likelihood of Success on the Merits

The standard for a preliminary injunction is similar for a permanent injunction, however for preliminary injunction the plaintiff must establish "likelihood of success on the merits, rather than actual success." *Amoco Production Co. v. Village of Gambell, AK,* 480 U.S. 531, 546 (1987) (citing *University of Texas v. Camenisch,* 451 U.S. 390, 392, 101 S.Ct. 1830, 1832, 68 L.Ed.2d 175 (1981)). As state by the Nevada Supreme Court, "[w]hile the moving party need not establish certain victory on the merits, it must make a prima facie showing through substantial evidence that it is entitled to the preliminary relief requested." *Shores v. Glob. Experience Specialists, Inc*., 134 Nev. 503, 507, 422 P.3d 1238, 1242 (2018) (citing *Finkel v. Cashman Prof'l, Inc*., 128 Nev. 68, 72, 270 P.3d 1259, 1262 (2012)).

In its Complaint, Plaintiff asserts claims for (1) Breach of Contract, (2) Injunctive Relief, (3) Specific Performance, (4) Breach of Covenant of Good Faith and Fair Dealing and (5) Declaratory Relief against Defendant. *See* Complaint. Here, Plaintiff has a likelihood of success on the merits of each cause of action and is entitled to injunctive relief to prevent Defendant from inflicting irreparable harm upon it. Defendant's actions create the risk of probable, imminent, and irreparable harm to Plaintiff. An order for injunctive relief is necessary to restrict Defendant from selling, transferring, removing, relocating, encumbering, utilizing or destroying Plaintiff's interests in Defendant's stock. In addition, an order for injunctive relief is necessary to restrict the stock transfer agent from following Defendant's instructions to sell, transfer, remove, relocate, encumber, utilize or destroy Plaintiff's interests in Defendant's stock.

2. Irreparable Injury Will Occur if an Injunction is Not Issued.

Plaintiff is entitled to injunctive relief as requested. In the event an injunction is not issued to stop Defendant from transferring the shares that are rightfully owed to Plaintiff, Defendant will be permitted to cause permanent injury to Plaintiff causing it to lose business and profits. *See Sobol v. Capital Management,* 102 Nev. 444, 446, 726 P.2d 335, 337 91986) (*citing Guion v. Terra Marketing of Nev., Inc.,* 90 Nev. 237, 240, 523 P.2d 847, 848 (1974) ("[A]cts committed without

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just cause which unreasonably interfere with a business or destroy its credits or profits, may do an irreparable injury and thus authorize the issuance of an injunction.")

Pursuant to the Remedies provision under the Agreement, Defendant has contractually agreed to an injunction or injunctions restraining, preventing or curing any breach of the Agreement and to enforce specifically the terms and provisions of the Agreement, without the necessity of showing economic loss and without any bond or other security being required. *See* Agreement, **Exhibit "1"** to Decl. Sayegh. Accordingly, based upon the foregoing and the provisions of NRS 33.010, it is clearly established that injunctive relief is appropriate in this action as Plaintiff has sustained and is continuing to sustain irreparable injury, by not receiving reserves in Defendant's Common Stock as promised to Plaintiff. Injunctive relief is necessary to protect Plaintiff's interests.

B. Emergency Ex Parte Relief and Notice to Defendant

NRCP 65(b) provides that a temporary restraining order may be issued without notice to the adverse party or its attorney if:

> (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing that the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.

In the present case, the facts establish that further notice and delay will only cause further irreparable harm to Plaintiff. This Court should hold hearing for an order to show cause why a writ of possession should not issue and the issuance of issue a temporary restraining order restricting Defendant from selling, transferring, removing, relocating, encumbering, utilizing or destroying assets pending such a hearing.

C. Injunctive Relief Requested

Plaintiff therefore seeks a temporary restraining order providing the following relief:

1. A temporary restraining order against Defendant and its agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, ordering Defendant the following:

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a. To immediately refrain from any and all transfers, encumbrances, pledges, transfers, sales, assignment or other disposition of the shares owed to Plaintiff; and

b. To immediately direct its designated stock transfer agent to refrain from any and all transfers, encumbrances, pledges, transfers, sales, assignment or other disposition of the shares owed to Plaintiff.

D. Standard for Specific Performance

"Specific performance is available only when: (1) the terms of the contract are definite and certain; (2) the remedy at law is inadequate; (3) the appellant has tendered performance; and (4) the court is willing to order it." *Serpa v. Darling*, 107 Nev. 299, 304, 810 P.2d 778, 782 (1991); *see also Carcione v. Clark*, 96 Nev. 808,811,618 P.2d 346, 348 (1980).

1. The Terms of the Parties' Agreement are Definite and Certain

The terms of the Agreement are definite and certain. As outlined above, on October 11, 2021, GS Capital Partners, LLC entered into a Securities Purchase Agreement with Blackstar Enterprise Group, Inc. **Exhibit "1"** to Sayegh Decl. The Agreement was evidenced by an 8% Convertible Redeemable Note, governing the terms of the same. In the parties' Agreement, Defendant warranted to "issue irrevocable transfer agent instructions reserving 13,245,000 share of its Common Stock for conversions." **Exhibit "2"** to Sayegh Decl. Defendant was further required to "reserve a minimum of four times the amount of shares required if the note would be fully converted." *Id*. Despite these clear conditions, it has recently become evident that Defendant failed to comply with these unambiguous requirements. Indeed, Defendant recently declined to issue 700,000,000 shares in reserve asserting that there are "zero (0) shares available." **Exhibits "3" through "8"** to Piekarski Decl. Consequently, Defendant is in direct breach of the Agreement.

2. The Remedy at Law is Inadequate Because the Shares are Unique and Cannot be Replicated by Money Damages.

a. <u>Defendant failed to increase Plaintiff's reserves by 700,000,000 shares as dictated by the agreement</u>

Any remedy at law is inadequate as the reserve shares are entirely unique and cannot be replicated by monetary damages. The Agreement between the parties is specific and unambiguous. Defendant was required to issue irrevocable transfer agent instructions reserving 13,245,000 shares of its Common Stock for conversions under the Note evidencing the Agreement, while holding in

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reserve a minimum of four times the amount of shares required if the note would be fully converted. Defendant has unambiguously failed to do so. GS Capital communicated with Blackstar's CEO, Joseph E. Kurczodyna, on November 2, 2023, to request that Defendant reserve 13,245,000 shares of its Common Stock, but he refused to comply with the Note's reserve obligations or to honor GS Capital's conversion notice, without providing any legal basis for such refusal. *See* Piekarski Decl.

Defendant's failure to comply with the agreement is further evidenced by the Transfer Agent's verification on November 2-3, 2023, that zero (0) shares are available for reserve for the benefit of Plaintiff. *See* Emails dated November 2-3, 2023, between Mr. Piekarski and Valeen Nowicki, Relationship Manager of US Shareowner Services, **Exhibits "3" through "8"** to the Piekarski Decl. As set forth expressly in the Note, Defendant's obligation to reserve shares is irrevocable, and no monetary damages or substitution of shares would be an appropriate remedy as the subject shares, held in reserve, are unique and irreplicable.

The Share Reserve is unique and the failure to hold any shares in reserve wholly undermines the collateral for which Plaintiff secured its loan to Defendant. Consequently, it is necessary for this Court to enter an order instructing the Company's Transfer Agent to issue the requested shares in reserve as required by the parties' Agreement. Pursuant to the Agreement, the number of outstanding held by Plaintiff is 1,347,280,000, the entirety of which were to be held in reserve to protect Plaintiff's collateral position. *See* Sayegh Decl. It is necessary for this Court to order specific performance, or alternatively, if Defendant refuses, for the Clerk of the Court, to sign the necessary forms and follow the specific procedures in order to instruct the Transfer Agent to issue in reserve the requested 700,000,000 shares.

3. Plaintiff has Repeatedly Tendered Performance

Plaintiff funded the Note by issuing three (3) separate wire transfers to Defendant in the amount of Fifty-Seven Thousand, Five Hundred and 00/100 Dollars ($57,500.00). The remaining principal balance of the Note is $33,682.00, equating to 1,347,280,000 shares pursuant to the Note and look back conversion price of $0.0001. *See* Sayegh Decl. Plaintiff is only seeking roughly half the amount owed to be issued in reserve as required by the Agreement and Note.

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Upon information and belief, Defendant has no grounds for failing to hold in reserve a minimum of four times the amount of shares required in the event the Note would be fully converted—or 2,926,066,667 shares—as required under the terms of the Agreement. *See* Sayegh Decl. Upon information and belief, the Share Reserves have not been taken for a tax, assessment or fine pursuant to a statute, or seized under an execution or an attachment against the Collateral, or, if so seized, that it is by statute exempt from such seizure.

Plaintiff is entitled to the immediate issuance of the requested Share Reserve that serves as Plaintiff's security under the Agreement as defined by Chapter 104 of the Nevada Revised Statutes. Currently, the subject shares are being wrongfully detained by the Defendant. The alleged cause of Defendant's failure to perform under the Note is unknown.

Plaintiff relied upon Defendant's representations that Plaintiff would be protected with collateral in the form of the subject Share Reserves. Due to the refusal of Defendant to hold these shares in reserve, Plaintiff is entitled to an immediate order that Defendant transfer 700,000 shares to be held in reserve, and an order that instructs the Transfer Agent to reserve 700,000,000 shares as required under the Agreement and Note.

4. Specific Performance is Warranted Under the Circumstances

Plaintiff respectfully urges this Court to order specific performance of the parties' agreement and to require Defendant to immediately issue transfer instructions to reserve the requested shares.

Absent specific performance, Plaintiff is at risk of losing all of its collateral securing the Agreement, in turn compromising the Note. In the event specific performance is not ordered by this Court, the likelihood of repayment to Plaintiff is not likely given that Defendant has defaulted under the terms of the agreements and has left Plaintiff with no remedy. As of the date of this Motion, Plaintiff is concerned that Defendant is going to encumber, transfer, conceal or liquidate the Stock Reserve that is supposed to serve as Plaintiff's collateral, without Plaintiff's prior consent, circumventing Plaintiff's efforts to enforce its rights against Defendant.

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5. Equity Favors Granting Specific Performance and Ordering Defendant to Transfer the Stock Reserve to Plaintiff

Based upon the record before this Court, equity may only be served if this Court orders specific performance. The Nevada Supreme Court's ruling in *Carcione v. Clark*, 96 Nev. 808,811,618 P.2d 346,348 (1980) is instructive:

> Equity regards as done what in good conscience ought to be done. *Woods v. Bromley*, 69 Nev. 96 at 107, 241 P.2d 1103. Specific performance is available when the terms of the contract are definite and certain, *Dodge Bros., Inc. v. Williams Estate Co*., 52 Nev. 364, 287 P.2d 282 (1930), the remedy at law is inadequate, *Harmon v. Tanner Motor Tours*, 79 Nev. 4, 377 P.2d 622 (1963), the plaintiff has tendered performance, *Southern Pacific Co. v. Miller*, 39 Nev. 169, 154 P. 929 (1916), and the court is willing to order it.

Although non-precedential, the Supreme Court's analysis in *Gullo v. City of Las Vegas,* 2015 WL 233493 (Tbl.) (Case No. 61843) (Nev. Jan. 15, 2015), regarding the equity of awarding performance is persuasive here. In *Gullo*, the Supreme Court's review of the record found City of Las Vegas entitled to specific performance appropriate even though the City of Las Vegas's actions in timely performing all of its responsibilities under the purchase agreement meant that a periodic payment otherwise due on the escrow closing date was not made.

> Even where time is made material, by express stipulation, the failure of one of the parties to perform a condition within the particular time limited will not in every case defeat his right to specific performance, if the condition be subsequently performed, without unreasonable delay, and no circumstances have intervened that would render it unjust or inequitable to give such relief. The discretion which a court of equity has to grant or refuse specific performance, and which is always exercised with reference to the circumstances of the particular case before it, may and of necessity must often be controlled by the conduct of the party who bases his refusal to perform the contract upon the failure of the other party to strictly comply with its conditions.

See Gullo, 2015 WL 233493 at *1 (internal quotation marks omitted), *quoting Mosso v. Lee*, 53 Nev. 176,182,295 P. 776, 777-78 (1931) (*quoting Cheney v. Libby*, 134 U.S. 68, 78 (1890) (internal citations omitted)).

In the present case, specific performance is warranted and appropriate because Plaintiff performed its responsibilities under the Agreement, including the payment of $57,500.00 to

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Defendant. Defendant's failure to reserve an appropriate amount of Common Stock pursuant to the Note compromises the collateral for this payment. Plaintiff confirmed on November 3, 2023, that Defendant is holding zero shares of stock in reserve for Plaintiff's benefit, which completely eliminates Plaintiff's protections in the form of collateral to secure the loan.

Under the specific circumstances of this case, equity should be exercised by this Court to ensure that Defendant does not profit from Plaintiff's funds previously provided to Defendant while simultaneously failing to comply with its obligations under the Agreement. Defendant has failed to act in good faith, and as a result Defendant continues to unjustly benefit from Plaintiff's funds. In particular, if Plaintiff does not receive the Common Stock in reserve as originally promised, Defendant will be inequitably rewarded with Plaintiff's funds without providing the bargained for reserve stock, leaving Plaintiff with no collateral or other recourse to recover its loan amount.

III. CONCLUSION

For the reasons set forth above, Plaintiff respectfully requests that this Court issue a temporary restraining order and preliminary injunction, effective immediately, enjoining Defendant from the transfer, sale or encumbrance of Plaintiff's interest in Defendant's stock, and enjoining the stock transfer agent from transferring stock to another third party.

Additionally, Plaintiff respectfully requests that this Court issue an order granting Plaintiff's Motion for Specific Performance requiring Defendant to transfer 700,000 shares of Common Stock and to issue irrevocable instructions to its Transfer Agent to reserve 700,000,000 shares of Common Stock pursuant to the parties' Agreement and Note evidencing the same, and an order directing the Transfer Agent to reserve 700,000,000 shares of stock in reserve.

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If Defendant refuses to comply with this Court's Order, Plaintiff requests that this Court also enter an order for the Clerk of the Court to sign the necessary forms and follow the specific procedures in order to instruct the Transfer Agent to issue in reserve the requested 700,000,000 shares.

DATED: November 7, 2023.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Ogonna M. Brown*
Ogonna M. Brown, Bar No. 7589
Trent Earl, Bar No. 15214
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Attorneys for Plaintiff GS Capital Partners LLC

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EXHIBIT 4

TRO

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Attorneys for Plaintiff GS Capital Partners LLC

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CLARK COUNTY

GS CAPITAL PARTNERS LLC, a New York limited liability company,

Plaintiff,

v.

BLACKSTAR ENTERPRISES GROUP, INC., a Delaware limited liability company, and DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-23-881099-B

Dept. No.: 13

AMENDED TEMPORARY RESTRAINING ORDER

Date of Hearing: November 9, 2023
Time of Hearing: 9:00 a.m.

[Hon. Judge Mark R. Denton]

This matter came on for hearing on November 9, 2023, at 9:00 a.m. before the Honorable Mark R. Denton in connection with Plaintiff GS Capital Partners, LLC, a New Yorklimited liability company's ("GS Capital" or alternatively "Plaintiff") *Ex Parte* Emergency Application for Temporary Restraining Order on Order Shortening Time (the "Motion") against Defendant Blackstar Enterprises Group, Inc., a Delaware Limited Liability Company ("Blackstar" or alternatively "Defendant"). Ogonna M. Brown, Esq. of the law firm of Lewis Roca Rothgerber Christie LLP and Attorney Mendy Piekarski, General Counsel for Plaintiff, appeared on behalf of Plaintiff, and Joseph E. Kurczodyna, the CEO of Defendant Blackstar appeared at the hearing.

. . .

This Court, having reviewed the Plaintiff's Motion, the Complaint filed herein, and the declaration of counsel, and hearing oral argument from the parties hereby finds that Plaintiff is entitled to a Temporary Restraining Order enjoining Defendants from the sale and/or transfer of Defendant's stock held in treasury or the Defendant's reserve or otherwise under Defendant's control until the hearing on the Motion for Preliminary Injunction and Motion for Specific Performance, and for good cause showing, orders as follows:

IT IS HEREBY ORDERED that Plaintiff's Application for Temporary Restraining Order is **GRANTED.**

IT IS FURTHER ORDERED that Defendants, as well as all persons in active concert or participation with them who receive actual notice of this Order, are hereby enjoined and restrained from the sale and/or transfer and/or reservation of any of Defendant's Common Stock held in treasury or Defendant's reserve or otherwise under Defendant's control.

IT IS FURTHER ORDERED that Defendants and their agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, are hereby enjoined and restrained from any and all transfers, encumbrances, pledges, transfers, sales, assignment, issuances or other disposition or reservation of the shares of Defendant's Common Stock held in treasury or Defendant's reserve or otherwise under Defendant's control.

IT IS FURTHER ORDERED that Plaintiff shall be required to file a bond for costs and damages that may be incurred by any party who may be found to be wrongfully restrained or enjoined from this Order in the amount of $1,000.00.

IT IS FURTHER ORDERED that a hearing on Plaintiff's Motion for Preliminary Injunction and Motion for ~~Stay~~ Specific Performance shall be held on November 27, 2023, at 9:00 a.m. in Department 13 of the above-entitled Court.

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IT IS FURTHER ORDERED that this Order to temporarily restrain and enjoin the conduct of Defendant and its agents, including the Transfer Agent, including, but not limited to, EQ Shareowner Services, shall remain in effect until the hearing on a preliminary injunction, unless further extended or modified by order of this Court or stipulation of the parties.

IT IS SO ORDERED.

Dated this 9th day of November, 2023

TMB

600 50A 7B53 F647
Mark R. Denton
District Court Judge

Respectfully submitted by:

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Ogonna M. Brown*
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CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

GS Capital Partners LLC, Plaintiff(s) vs. Blackstar Enterprise Group, Inc., Defendant(s)	CASE NO: A-23-881099-B DEPT. NO. Department 13

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 11/9/2023

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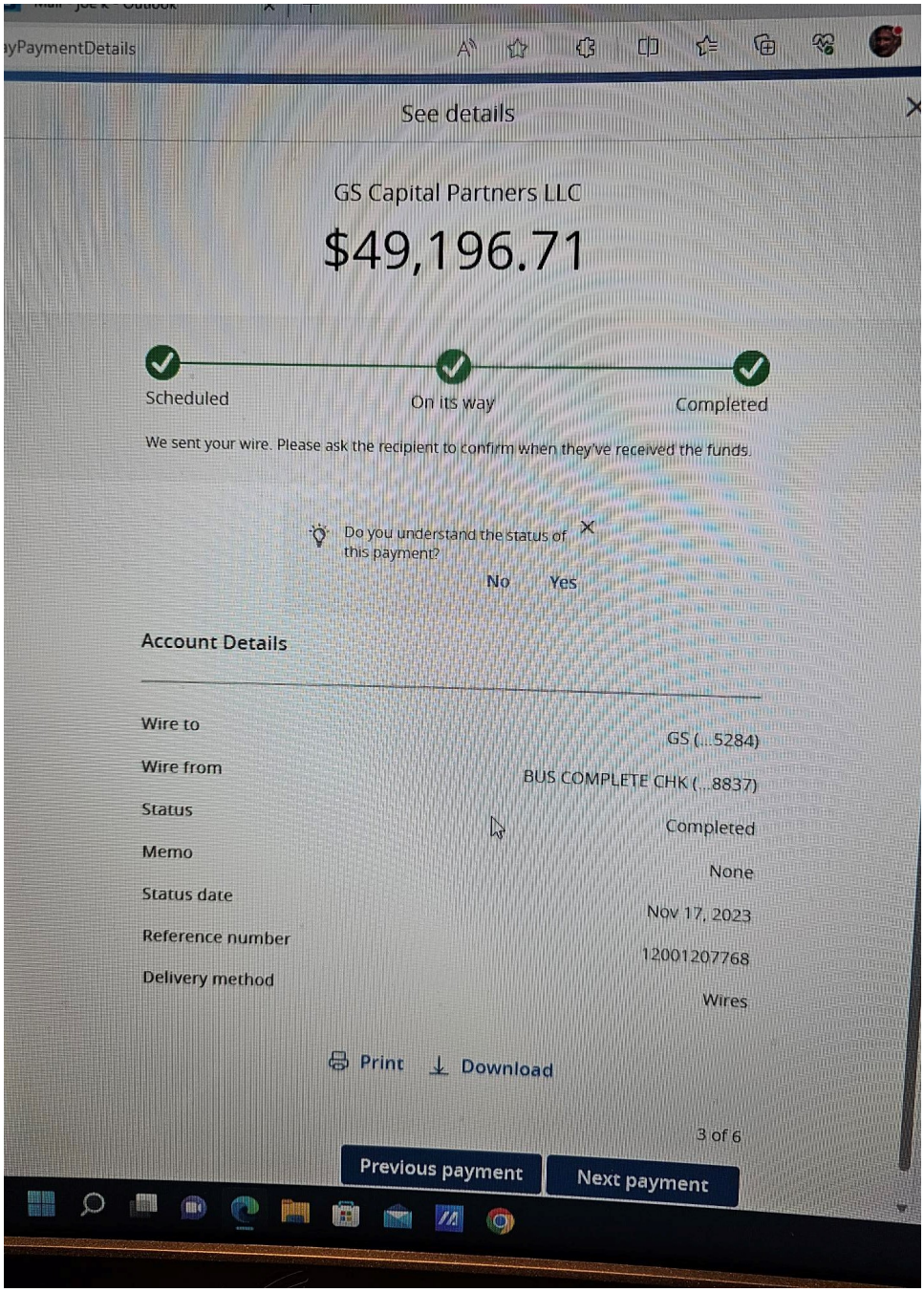
EXHIBIT 5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See details
GS Capital Partners LLC
$49,196.71
Scheduled
On its way
Completed
We sent your wire. Please ask the recipient to confirm when they've received the funds.
Do you understand the status of this payment?
No
Yes
Account Details
Wire to
GS (...5284)
Wire from
BUS COMPLETE CHK (...8837)
Status
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Memo
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Status date
Nov 17, 2023
Reference number
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Delivery method
Wires
Print
Download
3 of 6
Previous payment
Next payment

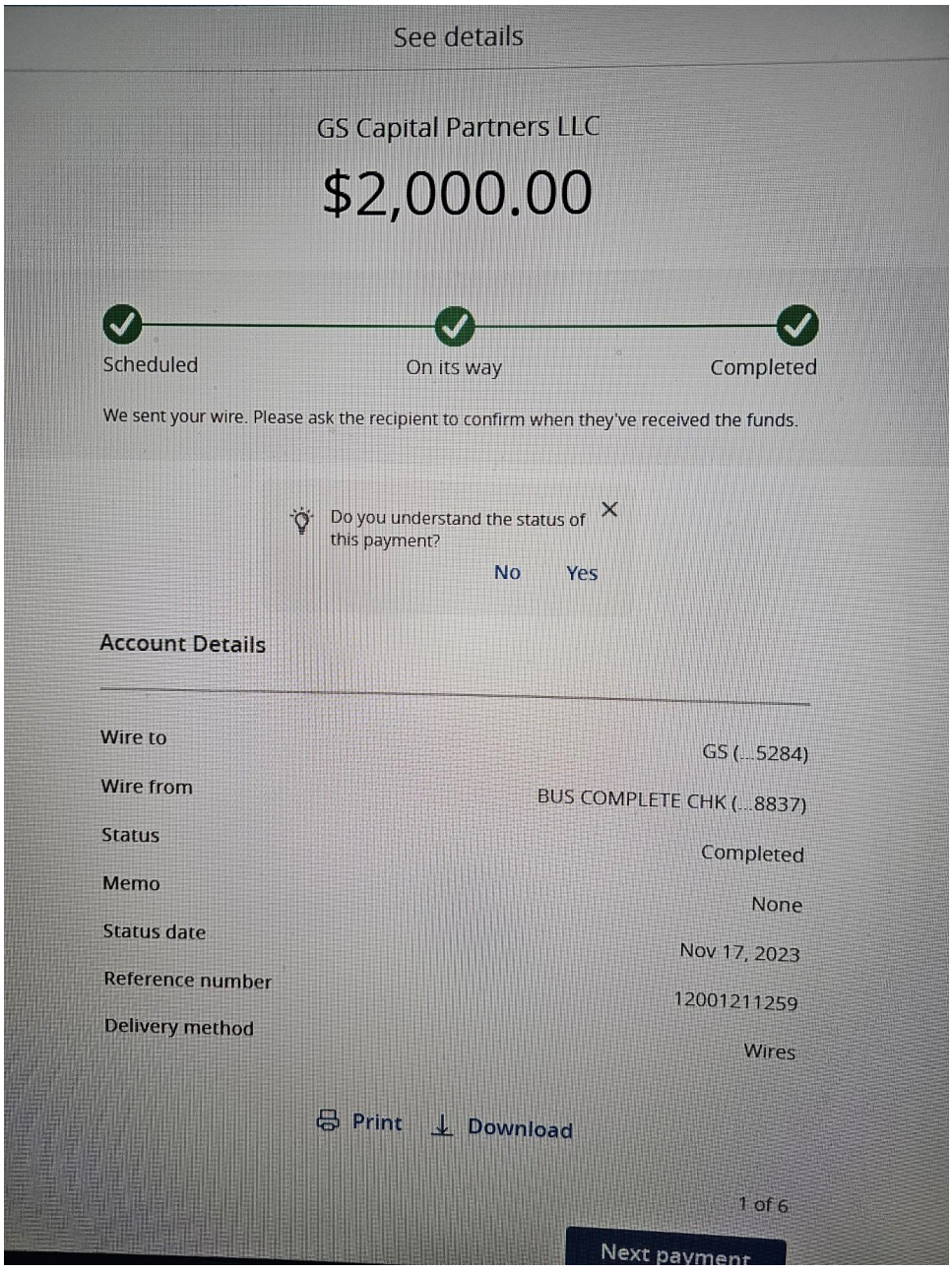
See details
GS Capital Partners LLC
$2,000.00
Scheduled
On its way
Completed
We sent your wire. Please ask the recipient to confirm when they've received the funds.
Do you understand the status of this payment?
No
Yes
Account Details
Wire to
GS (...5284)
Wire from
BUS COMPLETE CHK (...8837)
Status
Completed
Memo
None
Status date
Nov 17, 2023
Reference number
12001211259
Delivery method
Wires
Print
Download
1 of 6
Next payment

EXHIBIT 6

RPLY
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Defendants.

Case No.: A-23-881099-B

Dept. No.: 13

REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND MOTION FOR SPECIFIC PERFORMANCE

Date of Hearing: December 7, 2023
Time of Hearing: 9:00 a.m.

Judge: Hon. Mark R. Denton

Plaintiff GS Capital Partners, LLC, a New York limited liability company ("GS Capital" or alternatively "Plaintiff"), by and through its counsel, Ogonna M. Brown, Trent Earl, and Christine R. Hotchkin of the law firm of Lewis Roca Rothgerber Christie LLP, hereby files its Reply in Support of Plaintiff's Application for Preliminary Injunction and Motion for Specific Performance on Order Shortening Time ("Motion").

This Reply is supported by the Declaration of Gabe Sayegh ("Sayegh Decl."), the President of GS Capital Partners, LLC, a true and correct copy of which is attached hereto as **Exhibit "F"**. This Reply is made and based upon the accompanying Memorandum of Points and Authorities,

together with pleadings and papers on file herein, as well as any oral argument this Court may entertain.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff GS Capital's Motion seeks something that should be straightforward: the benefit of their bargain. GS Capital entered the Note and Agreement to loan funds to Defendant. The Note provided GS Capital with the right to convert the debt into shares of Defendant's publicly trading stock so that GS Capital may capture potential upside in Defendant's business (as a result of the financing). This ability to capture the potential upside is a critical feature of the Note and essential to GS Capital's providing the loan. Indeed, this occurred here when the price and trading volume of Defendant's stock had substantially increased. Accordingly, Plaintiff sought to exercise its conversion rights to receive shares in Defendant's stock as permitted by the Note. Defendant, however, refused to give GS Capital its contractually due shares simply because Joseph Kurczodyna, Blackstar's CEO, has decided that it is not fair for GS Capital to make this level of profit.

The urgency here is that Defendant's stock was worth a small fraction of the current price. By way of example, the current stock price is $0.011 per share when, as recently as October 19, the stock price was $0.0001 – 99% lower! Just as the stock price experienced a dramatic upswing, it can just as easily experience a similar rapid downswing because the stock price in these thinly traded, small companies can fluctuate wildly and quickly, especially where for a company, like Defendant, in dire financial circumstances. Therefore, for this transaction, an entry of an order from this Court compelling specific performance for Blackstar's compliance is crucial, as time is of the essence.

GS Capital is entitled to the benefit of the bargain. In bad faith, Blackstar is now attempting to disregard the terms of the Note and trying to force GS Capital to simply accept a cash payment of the Note's balance—a clear violation of the Note and an impermissible effort by Defendant to rewrite the agreement.

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Defendant's gamesmanship in wiring funds to Plaintiff after the fact, does not retroactively remedy Defendant's breach of the Note and the damages that instantaneously arose upon such breach, as articulated more below. Blackstar's chronic efforts to ignore the express terms of the Agreement and rewrite the contract is a blatant breach, contrary to case law, and this Court should not rewrite the contract because Blackstar refuses to honor the deal to allow GS Capital the benefit of the bargain. Injunctive Relief and Specific Performance are required to protect GS Capital from Blackstar's bad faith breach and impermissible efforts to rewrite the agreement by disregarding its express terms.

II. RECENT DEVELOPMENTS SINCE PLAINTIFF FILED ITS MOTION

Plaintiff filed its Motion for Injunctive Relief and Specific Performance on November 7, 2023. Since that time, there have been some significant developments that directly impact Plaintiff's Motion and the scope of the relief requested. Contrary to Defendant's arguments in opposition to Plaintiff's Motion ("Opposition"), however, these developments do not warrant denial of Plaintiff's Motion. Rather, these developments simply modify Plaintiff's request for relief:

1. On November 9, 2023, the State Court entered a Temporary Restraining Order, which remains in effect until the Court's ruling on the Motion for Injunctive Relief and for Specific Performance.

2. The hearing on the Motion for Injunctive Relief and for Specific Performance was originally set for November 27, 2023, at 9:00 a.m.

3. On November 17, 2023, Defendant Blackstar Enterprises Group, Inc. filed a notice of removal of the State Court Action to Federal Court.

4. On November 21, 2023, this Court issued a Notice vacating the hearing on the Motion for Injunctive Relief and for Specific Performance, set for November 27, 2023.

5. On November 21, 2023, the Parties stipulated to remand the matter back to State Court. *See* Order to Remand.

6. At the time Plaintiff filed its Motion for Injunctive Relief and Specific Performance, the remaining principal balance on the Note was $33,682.00, excluding interest, penalties, attorneys' fees and costs.

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7. Subsequently, on November 17, 2023, GS Capital received two wires in the aggregate amount of $51,166.71 from Blackstar, purporting to pay the balance of the Note, including penalties and interest, but excluding attorneys' fees (the "Nov. 17 Wire").

8. On November 20, 2023, Defendant filed its quarterly report on Form 10-Q with the Securities and Exchange Commission. *See* Nov. 20, 2023, Blackstar Form 10-Q, a true and correct copy of which is attached as **Exhibit "E"** hereto.[1] The Form 10-Q included the following statements about Defendant's dire financial condition:

- "As shown in the financial statements, **for the nine months ended September 30, 2023 and the year ended December 31, 2022, the Company has generated no revenues** and has incurred losses. As of September 30, 2023, **the Company had cash of $ 51,009, working capital deficiency of $1,249,456 and an accumulated deficit of $9,713,576**. These conditions raise substantial doubt as to the Company's ability to continue as a going concern." Ex. A, p. 8 (emphasis added).
- "The continuation of the Company as a going concern is dependent upon the ability to raise equity or debt financing, and the attainment of profitable operations from the Company's planned business. Management cannot provide any assurances that the Company will be successful in accomplishing any of its plans." *Id.*
- "At September 30, 2023, we had a working capital deficit of $1,249,456 and cash of $51,099 as compared to a working capital deficit of $971,295 and cash of $62,085, at December 31, 2022. The decrease in cash and increase in working capital deficit was due primarily to the utilization of available cash for operations and an increase in debt funding from $$225,000 of loans received in the six months ended September 30, 2023." Ex. A, p. 17.
- "Substantially all of our funding in 2023 and 2022 has been from notes and convertible debt financings from non-related investment firms and individuals." *Id.*
- "We estimate that **we will need to raise $5,000,000 over the next twelve months** to scale up our current plan." *Id.*

[1] This Court may take judicial notice of Blackstar's Form 10-Q pursuant to Chapter 47 of the Nevada Revised Statutes under the Nevada Rules of Evidence. *See* NEV. REV. STAT. §§ 47.130-.170; *see also Breliant v. Preferred Equities Corp.*, 109 Nev. 842, 847, 858 P.2d 1258, 1261 (1993) (allowing Nevada courts to take judicial notice of matters of public record); *FGA, Inc. v. Giglio*, 128 Nev. 271, 286, 278 P.3d 490, 500 (2012) (same). This Court may also take judicial notice of the documents Plaintiff incorporates into the Complaint by reference. *See Baxter v. Dignity Health*, 131 Nev., Adv. Op. 76, 357 P.3d 927, 930 (2015) (holding that a "court may also consider unattached evidence on which the complaint necessarily relies" when ruling on a motion to dismiss without converting the motion to one for summary judgment where if a document is "incorporated by reference or integral to the claim.").

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- "**We have only a very limited amount of cash and have incurred operating losses and limited cash flows from operations since inception**. As of June 30, 2023 and December 31, 2022, we had accumulated deficit of $9,614,154 and $9,374,967, respectively, and we will require additional working capital to fund operations through 2023 and beyond. These factors, among others, **raise substantial doubt about our ability to continue as a going concern**." Ex. A, pp. 17-18.

9. Based upon the Bloomberg printout, the BEGI trading volume reveals that there was sufficient trading volume on each day Plaintiff should have received the conversion shares in order for Plaintiff to have sold those shares into the market that day (or the following day, in the case of the November 10 conversion), a true and correct copy , a true and correct copy of which is attached to the Sayegh Decl. as **Exhibit "11"**, ¶ 18 .

10. In June 2023, Defendant informed Plaintiff that it had approximately 471,856,061 shares of stock available in its treasury, or in the "Blackstar Reserve." *See* **Exhibit "8"** to Sayegh Decl.

11. Thus, in light of the above developments, Plaintiff's claims and pending Motion have been modified as follows:

The basis of Plaintiff's Complaint and pending Motion was to enforce Defendant's compliance with the parties' Note and Plaintiff's rightful demands pursuant to the same. Specifically, on November 2, 2023, Plaintiff had sought to convert the entire remaining balance of the Note by increasing the reserve of Blackstar Enterprises stock by 700 million shares as required under the Note ("Reserve Request"). In pursuit of the same, on the same date, Plaintiff submitted a Notice to convert an initial tranche of debt, comprising $2,860.00 of principal and $865.06 of interest, into 62,084,333 shares of Blackstar stock, the maximum amount permitted under the Note ("Nov. 2 Conversion"). However, Defendant refused to comply with both Plaintiff's reserve increase request and Plaintiff's Nov. 2 Conversion thereby depriving Plaintiff of the benefit of their bargain and resulting in a substantial windfall for Defendant.

Had Defendant complied with the Reserve Request and Nov. 2 Conversion, Plaintiff would have immediately sold the 62,084,333 shares by November 7, 2023 (the three day deadline to deliver the shares), then exercised its conversion rights three subsequent times before Defendant's Nov. 17 Wire. This is clearly evidenced by Plaintiff's Reserve Request to increase the "reserve" of

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shares allocated specifically for Plaintiff's conversions (as required by the Note) for 700 million shares, an amount sufficient to convert the ***full balance*** of the Note, which was Plaintiff's intention. *See* Decl. of Gabe Sayegh, ¶¶ 8-15.

The mechanics of Plaintiff's subsequent conversions would have been as follows: the Note required Defendant (with its transfer agent) to issue the conversion shares to Plaintiff within three business days of Plaintiff's submission of a conversion notice. *See* Note § 4(a). On that date, Plaintiff would sell those shares into the public market. Upon sale of the shares, Plaintiff was permitted to, and would have, submit another conversion notice for the next tranche of debt.[2] This process would repeat until either the Note's balance was fully converted out or paid. Specifically, Plaintiff would have exercised its conversion rights on November 7, November 10, and November 16 (together, the "Subsequent Conversion Rights") in the amounts listed in the footnoted table.[3] Thus, Plaintiff seeks 257,701,499 shares of Blackstar stock to which it is entitled pursuant to the Note.

Blackstar's subsequent payment towards the Note balance on November 17, 2023, does not eliminate Plaintiff's Nov. 2 Conversion or its Subsequent Conversion Rights, nor does it absolve Defendant's liability for the same. Defendant is correct that the issue outlined in Plaintiff's Motion regarding Plaintiff's demand for 700 million shares in satisfaction of the entire Note is now moot, in part, given Defendant's November 17 Wire. However, there still exists a significant controversy regarding Blackstar's breach and failure to perform under the Note as it pertains to Plaintiff's Nov. 2 Conversion and Subsequent Conversion Rights. Specifically, whether Defendant should be

[2] Each conversion was limited by the Note prohibition on Plaintiff owning more than 4.99% of Defendant's stock (known as an "equity blocker"). *See* Note § 4(a).

[3] Here is a table summarize the Nov. 2 Conversion and Subsequent Conversions Rights:

Date	**Principal Converted**	**Interest Converted**	**Conversion Shares Due**	**Trading Volume**
11/2	$2,860.00	$865.06	62,084,333	
11/7	$2,850.00	$871.40	62,023,333	122,059,642
11/10	$2,990.00	$920.10	65,168,333	138,436,343
11/15	n/a	n/a	n/a	19,950,157
11/16	$3,130.00	$975.53	68,425,500	56,438,877
Total	*$5,710.00*	*$2,711.99*	***257,701,499***	

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ordered to immediately increase the reserve with sufficient shares to effectuate the four outstanding Conversions for a total of 257,701,499 shares of Blackstar stock in compliance with the Note. Defendant's purported satisfaction of the Note ***after*** Plaintiff's conversion rights were disregarded—while effective to terminate Plaintiff's further conversion rights on a prospective basis—is irrelevant to this request for relief regarding the Nov. 2 Conversion and Subsequent Conversion Rights. In other words, the timeline here is critical. Defendant breached the parties' Note and Agreement well before any purported satisfaction of the Note. Any subsequent loan payoff, while eliminating liability for damages ***after*** November 17, 2023, do not eliminate Defendant's November 2, 2023, breach of the Note nor the damages Plaintiff incurred as a result of the same.

Further, Defendant's new 10-Q filing leaves no doubt regarding the irreparable harm at issue. Defendant's 10-Q concedes that Defendant is ***not generating any revenues, is on the brink of insolvency, and has "substantial doubt about [its] ability to continue."*** Consequently, any potential future judgment in favor of Plaintiff would likely be rendered ineffective both because of Defendant's likely inability to pay a monetary judgment and because the market value of Defendant's stock in that scenario would likely be worthless. Therefore, emergency specific performance—ordering the issuance of 257,701,499 shares to Plaintiff pursuant to its conversion rights intact prior to Defendant's loan payoff —is appropriate and necessary.

Moreover, any argument that irreparable harm has not been definitively shown is without merit as Defendant explicitly waived the irreparable harm requirement and has already acknowledged "that a breach by it of its obligations [under the Agreement] will cause irreparable harm" to Plaintiff. *See* Agreement, attached as **Exhibit "1"** to Decl. Sayegh, ¶ 5(l). Thus, the parties' agreement, standing alone, is sufficient grounds to resolve this portion of the inquiry and any argument that irreparable harm has not been shown is directly contradicted by the express language of the Agreement which provides for per se irreparable harm, and which Defendant cannot not refute or ignore.

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III. LEGAL ARGUMENT

A. There is a Substantial Likelihood that Plaintiff Will Succeed on the Merits

Defendant premises its entire Opposition on the fact that it wired $51,166.71 on November 17, 2023, in purported satisfaction of the Note. *See generally,* Def's Opp. In so doing, Defendant drastically misrepresents Plaintiff's claims and the issues still before this Court.[4] Defendant's purported satisfaction of the Note on November 17, 2023, does not absolve it of liability for its breach prior to this date. On the contrary, Defendant's unilateral decision to pay the amount outstanding on the Note does nothing to negate Defendant's failure to honor Plaintiff's Nov 2 Conversion and Subsequent Conversion Rights, in deliberate breach of the Note. These willful breaches occurred prior to any satisfaction of the Note and, thus, only compliance with Plaintiff's Conversion and Subsequent Conversion Rights will constitute a full satisfaction of Defendant's obligations.

Notably, Defendant does not argue that the Note is not valid or that Defendant was not otherwise obligated to honor Plaintiff's Nov. 2 Conversion upon receipt. Rather, Defendant simply argues that its November 17, 2023, payment somehow negates its past breaches while citing no case law or statute in support of the same. Defendant cannot be permitted to unilaterally select the remedy for its own breaches simply because its chosen remedy constitutes a windfall in its favor.

This is especially true as the Note's conversion feature is an essential condition of the parties' contract, negotiated and agreed to by the parties. This bargained for condition was, in large part, the reason Plaintiff agreed to loan Defendant the money secured by the Note. This conversion feature is similar to that of a simple stock option, embedded into the parties' agreement. Just like any option, the conversion feature inherently contains some risk as, at any time, the option may expire "out of the money" wherein the option becomes worthless, substantially limiting the collateral for which Defendant was able to secure its loan. This risk was well understood by both Plaintiff and Defendant in consideration for entering the contract. These agreements are not new or

[4] The Opposition also misrepresents Plaintiff's communications regarding the Note's balance. Contrary to the Opposition, Plaintiff did not state "that the full amount outstanding and owed by Blackstar was $51,196.71." *See* Opp., p. 3. Rather, in the interests of compromise, Plaintiff stated that it would accept $43,714.56 assuming Defendant would immediately issue 124,107,666 shares of stock to Plaintiff.

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unique and are regularly enforced by courts even when the result proves substantially more beneficial for the holder of the conversion right. *See Parallax Health Scis., Inc. v. EMA Fin., LLC,* No. 20CV2375LGSRWL, 2022 WL 2442338, at *7 (S.D.N.Y. June 13, 2022), report and recommendation adopted, No. 20 CIV. 2375 (LGS), 2022 WL 2354546 (S.D.N.Y. June 30, 2022) (enforcing the parties' contracted conversion right, despite borrower's argument that conversion right equated to a 75% effective interest rate); *LG Cap. Funding, LLC v. CardioGenics Holdings*, Inc., 787 F. App'x 2, 3 (2d Cir. 2019) (affirming the lower court's holding that borrower's failure to comply with lender's conversion right of the entire note constituted breach to which lender was entitled full damages calculated from the date of the breach).

Here, due to an increase in Defendant's stock price, the conversion option (bargained for and agreed to by both parties) became profitable. Thus, Plaintiff exercised its legal right to convert a portion of the outstanding value of the Note on November 2, 2023. However, rather than abide by the unambiguous terms of the Note, which would have permitted Plaintiff to generate a profit, Defendant refused to issue the required shares and, instead, effectively denied Plaintiff its consideration for entering into the Agreement and potential profit under the clear terms of the Note.[5] Notably, if the roles were reversed and the conversion feature of the Note had become worthless, Plaintiff could not have decided to breach the parties' agreement simply because the anticipated value of the collateral was suddenly less than favorable. However, that is exactly what Defendant has done here. Defendant has breached the parties' agreement because it recognized that ignoring Plaintiff's reserve and properly exercised conversion rights, and paying off the Note after the fact was far more profitable than abiding by the Note's actual terms. Plaintiff simply requests that Defendant be compelled to perform under the clear terms of the parties' contract.

Again, the order of events is critical, here, as Defendant maintains that "it is no longer liable to [Plaintiff] under the Note" and that "there is nothing left to fight about" despite its breach

[5] Extending the option analogy, because the option is now "in the money," Defendant is effectively trying to rescind the option by returning the option's purchase price (the loan). But allowing this would defeat the entire purpose of the option and the parties' transaction—any time the option moved into the money, and the lender/investor validly exercised their rights to receive the shares, the borrower would unwind the transaction, depriving the counterparty of the benefit of their bargain.

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occurring two weeks prior to its purported satisfaction of the Note. Def's Opp., at 5:15-18. Defendant does not get to simply select the remedy it believes is most cost-effective then claim it is "no longer liable." The terms of the Note are clear. The Note was still outstanding when Defendant refused to honor Plaintiff's Nov. 2 Conversion, which bad faith breach, in turn, resulted in Plaintiff's inability to exercise its Subsequent Conversion Rights. At that time, Plaintiff was entitled to receive in reserve the 700 million shares it had requested, and to convert the shares at least four times. Defendant's failure to comply with Plaintiff's reserve and conversion rights undeniably constitutes a breach of the Agreement. Defendant fails to explain how its subsequent satisfaction of the Note somehow retroactively remedies these significant breaches in the parties' unambiguous contract.

B. Plaintiff Will Suffer Substantial Irreparable Harm if an Injunction is Not Issued

Defendant argues that Plaintiff cannot demonstrate irreparable harm as it "already received the alleged monetary damages it suffered" when Defendant paid the remaining balance of the Note. Def's Opp., at 6:3-24. First, in making its argument, Defendant's Opposition purposefully conceals from the Court the fact that it has waived the irreparable harm requirement and has already contracted and acknowledged "that a breach by it of its obligations [under the Agreement] will cause irreparable harm" to Plaintiff, thereby waiving any credible argument regarding irreparable harm. *See* Agreement, p. 11, Section 5(L), **Exhibit "1"** to Decl. Sayegh.

This, alone, is sufficient to show that Defendant's breach will cause irreparable harm if a preliminary injunction is not issued. Defendant cannot be permitted to argue that its breach will not cause irreparable harm while simultaneously being aware of the provision in the parties' Agreement, specifically stating otherwise. As the Agreement here is clear on its face, the Court must enforce it as written. *Canfora v. Coast Hotels & Casinos, Inc*., 121 Nev. 771, 776, 121 P.3d 599, 603 (2005) ("[t]he court has no authority to alter the terms of an unambiguous contract.)

Defendant has already contractually agreed to an injunction restraining, preventing, or curing any breach of the Agreement. *See* Agreement, p. 11, Section 5(L), **Exhibit "1"** to Decl. Sayegh. Defendant asks this Court to ignore the clear, enforceable provisions in the parties'

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Agreement regarding this key issue and simply rule in its favor, enforcing its unilaterally chosen remedy. This cannot be permitted and Plaintiff respectfully requests this Court grant its Motion.

Notwithstanding, even if there was not a clear contractual provision stating that irreparable harm will result from Defendant's breach, there is sufficient evidence to show that, without a preliminary injunction, Plaintiff will incur significant irreparable harm. Defendant's recent 10-Q shows that, without a preliminary injunction or immediate order of specific performance, Defendant will likely be unable to satisfy any judgment in Plaintiff's favor. Indeed, ***Defendant is not generating any revenues, is on the brink of insolvency, and has "substantial doubt about [its] ability to continue."*** *See* Blackstar's 10Q, **Exhibit "E"**. Absent an injunction limiting Defendant's ability to sell, transfer, or otherwise encumber approximately 257,701,499 of Plaintiff's rightful shares, it is likely that Plaintiff will be unable to satisfy any judgment against Defendant. Therefore, a preliminary injunction is necessary, here, to restore the status quo and protect Plaintiff's substantial contractual rights.

C. <u>The Court's Preliminary Injunction Should Encumber Sufficient Shares to Adequately Secure Plaintiff's Collateral</u>

In the spirit of compromise, Plaintiff agrees that the preliminary injunction need not encumber 700 million shares, because Defendant has paid down the Loan, excluding the amounts due as described herein. However, what is required is that a sufficient number of shares be reserved to honor Plaintiff's conversion rights. Consequently, Plaintiff requests that, at minimum, the preliminary injunction apply to 257,701,499 Shares consistent with Plaintiff's Nov 2 Conversion and Subsequent Conversion Rights.

D. <u>Specific Performance is Warranted</u>

Defendant fails to argue that specific performance is not the proper remedy. Rather, Defendant simply argues that "specific performance is only viable to the extent there is some underlying breach to remedy." Defs. Opp, at 5:22-23. As clearly outlined above, there is undoubtedly still an "underlying breach to remedy" and Defendant should, respectfully, be compelled to specifically perform on Plaintiff's Nov 2 Conversion and its Subsequent Conversion Rights, by immediately issuing 257,701,499 shares to Plaintiff consistent with the Note.

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E. Defendant Previously Waived Any Right to a Bond under the Agreement

The terms of the Note are clear under the Remedies provision that Defendant has already consented to an injunction being entered "without any bond or other security being required." *See* Agreement, p. 11, Section 5(L), **Exhibit "1"** to Decl. Sayegh. However, Defendant again makes the unsupported argument that this Court should disregard the clear language of the Agreement without providing a single authority on which this Court could rely in doing so. As this Court is aware, the Nevada Supreme Court has repeatedly held that courts are not permitted to rewrite the terms of a contract. *See Canfora*, 121 Nev. at 776 ("[t]he court has no authority to alter the terms of an unambiguous contract."); *Renshaw v. Renshaw*, 96 Nev. 541, 543, 611 P.2d 1070, 1071 (1980) ("[w]hen the document is clear and unambiguous on its face, the court must construe it from the language therein."); *Reno Club v. Young Inv. Co*., 64 Nev. 312, 324, 182 P.2d 1011, 1016-17 (1947) ("[c]ourts cannot make for the parties better agreements than they themselves have been satisfied to make or rewrite contracts because they operate harshly or inequitably as to one of the parties.").

The Note's mandatory provision waiving the necessity of a bond must be enforced. The language is clear, mandatory, and Defendant has provided no argument that Defendant should not be subjected to the Note's clear terms.

Notwithstanding, if this Court determines that a bond is necessary, Plaintiff's suggestion that Plaintiff pay a $1,000,000 bond is wholly unsupported, unexplained, and wildly excessive. Defendant's conclusory statements that an "injunction poses an existential threat to Blackstar's continued operation" do nothing to support such a significant bond. Defendant's request is nothing more than an attempt to avoid litigation by setting an amount that is out of reach and in direct contravention of the no bond requirement set forth under Section 5(L) of the Agreement. Consequently, Defendant's request for a $1,000,000 bond should be disregarded, and this Court's order for a bond of $1,000, which was posted on November 9, 2023, is sufficient given Defendant's decision to blatantly breach the Agreement by failing to immediately issue irrevocable instructions to its Transfer Agent to issue in favor of Plaintiff in reserve 257,701,499 shares of Blackstar Enterprises Group, Inc.'s Common BEGI Stock.

. . .

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IV. CONCLUSION

Based upon the foregoing, Plaintiff is entitled to the entry of an order for preliminary injunction to enjoin Blackstar from transferring, selling, encumbering or issuing 257,701,499 shares of Blackstar's Common Stock to any third parties. Plaintiff is also entitled to an order for specific performance, requiring Blackstar to immediately issue irrevocable instructions to its Transfer Agent, currently identified as Valeen Nowicki, Relationship Manager for US Shareowner Services, to issue in favor of Plaintiff and maintain in reserve 257,701,499 shares of Blackstar's Common Stock, and in the event Defendant refuses to comply with the terms of the Agreement and fails to cause the issuance in favor of Plaintiff in reserve 257,701,499 shares of Blackstar's Common Stock, then the Clerk of the Court shall sign the necessary forms and follow the specific procedures in order to effectuate the transfer of 257,701,499 shares of Blackstar's Common Stock, and to sign the necessary forms and follow the specific procedures requiring the Transfer Agent to comply with the Agreement and to issue in reserve the requested 257,701,499 shares of Blackstar Common Stock in favor of Plaintiff.

DATED: November 30, 2023.

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CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b), and EDCR 7.26, I certify that on November 30, 2023, I served a copy of **REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION AND MOTION FOR SPECIFIC PERFORMANCE** on all parties as follows:

☒ Electronic Service – By serving a copy thereof through the Court's electronic service system via the Odyssey Court e-file system

☐ E-mail – By serving a copy thereof at the email addresses listed below; and

☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below.

/s/ Annette Jaramillo
An employee of
Lewis Roca Rothgerber Christie LLP

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EXHIBIT 7

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IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CLARK COUNTY

GS CAPITAL PARTNERS LLC, a New York limited liability company,

Plaintiff,

v.

BLACKSTAR ENTERPRISES GROUP, INC. a Delaware limited liability company, and DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-23-881099-B

Dept. No.: 13

GS CAPITAL PARTNERS, LLC'S RESPONSE TO BLACKSTAR'S SURREPLY

Date of Hearing: December 7, 2023
Time of Hearing: 10:30 a.m.

Judge: Hon. Mark R. Denton

COMES NOW, GS Capital Partners, LLC, a New York limited liability company ("GS Capital" or alternatively "Plaintiff"), by and through its counsel, Ogonna M. Brown, Trent Earl, and Christine R. Hotchkin of the law firm of Lewis Roca Rothgerber Christie LLP, hereby files its Response to Defendant Blackstar Enterprises Group, Inc.'s ("Defendant" or "Blackstar") Surreply, which Surreply was approved by this Court during the hearing on December 7, 2023. This Court permitted GS Capital to respond to Blackstar's Surreply during the hearing on GS Capital's Motion for preliminary injunction and specific performance to order Blackstar to add 257,701,499 shares to GS Capital's reserve for conversions and to honor GS Capital's conversion of debt into 62,084,333 of those reserved shares and issue them to GS Capital. This Response to the Surreply is

made and based upon the accompanying Memorandum of Points and Authorities, together with pleadings and papers on file herein, as well the oral argument taken under submission by this Court during the hearing held on December 7, 2023.

MEMORANDUM OF POINTS AND AUTHORITIES

I. LEGAL ARGUMENT

A. GS Capital is Likely to Succeed On the Merits: The Breach of Contract Is Straightforward and Undisputed

Defendant's Surreply makes essentially two arguments in support of its position that GS Capital is not likely to succeed on the merits of its breach of contract claim: (1) that Defendant's after-the-fact cure attempt (long after the expiration of the Note's cure period) should somehow (in defiance of the physics of space and time) retroactively eliminate its breach, and; (2) GS Capital's damages regarding the Subsequent Conversions are speculative. Both of the Surreply's arguments are without merit as articulated below.

a. Blackstar Cannot Unilaterally Extend the Cure Period or Ignore Plaintiff's Right to Contractual Remedies.

In its Surreply, Defendant does not argue that the Note was invalid or non-binding, nor does it argue that Plaintiff's November 2, 2023, requests to increase the stock reserve and to convert a portion of the Note's balance into 62 million shares of Defendant's stock were somehow invalid. Indeed, Defendant does not even try to argue that its failure to honor these requests did not constitute a breach of the Note and Agreement. Rather, Defendant's only argument is that the "breach has been cured by paying the Note back in full." *See* Surreply, p. 6.

However, Defendant's alleged "cure" occurred ***15 days after the breach***. As such, Defendant essentially asks the Court to grant it a 15-day cure period (from the November 2, 2023, breach to the November 17, 2023, cure attempt), contrary to the express language of the Note, which unambiguously limits the cure period to ***only five days***. *See* Note, Section 8, **Exhibit "2"** to Sayegh Decl. If Defendant had made its payment within that five-day cure period, the question before this Court would be very different. But Defendant did not. Instead, Defendant is asking this Court to convert a five-day cure period into a 15-day cure period in direct violation of the parties'

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Agreement. Defendant does not cite to a single case that would allow this Court to directly disregard the parties' express Agreement—because no such case exists. Indeed, there is abundant Nevada case law to the contrary. *See, e.g., Canfora v. Coast Hotels & Casinos, Inc.*, 121 Nev. 771, 776, 121 P.3d 599, 603 (2005) ("The court has no authority to alter the terms of an unambiguous contract."); *Renshaw v. Renshaw*, 96 Nev. 541, 543, 611 P.2d 1070, 1071 (1980) ("[w]hen the document is clear and unambiguous on its face, the court must construe it from the language therein."); *Reno Club v. Young Inv. Co.*, 64 Nev. 312, 324, 182 P.2d 1011, 1016-17 (1947) ("[c]ourts cannot make for the parties better agreements than they themselves have been satisfied to make or rewrite contracts because they operate harshly or inequitably as to one of the parties.").

Because it cannot be disputed that Defendant breached the Note and missed its window to cure the breach, the only issue before this Court is to determine the appropriate remedy for Defendant's breach. The appropriate remedy, here, is also expressly addressed by the parties' Agreement, which included a "remedies" section, providing for the grant of specific performance and injunctive relief. Agreement, p. 11, Section 5(L), **Exhibit "1"** to Decl. Sayegh. Despite these clear terms, Defendant asks this Court to disregard the Agreement's "remedies" provision and GS Capital's conversion rights in direct contravention of Nevada law.

Freedom to contract as parties see fit is a long held public policy in Nevada. *See Holcomb Condo. Homeowners' Ass'n, Inc. v. Stewart Venture, LLC*, 129 Nev. 181, 187, 300 P.3d 124, 128 (2013) (internal citation omitted) ("Nevada has long recognized a public 'interest in protecting the freedom of persons to contract. . . .'). This freedom includes terms of the remedy provisions within contracts. As held by the Nevada Supreme Court, "[w]hen parties to a contract prescribe a remedy, a presumption arguably exists that the parties intended the remedy to be exclusive . . . ." *Phillips v. Mercer*, 94 Nev. 279, 282, 579 P.2d 174, 176 (1978).

Like Nevada, many other jurisdictions have strictly enforced parties' remedy provisions in contracts. For example, in the United States District Court for the Northern District of California, the court held, "if the parties' contractually agreed that specific performance was appropriate, that agreement should be upheld by awarding specific performance." *LocusPoint Networks, LLC v. D.T.V. LLC,* 14-CV-01278-JSC, 2015 WL 5043261, at *19 (N.D. Cal. Aug. 26, 2015); *see also*

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Gildor v. Optical Sols., Inc., 1416-N, 2006 WL 4782348, at *11 (Del. Ch. June 5, 2006) (finding specific performance was warranted due to the terms of the Stockholder Agreement, stating, "this court has held that a contractual stipulation of irreparable harm is sufficient to demonstrate irreparable harm."). Similarly, regarding injunctive relief, the *LocusPoint* court held that "a contractual agreement that a breach will cause irreparable harm will be upheld for the purposes of awarding injunctive relief so long as the parties did not include such agreement in the contract as a sham." *LocusPoint*, 2015 WL 5043261, at *19 (internal citation omitted). That the parties' remedies provision was genuine is undisputed.

Here, Section 5(L) of the parties' Agreement is unambiguous and provides that GS Capital is "entitled … to an injunction …and to enforce specifically the terms and provisions hereof", the exact relief requested by GS Capital. Further, Blackstar specifically "acknowledged that the remedy at law for a breach of its obligations under [the] Agreement would be inadequate." Consequently, Defendant cannot now, following a purposeful breach, argue that its contracted remedies should not be enforced.

Put slightly differently, it is well-established in Nevada that "[t]he purpose of an award of damages is to put the nonbreaching party in as good a position as if the contract had been performed." *Nalder v. United Auto. Ins. Co.*, 135 Nev. 692, 449 P.3d 1268 (2019). Here, had Defendant complied with the contract and honored Plaintiff's November 2 reserve increase request and conversion request (and Subsequent Conversions (defined below)), Plaintiff would have received Defendant's shares of stock, which it then could have sold on the open market for a significant profit. Therefore, the appropriate award of damages —placing GS Capital in as good a position as if Defendant' complied with its contractual requirements—should be granting GS Capital those same shares it would have received absent Defendant's breach.

The ability to convert Defendant's debt into shares of Defendant's stock was a material reason GS Capital agreed to make the loan. While inartfully referred to as 'collateral' in Plaintiff's prior pleadings, in the avoidance of doubt, the conversion provision of the Note was not collateral in the traditional sense, but served as material consideration for GS Capital to make the subject

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loan.[1] This essential condition was understood, considered, and agreed to by both parties. Defendant, just like GS Capital, fully understood the risks associated with such a provision. Both parties risked the Note becoming far more profitable for the other than perhaps initially expected. It was just as likely that Defendant's stock price would not increase, providing GS Capital with no benefit, and significantly benefiting Defendant as its consideration would have suddenly become much less valuable. If that were the case, Plaintiff could not have simply chosen to breach the parties' Agreement. However, that is exactly what Defendant has done here. Defendant has unilaterally determined that it need not abide by the Note simply because Plaintiff will profit from the parties' mutual agreement. This clear and purposeful breach cannot be permitted.[2]

b. GS Capital's Subsequent Conversions Are Not Speculative Damages.

The harm imposed by Defendant's breach was then compounded on November 7, 2023, November 10, 2023, and November 16, 2023 (the "Subsequent Conversions"), on which dates GS Capital would have converted and sold additional shares pursuant to the clear terms of the Note. Nevada law is clear that "[t]he general rule in a breach of contract case is that the injured party may be awarded expectancy damages . . . ." *Century Sur. Co. v. Andrew*, 134 Nev. 819, 821 (2018). The expectancy damages from plaintiff's subsequent conversion rights, alone, are 195,617,166 shares of Defendant's stock, which GS Capital would have obtained through the Subsequent Conversions. Again, Defendant's subsequent payment does nothing to remedy this harm.

Contrary to Defendant's Surreply, the harm stemming from these Subsequent Conversions rights is far from speculative. In Nevada, damages are deemed speculative when, "compensation for loss or harm which, although possible, is conjectural or not reasonably probable." HI R CIV JURY Instr. 8.11; *see Clark Cnty. Sch. Dist. v. Richardson Const., Inc.*, 123 Nev. 382, 397, 168

[1] Plaintiff's reference to 'collateral' was merely illustrative—to explain that the requirement that Defendant establish a "reserve" of shares at the TA was intended to ensure that there would be sufficient shares available to deliver to GS when it exercised its conversion rights.

[2] The Surreply incorrectly states that GS Capital "accepted the payments." GS Capital provided a different amount due, one that took into account and assumed the conversions would be honored. Defendant then on its own calculated a payoff amount based on not honoring the conversions and unilaterally wired the funds to GS Capital. Rather than immediately refund the excess amount to Defendant, GS Capital elected to await the Court's adjudication of the matter – both regarding the number of shares to be awarded to Plaintiff as well as the attorney's fees under the Note.

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P.3d 87, 97 (2007) (holding that speculative damages are damages that are not supported by proof, stating, "[a]lthough the amount of damages need not be proven with mathematical certainty, testimony on the amount may not be speculative . . ."); *Knier v. Azores Const. Co.*, 78 Nev. 20, 24, 368 P.2d 673, 675 (1962) (internal citation omitted) ("[t]he rule against the recovery of uncertain damages generally is directed against uncertainty as to the existence or cause of damage rather than as to measure or extent."). Here, on November 2, 2023, GS Capital clearly indicated that it intended to convert the entire balance of the Note by requesting that 700,000,000 shares be added to its reserve with the transfer agent (who manages Defendant's stock), which was an amount sufficient for GS Capital to convert the remaining $33,682.00 left on the Note at the time.[3]

As already articulated in Plaintiff's Motion and Reply, the sole reason GS Capital did not seek to convert the full Note balance into the approximately 700,000,000 shares on November 2, 2023, was due to the Note's equity blocker that prevented GS Capital from holding more than 4.99% of shares at one time. However, in asking that Defendant replenish the reserve with 700,000,000 shares, GS Capital made it abundantly clear that it intended to convert the entirety of the remaining balance consistent with the terms of the Note. Indeed, this position to immediately capitalize on this infrequent and very profitable occurrence is clearly supported by the sworn declaration of Plaintiff's president, Gabe Sayegh. *See* Decl. of Gabe Sayegh, ¶¶ 8-20.

Again, Defendant's subsequent efforts to pay the Note balance do not suddenly negate the harm resulting from the missed Subsequent Conversions. From November 2 to November 16, 2023, GS Capital was repeatedly denied its contractual right to convert and sell Defendant's shares consistent with the limitations outlined in the Note. Defendant's subsequent payments simply stopped the harm from continuing to compound past November 17, 2023. It merely stopped the bleeding; it did not cure the original wound.[4]

[3] The balance of the Note decreased from the time GS Capital funded the loan. Accordingly, the reserve amount decreased commensurate with the lower loan balance. As of the date GS Capital requested a reserve of 700 million shares on November 2, 2023, roughly half the original loan balance remained.

[4] Defendant is correct that GS Capital should not be entitled to a full payment of the Note, without an adjustment for the Subsequent Conversions. Consequently, any award for shares would be offset by a reimbursement to Blackstar of the amount it overpaid (after taking Plaintiff's rights to attorneys' fees into account).

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B. Specific Performance and Injunctive Relief are The Appropriate Remedies

a. <u>Defendant Has Already Conceded That There is No Adequate Remedy at Law and Irreparable Harm Result from Its Breach</u>

Throughout its Surreply, Defendant does nothing to address the elephant in the room – that the parties' Agreement expressly provided that Plaintiff is ***"entitled … to an injunction …and to enforce specifically the terms and provisions hereof."*** Agreement, p. 11, Section 5(L), **Exhibit "1"** to Decl. Sayegh. Instead, Defendant simply ignores this threshold issue in hopes of downplaying its importance. *See generally,* Surreply. Again, Nevada has consistently confirmed parties' freedom to contract and will not disturb the terms of a contract unless they are not clear on their face. *See Canfora*, 121 Nev. at 776 ("The court has no authority to alter the terms of an unambiguous contract."). This includes contract provisions regarding adequate remedy at law and irreparable harm. *See, e.g.*, *Matter of Part 60 Put-Back Litig*., 165 N.E.3d 180, 186 (2020) (internal citations omitted) (holding the parties' contract as written is enforceable, including the remedies provision). Consequently, specific performance and injunctive relief are the appropriate remedies for Defendant's blatant breach. *O'Neill v. United States*, 50 F.3d 677, 687 (9th Cir. 1995) ("Where two equal bargainers ... agree as to the appropriate remedy ... they should be held to the terms of their bargain.").

Defendant has provided no case law or argument that would permit this Court to disregard the parties' own "remedies" provision in the Agreement. This Court must, respectfully, honor this contractual provision and award the requested specific and injunctive relief.

b. <u>Specific Performance is Necessary and Proper</u>

Defendant's only objections in its Surreply to GS Capital's request for specific performance is that the request is "vague" and that GS Capital "cannot recover more than it is owed under that contract."[5] *See* Surreply, p. 2, ll. 20-23. There is nothing vague about GS Capital's very specific request that 257,701,499 shares of Blackstar stock be added to its reserve held by the stock's transfer agent and that 62,084,333 of those shares be immediately issued to GS Capital in accordance with its conversion. Further, as mentioned, GS Capital's request is precisely for its

[5] Defendant does not argue that Specific Performance should not be granted because it somehow constitutes the ultimate relief sought in this action, and therefore Defendant concedes this point.

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contractual reserve and conversion rights, nothing more.

Nevada courts have long recognized that specific performance for the delivery of stock is an appropriate remedy where there is no adequate remedy at law. Dating back to the early 1900's, the Nevada Supreme Court has consistently held, "shares of stock cannot be recovered in an action for specific performance unless they possess peculiar and unusual value . . . ." *Nielsen v. Rebard*, 43 Nev. 274, 183 P. 984, 985 (1919) (emphasis added) (citing *State v. Jumbo Ex. M. Co.*, 30 Nev. 198, 94 Pac. 74 (1908), *Oliver v. Little*, 31 Nev. 476, 103 Pac. 240 (1909), *Robinson M. Co. v. Riepe*, 40 Nev. 121, 161 Pac. 304 (1916)); *Eckley v. Daniel*, 193 F. 279, 280 (C.C.D. Nev. 1908); *SMSW Enterprises, LLC v. Halberd Corp.*, CV 13-01412 BRO SPX, 2015 WL 1457605, at *9 (C.D. Cal. Mar. 30, 2015) (emphasis added) (citing *Nielsen* at 274, 183 P. at 985, stating, "[i]n Nevada, it has long been established that shares of corporate stock are not recoverable in an action for specific performance of a contract **unless the plaintiff has no adequate remedy at law**."); *Haymarket LLC v. D.G. Jewellery of Canada Ltd.*, 736 N.Y.S.2d 356, 358 (2002) (emphasis added) (finding, "specific performance was proper, given plaintiff's unrebutted evidence that, as of the time of trial, trading in **defendant's stock was so thin that plaintiff would be unable to purchase the number of shares to which it is entitled on the open market**."); *see also Scotella v. Osgood*, 659 P.2d 73, 76 (1983) (emphasis added) ("According to 71 Am.Jur.2d Specific Performance § 1 (1973): The remedy of specific performance of contracts is given as a substitute for the legal remedy of damages, or monetary compensation, whenever the legal remedy is inadequate or impracticable. Where the remedy at law is not adequate, equity assumes jurisdiction, to decree specific performance, in order to prevent the travesty of justice involved in permitting parties to refuse performance of their contracts at pleasure by electing to pay inadequate damages for the breach.").

Here, as mentioned, Defendant has already acknowledged and agreed that GS Capital is entitled to specific performance because no adequate remedy at law exists. Agreement, p. 11, Section 5(L), **Exhibit "1"** to Decl. Sayegh. Further, the evidence before this Court clearly establishes that Defendant is on the brink of insolvency and thus has not ability to adequately compensate GS Capital with monetary damages. Consequently, irreparable harm is imminent, and specific performance is necessary to remedy Defendant's undisputed breach of contract. *See*

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International Fidelity Insurance Co. v. Talbot Construction, Inc., No. 1:15-CV-3969-LMM, 2016 WL 8814367, at *7 (N.D. Ga. Apr. 13, 2016) (granting the plaintiff's application for preliminary injunction and/or specific performance, holding,"[c]ourts appear to permit specific performance of collateral security provisions to protect three interests of the surety: the bargained-for benefit of collateral security, avoidance of present exposure to liability during pending litigation against indemnitors, and avoidance of risk that, should indemnitors become insolvent, the surety will be left as a general unsecured creditor frustrating the purpose of the indemnity agreement.").

c. Preliminary Injunction is Necessary Due to Defendant's Imminent Insolvency

While the Agreement's remedies provision is sufficient to find irreparable harm, GS Capital has introduced Defendant's own recent financials, which indicate Defendant's dire financial condition and that its stock is currently its only asset of value. *See* 10-Q, **Exhibit "11"** to Sayegh Decl. Yet, in its Surreply, Defendant's only statement regarding its dire financial condition is, essentially, "no comment." *See* Surreply n.5 ("Blackstar's financial condition is irrelevant because it is not due any more money under the Note."). In other words, Defendant does not—because it cannot—dispute its own recent financials reflecting that is on the brink of insolvency.

While Defendant is cash poor at this time, its shares are valuable (at least for the time being) and GS Capital should receive the benefit of the value of the shares before it is too late and the shares lose their value in the future, thus destroying GS Capital's chances of any meaningful recovery. As explained by the United States District Court for the Southern District of New York, "[t]o be sure, some courts have granted injunctive relief for non-delivery of convertible stock . . . Those exceptions typically fall under one of two scenarios: where the plaintiff can prove that the defendant is insolvent or on the brink of insolvency, or where the plaintiff is deprived of some unique benefit or item that cannot be compensated by damages." *Alpha Capital Anstalt v. Shiftpixy, Inc.*, 432 F. Supp. 3d 326, 340 (S.D.N.Y. 2020).

Defendant's recent 10-Q clearly shows that, absent a preliminary injunction or immediate order for specific performance, Defendant will likely be unable to satisfy any future judgment in GS Capital's favor. Defendant never once contested its dire financial condition in its Surreply by way of declaration, affidavit or otherwise, and thus, its imminent insolvency is undisputed. Absent

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an injunction limiting Defendant's ability to sell, transfer, or otherwise encumber approximately 257,701,499 of GS Capital's rightful shares, it is likely that GS Capital will be unable to satisfy any judgment against Defendant. Consequently, a preliminary injunction is necessary, here, to preserve the status quo and protect GS Capital's potential future judgment.

Moreover, Defendant's reliance upon *Elyousef v. O'Reilly & Ferrario, LLC*, 126 Nev. 441, 443–44, 245 P.3d 547, 549 (2010), in support of the proposition that GS Capital is seeking a double recovery by enforcing its conversion rights prior to the loan payoff is misplaced. Rather, *Elyousef*, an advisory opinion regarding a malpractice case, merely stands for the proposition that a party cannot relitigate the same matter that has already been litigated.[6] Here, Defendant's bad faith breach of the Note has clearly never been litigated. Thus, the double recovery doctrine is inapplicable here.

For these reasons, if the Court does not order Defendant to specifically perform and deliver the 257,701,499 shares of stock to GS Capital, then injunctive relief restraining those shares for the duration of this action is entirely appropriate.

C. The Equities Favor Granting Specific Performance and Injunctive Relief

The equities clearly favor granting GS Capital its requested relief of specific performance and injunctive relief. GS Capital has loaned money to the Defendant, has complied with the parties' agreements, and has bargained for clear rights and forms of relief. Defendant, on the other hand, deliberately breached the Note and Agreement without even attempting to allege any legal affirmative defense. Defendant's entire basis for refusing to grant GS Capital its bargained-for relief is Defendant's moral determination that this would result in "too much" profit for GS Capital. This . . .

[6] Specifically, *Elyousef* involved a soured business relationship. Homayouni sued Elyousef, and Elyousef filed a counterclaim against Homayouni, alleging that Homayouni negligently caused him to lose his interest in his company. The district court awarded Elyousef $150,000 in damages plus $225,631.22 in costs and fees. Homayouni subsequently settled with Elyousef for $50,000 plus the return of his interest in his company. Elyousef then sued O'Reilly for breach of fiduciary duty, negligence and legal malpractice, negligent supervision, respondeat superior, breach of contract, and breach of implied covenant of good faith and fair dealing. The district court granted summary judgment in O'Reilly's favor, concluding that the doctrines of double recovery and issue preclusion barred Elyousefs ability to recover from O'Reilly. On appeal, the Supreme Court held that the doctrine bars him from further recovery because Elyousef cannot relitigate a matter that has previously been adjudicated on all fronts under the doctrine of issue preclusion and double recovery.

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position clearly lacks any merit (if not frivolous) and is diametrically opposed to the basic notion of contractual agreements.

Further, granting this relief would impose little to no prejudice upon the Defendant. An award of Specific Performance requiring the issuance of these 257 million shares to GS Capital comes at no cost to Defendant. Defendant is authorized to issue up 2 trillion shares, has hundreds of millions of shares available, and, if needed, can authorize the issuance of as many more shares as it likes. *See* 10-Q, Exhibit "11" to Sayegh Decl., p.3 ("Common stock, 2,000,000,000 shares authorized; $0.001 par value, 1,244,572,435 and 546,495,214 issued and outstanding"). Issuing these shares to GS Capital would, therefore, cost Defendant nothing.

Similarly, injunctive relief would not harm Defendant, as it presented no evidence that a preliminary injunction would destroy the value of its stock. Indeed, Defendant fails to even articulate how many shares they have available or what proportion of its available shares would be encumbered by this Court's order to enjoin 257 million shares as Plaintiff requests. Defendant has not produced any evidence regarding expenses coming due for which it allegedly requires its shares for payment. Nor has Defendant produced any evidence, or even articulated, why it could not generate revenue in the normal course of business operations, outside the issuance of shares, to pay for such unarticulated expenses. The requested injunction is limited to Defendant's shares, not to its routine operations. Further, Defendant contractually agreed that GS Capital would be entitled to specific performance and injunctive relief – without any exceptions for whether such relief would harm the value of Defendant's business.

Conversely, not granting this relief would materially prejudice GS Capital. The reality illustrated by Defendant's recent 10-Q clearly shows that Blackstar is on the brink of insolvency. What is also clear is that Defendant's stock price is extremely volatile—the current momentary increase in value was not there weeks ago and could quickly evaporate again at any time. Without an award of specific performance (or preliminary injunction), there is a very real threat that GS Capital will be left without the shares that constituted the majority of GS Capital's consideration in entering the Agreement, and without any recourse to obtain the relief to which it is entitled.

. . .

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Therefore, equity clearly compels awarding GS Capital the specific performance or injunctive relief it requests.

III. CONCLUSION

For the foregoing reasons, Plaintiff GS Capital respectfully requests this Court grant its Motion for specific performance and preliminary injunction. Specifically, Plaintiff requests:

1. Specific Performance requiring Blackstar to add 257,701,499 shares of its common stock to GS Capital's reserve ("Share Reserve");
2. Specific Performance requiring Defendant Blackstar to honor Plaintiff's November 2 conversion and deliver 62,084,333 shares from the Share Reserve;
3. Specific Performance requiring Defendant Blackstar to honor Plaintiff's Subsequent Conversions and deliver 195,617,166 shares from the Share Reserve in a manner consistent with the Note's equity blocker.

In the alternative, if the Court does not order the above specific performance, Plaintiff requests an order of injunctive relief prohibiting Defendant and its agents from any and all transfers, encumbrances, pledges, transfers, sales, assignment, issuances or other disposition or reservation of 257,701,499 shares of Defendant's common stock required for the Share Reserve that are held in treasury or Defendant's reserve or otherwise under Defendant's control pending the outcome of this action.

DATED: December 11, 2023.

LEWIS ROCA ROTHGERBER CHRISTIE LLP

By: */s/ Ogonna M. Brown*

Ogonna M. Brown, Bar No. 7589
OBrown@lewisroca.com
Trent Earl, Bar No. 15214
Tearl@lewisroca.com
Christine R. Hotchkin, Bar No. 15568
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Attorneys for Plaintiff GS Capital Partners LLC

LEWIS ROCA
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CERTIFICATE OF SERVICE

Pursuant to NEFCR 9, NRCP 5(b), and EDCR 7.26, I certify that on December 11, 2023, I served a copy of **GS CAPITAL PARTNERS, LLC'S RESPONSE TO BLACKSTAR'S SURREPLY** on all parties as follows:

☒ Electronic Service – By serving a copy thereof through the Court's electronic service system via the Odyssey Court e-file system

☒ E-mail – By serving a copy thereof at the email addresses listed below; and

Ian Rainey, Esq.; Ian.rainey@haynesboone.com
Brent R. Owen, Esq.; Brent.owen@haynesboone.com

☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class postage prepaid and addressed as listed below.

/s/ Annette Jaramillo
An employee of
Lewis Roca Rothgerber Christie LLP

LEWIS ROCA
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169

EXHIBIT 8

A-23-881099-B

DISTRICT COURT
CLARK COUNTY, NEVADA

Other Business Court Matters **COURT MINUTES** **December 12, 2023**

A-23-881099-B GS Capital Partners LLC, Plaintiff(s)
vs.
Blackstar Enterprise Group, Inc.,
Defendant(s)

December 12, 2023 3:00 AM Minute Order

HEARD BY: Denton, Mark R. **COURTROOM:** Chambers

COURT CLERK: Elise Cobo/ec

JOURNAL ENTRIES

- HAVING further reviewed and considered the parties' filings and argument of counsel pertaining to "Plaintiff's Motion for Preliminary Injunction," heard on December 7, 2023, and taken under advisement as of December 11, 2023, and being fully advised in the premises, the Court makes the following determinations and ruling:

- As stated by the Court during the hearing, the Court is not consolidating Plaintiff's Motion for injunctive relief with trial on the merits.
- The Court is persuaded by Plaintiff's showings that Plaintiff has a likelihood of success on the merits. The context of the transaction was that Plaintiff had the right to convert debt to shares of stock as a benefit of the bargain and Defendant had no right to preempt that benefit by an untimely purported payment of the debt.
- Given the nature of the transaction which contemplated such a conversion benefit, the parties were at liberty to agree that breach by Defendant would result in an inadequate legal remedy and irreparability of injury, warranting injunctive relief, and Plaintiff's showings establish inadequacy of legal remedy/irreparability of injury.
- In seeking injunctive relief, Plaintiff has taken into account Defendant's financial situation and has elected to seek such relief in lieu of monetary damages and that is a decision supported by the Defendant's agreement that Plaintiff does not have to separately show inadequacy of legal remedy, the same being established by the contract.
- In seeking "specific performance" in addition to prohibitory injunctive relief, Plaintiff is, in effect, seeking a mandatory preliminary injunction the issuance of which is supported by Plaintiff's showings.
- Although the parties have also agreed that an injunction can be issued without security, the applicable rule, NRCP 65 (c) requires posting of security, and the Court deems $10,000.00 to

be adequate at this time.

All things considered, the Court GRANTS Plaintiff's Motion and will issue the mandatory injunctive relief sought by Plaintiff as summarized in parts 1 and 2 of the Conclusion within Plaintiff's Response to Blackstar's Surrreply filed December 11, 2023 (see also page 1, lines 26-28 of such Response), and prohibitory injunctive relief regarding part 3 thereof, enjoining and restraining Defendant from conduct that would render ineffectual Plaintiff's "subsequent conversions" *pendente lite*. Counsel for Plaintiff is directed to submit a proposed order consistent herewith and with supportive briefing and argument and compliant with NRCP 65(d) and NRCP 52(a)(2) following provision of the same to opposing counsel for signification of approval/disapproval.

IT IS SO ORDERED.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Elise Cobo, to all registered parties for Odyssey File & Serve. /ec 12/12/2023

EXHIBIT 9

ELECTRONICALLY SERVED
12/18/2023 5:26 PM

Electronically Filed
12/18/2023 5:25 PM
CLERK OF THE COURT

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Fax: 702.949.8398

Attorneys for Plaintiff GS Capital Partners LLC

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CLARK COUNTY

GS CAPITAL PARTNERS LLC, a New York limited liability company,

Plaintiff,

v.

BLACKSTAR ENTERPRISES GROUP, INC. a Delaware limited liability company, and DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-23-881099-B

Dept. No.: 13

ORDER GRANTING APPLICATION FOR PRELIMINARY INJUNCTION AND MOTION FOR SPECIFIC PERFORMANCE

Date of Hearing: December 7, 2023

[Hon. Judge Mark R. Denton]

This matter having come before this Court for oral argument on December 7, 2023, at 9:00 a.m., before the Honorable Mark R. Denton and taken under advisement on December 11, 2023, in connection with the Application for Preliminary Injunction and Motion for Specific Performance (the "Motion") filed by Plaintiff GS Capital Partners, LLC, a New York Limited Liability Company ("GS Capital" or alternatively, "Plaintiff"), by and through its counsel, Ogonna M. Brown, Esq., Trent L. Earl, Esq., and Christine R. Hotchkin, Esq. of the law firm Lewis Roca Rothgerber Christie LLP against Defendant Blackstar Enterprises Group, Inc., a Delaware Limited Liability Company ("Blackstar" or alternatively "Defendant"). Maximilien D. Fetaz, Esq., of the law firm Brownstein Hyatt Farber Schreck, LLP and Brent Owen, Esq., of the law firm Haynes and Boone, LLP,

. . .

appearing in person on behalf of Blackstar with Ogonna M. Brown, Esq. appearing in person on behalf of Plaintiff, GS Capital.

This Court having reviewed all related pleadings and papers on file herein, including Defendant Blackstar's Surreply, and Plaintiff GS Capital's Response to Defendant's Surreply, which was permitted to be filed by this Court on December 7, 2023 and was filed after the hearing on the Motion, and having heard argument from counsel at the hearing on the Motion, and good cause appearing therefore, the Court hereby grants the relief requested in Plaintiff's Response to Defendant's Surreply.

IT IS HEREBY ORDERED that Plaintiff's Application for Preliminary Injunction and Motion for Specific Performance is **GRANTED** as articulated below.

IT IS FURTHER ORDERED that the Court is not consolidating Plaintiff's Application for Preliminary Injunction with trial on the merits.

IT IS FURTHER ORDERED that the Court is persuaded by Plaintiff's showings that Plaintiff has a likelihood of success on the merits. The context of the parties' transaction, evidenced by the parties' Securities Purchase Agreement ("Agreement"), dated October 11, 2021, and Convertible Promissory Note ("Note), dated October 11, 2021, was that Plaintiff had the right to convert Defendant's debt to shares of stock as a benefit of the parties' bargain. This benefit of the parties' bargain also specifically included the right for a share reserve in support of such conversions.

IT IS FURTHER ORDERED that Defendant had no right to preempt that bargained for benefit by an untimely purported payment of its the debt.

IT IS FURTHER ORDERED that, given the nature of the parties' transaction which specifically contemplated such a conversion benefit, the parties were at liberty to and did, in fact, agree, pursuant to Section 5(l) on page 11 of the parties' Agreement, that breach by Defendant would result in an inadequate legal remedy and irreparability of injury, for which there would be no adequate legal remedy, thus warranting injunctive relief.

. . .

LEWIS ROCA
3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169

IT IS FURTHER ORDERED that Plaintiff has made a sufficient showing to establish inadequacy of legal remedy and irreparability of injury for the harm caused by Defendant's breach of the parties' contract.

IT IS FURTHER ORDERED that, in seeking injunctive relief, Plaintiff has taken into account Defendant's financial situation and has elected to seek injunctive relief in lieu of monetary damages. This decision is supported by Defendant's agreement in Section 5(l) of the Agreement that Plaintiff does not have to separately show inadequacy of legal remedy given the same has been established by the parties' contract.

IT IS FURTHER ORDERED that, in seeking specific performance in addition to prohibitory injunctive relief, Plaintiff is, in effect, seeking a mandatory preliminary injunction. The issuance of a mandatory preliminary injunction is sufficiently supported by the arguments and evidence presented by Plaintiff.

IT IS FURTHER ORDERED that mandatory injunctive relief is **GRANTED** as outlined in the Conclusion of page 12 of Plaintiff's Response to Surreply as specifically provided herein.

IT IS FURTHER ORDERED that Defendant Blackstar is ordered to immediately (and in any event no later than 24 hours from the issuance of this order) add 257,701,499 shares of its common stock (whether from Defendant's stock treasury, Defendant's own reserve, or any other source) to Plaintiff GS Capital's reserve with the Defendant's transfer agent, currently identified as EQ Shareowner Services (hereinafter the "Share Reserve").

IT IS FURTHER ORDERED that within 24 hours from the issuance of this Order Defendant Blackstar and its agents will honor Plaintiff's November 2, 2023, conversion notice and cause the delivery of 62,084,333 shares from the Share Reserve to Plaintiff consistent with Plaintiff's brokerage account instructions.

IT IS FURTHER ORDERED that Defendant Blackstar and its agents will honor and are enjoined, pendente lite, from interfering with Plaintiff's subsequent three (3) conversions of the Note's balance in seeking shares of Defendant's common stock in the amounts of 62,023,333

LEWIS ROCA
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Las Vegas, NV 89169

shares, 65,168,333 shares, and 68,425,500 shares (as articulated in Plaintiff's Reply, p.6, n.3) to be issued to Plaintiff from the 195,617,166 shares remaining in the Share Reserve consistent with the equity blocker detailed in the Note.

IT IS FURTHER ORDERED that Plaintiff will post a security bond for $10,000.00 pursuant to NRCP 65(c) as the Court deems that amount to be adequate at this time

IT IS SO ORDERED.

Dated this 18th day of December, 2023

TMB

162 522 23B3 044E
Mark R. Denton
District Court Judge

Submitted by:

LEWIS ROCA ROTHGERBER CHRISTIE, LLP

By: */s/ Ogonna M. Brown*
Ogonna M. Brown, Bar No. 7589
Trent Earl, Bar No. 15214
Christine R. Hotchkin, Bar No. 15568
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
Email: OBrown@lewisroca.com
Tearl@lewisroca.com
Chotchkin@lewisroca.com

Attorneys for Plaintiff GS Capital Partners LLC

Disapproved as to Form and Substance (submitting competing order):

By: Refused to Sign—Will submit competing Order
Maximilien D. Fetaz, Esq., NV Bar No. 12737
mfetaz@bhfs.com
Eric D. Walther, Esq., NV Bar No. 13611
ewalther@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK, LLP
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Facsimile: 702.382.8135

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Ian Rainey, Esq. (*pro hac vice forthcoming*)
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Attorneys for Defendant Blackstar Enterprise Group, Inc.

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

GS Capital Partners LLC, Plaintiff(s) vs. Blackstar Enterprise Group, Inc., Defendant(s)	CASE NO: A-23-881099-B DEPT. NO. Department 13

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 12/18/2023

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Eric Walther	ewalther@bhfs.com
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EXHIBIT 10

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Attorneys for Plaintiff GS Capital Partners LLC

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CLARK COUNTY

GS CAPITAL PARTNERS LLC, a New York limited liability company,

Plaintiff,

v.

BLACKSTAR ENTERPRISES GROUP, INC. a Delaware limited liability company, and DOES I through X, inclusive, and ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-23-881099-B

Dept. No.: 13

ORDER DENYING BLACKSTAR'S MOTION FOR RECONSIDERATION, AND GRANTING REQUEST FOR STAY PENDING APPEAL ON AN ORDER SHORTENING TIME

Date of Hearing: January 11, 2024
Time of Hearing: 9:00 a.m.

Judge: Hon. Mark R. Denton

This matter having come before this Court for oral argument on January 11, 2024, at 9:00 a.m., before the Honorable Mark R. Denton in connection with Blackstar's Motion for Reconsideration or, Alternatively, Motion for Stay Pending Appeal on an Order Shortening Time (the "Motion for Reconsideration") filed by Defendant Blackstar Enterprises Group, Inc., a Delaware Limited Liability Company ("Blackstar" or alternatively "Defendant"). Brent Owen, Esq., of the law firm Haynes and Boone, LLP and Eric Walther, Esq. of the law firm Brownstein Hyatt Farber Schreck, appearing in person on behalf of Blackstar with Ogonna M. Brown, Esq. of the law firm Lewis Roca Rothgerber Christie LLP appearing in person on behalf of Plaintiff GS

Capital Partners, LLC, a New York Limited Liability Company ("GS Capital" or alternatively, "Plaintiff").

This Court having reviewed all related pleadings and papers on file herein, including Defendant Blackstar's Motion for Reconsideration filed January 2, 2024, Plaintiff GS Capital's Opposition to the Motion for Reconsideration filed January 9, 2024, and Defendant's Reply in support of its Motion for Reconsideration filed on January 10, 2024, and having heard argument from counsel at the hearing on the Motion for Reconsideration, and good cause appearing therefore,

IT IS HEREBY ORDERED that Defendant Blackstar's Motion for Reconsideration is **DENIED**.

IT IS FURTHER ORDERED that Defendant Blackstar's alternative Motion for Stay Pending Appeal is **GRANTED**, conditioned upon the posting of a security bond for $10,000.00.

IT IS FURTHER ORDERED that the stay is only effective for 30-days upon the posting of the bond to allow Blackstar to seek a stay from the Nevada Supreme Court, and that the stay only applies to the Order Granting Application for Preliminary Injunction and Motion for Specific Performance entered by this Court on December 18, 2023, and is not a stay of the entire case currently pending before this Court.

IT IS FURTHER ORDERED that notwithstanding the stay, Plaintiff GS Capital's existing reserve with Defendant's shares of common stock shall remain in place.

IT IS SO ORDERED.

Dated this 16th day of January, 2024

TMB

614 37A 5131 0E4B
Mark R. Denton
District Court Judge

Dated this 12th day of January, 2024

Submitted by:
LEWIS ROCA ROTHGERBER CHRISTIE, LLP

By */s/ Ogonna M. Brown*
Ogonna M. Brown, Bar No. 7589
Trent Earl, Bar No. 15214
Christine R. Hotchkin, Bar No. 15568
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Tearl@lewisroca.com
Chotchkin@lewisroca.com

Attorneys for Plaintiff GS Capital Partners LLC

Dated this 12th day of January, 2024

Approved as to Form and Substance:

By: */s/ Maximilien D. Fetaz*
Maximilien D. Fetaz, Esq., NV Bar No. 12737
mfetaz@bhfs.com
Eric D. Walther, Esq., NV Bar No. 13611
ewalther@bhfs.com
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Denver, Colorado 80202
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Facsimile: 303.382.6210

Attorneys for Defendant Blackstar Enterprise Group, Inc.

[redacted]

Brownstein - we're all in.

From: Walther, Eric D.
Sent: Friday, January 12, 2024 3:04 PM
To: Brown, Ogonna <OBrown@lewisroca.com>; Owen, Brent <Brent.Owen@haynesboone.com>; Fetaz, Maximilien <MFetaz@BHFS.com>; Cosby, Wendy C. <wcosby@bhfs.com>; Rainey, Ian <Ian.Rainey@haynesboone.com>
Cc: Team OMB <TeamOMB@lewisroca.com>; Hotchkin, Christine <CHotchkin@lewisroca.com>; Earl, Trent <TEarl@lewisroca.com>; Kay, Paula <PKay@BHFS.com>
Subject: RE: GS Capital Partners v. Blackstar - Order Denying Motion for Reconsideration

Ogonna,

We have not heard from you or your team on whether the order has been submitted to chambers and our client is standing by to post the bond. Unless the order is submitted to chambers by 3:30 p.m. today, we'll be submitting the attached, which has already been approved by all parties.

Thanks,
Eric

Eric D. Walther
Brownstein Hyatt Farber Schreck, LLP
100 North City Parkway, Suite 1600
Las Vegas, NV 89106
702.464.7062 tel
775.315.5979 cell
ewalther@bhfs.com

Brownstein - we're all in.

From: Walther, Eric D.
Sent: Friday, January 12, 2024 1:25 PM
To: Brown, Ogonna <OBrown@lewisroca.com>; Owen, Brent <Brent.Owen@haynesboone.com>; Fetaz, Maximilien <MFetaz@BHFS.com>; Cosby, Wendy C. <wcosby@bhfs.com>; Rainey, Ian <Ian.Rainey@haynesboone.com>

Cc: Team OMB <TeamOMB@lewisroca.com>; Hotchkin, Christine <CHotchkin@lewisroca.com>; Earl, Trent <TEarl@lewisroca.com>
Subject: RE: GS Capital Partners v. Blackstar - Order Denying Motion for Reconsideration

Ogonna,

Has the order been submitted to chambers? We have the stay bond ready for delivery to the Court. We are just waiting on your submission of the order to the Court so the Clerk will accept payment. Blackstar reserves all rights.

Thanks,
Eric

Eric D. Walther
Brownstein Hyatt Farber Schreck, LLP
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Las Vegas, NV 89106
702.464.7062 tel
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ewalther@bhfs.com

Brownstein - we're all in.

From: Walther, Eric D.
Sent: Friday, January 12, 2024 10:10 AM
To: Brown, Ogonna <OBrown@lewisroca.com>; Owen, Brent <Brent.Owen@haynesboone.com>; Fetaz, Maximilien <MFetaz@BHFS.com>; Cosby, Wendy C. <wcosby@bhfs.com>; Rainey, Ian <Ian.Rainey@haynesboone.com>
Cc: Team OMB <TeamOMB@lewisroca.com>; Hotchkin, Christine <CHotchkin@lewisroca.com>; Earl, Trent <TEarl@lewisroca.com>
Subject: RE: GS Capital Partners v. Blackstar - Order Denying Motion for Reconsideration

Ogonna,

You may use my e-signature on this version. Please copy us on the submission to the Dept. 13 inbox.

Thanks

Eric D. Walther
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ewalther@bhfs.com

Brownstein - we're all in.

From: Brown, Ogonna <OBrown@lewisroca.com>
Sent: Thursday, January 11, 2024 9:39 PM
To: Walther, Eric D. <ewalther@bhfs.com>; Owen, Brent <Brent.Owen@haynesboone.com>; Fetaz, Maximilien <MFetaz@BHFS.com>; Cosby, Wendy C. <wcosby@bhfs.com>; Rainey, Ian <Ian.Rainey@haynesboone.com>
Cc: Team OMB <TeamOMB@lewisroca.com>; Hotchkin, Christine <CHotchkin@lewisroca.com>; Earl, Trent <TEarl@lewisroca.com>
Subject: RE: GS Capital Partners v. Blackstar - Order Denying Motion for Reconsideration

Dear Eric:

I accepted most of your changes. Attached is the clean version authorized by my client. Please let me know if we are authorized to affix your electronic signature. Thank you.

Ogonna Brown
Partner

OBrown@lewisroca.com
D. 702.474.2622

LEWIS ROCA

From: Walther, Eric D. <ewalther@bhfs.com>
Sent: Thursday, January 11, 2024 3:22 PM
To: Brown, Ogonna <OBrown@lewisroca.com>; Owen, Brent <Brent.Owen@haynesboone.com>; Fetaz, Maximilien <MFetaz@BHFS.com>; Cosby, Wendy C. <wcosby@bhfs.com>; Rainey, Ian <Ian.Rainey@haynesboone.com>
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Subject: RE: GS Capital Partners v. Blackstar - Order Denying Motion for Reconsideration

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

GS Capital Partners LLC, Plaintiff(s) vs. Blackstar Enterprise Group, Inc., Defendant(s)	CASE NO: A-23-881099-B DEPT. NO. Department 13

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 1/16/2024

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