

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

COMPLEX BUSINESS DIVISION

SHOMA CORAL GABLES, LLC,
a Delaware limited liability company,
derivatively on behalf of CORAL GABLES
LUXURY HOLDINGS, LLC, a Delaware
limited liability company,

Case No. 17-17658 CA 40

Plaintiff,

vs.

GABLES INVESTMENT HOLDINGS, LLC,
a Delaware limited liability company,
and THE COLLECTION, LLC,
a Florida limited liability company,

Defendants.

_____/

GABLES INVESTMENT HOLDINGS, LLC,
a Delaware limited liability company, derivatively
on behalf of CORAL GABLES LUXURY
HOLDINGS, LLC,

Counter-Plaintiffs,

vs.

SHOMA CORAL GABLES, LLC, a Delaware
limited liability company,

Counter-Defendants.

_____/

DEFENDANTS' AMENDED ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS TO PLAINTIFF'S CORRECTED AMENDED COMPLAINT

Defendants GABLES INVESTMENT HOLDINGS, LLC (“Gables Investment”)¹ and THE COLLECTION, LLC (“The Collection”) (collectively, “Defendants”),² by and through undersigned counsel hereby answer, and set forth their affirmative defenses and counterclaims to Plaintiff SHOMA CORAL GABLES, LLC’s (“Shoma” or “Plaintiff”) Corrected Amended Complaint (“Complaint”), and state as follows:

ANSWER

Defendants deny every allegation of the Complaint except as expressly admitted below.

With respect to each numbered allegation in the Complaint Defendants state as follows:

1. Admitted upon information and belief.
2. Admitted.
3. Defendants admit only that Colombo is a resident of Miami-Dade County.

Defendants lack knowledge as to the veracity of the remaining allegations, particularly what time period is “material” to the Plaintiff, and therefore those allegations are denied.

4. Defendants admit only that The Collection is a Florida limited liability company and conducts business in Miami-Dade County. Defendants lack knowledge as to the veracity of the remaining allegations, including what time period is “material” to the Plaintiff, and therefore those allegations are denied.

¹ Although Shoma’s Complaint defines Gables Investment Holdings, LLC as “CMC,” CMC Group is a separate and distinct legal entity. As such, this Answer, Affirmative Defenses, and Counterclaims appropriately refers to Gables Investment, LLC as “Gables Investment” and not CMC. Therefore, any responses contained herein apply only to Gables Investment.

² Pursuant to the Court’s July 9, 2018 Order Granting Colombo’s Motion for Judgment on the pleadings, Colombo is no longer a party and does not respond.

5. Defendants admit that Plaintiff alleges an amount in controversy is in excess of \$15,000.00 but deny that Defendants are liable to Plaintiff in any manner whatsoever, or, alternatively in an amount in excess of that amount.

6. Denied. Among other issues set forth in more detail below, Shoma has failed to provide the required notice and demand to pursue these claims, Shoma has failed to bring this action within the required time period; and Shoma previously breached applicable provisions of the Agreement.

7. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendants admit only that Colombo is a resident of Miami-Dade County and is one of the managers of The Collection; otherwise, Defendants lack knowledge as to veracity of the remaining allegations, including what time period is “material” to the Plaintiff, and therefore those allegations are denied.

8. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendants admit only that The Collection is a Florida limited liability company and conducts business in Miami-Dade County, Florida; otherwise the remaining allegations are denied.

9. Denied, except to admit that venue is proper in this County.

10. Denied.

11. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations.

12. Denied.

13. Denied.

14. Admitted.

15. Denied.

16. Defendants admit only that Shoma and Gables Investment entered into a business relationship, which terms are set forth in the Operating Agreement. Defendants refer to the Operating Agreement for its true and accurate contents and deny any characterization of same.

17. Defendants admit only that Colombo was a manager of Gables Investment for a period of time and was a manager of The Collection; otherwise, Defendants lack knowledge as to veracity of the remaining allegations, including what time period is “material” to the Plaintiff, and therefore those allegations are denied.

18. Denied, except to admit on information and belief that Shoma entered into a Purchase Agreement.

19. Admitted upon information and belief.

20. Defendants lack knowledge as to the veracity of the allegations contained in paragraph 20 and therefore deny same.

21. Defendants admit that Plaintiff and Gables Investment agreed to form the Company for the purposes set forth in the Operating Agreement and refer to that document for its true and accurate contents; Defendants also admit that Shoma and Gables Investment had discussions concerning Shoma’s pending acquisition of the Property; otherwise the allegations are denied.

22. Defendants admit that on or about October 8, 2013, Plaintiff and Gables Investment agreed to form the Company, and refer to the Operating Agreement for its true and accurate contents; otherwise the allegations are denied.

23. Admitted.

24. Defendants admit that the Operating Agreement was executed on or about October 8, 2013, and refer to that document for its true and accurate contents; otherwise denied.

25. Denied, except to admit that the Operating Agreement speaks for itself.

26. Denied, except to admit that the Operating Agreement speaks for itself.

27. Defendants admit that in or around the time of the execution of the Operating Agreement, Shoma appointed Shojaee as one of the managers of the Company, and Gables Investment appointed Colombo as one of the managers of the Company, and, therefore, at that time they were members of the Management Committee of the Company. Defendants refer to the Operating Agreement for its true and accurate contents; otherwise the allegations are denied.

28. Admitted.

29. Defendants admit that at the time of the Company's purchase of the Property, business operations were commenced and Shojaee and Colombo were each Managers of the Company; otherwise denied.

30. Defendants are without knowledge as to the time and particulars of any *Real Deal* articles published in or around December 12, 2013, and therefore deny same.

31. This paragraph contains legal conclusions to which no response is required. To the extent a response is required, the allegations of Paragraph 31 are denied.

32. Denied as phrased.

33. Denied as phrased.

34. Defendants admit that the Company obtained certain approvals and entitlements necessary for the construction of the Project and that several prospective buyers made reservations for residential condominium units within the Project. All other allegations contained in paragraph 34 are denied.

35. Defendants are without knowledge as to the veracity of the allegations contained in paragraph 35 and therefore deny same.

36. The allegations contained in paragraph 36 contain legal conclusions to which no response is required. To the extent the allegations warrant a response, the alleged email speaks for itself, and any characterizations are therefore denied.

37. Denied as phrased.

38. Admitted.

39. Admitted.

40. Defendants admit that on or around March 12, 2015, Gables Investment emailed to Shoma the Commitment Letter, and refer to that document for its true and accurate contents; otherwise denied.

41. Defendants admit that the Commitment Letter exists and refer to that document for its true and accurate contents; otherwise denied.

42. Defendants admit that on or around May 6, 2015, Gables Investment prepared a Cash Flow Projection and refers to that document for its true and accurate contents; otherwise denied.

43. Defendants admit that an Appraisal Report (Market Study) was obtained by the Company on or about June 21, 2015 and refer to that document for its true and accurate contents.

44. Defendants admit that an Appraisal Report (Market Study) was obtained by the Company on or about June 21, 2015 and refer to that document for its true and accurate contents; otherwise denied.

45. Admitted.

46. Defendants admit that the Company prepared a Business Plan dated June 30, 2015 and refer to that document for its true and accurate contents; otherwise denied.

47. Denied.

48. Defendants admit that there is a revised Cash Flow Projection and refer to that document for its true and accurate contents; otherwise denied.

49. Defendants admit that on or about August 8, 2015 Gables Investment delivered a proposed revised Commitment Letter to Shoma and refer to that document for its true and accurate contents; otherwise denied.

50. Denied.

51. Defendants lack knowledge as to the veracity of the allegations contained in the first sentence of paragraph 51 and therefore they are denied. Defendants admit only that discussions took place about a proposal for underground parking in excess of 16,000 square feet in connection with the second sentence of paragraph 51; otherwise denied.

52. Denied.

53. Defendants admit that on or about September 8, 2015, a discussion took place between Shojaee and Colombo regarding the Company's potential sale of the Retail Space and Basement Garage Area to the Collection.

54. Denied.

55. Defendants admit only that Plaintiff did not agree to terms with Colombo or Gables Investment; otherwise denied.

56. Denied.

57. Denied.

58. Defendants admit that on or about September 19, 2015, Defendant Gables Investment delivered a proposed Unanimous Written Consent of the Managers of the Company and refer to that document for its true and accurate contents and otherwise deny the allegations contained in paragraph 58.

59. Defendants admit that on or about September 19, 2015, Defendant Gables Investment delivered a proposed Unanimous Written Consent of the Managers of the Company and refer to that document for its true and accurate contents and otherwise deny the allegations contained in paragraph 59.

60. Defendants admit that Plaintiff declined to execute the written consent and refers to that response for its true and accurate contents and otherwise deny the allegations contained in paragraph 60.

61. Denied as phrased.

62. Denied.

63. Denied.

64. Denied.

65. Defendants are without knowledge as to the veracity of the allegations contained in paragraph 65, and therefore deny same.

66. Defendants lack knowledge as to the veracity of what Plaintiff was informed and therefore deny the allegations contained in paragraph 66.

67. Denied.

68. Defendants admit only that the Sales Office was effectively inoperable in or around late October 2015 due to Shoma's failure to pay its share of the Company's expenses, including payments necessary to keep the Sales Office operational and the sales staff compensated; otherwise denied.

69. Defendants lack knowledge as to the veracity of the allegations contained in paragraph 69 and therefore deny same.

70. Denied.

- 71. Denied.
- 72. Denied.
- 73. Denied.
- 74. Denied.
- 75. Denied.

Count I
BREACH OF CONTRACT
(Against GABLES INVESTMENT)

76. Defendants respond to this Count in the same fashion as above and incorporates responses to paragraphs 1 through 75 as if fully set forth herein.

77. This is a description of the nature of this Count to which no response is required. To the extent a response is required, Defendants deny the allegations contained in paragraph 77.

78. Defendants admit that on or about October 8, 2013, Plaintiff and Gables Investment executed the Operating Agreement, and that a true and correct copy of which is attached to the Complaint as Exhibit “B” and refer to that document for its true and accurate contents.

79. Defendants admit that the Operating Agreement includes Section 2.5 and refer to that document for its true and accurate contents.

80. Defendants admit only that the Operating Agreement includes Section 4.1 and refers to that document for its true and accurate contents and otherwise deny the allegations contained in paragraph 80.

81. Defendants admit that the Operating Agreement includes Section 4.5 and refers to that document for its true and accurate contents.

82. Defendants admit that Gables Investment made a capital contribution to the Company and owns 50% of the Company's membership interests and that Plaintiff owns the remaining 50% membership interests in the Company.

83. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, Defendants refer to the Operating Agreement for its true and accurate contents and otherwise deny the allegations contained in paragraph 83.

84. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 84.

85. This paragraph contains legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in paragraph 85.

86. Denied.

87. Denied.

88. Defendants admit only that the Operating Agreement governs the Company's ability to sell substantially all of the Company assets and the distribution of any capital and profits and refer to that document for its true and accurate contents; otherwise denied.

89. Denied.

90. Denied.

91. Denied.

Count II
BREACH OF CONTRACTUAL DUTY OF GOOD FAITH
(Against COLOMBO)

Pursuant to the Court's July 9, 2018 Order Granting Colombo's Motion for Judgment on the pleadings, Colombo is no longer a party and does not respond to this Count.

Count III
BREACH OF CONTRACTUAL DUTY OF CARE
(Against COLOMBO)

Pursuant to the Court's July 9, 2018 Order Granting Colombo's Motion for Judgment on the pleadings, Colombo is no longer a party and does not respond to this Court.

Count IV
TORTIOUS INTERFERENCE WITH CONTRACT
(Against THE COLLECTION LLC)

115. Defendants respond to the allegations contained in paragraphs 1 through 75 of the Complaint in the same fashion as above as if fully set forth herein.

116. This paragraph contains legal conclusions and questions of law to which no response is required. To the extent a response is required, Defendants admits only that Plaintiff has brought an action against The Collection for tortious interference with the Operating Agreement; otherwise denied.

117. The Collection admits only that it learned of the existence of the Operating Agreement subsequent to its execution; otherwise denied.

118. Admitted.

119. Denied.

120. Denied.

121. Denied.

122. Denied.

123. Denied.

124. Denied.

125. Denied.

Count V
TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONSHIP
(Against THE COLLECTION LLC)

126. Defendants respond to the allegations contained in paragraphs 1 through 75 of the Complaint in the same fashion as above as if fully set forth herein.

127. This paragraph contains legal conclusions and questions of law to which no response is required. To the extent a response is required, Defendants admit only that Plaintiff has brought a claim against The Collection for tortious interference with Plaintiff's alleged prospective economic relationship with Gables Investment and the Company; otherwise denied.

128. Defendants admits only that Plaintiff and Gables Investment formed the Company pursuant to which Plaintiff and Gables Investment were the two 50% members of the Company; otherwise denied.

129. This paragraph contains legal conclusions and questions of law to which no response is required. To the extent a response is required, Defendants lacks knowledge as to the veracity of the allegations contained in paragraph 129 and therefore denies same.

130. Defendants admit only that subsequent to the Company's formation by Plaintiff and Gables Investment, The Collection learned of that formation of the Company; otherwise denied.

131. Denied.

132. Denied.

133. Denied.

Count VI
TRESPASS
(Against THE COLLECTION LLC)

134. Defendants respond to the allegations contained in paragraphs 1 through 75 Complaint in the same fashion as above as if fully set forth herein.

135. Denied.

136. Denied.

137. Defendants admit only that Section 4.3 is contained in the Operating Agreement and refer to that document for its true and accurate contents and otherwise deny the allegations contained in Paragraph 137.

138. Denied.

139. Denied.

Count VII
PRELIMINARY AND PERMANENT INJUNCTION
(Against THE COLLECTION LLC)

140. Defendants respond to the allegations contained in paragraphs 1 through 75 of the Complaint in the same fashion as above as if fully set forth herein.

141. Denied.

142. Denied.

143. Denied.

144. Denied.

145. Defendant admits only that the Operating Agreement sets forth the applicable terms in connection with the governance of the Company. Defendant refers to the Operating Agreement for its true and accurate contents and denies any characterization thereof.

146. Defendant admits only that the Operating Agreement sets forth the applicable terms in connection with the governance of the Company. Defendant refers to the Operating Agreement for its true and accurate contents and denies any characterization thereof.

147. Defendant lacks knowledge as to the veracity of the allegations contained in paragraph 147 and therefore denies same.

148. Defendant admits only that some of the vehicles that were stored within the warehouse space were worth in excess of \$100,000.00; otherwise denied.

149. Denied.

150. Denied.

Count VIII
SPECIFIC PERFORMANCE
(Against GABLES INVESTMENT)

151. Defendant responds to the allegations contained in paragraphs 1 through 75 of the Complaint in the same fashion as above and as if fully set forth herein.

152. Gables Investment admits that the Operating Agreement includes Section 4.3 and refers to the Agreement and its provisions.

153. Gables Investment admits that the Operating Agreement includes Section 4.3 and refers to the Agreement and its provisions.

154. Gables Investment admits that the Operating Agreement includes Sections 4.3 and refers to the Agreement and its provisions.

155. Gables Investment admits that the Operating Agreement includes Sections 4.3 and refers to the Agreement and its provisions.

156. Gables Investment admits that the Operating Agreement includes Sections 4.3 and refers to the Agreement and its provisions.

157. Gables Investment admits that the Operating Agreement includes Sections 4.3 and refers to the Agreement and its provisions.

158. Gables Investment admits that the Operating Agreement includes Sections 4.3 and refers to the Agreement and its provisions.

159. Denied, except to admit that disputes began in the Fall of 2015 about certain account payable and funding issues (“Account Payable Issues”).

160. Denied, except to admit that Shoma rejected Gables’ consent and sent a revised form of consent, which Gables rejected.

161. Admitted.

162. Admitted that disputes had arisen about the Account Payable Issues.

163. Denied, except to admit that the Unresolved Major Disputes concerned the Account Payable Issues.

164. Admitted.

165. Admitted.

166. Denied, except to admit that the managers participated in mediation before Ret. Judge Stettin on or about November 9, 2015.

167. Admitted that the parties indicated their intention to place the Property on the market, as set forth in Section 4.3(e) of the Operating Agreement, no later than November of 2015.

168. Denied.

169. Denied, except to admit that both parties indicated their intention to place the Property on the market, as set forth in Section 4.3(e) of the Operating Agreement, no later than November of 2015.

170. Denied.

171. Denied.

172. Denied, except to admit that an action was filed in Delaware.

173. Denied.

AFFIRMATIVE DEFENSES

As separate and distinct affirmative defenses, Defendants allege as follows:

1. Each cause of action, claim, and item of damages did not accrue within the time prescribed by law for them before this action was brought. Shoma's claim for specific performance claim is specifically barred by Fla. Stat. § 95.11(5)(a).

2. Shoma's Complaint fails to state a claim for relief, since it violates the requirements of Fla. R. Civ. P. 1.190 by purporting to assert new claims based on matters that existed at the time of the filing of the original complaint.

3. Shoma has engaged in fraudulent misconduct, including by deliberately concealing its true financial condition, both to Gables Investment and to others, including but not limited to the Company's lender, and using collateral and guarantees securing the Company's loans to collateralize other, unrelated loans for the benefit of Shoma and its principal, improperly, secretly and without authorization by the Company, Gables Investment or the guarantors. Shoma has engaged in a strategy of self-dealing, pursuing and promoting its own financial interests, and its own unjust enrichment, at the expense of and to the detriment of the interests of the Company and the Defendants. Shoma's fraudulent conduct bars it from pursuing its claims. Shoma is not qualified or proper to represent the Company suing derivatively.

4. For the reasons set forth in paragraph 3 above, Shoma has unclean hands and is barred and estopped from pursuing these claims derivatively, and availing itself of its own wrongdoing.

5. Shoma waited several years before bringing its derivative claims without any justifiable reason for doing so, which delay is inequitable to Defendants. Accordingly, Shoma's derivative claims are barred by the doctrine of laches.

6. Shoma's claims fail to state a cause of action because Defendants' alleged conduct was a legitimate exercise of business judgment, and is not a legally sufficient ground for an alleged lack of good faith or breach of the Operating Agreement.

7. Shoma's claims fail to state a cause of action because, under well-established principles of contract construction, no fiduciary duties exist between the members of the Company pursuant to the Operating Agreement.

8. Shoma intentionally relinquished any right to claim the existence of a fiduciary obligation on the part of Gables Investment, including derivatively, by entering into the Operating Agreement, which expressly states in Section 4.9 that

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, the duties of a Member and a Manager are expressly limited to those set forth in this Agreement, and such Member and Manager shall not be obligated or liable to the Company or to the other Members as a fiduciary or in any other capacity. Each Member and Manager is hereby authorized to (and the Members agree and acknowledge that the Members will) rely on the limitations set forth in this Section 4.9, and to the fullest extent permitted by applicable law, each Member HEREBY WAIVES AND RELEASES any rights of claims of any standard of care or duty owed by the other Member or the Managers.

Section 4.5, moreover, supports the waiver, confirming "no Member or Manager will have personal liability for any obligations of the Company," including for the disallowance or adjustment of any deduction or credit claimed – "in good faith" – in any income tax return of the Company or of the Members.

9. Shoma's claims are barred, in whole or in part, because it does not have standing to assert claims on behalf of the Company.

10. Shoma's claims are barred, in whole or in part, because Gables Investment has substantially performed all duties owed under the Operating Agreement other than any duties which were prevented or excused, and therefore the judgment sought is unwarranted.

11. Shoma's claims are barred, in whole or in part, due to its breaches of the Operating Agreement. More specifically, Shoma has not complied with its own obligations to Defendants, or its obligations to the Company or to the members of the Management Committee of the Company, and has acted to the detriment of Gables Investment and its own misperceived best interests, or those of its managing member. Shoma also improperly engaged a broker and filed offers for the Property without consent of the Management Committee. Accordingly, Shoma is not qualified or proper to represent the Company suing derivatively.

12. Shoma's claims are barred in whole or in part, because there exists no obligation of good faith and fair dealing under the Operating Agreement. In the alternative, and to the extent that there exists ambiguity which gives rise to a duty of good faith and fair dealing under the Operating Agreement, Shoma's claims are barred, in whole or in part, due to its own lack of good faith. More specifically, Shoma has not complied with its own obligations to Defendants, or its obligations to the Company or to the members of the Management Committee of the Company, and has acted to the detriment of Gables Investment and its own misperceived best interests, or those of its managing member. Accordingly, Shoma is not qualified or proper to represent the Company suing derivatively.

13. Shoma's claims are barred, in whole or in part, by the doctrine of unclean hands. More specifically, Shoma has not complied with its own obligations to Defendants, or its obligations to the Company or to the members of the Management Committee of the Company, and has acted to the detriment of Gables Investment and its own misperceived best interests, or those of its managing member. Accordingly, Shoma is not qualified or proper to represent the Company suing derivatively.

14. Shoma's claims are barred, in whole or in part, by the doctrine of estoppel due to Shoma's own acts and omissions. More specifically, because Shoma has not complied with its own obligations to Defendants, or its obligations to the Company or to the members of the Management Committee of the Company, and has acted to the detriment of Gables Investment and its own misperceived best interests, or those of its managing member, it should be estopped from seeking relief derivatively, including but not limited to specific performance. Accordingly, Shoma is not qualified or proper to represent the Company suing derivatively.

15. Shoma's claims are barred, in whole or in part, by the doctrine of waiver, due to Shoma's own acts and omissions. As an unlimited example, Shoma waived its rights to seek a third-party sale because, after the parties indicated their intention to place the Property on the market, as set forth in Section 4.3(e) of the Operating Agreement, no later than November of 2015, Shoma waited nearly two years from the allegations giving rise to the Complaint, and more than a year and a half after the commencement of this lawsuit, to seek to pursue specific performance. Accordingly, Shoma is not qualified or proper to represent the Company suing derivatively.

16. Shoma's claims are barred, in whole or in part, because Shoma failed to satisfy all requisite conditions precedent, including, but not limited to, making demand on the Company prior to bringing an action, subject to all conditions set forth in the Operating Agreement, such as requesting a meeting, holding the meeting, and attending mediation in good faith.

17. Defendants allege that Plaintiff has failed to state a cause of action for (i) breach of contract, (ii) breach of the duty of good faith, (iii) breach of the duty of care, (iv) tortious interference with contract, (v) tortious interference with prospective economic relationship, and (vi) trespass.

18. Defendants allege that Plaintiff has not suffered any damages because it had no right to anything by virtue of the Project if the Project were not to be completed.

19. Defendants allege that Plaintiff had no protectable business interests with the Company or Gables Investment because the scope, timing, cost and sales price of the Project were not final.

20. Defendants allege that Plaintiff has waived any right to assert the claims in the Complaint by accepting The Collection's monthly rent payments and taking decisions with regard to the Company's relationship with the Company without adherence to the protocol set forth in the Operating Agreement.

21. Defendants allege that Plaintiff failed to mitigate any damages that it may have by refusing to sell the property, assist in winding down the Company, or otherwise productively using Company assets.

22. All actions by The Collection justified and privileged, including based on its own economic interests and legal rights.

23. Plaintiff's claims should be barred because Plaintiff waived any claims by accepting the benefit of using The Collection brand without appropriate consent, and without compensation, and by accepting rent for the parking, without contest. Alternatively, Plaintiff should be equitably estopped because it accepted the consideration and benefit described above.

24. Defendants allege that Plaintiff's claims are barred by the economic loss rule. Plaintiff entered into the Operating Agreement, knowing that management and control would be equal, with full knowledge that a deadlock would result in the dissolution of the Company. A deadlock has now occurred and Plaintiff now seeks damages for an outcome that was reasonably foreseeable and specifically acknowledged and accepted.

25. Defendants allege that Plaintiff's claims are barred because its exclusive remedy under the Operating Agreement was to trigger a sale of the Property or to dissolve the Company.

COUNTERCLAIMS

Defendants GABLES INVESTMENT HOLDINGS, LLC ("Gables Investment") and THE COLLECTION, LLC ("The Collection") (collectively "Counter-Plaintiffs"), by and through undersigned counsel assert the following counterclaims against Plaintiff SHOMA CORAL GABLES, LLC ("Shoma" or "Plaintiff"), derivatively on behalf of CORAL GABLES LUXURY HOLDINGS, LLC ("Company") (collectively "Counter-Defendants") and state as follows:

PRELIMINARY STATEMENT

Counter-Plaintiffs expressly reserve and in no way waive their arguments and defenses in opposition to Shoma's claims. As Counter-Plaintiffs contend, the parties' Operating Agreement expressly excludes the duties that Shoma claims were imposed and breached, and the exercise of contractual rights by Gables Investment cannot form the basis for liability. Based on those grounds, Shoma's claims are clearly unfounded.

While Counter-Plaintiffs are troubled that they have to file counterclaims based on the same unfounded theory Shoma has raised, they do so in an abundance of caution, since it was Shoma and Shojaee (and not Counter-Plaintiffs) whose conduct was improper and should solely be blamed. Counter-Plaintiffs continue to assert their position that the controlling provisions of the Operating Agreement be given effect, and Shoma's claims dismissed. In the meantime, to the extent Shoma's unfounded claims remain, Counter-Plaintiffs assert the following counterclaims, in the alternative to, and without waiver of, its defenses:

GENERAL ALLEGATIONS

A. Parties, Jurisdiction, and Venue.

1. Gables Investment is a Delaware limited liability company doing business in Miami-Dade County, Florida.

2. Colombo is an individual who resides and maintains an office in Miami-Dade County, Florida.

3. The Collection is a Florida limited liability company doing business in Miami-Dade County Florida.

4. Shoma is a Delaware limited liability company doing business in Miami-Dade County, Florida.

5. Shojaee is an individual who resides and maintains an office in Miami-Dade County, Florida.

6. The Company is a Delaware limited liability company doing business in Miami-Dade County, Florida.

7. This Court has jurisdiction over the Counter-Defendants, who conduct business in Miami-Dade County, Florida.

8. Venue is proper in this County, where the causes of action accrued.

9. All conditions precedent to the bringing of these supplemental counterclaims have occurred, been excused, or waived.

GABLES INVESTMENT'S DIRECT COUNTERCLAIMS

**COUNT I
INDEMNIFICATION
(AGAINST CORAL GABLES LUXURY HOLDINGS)**

10. Counter-Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1-9 above, as if fully set forth herein.

11. This is an action against Counter-Defendant Coral Gables Luxury Holdings for Indemnification.

12. On October 8, 2013, Shoma and Gables Investment executed the Operating Agreement.

13. Section 4.6 of the Operating Agreement entitled the “Indemnification” provides that:

The Company shall indemnify, defend and hold harmless the Members, Managers, and the respective Affiliates, officers, directors, employees and agents of each of the foregoing (each an “**Indemnified Person**”) acting on behalf of the Company in accordance with this Agreement, from and against, any and all liabilities, obligations, losses, actual and direct damages (but not speculative damages or claims for lost profits), penalties, actions, judgments, suits, proceedings, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, all reasonable costs and expenses of attorneys, defense, appeal and settlement of any and all suits, actions or proceedings instituted or threatened against the Indemnified Person or the Company) and all reasonable costs of investigation in connection therewith in excess of any insurance or other recoveries received by the Indemnified Person in respect of the actions in question (collectively, the “**Liabilities**”) by any of them by reason of any and every act, error in judgment, omission, or alleged act or omission related to the business of the Company, to the fullest extent allowed by law, arising from any actions or decisions performed or made by the Indemnified Person in connection with the business of the Company; provided, however, such actions or decisions are within the scope of the purposes of the Company and the authority expressly granted to the Indemnified Person, and such actions or decisions do not constitute a Bad Act in connection with the business and affairs of the Company (collectively, the “**Non-Indemnifiable Matters**”). Each Member shall indemnify, defend and hold harmless all Indemnified Persons which are not Affiliates of the indemnifying Member from all Liabilities arising from the Non-Indemnifiable Matters caused by

such Member or any Affiliate thereof. The Company's duty to indemnify will include any judgment, award, settlement, reasonable legal fees, and other costs and expenses related to the defense of any actual or threatened action, proceeding, or claim, including any payments made by such Person, or by reason of the disallowance by any taxing authority of any deduction claimed on any Company tax return. Notwithstanding anything to the contrary set forth in this Agreement, the Company's obligation to indemnify an Indemnified Person shall be fully subordinate to any loans made by a Lender and shall not constitute a claim against the Company in the event that Cash from Sales or Refinancings and Cash from Operations (less Expenses) is insufficient to pay such obligations. Notwithstanding anything to the contrary in this Agreement, Liabilities indemnifiable hereunder shall expressly exclude consequential damages, special or incidental damages, lost profits, punitive damages, exemplary damages, indirect damages or penalty damages, except for such damages the Indemnified Person is or becomes obligated to pay to an unaffiliated Person.

14. Pursuant to the Operating Agreement, Counter-Plaintiffs are in no way legally responsible for the events giving rise to Shoma's causes of action, or legally responsible in any other manner for the damages allegedly sustained. Counter-Plaintiffs are therefore entitled to be fully indemnified by Coral Gables Luxury Holdings, LLC

15. Counter-Plaintiffs seek indemnification for any and all losses including reasonable attorney's fees that arise out of this action.

WHEREFORE, by reason of the above and foregoing, Defendants/Counter-Plaintiffs, Gables Investment Holdings, LLC, The Collection, LLC, and Ugo Colombo request judgment against Plaintiff/Counter-Defendant, Shoma Coral Gables, LLC, Defendant, Masoud Shojaee, and Defendant Coral Gables Luxury Holdings, jointly and severally, for damages to be established at trial, including, but not limited to, lost profits, incidental and consequential damages, interest, plus attorneys' fees pursuant to Section 11.15 of the Operating Agreement, costs and such further relief as the Court may deem just and proper.

GABLES INVESTMENT'S DERIVATIVE COUNTERCLAIMS

Gables Investment renews, and in no way waives, its position that derivative claims by the Company are expressly barred under the Operating Agreement absent unanimous written approval of the Managers, pursuant to Section 4.3(a)(vii). Such written approval was not given for Shoma's claim, and it is barred on that basis. While Gables Investment is troubled that it has to file derivative counterclaims based on the same unfounded theory Shoma has raised, it does so in an abundance of caution, since it was Shoma and (and not Counter-Plaintiffs) whose conduct was improper and should solely be blamed. Counter-Plaintiffs continue to assert their position that the controlling provisions of the Operating Agreement be given effect, and Shoma's claims dismissed. In the meantime, to the extent Shoma's unfounded claims remain, and its allegation of demand futility is accepted, then Counter-Plaintiffs assert the following counterclaims, alleging that further demand would be futile as well, in the alternative to, and without waiver of, its defenses:

A. The Parties Agree to Try To Agree.

16. In Spring of 2013, Shojaee approached Ugo Colombo with an opportunity to buy a piece of property located adjacent to The Collection, LLC on Bird Road in Miami-Dade County ("Property"). The Property is legally described as follows:

Lots 1 – 21 and 27 - 38 in Block 3, REVISED PLAT OF CORAL GABLES INDUSTRIAL SECTION, according to the Plat thereof, as recorded in Plat Book 28, at Page 22, of the Public Records of Miami-Dade County, Florida Folio number 03-4120-017-0571 for lots 1-4 (parking lot); Folio number 03-4120-017-0580 for lots 5- 21 (4112 Aurora Street); Folio number 03-4120-017-0720 for Lots 27 - 38 (4101 Salzedo Street); and

Lots 22-26 and 39-42 in Block 3, REVISED PLAT OF CORAL GABLES INDUSTRIAL SECTION, according to the Plat thereof, as recorded in Plat Book 28, at Page 22, of the Public Records of Miami-Dade County, Florida Folio number 03-4120-017-0700 for lots 22-24 (245 Altara Avenue); Folio number 03-4120-017-0710

for Lots 25 and 26 (4111 Salzedo Street); Folio number 03-4120-017-0790 for Lots 39 - 42 (250 Bird Road).

17. Shojaee, through one of his Shoma entities, had contracted to buy the Property, and hoped Colombo might be interested in a joint venture, given his prominence and the Property's proximity to the luxury automobile dealership that Colombo owned.

18. Colombo agreed to form a limited liability company with Shojaee to purchase the Property. The Operating Agreement for the Company ("Operating Agreement"), was executed on October 8, 2013 (attached as Exhibit "A" to the Supplemental Complaint). The Company's two members are Shoma and Gables Investment.

19. The purchase of the Property closed shortly thereafter, in December of 2013, financed by a loan from Florida Community Bank, N.A. ("Bank").

20. Upon closing, the Company owned a piece of land, suitable for development. No development plan was yet defined; no architectural or design work had yet been done; no building permits had been applied for or obtained; and no construction financing was in place. A multitude of significant issues would have to be addressed and major decisions made by the Company, if any development project was to proceed.

21. The "Development Plan" in the Operating Agreement as Exhibit "G" was 4 lines long, referencing only the construction of "mixed use condominium . . . including residential, office and retail space . . . to include approximately eighty thousand (80,000) square feet of ground floor retails space . . . [and] approximately two hundred fifty-five (255) condominium units and associated parking."

22. The Operating Agreement recognized this, and created a legal structure in which the members "agreed to agree" on the future potential steps involved in any possible development of the land. Thus, the Operating Agreement recognized that various "Major Decisions" would

need to be made, and it expressly gave each of the members the blanket, unilateral authority NOT to agree to those decisions.

23. In short, each member of the Company – Shoma and Gables Investment – appointed a Manager to a 2-member Management Committee, which managed the business of the Company. Shoma’s initial manager was Shojaee; Gables Investment’s was Colombo. Section 4.3(a) of the Operating Agreement then set forth a set of 45 “Major Decisions” that required “the written consent of the Management Committee” before those decisions could be made or undertaken by the Company. Operating Agreement, § 4.3. Both of the Company’s two managers – Shojaee and Colombo – had to unanimously approve the listed Major Decisions. Thus, either of the Managers had veto power, and could choose NOT to approve such a Decision. That was an express contractual right held by the Managers.

24. These provisions established the legal framework for the venture, as the parties moved forward with the potential development of the land. They “agreed to try to agree” on the major decisions that would be involved, but they recognized (and their Operating Agreement confirmed) that neither was obligated to agree, or required to proceed with the development, especially if issues arose between them. See Operating Agreement, § 4.9.

B. The Parties Spend Money on Pre-Development.

25. Over the next year, Shoma and Gables Investment worked together in good faith to pursue developing the Property. Together, they spent millions of dollars on architecture and design, permitting, and other pre-development work to move forward. A design team, including the architectural firms of DPZ Partners, LLC, formerly known as Duany Plater-Zyberk & Company, and Arquitectonica International Corporation, was hired.

26. The potential development was named “The Collection Residences” – using the trademarked name and logo from The Collection, LLC’s luxury automobile dealership. The contemplated project, was also significantly different in scope than that what was described in the 4-line development plan in the Operating Agreement, which the parties had abandoned.

27. Internally, the process was supervised and coordinated by a development team staffed by personnel of CMC Group. CMC group is an “affiliate” of Gables Investment, but the entities are separate. The Operating Agreement expressly provided for this, requiring the Company to make a monthly payment of \$100,000 to Gables Investment for “overhead.” Operating Agreement, § 3.6. Shoma was also to receive a \$50,000 monthly payment for overhead. Shoma thereafter wanted to reduce the amount of its monthly capital contribution, though; and as an accommodation, it was agreed to “net out” the payments, reducing that monthly payment to Gables Investment to \$50,000, with no payment to Shoma. Instead of having to pay \$75,000 a month, Shoma only had to pay \$25,000.

C. Shojaee Starts Trouble – Hiding His Financial Constraints During His Acrimonious Divorce.

28. In the Spring of 2015, however, as the development was moving into the next phases, a series of issues arose with Shoma and Shojaee.

29. At the time, unbeknownst to Gables Investment, Shojaee was embroiled in an acrimonious dispute with his estranged wife, Maria Lamas Shojaee. Divorce proceedings had been filed on April 29, 2015, in Case No. 2015-010703-FC-04, styled *Maria Lamas Shojaee v. Masoud Lamas Shojaee*.

30. As filings now reveal, Shojaee was subject to a *status quo* restraining order, that prohibited him from disposing of or dissipating the value of any assets, and from incurring any

additional personal debt, except as permitted by the Court. The filings also confirmed that his wife – and not he – actually controlled his ownership interest in Shoma. (Exhibit (“Ex.”) 1 hereto).

31. These restrictions severely impacted Shojaee’s financial ability to proceed. Although this was highly material to the Company and to Gables Investment, Shojaee failed to disclose the situation, and concealed it from his partners. Instead, over the following months, he engaged in a series of bizarre and improper actions that ultimately resulted in a deadlock between the members, with Shojaee unwilling (and financially unable) to proceed with any development. Shojaee’s underlying motive and intent was also concealed at the time, but is now apparent – he (and not Ugo Colombo) undermined the future development of any project, and acted against the best interests of the Company, in order to manufacture bogus litigation claims seeking millions of dollars in unfounded and non-existent damages against his former partner.

D. Shojaee Stalls Six Weeks Before Providing Financials.

32. In early 2015, before any of Shojaee’s concealed limitations were discovered, Gables Investment continued to actively work to move forward with development. Arthur Murphy – the Chief Operating Officer of CMC Group – brought a potential mezzanine lender to the project.

33. The lender, QueensFort Capital Corporation (“QueensFort Capital”), issued a proposed commitment letter in March of 2015, to provide a \$48 million mezzanine loan under an “EB-5” program. The loan would provide required funds to move to the next phase of development, and presented a “Major Decision” for the Company pursuant to the Operating Agreement. Operating Agreement, § 4.3(a)(xxiii).

34. The description of the development, at this time, was also significantly different from the 2013 description in Exhibit “G” of the Operating Agreement. Thus, it was described as “126 luxury residential units at 250 Bird Road, Coral Gables, Florida, which is located adjacent to

the Village of Merrick Park and immediately adjacent to the Collection, as well as retail at the ground level and 568 parking spots totaling 355,096 gross square feet.” The ground level retail space was reduced from 80,000 square feet to less than half that number. These significant modifications to the scope of the plan for development also constituted a Major Decision requiring unanimous approval of the Management Committee. Operating Agreement, § 4.3(a)(iv).

35. As part of its underwriting process, QueensFort required financials from Colombo and Shojaee, given the requirement of guarantees for the mezzanine loan. Colombo promptly provided his, but Shojaee did not.

36. As reflected by a series of emails (Ex. 2), Shojaee repeatedly stalled, failing to provide his financials to QueensFort for nearly six (6) weeks, until an inadequate set of the long-overdue financials was finally received by QueensFort at approximately 8:29 p.m. on September 13, 2015. (*Id.*)

37. This delay created a well-founded concern that Shojaee was unwilling, or financially unable, to personally guarantee the loan. That concern, in retrospect, given his concealed financial issues now disclosed through his divorce, was unfortunately the reality.

E. Shojaee Turns to Personal Attacks.

38. During this same time period, Shojaee directed a series of surprising emails to Ugo Colombo and members of CMC Group’s staff. For example, by email dated March 14, 2015, even though Shoma’s monthly capital contribution had been reduced to \$25,000, Shojaee’s CFO advised that they were unilaterally “reduc[ing] the labor invoices” from CMC because it was “hard to comprehend these rates are your cost.” (Ex. 3, p. 5). The email mockingly stated that Shojaee himself “offered to work for these kinds of rates.” (*Id.*)

39. Ugo Colombo directly responded to Shojaee, writing that he “seriously hope[d]” the email had not been authorized by Shojaee or was “just a joke!!” (*Id.*, p. 4). Colombo then assured Shojaee that he was “not making a penny, quality people cost and save money long term.” Colombo added, realistically, “If you cannot see that we might not see eye to eye on how to develop this project.” (*Id.*)

40. In response, Shojaee chose to include a personal attack, emailing Ugo Colombo, “I think you have sense of superiority which you you [sic] are absolutely wrong.” (*Id.*, p. 1).

F. Shojaee Challenges “The Collection’s” Trademark Rights.

41. Shojaee’s conduct, however, included significantly more than personal attacks. He also began to challenge the important and valuable trademark rights that Ugo Colombo and his automobile dealership had developed in “The Collection” name.

42. In June of 2015, it was shockingly discovered that Shoma’s public relations firm, Kreps DeMaria, had been circulating unauthorized press releases and advertising material using “The Collection” name, without first seeking permission from, let alone disclosing it to, representatives of CMC Group.

43. Given the importance of the brand, Vanessa Grout of CMC Group explained the concern to Shoma’s PR representative, Sissy DeMaria, and asked that such press releases be provided for The Collection LLC’s pre-approval.

44. In response, DeMaria threatened to resign, emailing that “Shoma is my longstanding client and I must put their needs first at all times. I cannot be put in a position to be asked to send you press opportunities and messaging first, before them.” (Ex. 4). She then cancelled a meeting that had been scheduled to discuss the use of “The Collection” name, and “the positioning of the collection residences as the most luxurious property in Coral Gables.” (*Id.*)

Although it had no rights at all to “The Collection” trademark, Shoma was putting its interests ahead of the Company’s interests, creating a conflict about the use of the name.

45. Ugo Colombo followed up directly with Shojaee, taking the time to explain the obvious and how “The Collection” was “a brand that took decades to build.” (*Id.*, p. 1). While Colombo had offered “to use the name for our project,” he needed to ensure that the brand was protected. (*Id.*)

46. The exchange, though, raised a concern that a licensing agreement be put in place addressing the use of “The Collection” logo and trademark, as part of any proposed development with Shojaee.

G. Shoma and Shojaee Sabotage the Development.

47. As part and parcel of the financial restrictions imposed on Shojaee in his divorce proceedings, and with malicious intent to harm Colombo and the Company, Shojaee and Shoma acted to sabotage the development.

48. Under Shojaee’s direction, Shoma stopped funding or approving payments for the Sales Center and other work being performed by CMC Group related to the sale, marketing and development of the potential project.

49. Shojaee’s and Shoma’s failure and refusal to fund, in breach of the Operating Agreement, forced a stoppage of the work, disrupted the ongoing sales and marketing efforts, and sabotaged the development of the potential project.

50. Shojaee – and not Colombo – was responsible for the “sabotage.”

H. Deadlock.

51. Despite these issues and concerns, Colombo and Gables Investment still worked in good faith to try to move forward.

52. To help satisfy the condition of the QueensFort loan, that there be substantial presales, The Collection was willing to purchase 26,500 square feet of retail space that fronted Bird Road and the underground parking area.

53. Itself not a member in the Company or party to the Operating Agreement, The Collection obviously had no obligation to buy – or even offer to buy – the Property. Nevertheless, it offered to pay \$14,250,000.00, based on per square foot price of \$500, plus another \$3,160,000 for unfinished underground parking, based on \$40,000 per space above those required for the retail space. To confirm the proposed terms, Gables Investment prepared and executed a form of “Unanimous Written Consent of the Managers of Coral Gables Luxury Holdings, LLC In Lieu of a Meeting,” and forwarded it to Shoma. (Ex. 5, last 2 pages).

54. Importantly, Gables Investment’s proposed Consent also addressed “The Collection” trademark, providing that the Company was “authorized to negotiate a license and other agreements with The Collection, LLC for the limited use of The Collection trademark and brand in connection with the development, marketing and sale of the CGLH Project.” (*Id.*, p. 1). The contemplated license, of course, would be on a “royalty-free” basis. The Consent further authorized the Managers to “execute and deliver” the QueensFort Commitment Letter, in order to move forward with the mezzanine financing. (*Id.*, p. 1).

55. Shoma, however, refused to execute the Consent. Instead, through its purported General Counsel, Frank Silva, Shoma sent back its own Consent, mimicking the Gables Investment Consent, but with substantial changes. (Ex. 6).

56. Shoma’s counter-offer inflated the proposed price for The Collection’s purchase to \$18,550,000, plus another \$5,480,000 for the parking. Rather than providing for execution of the QueensFort Commitment Letter, it kicked the can, merely authorizing continued “negotiations.”

And, significantly, it refused the request for a license agreement, providing instead that “the Managers wish to determine whether a license agreement with The Collection, LLC is necessary” and suggesting the Company “consult legal counsel.”

57. Shojaee and his representatives also again took the opportunity to tee off on Gables Investment. Rather than negotiating in good faith on obviously material terms for further development, Shoma had its lawyer write to counsel for Gables Investment on October 5, 2015, falsely asserting that “Mr. Colombo is attempting to obtain an unfair financial advantage/benefit for The Collection, LLC at the expense of Coral Gables Luxury Holdings, LLC” and accusing Colombo of breaching his duties to the Company. (Ex. 7). Rather than proceeding in good faith with a negotiation on business terms, Shoma was threatening litigation, absurdly contending that a non-party, with no obligation to buy at all, was somehow obligated to pay the amount Shoma demanded.

58. An October 13, 2015, email from Shojaee, after an unproductive meeting between the parties’ representatives, further exposed Shojaee and Shoma’s intentions. (Ex. 8). Addressing the use of “The Collection” name, Shojaee went so far as to assert that “by using ‘The Collection Residences’ as the name for the project, we are using words that are merely descriptive or generic in nature. No license agreement is necessary.” This position was extremely problematic. Having already refused to provide press releases using the brand “The Collection” in advance, Shoma was now confirming its refusal to acknowledge “The Collection” trademark. And, beyond that, Shoma was affirmatively asserting that the trademark was ***not*** protected, and that the term was ***“merely descriptive or generic”*** in nature. Putting aside its apparent bad faith, Shoma had taken a position directly antagonistic to an extremely important concern of its partner. Shoma’s position not only obstructed any future development, it put the members into a state of deadlock.

59. Under the circumstances, Gables Investment recognized that future development was in jeopardy, and invoked the Dispute Resolution procedures under the Operating Agreement.

60. An initial meeting failed to resolve the issues, and Gables Investment proposed the names of three prospective mediators, Brian Bilzin, Richard Berkowitz, and Paul Singerman. The names indicated Gables Investment's interest in trying to reach a resolution, for example suggesting Brian Bilzin, a lawyer experienced in making deals, even though his law firm represented Shoma. Shoma rejected the names, proposing three alternative names including Herbert Stettin. In order to move the process forward, Gables Investment agreed to Judge Stettin, and the mediation was scheduled for November 9, 2015.

I. Shoma Agrees To – Then Torpedoes – Judge Stettin's Sale of the Property.

61. At the November 9th mediation, the parties recognized that the Members were at an impasse and could not move forward with the development. But, the parties nevertheless agreed to retain Judge Stettin “to act as the special master to supervise the dissolution of the partnership” and sell the Property, as well as to address the issues related to Shojaee and Shoma's refusal to fund pending payables.

62. Judge Stettin's letters of November 9 and 10, 2015 (Ex. 9) confirm this, and confirm the parties' intent to market the Property for sale as of November 2015. As the letters state, Judge Stettin was to “be the initial contact person with brokers to list the property” and the parties were to provide “the names of brokers who will be involved.” The letters further confirm that Shojaee, on November 10, 2015, “issued a public statement concerning the status of the joint venture and *the availability of the property for sale.*”

63. Significantly, Judge Stettin's November 10, 2015 letter not only confirms the fact that Mr. Shojaee made that public statement, but it also confirms the admission by Silva – Shoma's

General Counsel and authorized representative – that the public statement was in fact made by Shojaee and that the content of Judge Stettin’s letter was accurate. Thus, Judge Stettin writes in his November 10th letter to Silva and Giller (Gables’ counsel), that he is “[c]onfirming our telephone conversations of November 10, 2015” in which he “was advised” of the public statements issued by Mr. Shojaee.

64. Shojaee’s press release undermined the agreed upon sale process. It obstructed an orderly and well-conceived approach to marketing the Property, which would generate the highest possible sale price. It revealed to the public that the potential development was in trouble, and that the Property was to be sold under less than optimal conditions.

65. Although Shoma’s counsel, Silva, had assured Judge Stettin that no such further statements would be made, Shoma and its counsel continued to block and obstruct the resolution process before Judge Stettin, instead disingenuously buying time to file their lawsuit on January 27, 2016.

66. Shoma’s position was further confirmed, at the start of the litigation, when Gables filed a Motion to Confirm Arbitrability, seeking to permit Judge Stettin to supervise the sale of the Property and liquidation of the Company. (Ex. 10, p. 6). Shoma refused, withdrew its agreement to that process, and opposed the Motion. Instead of proceeding with what had been an agreed-upon process that would certainly have resulted in an orderly and prompt sale of the Property, Shoma actively blocked that process, and stalled efforts to sell the Property, in order to pursue its baseless claims for damages against Ugo Colombo.

67. Shoma’s actions ever since have confirmed this as well. Rather than acting in the best interests of the Company or in a manner that makes economic and business sense, Shoma’s business plan is frivolous litigation.

68. Given his pending divorce, and the restrictions and limitations on his assets, Shojaee was financially unable to fulfill his commitment to the future development of the Property, and instead resorted to a game of litigation lotto, with Ugo Colombo as his target.

69. Indeed, Shoma's allegation in the lawsuit that Ugo Colombo somehow "sabotaged" the product is absurd, as the events of the Fall of 2015 fully expose. By the November 9th mediation, the parties themselves undeniably recognized they were in a state of deadlock, unable to move forward. Investing further resources in sales and marketing efforts – which Shojaee and Shoma refused to fund in any event – made absolutely no sense under the circumstances. If those expenses had continued to be incurred, and not mitigated as was done, Shoma undoubtedly would have complained and sued about that instead. Just as fundamentally, entering into reservation agreements and accepting deposits from potential purchasers would have been improper under the circumstances, given the reality that no development would proceed in light of the Members' deadlock. To be sure, the acts of "sabotage" that occurred were on the part of Shojaee – refusing to fund payables and submarining the sale of the Property in order to gin up a bogus damages claim.

J. Shoma Blocks a Company Appraisal of the Property.

70. True to form, in March of 2016, Gables Investment requested Shoma's agreement for a Company appraisal of the Property. (Ex. 11).

71. Obviously, such an appraisal was appropriate, and necessary, to determine pricing for the listing and sale of the Property. Yet, Shoma refused, claiming that the request was untimely. (*Id.*)

72. Rather than simply permitting an appraisal of the Property, Shoma contended that any appraisal needed to include the development value of the still undecided development, which

was well above and beyond the Property's real value. (*Id.*) Shoma's position speaks volumes, demonstrating how its priority of suing Ugo Colombo has fueled its efforts to block the Company's best interests and a coordinated sale process.

K. Shoma Parrots Gables Investment's Notice of Removal and Files Arbitration.

73. Gables Investment viewed the conduct of Shojaee, coupled with his material non-disclosure and concealment of his acrimonious divorce, as a "bad act" detrimental to the Company in violation of the Operating Agreement.

74. In an effort to protect its and the Company's interests, therefore, Gables Investment sent a Notice of removal of Shojaee as Manager on April 20, 2016. (Ex. 12).

75. Rather than responding to the substance of the Notice, Shojaee sent its own notice back, purporting to remove Ugo Colombo as manager.

76. Again, as it had done when it parroted Gables Investment's proposed consent in September of 2015, Shojaee and Shoma's approach was to fuel the division – exacerbating the already obvious state of deadlock between the members.

77. In August 2016, Shoma escalated matters further, and opened another litigation front by initiating a JAMS arbitration on its notice of removal.

78. Gables Investment attempted in good faith to work through the issue, promptly advising Shoma that it did "not wish to engage in additional continuing litigation," that Ugo Colombo had resigned as manager, and that a successor had been appointed – Massimo Valentini. (Ex. 13).

79. Shoma, still interested only in manufacturing disputes, had its lawyer Silva, send a letter, "reject[ing]" Mr. Valentini's appointment and contending that he "has no authority to act as a Co-Manager on behalf of the Company." (Ex. 14, p. 2).

L. Shoma Takes Six Months to Recognize the New Co-Manager And To Extend the Loan.

80. Nevertheless, for the following six (6) months, Mr. Valentini and Gables Investment continued to try and work with Shojaee and Shoma to address the critical issues and challenges facing the Company – given the severe deadlock between the members.

81. Among other issues, the outstanding loan from the Bank was set to mature on December 5, 2016.

82. On September 15, 2016, Mr. Valentini sent a letter to Shojaee (Ex. 15), asking for a Management Committee meeting to “determine the company’s cash position” in order to pay the outstanding loan, noting that Shoma had made clear the development would not proceed.

83. Shojaee responded to Valentini’s September 15, 2016 letter, again through its counsel Silva, re-asserting that Mr. Valentini had “no authority to proceed” and refusing to let the Managers even meet. (Ex. 16). Shoma’s devotion to its litigation remained paramount.

84. When the Bank indicated its agreement to a short-term extension of the Loan to March 5, 2017, Valentini again urged Shojaee and Shoma to recognize his authority as co-manager, and confirm his authorization to sign the extension agreement requested by the Bank. He did so by letter on or about January 19, 2017. (Ex. 17).

85. When neither Shojaee nor Shoma responded, Valentini followed up by email, and Shojaee finally spoke to him, confirming a meeting for February 3, 2017 (Ex. 18). As Mr. Valentini’s email made clear, the purpose of the meeting was “to address the capital requirements related to the loan.” (*Id.*)

86. On February 3rd, Mr. Valentini waited an hour at the meeting, but Shojaee never showed – without even the courtesy of a call.

87. Shoma's counsel Silva sent a FedEx letter a few days later, on February 7, 2017, directly to Mr. Valentini – in violation of Florida Bar Rule 4-4.2(a) – renewing Shoma's objections to Mr. Valentini's authority, but demanding that Valentini execute the letter anyway. (Ex. 19).

88. A letter from Shoma's litigation counsel, Andrew Hall, followed the next day, threatening that Shoma would “hold [Mr. Valentini] personally responsible for any resulting damages to the maximum extent permitted under the law applicable to this matter.” (Ex. 20). Notwithstanding the Company's serious issues, Shojaee and Shoma's focus stayed blindly on their litigation.

89. Mr. Valentini responded himself, by letter to Shojaee, recapping the communications over the past months. He asked again for confirmation that he had “unconditional authority to act on the bank extension as co-manager.” (Ex. 21). He expressed concern about the “impression” Shojaee's conduct was making on the Bank. And, he indicated that he was considering resigning because of the “outrageous threats” from Shoma's counsel. (*Id.*)

90. In a further attempt to advance the process, Valentini executed and, through counsel, delivered his signed copy of the extension letter to Shoma's counsel in escrow, pending only Shoma's “unconditional acknowledgment of Mr. Valentini's status, as the manager duly appointed by Coral Gables Luxury Holdings, LLC.” (Ex. 22, p. 1).

91. Finally, by letter dated February 13, 2017 – now desperate to avoid the impending default of the Loan it caused – Andrew Hall as Shoma's counsel advised in writing that “Massimo Valentini is authorized to act as co-manager of Coral Gables Luxury Holdings, LLC” and “is recognized as co-manager of the joint venture and is authorized to execute documents on its behalf, including the loan extension with Florida Community Bank.” (Ex. 23).

92. In short, it had taken approximately six (6) months for Shoma and its counsel to finally withdraw their threats and cease their baseless efforts to block Mr. Valentini's authority – in order for the Company to obtain a 3-month extension of the Loan.

M. Shoma Opposes the Delaware Action – Which Sought to Sell The Property.

93. With the Loan extended, however, only a short window of time existed to try and address the fundamental issues, and the underlying deadlock between the Members. Consistent with the events of the past six (6) months, Shoma and Shojaee's focus remained on the litigation, as they continued to file further amendments of their pleading to try and state a claim.

94. As detailed above, although Shoma had indicated its intent to market the Property for sale as of November 2015, Shoma had then torpedoed that process and refused even to authorize a company appraisal in March of 2016.

95. In short, as of early 2017, Shoma had made no effort to proceed with a sale of the Property, and instead had blocked the process at every stage. Clearly, the parties were deadlocked.

96. Under the circumstances, Gables Investment turned to the Delaware Chancery Court for help, filing a petition for dissolution of the Company on March 3, 2017.

97. Among other relief requested, Gables Investment sought the appointment of a liquidator, who could move forward with the sale of the Property – implementing what the parties had agreed to do with Judge Stettin sixteen (16) months before, in November of 2015, before Shoma torpedoed it.

98. Yet again, Shoma opposed the process. It moved to dismiss the Delaware action.

99. Having opposed for nearly 18 months all efforts to sell the Property since confirming its intent to do so in November of 2015, Shoma sent a bogus "Notice" purporting to "elect to initiate the third party sale procedure" in the Operating Agreement.

100. Then, with a hearing upcoming in Delaware, Shoma filed its “Supplemental Complaint” in this action, requesting specific performance ordering Gables Investment to consent to a real estate broker chosen unilaterally by Shoma. The broker, as well, was not well suited to handle the Property. A local broker, without a national platform, she is primarily a leasing broker and also has a prior relationship with Shojaee, both personally and on leasing projects for his companies.

101. Based on that filing, the Delaware Court dismissed the action, holding “that unless the parties can come to an agreement about their unresolved major disputes, they will be forced to sell the company’s property, which all seem to agree is substantially all of the company’s assets, to either a third party or to the other member; and that will trigger dissolution.” (Ex. 24). The Delaware Court concluded that, “[i]n the event this process breaks down, I still retain my discretion at that point to grant dissolution.” (*Id.*)

102. As a result of Shoma and Shojaee’s actions, among other damage, the loan remains unpaid and interest continues to accrue.

COUNT I
BREACH OF CONTRACT
(AGAINST SHOMA)

103. Gables Investment realleges and incorporates by reference the allegations in paragraphs 1-102 above, as if fully set forth herein.

104. This is an action against Counter-Defendant Shoma for its breach of the Operating Agreement.

105. On October 8, 2013, Shoma and Gables Investment executed the Operating Agreement.

106. Sections 4.3(c)-(e) expressly state how the members shall proceed if they are unable to agree on a Major Decision.

107. Specifically, as set forth in Section 4.3(e), if a Major Dispute is not resolved by negotiation or mediation, then the Members can in two ways. They are “entitled to initiate the buy-sell procedure pursuant to Section 5.7, or, alternatively, . . . either Member may require the sale of the Property to a third party in accordance with this Section 4.3(e).”

108. Here, the Major dispute provisions were invoked in September of 2015, and as set forth above, the parties then expressed their intention pursuant to Section 4.3(e) to sell the Property.

109. They did so in November of 2015, as was confirmed in writing by Retired Judge Stettin, in his letters of November 9 & 10, 2015. (Exhibit 9).

110. Then, after initiating the third party sale provision, Shoma then took actions in violation and breach of Section 4.3(e), to interfere with, block and delay the sale for nearly three years.

111. The actions, as set forth in detail above, included:

- a. torpedoing Judge Stettin’s sale of the Property, after expressly agreeing to allow him to do so;
- b. blocking a Company appraisal of the Property, which was needed to determine pricing for the listing and sale of the Property; and
- c. opposing the Delaware litigation, seeking to sell the Property and liquidate the Company.

112. As a result of Shoma’s conduct, among other damage, the Company continued to incur interest on its unpaid loan, including default interest being claimed by a subsequent purchaser of the loan from the lender.

113. The conduct by Shoma included failing to recognize Valentini as the new co-Manager of the Company, and refusing even to meet with him to address capital requirements related to the loan, while it remains unpaid and interest accrues.

114. Then, even in response to a demand letter from the purchaser of the loan, and after express authorization was given by Gables Investment, Shoma failed and refused to negotiate and fund the repayment of the loan, to eliminate further interest from accruing.

115. Shoma's above-described actions were in bad faith and not in the best interests of the Company.

116. Its actions constitute material breaches of the Operating Agreement.

117. As a direct and proximate result of Shoma's above-described breaches of the Operating Agreement, the Company has sustained and continues to sustain damages in an amount to be established at trial.

WHEREFORE, by reason of the above and foregoing, Defendant/Counter-Plaintiff, Gables Investment Holdings, LLC, derivatively on behalf of Coral Gables Luxury Holdings, LLC, requests judgment against Plaintiff/Counter-Defendant, Shoma Coral Gables, LLC, for damages to be established at trial, plus attorneys' fees pursuant to Section 11.15 of the Operating Agreement, costs and such further relief as the Court may deem just and proper.

Respectfully submitted,

COFFEY BURLINGTON, P.L.

Counsel for Defendants, Gables Investment Holdings, LLC, Ugo Colombo and The Collection, LLC

2601 South Bayshore Drive, Penthouse One
Miami, Florida 33133

Telephone: (305) 858-2900

Facsimile: (305) 858-5261

By: /s/ Kevin C. Kaplan

Robert K. Burlington, Esq.

Florida Bar No. 261882

rkb@coffeyburlington.com

mpalmero@coffeyburlington.com

Kevin C. Kaplan, Esq.

Florida Bar No. 933848

kkaplan@coffeyburlington.com

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Justin E. King, Esq.

Florida Bar No. 121408

jking@coffeyburlington.com

YVB@coffeyburlington.com

service@coffeyburlington.com

CERTIFICATE OF SERVICE

I certify that the foregoing document has been filed and furnished by the Florida Courts e-filing Portal pursuant to Fla. R. Jud. Admin. 2.516(b)(1), this 12th day of July, 2018, on all counsel or parties of record on the Service List below.

| SERVICE LIST | |
|--|---|
| <p>Andrew C. Hall, Esq. Matthew P. Leto, Esq. HALL, LAMB AND HALL, P.A. Offices at Grand Bay Plaza 2665 South Bayshore Drive, Penthouse One Miami, FL 33133 Telephone: (305) 374-5030 Facsimile: (305) 374-5033 andyhall@hlhlawfirm.com jpoli@hlhlawfirm.com mleto@hlhlawfirm.com yalonso@hlhlawfirm.com pleadings@hlhlawfirm.com <i>Counsel for Plaintiff</i></p> | <p>Frank Silva, Esq. 201 Sevilla Avenue, Suite 300 Coral Gables, FL 33134 Telephone: (786) 437-8658 Direct: (786) 437-8673 Facsimile: (786) 437-8606 fsilva@shomagroup.com mfernandez@shomagroup.com <i>Counsel for Plaintiff</i></p> |
| <p>Jason B. Giller, Esq. JASON B. GILLER, P.A. 701 Brickell Avenue, 20th Floor Miami, FL 33131 Telephone: (305) 999-1906 Facsimile: (305) 489-8530 Jason@gillerpa.com File@gillerpa.com assistant@gillerpa.com iren@gillerpa.com <i>Counsel for Defendants, Gables Investment Holdings, LLC and Ugo Colombo</i></p> | <p>Joseph B. Cicero, Esq. (admitted <i>Pro Hac Vice</i>) CHIPMAN BROWN CICERO & COLE, LLP Hercules Plaza 1313 N. Market Street, Suite 5400 Wilmington, DE 19801 Telephone: (302) 295-0191 cicero@chipmanbrown.com <i>Counsel for Defendants, Gables Investment Holdings, LLC, Ugo Colombo and The Collection, LLC</i></p> |
| <p>Gonzalo R. Dorta, Esq. Matias R. Dorta, Esq. 334 Minorca Avenue Coral Gables, FL 33134 Telephone: (305) 441-2299 Facsimile: (305) 441-8849 grd@dortalaw.com mrd@dortalaw.com file@dortalaw.com jdiamond@dortalaw.com bcabrera@dortalaw.com <i>Counsel for Defendant, The Collection, LLC</i></p> | |

By: /s/ Kevin C. Kaplan
 Kevin C. Kaplan

EXHIBIT 1

Case No.: 2015-010703 FC 39

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

IN RE: THE MARRIAGE OF

FAMILY DIVISION

MARIA LAMAS SHOJAEE,

CASE NO. 2015-010703 FC04 (39)

Petitioner/Wife,

and

MASOUD SHOJAEE,

Respondent/Husband.

WIFE'S VERIFIED MOTION FOR INTERIM PARTIAL DISTRIBUTION

The, PETITIONER/WIFE, MARIA LAMAS SHOJAEE, by and through her undersigned counsel, hereby files this Verified Motion for Interim Partial Distribution pursuant to Florida Statute 61.075 (5) and states:

1. Throughout this long term marriage, the Husband has been in charge of the parties' finances. The parties achieved incredible success over the years.
2. The Husband is in control of significant assets in the many tens of millions of dollars. Personal Financial Statements ("PFS") have been prepared and provided to banks over the years. The PFS reflect specific valuations but no supporting documents to protect the parties' privacy rights. However, the financial statements have been well documented and represent a minimum of the parties' net worth.
3. The Wife is seeking an interim partial equitable distribution of some of the parties' funds based on the following:
 - A. The Husband has access to millions of dollars without

restriction or limitation and transfers funds amongst the parties' personal accounts and business accounts without advising the Wife let alone request her agreement or provide her with any details as to the necessity of the transfers.

Some examples of these transfers:

- i. 11/25/2015 \$600,000 was transferred from the Aneli Artwork LLC ("Aneli"), the entity the parties maintain their personal art collection as well as jewelry to Shoma Coral Gables LLC
- ii. From 11/12/2015 through 1/5/2016 an aggregate of \$1,355,000 was transferred from Aneli to Shoma Alliance Management Corp, the parties' management company.
- iii. 1/29/2016 \$550,000 from Aneli to Title Company of America indicating marital funds are being used for a real estate purchase unknown to the Wife.
- iv. From 12/1/2015 through 1/26/2016 and aggregate of \$610,000 was transferred from Aneli to Doral Luxury Patio Homes, LLC
- v. From 12/15/2015 through 1/5/2016 \$175,000 was transferred from Aneli to Sky Velocity Aviation, the entity that the parties' own their personal jet. The Husband uses the parties' jet whenever he chooses, and does not notify the

Wife in connection with any trips whether they be personal or business.

- vi. From 4/7/2015 \$1,097,000 was deposited to Sky Velocity from the parties' personal bank account. The Husband uses the parties' jet whenever he chooses, and does not notify the Wife in connection with any trips whether they be personal or business.
- vii. On 7/2/2015 and 8/11/2015 \$1,000,000 and \$500,000, respectively, the Husband wrote checks from the parties' personal account to 60 Edgewater Drive, LLC.
- viii. On 8/13/2015 the Husband wrote a check in the amount of \$2,000,000 to his Grantor Trust.

- B. In addition to the above, the Husband also controls all of the parties' business entities; the Wife is not being advised or even notified when funds in these entities are available for distribution to the parties, making the post filing accounting of funds used for the parties' support a daunting task.
- C. The Wife has no comparable access other than what the Husband "allows" her to have access to.
- D. The parties have a marital home which the Wife wishes to list for sale. It is worth many millions of dollars. While the Husband has not agreed to the sale of the home, he likewise, will not agree that this asset will go on his side of the equitable

distribution equation which would require him to "buy-out" the Wife's interest.

- E. The Husband will also not agree to sell another property the parties have at Edgewater and in fact has commenced significant renovations on the property over the Wife's objections.
- F. The Husband has taken significant funds in excess of \$500,000.00 to invest in a new venture. Specifically, the Husband arbitrarily paid himself on August 26, 2015 \$544,040.89, declaring said payment to be his "post filing compensation", albeit there has never been regularity to the Husband's payroll paid. This payment was made to the Husband so he could invest \$425,000 on August 28, 2015 in a restaurant and label the investment as "post filing non marital business".
- G. The liquidity of the parties is in jeopardy as Husband has unlimited access and use and the Wife has none. At January 31, 2016 the parties' liquidity was approximately \$8.5 million. As of today the Husband has not provided the Wife any information that demonstrates that these funds are needed to complete and ongoing business project.
- H. The Husband and the parties' companies are engaged in significant and hotly contested commercial litigation. The outcome is not, as of yet, determined but there are concerns of even further financial control by the Husband and less by

the Wife.

- I. The Husband is using marital funds that can be segregated and divided into new ventures without consulting with the Wife. Hence, further marital funds are being commingled to future projects and further reducing the parties' liquidity.
- J. In the meantime, the Wife has no funds of her own, no financial security and all funds are controlled by the Husband. Certainly, the Wife will be receiving many millions of dollars but the Husband continues to control all liquidity and in any equitable distribution liquidity may be scarce causing the Wife to be further dependent on the Husband. As a result, some liquid funds/assets should be distributed to the Wife.
- K. Additionally, discovery is proceeding at a slow pace. Depositions will occur in late Summer and/or early Fall. Funds can be distributed to the Wife at this time as this case will be pending for many more months.
- L. The Wife should be entitled to some of her own money without the Husband's total financial control of all funds. This is an inequitable and intolerable situation.
- M. There are significant assets in the marital estate and no inequity or prejudice will result if partial distribution is permitted. Assets may be at risk if not distributed at the present time.
- N. The Wife agrees that the Husband should receive a corresponding credit for any funds distributed at this time.

Case No.: 2015-010703 FC 39

4. Based on these exceptional circumstances, the Wife has demonstrated good cause as to why the Court should allow this interim partial distribution.

WHEREFORE, the Wife prays that this Court will grant an interim partial distribution of funds in the amount of well in excess of \$6,000,000.00 or an appropriate sum and for such other relief as this Court deems just and proper.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was electronically served in compliance with Rule 2.516(a) and Administrative Order 13-49 through Florida Courts E-filing Portal this 22 day of MARCH, 2016 to:

BARRY M. WAYNE, ESQUIRE

Attorney for Husband

BLUESTEIN & WAYNE, P.A.

4000 Ponce de Leon Blvd., Suite 770

Miami, Florida, 33146

Email: bwayne@bw-pa.com;

docservice@bw-pa.com

LEINOFF & LEMOS, P.A.

Attorneys for the Petitioner/Wife

7301 S.W. 57th Court, Suite 545


South Miami, Florida 33143

Telephone: (305) 661-1556

Primary: eservice@lpa.com, dina@lpa.com

Secondary: valerie@lpa.com

By _____


ANDREW M. LEINOFF
Florida Bar No. 182090

Case No.: 2015-010703 FC 39

VERIFICATION


I, MARIA L. SHOJAE, have read the foregoing Motion for Interim Partial Distribution and state that the allegations set forth therein are true and correct based on my own personal knowledge and from information provided to me.



Maria L. Shojaee

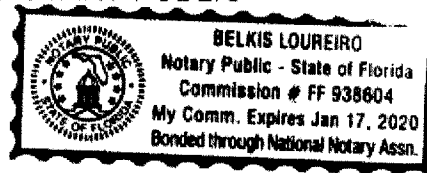
STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 22 day of MARCH, 2016 by MARIA L. SHOJAE, who is personally known to me.



NOTARY PUBLIC

My Commission Expires:



IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

IN RE: THE MARRIAGE OF

FAMILY DIVISION

MARIA LAMAS SHOJAE,EE,

CASE NO. 2015-010703 FC04 (39)

Petitioner/Wife,
and

MASOUD SHOJAE,EE,

Respondent/Husband.

**WIFE'S VERIFIED MOTION FOR CONTEMPT FOR VIOLATION OF
ADMINISTRATIVE ORDER**

THE PETITIONER/WIFE, MARIA LAMAS SHOJAE,EE, by and through her undersigned counsel, hereby files this *Motion for Contempt for Violation of Administrative Order* and States.

1. This is a long term marriage of over 32 years.
2. The parties have been very successful over the years, working hand in hand, to grow their real estate development companies from the very beginning.
3. The Husband has been in control of the parties' finances throughout the later years of the marriage.
4. When the divorce was filed, the Husband continued to exercise his control over the parties' finances, but has been excessive and not, in any fashion, even handed. His control has been almost absolute. He pays the Wife's bills but he is paying them from marital assets and not from his income, which is substantial and continues to be substantial.

5. The Husband is paying himself an exorbitant salary funded, in large part, with income from marital assets from companies in which the Wife has a 50% ownership. This, without the Wife's knowledge or consent.
6. In addition, the Husband has taken marital funds from a marital entity calling it a "bonus" and then using those funds to invest in a post-filing LLC without informing the Wife in advance, or obtaining her consent. Over four hundred thousand dollars have been invested by the Husband in this post filing entity, contrary to the Administrative Order.
7. The Administrative Order specifically states that "the use of funds or income after separation must be accounted for and justified as reasonable and necessary for the necessities of the party or to preserve marital assets or pay marital debts." He has failed to comply with that requirement.
8. Further, as set forth in prior motions, the Husband has taken hundreds of thousands of dollars from marital businesses to renovate a marital condominium at 60 Edgewater Drive. Again, neither necessary to preserve an asset nor a necessity.
9. The Husband did not obtain the Wife's permission, did not consult with her in advance, and in fact, over the Wife's objection, the Husband continues to divert funds from the parties' marital companies for improvements to this property. This too is contrary to the Administrative Order as it is neither a necessity nor necessary to preserve an asset.

10. The Husband operates a private airplane through another marital company (Sky Velocity). The funds allocated to this business are excessive. They are in the hundreds of thousands of dollars.
11. The Husband has spent over one (\$1.5) million dollars since the date of filing on this private airplane. Moreover, it is deducted as a business expense against income from the marital businesses. The funds used to support these expenses are marital funds from the parties' various marital businesses.
12. The Husband invested in a restaurant on Miami Beach post-filing with marital funds without the Wife's knowledge or consent. Hardly is that a necessity or necessary to preserve assets.
13. The Husband continues to use the parties' marital business accounts as his personal piggy bank, without consulting with the Wife, and in some instances, over her objection, and without providing the Wife with similar use and access to funds.
14. Only recently, the Wife obtained copies of the Husband's recent banking activity on one account from Coconut Grove bank which demonstrates that the Husband has spent millions of dollars writing checks to himself, and for renovations, presumably for the 60 Edgewater Condominium for payments to various businesses, for the private airplane, and other expenses.
15. The Wife recently learned that the Husband sold a Ferrari post filing (marital), he traded in his Range Rover (marital), and paid approximately \$115,000 more to buy a new one, all with marital funds. In fact, upon receipt

of the sale proceeds for the marital Ferrari, upon information and belief, the funds were placed in his personal and separate account which he created post-filing as non-marital. This too in violation of the Administrative Order which prohibits a party from disposing of an asset post-filing except by written consent or court order. In this instance, no consent was provided nor was there a court order authorizing these transactions.

16. The Husband has spent hundreds of thousands of dollars in checks to cash to himself and then endorsed and cashed. No accounting has been provided. No explanation. No receipts.
17. The Wife has no similar access to funds. Additionally, she cashes checks but they are only a fraction of the Husband's spending.
18. The Husband is depleting the marital estate with his outrageous spending and stockpiling his "income" post-filing without maintaining the status quo and reducing the marital estate of any substantial liquidity.
19. The status quo was always maintained through income from the businesses. Now, it is being maintained by the transfer of assets (loan repayments) thereby depleting the marital estate.
20. The Husband's conduct is intentional and willful and a direct violation of the spirit and intent of the Administrative Order. He has ignored and/or disobeyed the Administrative Order.

WHEREFORE, the Petitioner/Wife prays that this Court will enter the appropriate Order finding the Husband in violation of the Administrative Order, requiring a detailed accounting, assess attorney's fees and costs against the Husband, as well as award other and further relief as this Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was electronically served in compliance with Rule 2.516(a) and Administrative Order 13-49 through Florida Courts E-filing Portal this 31 day of JANUARY, 2017 to:

BARRY M. WAYNE, ESQUIRE
Attorney for Husband
BLUESTEIN & WAYNE, P.A.
4000 Ponce de Leon Blvd., Suite 770
Miami, Florida, 33146
Email: bwayne@bw-pa.com;
docservice@bw-pa.com

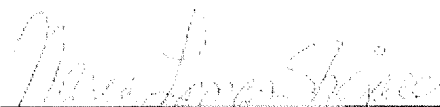
LEINOFF & LEMOS, P.A.
Attorneys for the Petitioner/Wife
7301 S.W. 57th Court, Suite 545
South Miami, Florida 33143
Telephone: (305) 661-1556
Primary: eservice@llpa.com; dina@llpa.com
Secondary: valerie@llpa.com

By _____

ANDREW M. LEINOFF
Florida Bar No. 182090

VERIFICATION

I, MARIA L. SHOJAE, have read the foregoing Motion and state that the allegations contained therein are true and accurate based on my own personal knowledge and information and belief.



Maria L. Shojaee

EXHIBIT 2

Art Murphy

From: Art Murphy
Sent: Friday, August 7, 2015 2:44 PM
To: Tania Martin; Anibal Duarte
Cc: FX Jacoby
Subject: Masoud financials

Tania

Please email Masouds financials directly to FX. He is copied on this email.

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

Art Murphy

From: Art Murphy
Sent: Tuesday, August 11, 2015 1:56 PM
To: Ugo Colombo
Subject: Collection Residences-Shoma

Ugo

We are waiting comments/approval of:

Bilzin Sumberg tax engagement letter

EB 5 commitment letter

I am trying to confirm if Masouds financials were sent to Queensfort.

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

Art Murphy

From: Art Murphy
Sent: Tuesday, August 11, 2015 3:02 PM
To: FX Jacoby
Cc: Buddy Dowlen
Subject: Did you get Masoud's financials?

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

Art Murphy

From: Art Murphy
Sent: Tuesday, August 11, 2015 3:10 PM
To: Tania Martin; Anibal Duarte
Cc: Masoud Shojaee; Ugo Colombo
Subject: Fwd: Did you get Masoud's financials?

Queensfort has not received Masoud s financials.

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

Begin forwarded message:

From: FX Jacoby <fxjacoby@gmail.com>
Date: August 11, 2015 at 1:06:31 PM MDT
To: Art Murphy <AMurphy@cmcrealestate.com>
Cc: Buddy Dowlen <bdowlen@cmcrealestate.com>
Subject: Re: Did you get Masoud's financials?

No

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

On Aug 11, 2015, at 3:01 PM, Art Murphy <AMurphy@cmcrealestate.com> wrote:

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

Art Murphy

From: FX Jacoby <fxjacoby@gmail.com>
Sent: Tuesday, August 11, 2015 3:07 PM
To: Art Murphy
Cc: Buddy Dowlen
Subject: Re: Did you get Masoud's financials?

No

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

> On Aug 11, 2015, at 3:01 PM, Art Murphy <AMurphy@cmcreatestate.com> wrote:

>

>

>

> Art Murphy

> CMC Group

> 701 Brickell Ave, Suite 2410

> Miami, Florida 33131

Art Murphy

From: FX Jacoby <fxjacoby@gmail.com>
Sent: Thursday, August 13, 2015 1:24 PM
To: Art Murphy
Cc: Buddy Dowlen
Subject: Re: Did you get Masoud's financials?

Any update on status, particularly with the Commitment?

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

> On Aug 11, 2015, at 3:06 PM, FX Jacoby <fxjacoby@gmail.com> wrote:

>

> No

>

> FX Jacoby

> fxjacoby@gmail.com

> c. 617-306-9213

>

>> On Aug 11, 2015, at 3:01 PM, Art Murphy <AMurphy@cmcreatestate.com> wrote:

>>

>>

>>

>> Art Murphy

>> CMC Group

>> 701 Brickell Ave, Suite 2410

>> Miami, Florida 33131

Art Murphy

From: Art Murphy
Sent: Tuesday, August 25, 2015 8:31 PM
To: FX Jacoby
Subject: Meeting/EB 5

Did you get Masoud's financials?

We are meeting tomorrow afternoon.

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

Art Murphy

From: FX Jacoby <fxjacob@gmail.com>
Sent: Wednesday, August 26, 2015 10:59 AM
To: Art Murphy
Subject: Re: Meeting/EB 5

No to receiving the financials. Yes to seeing you this afternoon. I am in Miami today and tomorrow.

FX Jacoby
fxjacob@gmail.com
c. 617-306-9213

> On Aug 25, 2015, at 8:30 PM, Art Murphy <AMurphy@cmcreatestate.com> wrote:

- >
- > Did you get Masoud's financials?
- >
- > We are meeting tomorrow afternoon.
- >
- > Art Murphy
- > CMC Group
- > 701 Brickell Ave, Suite 2410
- > Miami, Florida 33131

Art Murphy

From: Art Murphy
Sent: Wednesday, August 26, 2015 10:58 AM
To: 'Anibal J Duarte'; 'Tania Martin'
Cc: 'Masoud Shojaee'; 'Ugo Colombo'
Subject: FW: Meeting/EB 5

We are meeting today at 1:30 pm and Queensfort has not received Masoud's financials.

See below.

Art Murphy
CMC Group, Inc.
T - 305-372-0550 | amurphy@cmcrealestate.com

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

From: FX Jacoby [mailto:fxjacoby@gmail.com]
Sent: Wednesday, August 26, 2015 10:59 AM
To: Art Murphy
Subject: Re: Meeting/EB 5

No to receiving the financials. Yes to seeing you this afternoon. I am in Miami today and tomorrow.

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

> On Aug 25, 2015, at 8:30 PM, Art Murphy <AMurphy@cmcrealestate.com> wrote:
>
> Did you get Masoud's financials?
>
> We are meeting tomorrow afternoon.
>
> Art Murphy
> CMC Group
> 701 Brickell Ave, Suite 2410
> Miami, Florida 33131

Art Murphy

From: Art Murphy
Sent: Thursday, August 27, 2015 5:55 PM
To: 'Tania Martin'; 'Anibal J Duarte'
Subject: Financials

Please send Masoud's financials to FX.

Art Murphy
CMC Group, Inc.
T - 305-372-0550 | amurphy@cmcrealestate.com



701 BRICKELL AVENUE, STE 2410 | MIAMI, FL 33131
T: 305.372.0550 | F: 305.372.8213 | CMCGROUPMIAMI.COM

Art Murphy

From: EAbbott@hinshawlaw.com
Sent: Tuesday, September 1, 2015 4:29 PM
To: Suzanne Amaducci-Adams
Cc: Art Murphy; Anibal J Duarte (Anibal@tcoa.us); FX Jacoby; Jim Shindell; Masoud Shojaee (MShojaee@shomagroup.com); Tania Martin (tmartin@shomagroup.com); SCC@hinshawlaw.com
Subject: Re: collection-- revised eb5 term sheet
Attachments: #4669211v7_MIAMI_ - Loan Commitment for eb5.DOCX; WS_Comparison_4669211v5_Loan Commitment for eb5 - 4669211v7_Loan Commitment for eb5.doc

Suzanne:

Thanks. We are getting close and I believe we can work out a few remaining issues. However, FX advises he still has not received Masoud's financial statements nor the "Collection Agreement". As I'm sure you can appreciate, Lender's review of these documents is necessary to finalize the Conditional Commitment. Any assistance you can provide to expedite the delivery of these documents will be appreciated.

Eliot

Elliot C. Abbott

Hinshaw & Culbertson LLP
2525 Ponce de Leon Boulevard, 4th Floor, Coral Gables, FL 33134
Tel: 305-428-5061 | Fax: 305-577-1063
E-mail: EAbbott@hinshawlaw.com
cell 786-395-2064

HINSHAW
& CULBERTSON LLP

From: Suzanne Amaducci-Adams <samaducci@bilzin.com>
To: "EAbbott@hinshawlaw.com" <EAbbott@hinshawlaw.com>, FX Jacoby <fxjacob@gmail.com>, "Art Murphy (AMurphy@cmcrealestate.com)" <AMurphy@cmcrealestate.com>, "Masoud Shojaee (MShojaee@shomagroup.com)" <MShojaee@shomagroup.com>, "Tania Martin (tmartin@shomagroup.com)" <tmartin@shomagroup.com>, "Anibal J Duarte (Anibal@tcoa.us)" <Anibal@tcoa.us>
Cc: Jim Shindell <jshindell@bilzin.com>
Date: 09/01/2015 06:28 AM
Subject: collection-- revised eb5 term sheet

Elliott,
Attached is the revised term sheet which remains subject to review and approval of my client.

 **Bilzin Sumberg**

Suzanne Amaducci-Adams

Attorney at Law

Bilzin Sumberg Baena Price & Axelrod LLP

1450 Brickell Avenue, 23rd Floor

Miami, Florida 33131

www.bilzin.com

Tel 305.350.2370

Cell 305.979.0088

Direct Fax 305.351.2207

samaducci@bilzin.com

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Hinshaw & Culbertson LLP is an Illinois registered limited liability partnership that has elected to be governed by the Illinois Uniform Partnership Act (1997).

The contents of this e-mail message and any attachments are intended solely for the addressee(s) named in this message. This communication is intended to be and to remain confidential and may be subject to applicable attorney/client and/or work product privileges. If you are not the intended recipient of this message, or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message and its attachments. Do not deliver, distribute or copy this message and/or any attachments and if you are not the intended recipient, do not disclose the contents or take any action in reliance upon the information contained in this communication or any attachments.

Art Murphy

From: Suzanne Amaducci-Adams <samaducci@bilzin.com>
Sent: Tuesday, September 1, 2015 5:33 PM
To: 'EAbbott@hinshawlaw.com'
Cc: Art Murphy; Anibal J Duarte (Anibal@tcoa.us); FX Jacoby; Jim Shindell; Masoud Shojaee (MShojaee@shomagroup.com); Tania Martin (tmartin@shomagroup.com); SCC@hinshawlaw.com
Subject: RE: collection-- revised eb5 term sheet

I will follow up

Bilzin Sumberg

Suzanne Amaducci-Adams
Attorney at Law

Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, 23rd Floor
Miami, Florida 33131
www.bilzin.com

Tel 305.350.2370
Cell 305.979.0088
Direct Fax 305.351.2207
samaducci@bilzin.com

From: EAbbott@hinshawlaw.com [mailto:EAbbott@hinshawlaw.com]
Sent: Tuesday, September 01, 2015 4:29 PM
To: Suzanne Amaducci-Adams
Cc: Art Murphy (AMurphy@cmcrealestate.com); Anibal J Duarte (Anibal@tcoa.us); FX Jacoby; Jim Shindell; Masoud Shojaee (MShojaee@shomagroup.com); Tania Martin (tmartin@shomagroup.com); SCC@hinshawlaw.com
Subject: Re: collection-- revised eb5 term sheet

Suzanne:

Thanks. We are getting close and I believe we can work out a few remaining issues. However, FX advises he still has not received Masoud's financial statements nor the "Collection Agreement". As I'm sure you can appreciate, Lender's review of these documents is necessary to finalize the Conditional Commitment. Any assistance you can provide to expedite the delivery of these documents will be appreciated.

Eliot


Elliot C. Abbott

Hinshaw & Culbertson LLP
2525 Ponce de Leon Boulevard, 4th Floor, Coral Gables, FL 33134
Tel: 305-428-5061 | Fax: 305-577-1063
E-mail: EAbbott@hinshawlaw.com
cell 786-395-2064

HINSHAW
& CULBERTSON LLP

From: Suzanne Amaducci-Adams <samaducci@bilzin.com>
To: "EAbbott@hinshawlaw.com" <EAbbott@hinshawlaw.com>, FX Jacoby <fxjacoby@gmail.com>, "Art Murphy (AMurphy@cmcrealestate.com)" <AMurphy@cmcrealestate.com>, "Masoud Shojaee (MShojaee@shomagroup.com)" <MShojaee@shomagroup.com>, "Tania Martin (tmartin@shomagroup.com)" <tmartin@shomagroup.com>, "Anibal J Duarte (Anibal@tcoa.us)" <Anibal@tcoa.us>,
Cc: Jim Shindell <jshindell@bilzin.com>
Date: 09/01/2015 06:28 AM
Subject: collection-- revised eb5 term sheet

Elliott,
Attached is the revised term sheet which remains subject to review and approval of my client.

 **Bilzin Sumberg**

Suzanne Amaducci-Adams
Attorney at Law
Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, 23rd Floor
Miami, Florida 33131
www.bilzin.com

Tel 305.350.2370
Cell 305.979.0088
Direct Fax 305.351.2207
samaducci@bilzin.com

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Art Murphy

From: Art Murphy
Sent: Tuesday, September 1, 2015 6:14 PM
To: Ugo Colombo
Subject: Fwd: collection-- revised eb5 term sheet
Attachments: ATT00001.htm; ATT00002.htm; #4669211v7_MIAMI_ - Loan Commitment for eb5.DOCX; ATT00003.htm; WS_Comparison_4669211v5_Loan Commitment for eb5 - 4669211v7_Loan Commitment for eb5.doc; ATT00004.htm

FYI. Collection agreement and Masouds financials remain outstanding.

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

Begin forwarded message:

From: <EAbbott@hinshawlaw.com>
Date: September 1, 2015 at 4:29:23 PM EDT
To: Suzanne Amaducci-Adams <samaducci@bilzin.com>
Cc: "Art Murphy (AMurphy@cmcrealestate.com)" <AMurphy@cmcrealestate.com>, "Anibal J Duarte (Anibal@tcoa.us)" <Anibal@tcoa.us>, FX Jacoby <fxjacoby@gmail.com>, Jim Shindell <jshindell@bilzin.com>, "Masoud Shojaee (MShojaee@shomagroup.com)" <MShojaee@shomagroup.com>, "Tania Martin (tmartin@shomagroup.com)" <tmartin@shomagroup.com>, <SCC@hinshawlaw.com>
Subject: Re: collection-- revised eb5 term sheet

Suzanne:

Thanks. We are getting close and I believe we can work out a few remaining issues. However, FX advises he still has not received Masoud's financial statements nor the "Collection Agreement". As I'm sure you can appreciate, Lender's review of these documents is necessary to finalize the Conditional Commitment. Any assistance you can provide to expedite the delivery of these documents will be appreciated.

Eliot

Eliot C. Abbott

Hinshaw & Culbertson LLP
2525 Ponce de Leon Boulevard, 4th Floor, Coral Gables, FL 33134
Tel: 305-428-5061 | Fax: 305-577-1063
E-mail: EAbbott@hinshawlaw.com
cell 786-395-2064

Art Murphy

From: Anibal J Duarte <Anibal@tcoa.us>
Sent: Wednesday, September 2, 2015 6:43 PM
To: Art Murphy
Subject: Re: Collection Data Requests

In late closing. Let's talk 1st thing in am.

Anibal Duarte-Viera
Law Offices of Anibal J. Duarte-Viera
3470 NW 82nd Avenue,
Suite 988
Doral, Florida 33122

786-437-8560 Direct Line
786-437-8670

> On Sep 2, 2015, at 6:41 PM, Art Murphy <AMurphy@cmcrealestate.com> wrote:

>
> When can we talk?
>
> Art Murphy
> CMC Group
> 701 Brickell Ave, Suite 2410
> Miami, Florida 33131
>
> Begin forwarded message:
>
> From: FX Jacoby <fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>>
> Date: September 2, 2015 at 6:30:35 PM EDT
> To: Murphy Art
> <amurphy@cmcrealestate.com<mailto:amurphy@cmcrealestate.com>>, Dowlen
> Buddy <bdowlen@cmcrealestate.com<mailto:bdowlen@cmcrealestate.com>>
> Subject: Collection Data Requests

>
> 1. Building configuration - The mark-up to the Commitment Letter kept the retail space at 32,991 SF and left the # of parking spaces going to the Collection blank, what are the final figures? Can you provide architectural drawings which match the SF figures/# on condo units/# of parking spaces?
> 2. GANNT Schedule by Tudor Perini - updated to match your anticipated
> start date 3. Cash Flow projections - updated to match latest
> assumptions 4. Permit status - updated description 5. Agreement with
> The Collection for purchase of retail and parking spaces 6. History
> of pace of condo sales at recent CMC projects 7. Documents for land
> purchase (we have those for the land loan) 8. Masoud's balance sheet
>
> Any questions please let me know.

>
> -
> FX Jacoby
> fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>
> c. 617-306-9213<tel:617-306-9213>
> Due to the overwhelming amount of fraudulent cashier's checks circulating Florida, we will require all cash to close be tendered in the form of a wire transfer. Our wire transfer instructions are available upon request.

Art Murphy

From: Art Murphy
Sent: Saturday, September 12, 2015 12:18 PM
To: 'FX Jacoby'
Cc: 'Anibal J Duarte'
Subject: Did you receive Masoud's financials?

Art Murphy
CMC Group, Inc.
T - 305-372-0550 | amurphy@cmcrealestate.com



701 BRICKELL AVENUE, STE 2410 | MIAMI, FL 33131
T: 305.372.0550 | F: 305.372.8213 | CMCGROUPMIAMI.COM

Art Murphy

From: fxjacoby@gmail.com
Sent: Saturday, September 12, 2015 1:15 PM
To: Art Murphy
Cc: Anibal J Duarte
Subject: Re: Did you receive Masoud's financials?

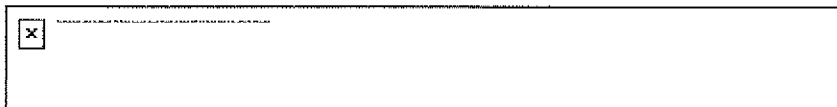
No.

Where do we stand on the \$100k for expenses? We continue to undertake work on the Exemplar.

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

On Sep 12, 2015, at 11:18 AM, Art Murphy <AMurphy@cmcreatestate.com> wrote:

Art Murphy
CMC Group, Inc.
T - 305-372-0550 | amurphy@cmcreatestate.com



Art Murphy

From: Art Murphy
Sent: Saturday, September 12, 2015 9:57 PM
To: Ugo Colombo
Subject: Fwd: Did you receive Masoud's financials?

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

Begin forwarded message:

From: Anibal J Duarte <Anibal@tcoa.us>
Date: September 12, 2015 at 4:03:50 PM EDT
To: "fxjacoby@gmail.com" <fxjacoby@gmail.com>
Cc: Art Murphy <AMurphy@cmcrealestate.com>
Subject: Re: Did you receive Masoud's financials?

You should receive it later today.

Anibal Duarte-Viera
Law Offices of Anibal J. Duarte-Viera
3470 NW 82nd Avenue,
Suite 988
Doral, Florida 33122

786-437-8560 Direct Line
786-437-8670

On Sep 12, 2015, at 1:14 PM, "fxjacoby@gmail.com" <fxjacoby@gmail.com> wrote:

No.

Where do we stand on the \$100k for expenses? We continue to undertake work on the Exemlar.

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

On Sep 12, 2015, at 11:18 AM, Art Murphy <AMurphy@cmcrealestate.com> wrote:

Art Murphy
CMC Group, Inc.
T - 305-372-0550 | amurphy@cmcrealestate.com



Art Murphy

From: Art Murphy
Sent: Sunday, September 13, 2015 2:45 PM
To: fxjacoby@gmail.com
Subject: Re: Did you receive Masoud's financials?

Please confirm when you get Masoud s financials. I understand they were sent to you yesterday.

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

On Sep 12, 2015, at 1:11 PM, "fxjacoby@gmail.com" <fxjacoby@gmail.com> wrote:

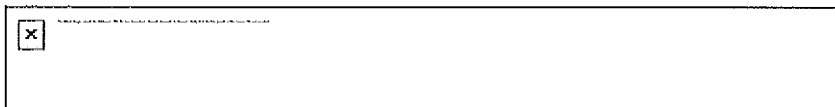
No.

Where do we stand on the \$100k for expenses? We continue to undertake work on the Exemplar.

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

On Sep 12, 2015, at 11:18 AM, Art Murphy <AMurphy@cmcrealestate.com> wrote:

Art Murphy
CMC Group, Inc.
T - 305-372-0550 | amurphy@cmcrealestate.com



Art Murphy

From: fxjacoby@gmail.com
Sent: Sunday, September 13, 2015 4:08 PM
To: Art Murphy
Subject: Re: Did you receive Masoud's financials?

No. I received an email but it forgot to include the financial statements. I have asked for the attachment to be sent to me.

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

> On Sep 13, 2015, at 1:44 PM, Art Murphy <AMurphy@cmcrealestate.com> wrote:

>

> Please confirm when you get Masoud s financials. I understand they were sent to you yesterday.

>

> Art Murphy

> CMC Group

> 701 Brickell Ave, Suite 2410

> Miami, Florida 33131

>

> On Sep 12, 2015, at 1:11 PM, "fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>"

<fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>> wrote:

>

> No.

>

> Where do we stand on the \$100k for expenses? We continue to undertake work on the Exemplar.

>

>

> FX Jacoby

> fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>

> c. 617-306-9213

>

> On Sep 12, 2015, at 11:18 AM, Art Murphy <AMurphy@cmcrealestate.com<mailto:AMurphy@cmcrealestate.com>> wrote:

>

>

>

> Art Murphy

> CMC Group, Inc.

> T - 305-372-0550 | amurphy@cmcrealestate.com<mailto:smaranos@cmcrealestate.com>

>

> [cid:E05E0588-3251-42CA-A21D-DE8AB16BE516@hsd1.fl.comcast.net.]

>

Art Murphy

From: Art Murphy
Sent: Sunday, September 13, 2015 4:37 PM
To: fxjacoby@gmail.com
Subject: Re: Did you receive Masoud's financials?

Let me know if you receive

Art Murphy
CMC Group
701 Brickell Ave, Suite 2410
Miami, Florida 33131

> On Sep 13, 2015, at 4:04 PM, "fxjacoby@gmail.com" <fxjacoby@gmail.com> wrote:

>

> No. I received an email but it forgot to include the financial statements. I have asked for the attachment to be sent to me.

>

> FX Jacoby

> fxjacoby@gmail.com

> c. 617-306-9213

>

>> On Sep 13, 2015, at 1:44 PM, Art Murphy <AMurphy@cmcrealestate.com> wrote:

>>

>> Please confirm when you get Masoud s financials. I understand they were sent to you yesterday.

>>

>> Art Murphy

>> CMC Group

>> 701 Brickell Ave, Suite 2410

>> Miami, Florida 33131

>>

>> On Sep 12, 2015, at 1:11 PM, "fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>" <fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>> wrote:

>>

>> No.

>>

>> Where do we stand on the \$100k for expenses? We continue to undertake work on the Exemplar.

>>

>>

>> FX Jacoby

>> fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>

>> c. 617-306-9213

>>

>> On Sep 12, 2015, at 11:18 AM, Art Murphy <AMurphy@cmcrealestate.com<mailto:AMurphy@cmcrealestate.com>> wrote:

>>

>>

>>

>> Art Murphy

>> CMC Group, Inc.

>> T - 305-372-0550 | amurphy@cmcrealestate.com<mailto:smaranos@cmcrealestate.com>

>>

>> [cid:E05E0588-3251-42CA-A21D-DE8AB16BE516@hsd1.fl.comcast.net.]

>>

Art Murphy

From: fxjacoby@gmail.com
Sent: Sunday, September 13, 2015 8:29 PM
To: Art Murphy
Subject: Re: Did you receive Masoud's financials?

I now have it.

FX Jacoby
fxjacoby@gmail.com
c. 617-306-9213

> On Sep 13, 2015, at 3:37 PM, Art Murphy <AMurphy@cmcrealestate.com> wrote:

>

> Let me know if you receive

>

> Art Murphy

> CMC Group

> 701 Brickell Ave, Suite 2410

> Miami, Florida 33131

>

>> On Sep 13, 2015, at 4:04 PM, "fxjacoby@gmail.com" <fxjacoby@gmail.com> wrote:

>>

>> No. I received an email but it forgot to include the financial statements. I have asked for the attachment to be sent to me.

>>

>> FX Jacoby

>> fxjacoby@gmail.com

>> c. 617-306-9213

>>

>>> On Sep 13, 2015, at 1:44 PM, Art Murphy <AMurphy@cmcrealestate.com> wrote:

>>>

>>> Please confirm when you get Masoud s financials. I understand they were sent to you yesterday.

>>>

>>> Art Murphy

>>> CMC Group

>>> 701 Brickell Ave, Suite 2410

>>> Miami, Florida 33131

>>>

>>> On Sep 12, 2015, at 1:11 PM, "fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>" <fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>> wrote:

>>>

>>> No.

>>>

>>> Where do we stand on the \$100k for expenses? We continue to undertake work on the Exemplar.

>>>

>>>

>>> FX Jacoby

>>> fxjacoby@gmail.com<mailto:fxjacoby@gmail.com>

EXHIBIT 3

From: Ugo Colombo <ugo@ugocolombo.com>
Sent: Saturday, March 14, 2015 9:31 PM
To: Art Murphy
Subject: Fwd: March 2015.xlsx

We need to buy him out, can't continue like this.

From iPhone

Begin forwarded message:

From: Masoud Shojaee <MShojaee@shomagroup.com>
Date: March 14, 2015 at 21:22:37 EDT
To: Ugo Colombo <ugo@ugocolombo.com>
Subject: Re: March 2015.xlsx

So I am going to stop doing favor from now on. I am the who is losing money every month. Let's really meet either tomorrow or Monday afternoon. Ugo, I think you really don't see the reality. The problem with you is you want to make money on everything only you. You even turned around you want to take over sale n cover your expenses n make money. So who the hell I am? A dummy? I think you have sense of superiority which you you are absolutely wrong. On the sale you will take care of your expenses n either I sale n market it or we hire the third party. I am unfortunately at the dinner and I can not talk but we must meet. Also who the hell you think is getting the entitlement Art or Tim?

Sent from my iPhone

On Mar 14, 2015, at 8:09 PM, Ugo Colombo <ugo@ugocolombo.com> wrote:

Masoud, this is Esther response. Esther has been with me 25 years and I trust her 100%.

I seriously cannot have this nickel and dime attempts to re-trade every month. I charge what was agreed, everything is 100% transparent, I'm not taking one dollar over and above what you can see (unlike mostly everybody else) but I'm also not in business to lose money or make favors, I really hope you can understand that and value what I do along with all CMC employees and if you don't we will need to find alternate ways for the future.

Sent from my iPad

Begin forwarded message:

From: Esther Thurmon <ethurmon@cmcrealestate.com>
Date: March 14, 2015 at 18:32:49 EDT
To: Ugo Colombo <ugo@ugocolombo.com>, Art Murphy

<AMurphy@cmcrealestate.com>

Subject: RE: March 2015.xlsx

Ugo, these rates are our costs and only our costs. I promise. Very few people take the time to seriously account for every cost associated with each employee. I think Masoud would be surprised to know what each of his employees cost.

Sent via the Samsung GALAXY S@ 5, an AT&T 4G LTE smartphone

----- Original message -----

From: Ugo Colombo <ugo@ugocolombo.com>

Date: 03/14/2015 6:28 PM (GMT-05:00)

To: Masoud Shojaee <mshojaee@shomagroup.com>

Subject: Fwd: March 2015.xlsx

I seriously hope this email was not authorized by you or it's just a joke!!

Ugo

From iPhone

Begin forwarded message:

From: Tania Martin

<tmartin@shomagroup.com<mailto:tmartin@shomagroup.com>>

Date: March 14, 2015 at 18:07:50 EDT

To: Esther Thurmon

<ethurmon@cmcrealestate.com<mailto:ethurmon@cmcrealestate.com>>

Cc: Masoud Shojaee

<MShojaee@shomagroup.com<mailto:MShojaee@shomagroup.com>>, Ugo Colombo

<ugo@ugocolombo.com<mailto:ugo@ugocolombo.com>>,

Anibal J Duarte <Anibal@tcoa.us<mailto:Anibal@tcoa.us>>), Art Murphy

<AMurphy@cmcrealestate.com<mailto:AMurphy@cmcrealestate.com>>

Subject: FW: March 2015.xlsx

Esther,

Attached please find the capital call for the month of March.

I have included the Overhead fees payable only to CMC in the amount of \$50,000, as per your attached email, which recaps Masoud and Ugo's temporary agreement.

I have reduced the labor invoices from the Sales Office draw until we come to an agreement regarding the labor rates. It was agreed that the work would be done at cost; however, it is hard to comprehend these rates are your cost. The average number of work hours a year is 2080, and the average overhead rate is 35%, which is a conservative number used to compute employee costs and benefits. Doing the math, it would mean that Chad's annual salary is approximately \$222,000/year, \$108/hour; Joe Gomez about \$82,000/year, \$39/hr, Esteban Madruga and Mas Mathurin about \$107,000/yr, \$51/hr, and Ceasar Cabrera, \$111,000/yr, \$53.35/hr.

Masoud offered to work for these kinds of rates. If these are your actual rates, we will be happy to provide our own laborers and charge actual costs, which would probably be about 1/3 of these costs. Please keep in mind that you are also receiving the \$50K, previously \$100K, for overhead costs.

We will prepare the check for the sales office Draw and the overhead fees first thing Monday morning and fund the capital call, so you can pay the subs, accordingly.

It is my understanding that Masoud and Ugo are going to be discussing these issues this weekend and settling them once and for all.

Sincerely,

Tania M Martin
CFO

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

From: Ugo Colombo <ugo@ugocolombo.com>
Sent: Saturday, March 14, 2015 8:11 PM
To: Art Murphy; Esther Thurmon
Subject: Fwd: March 2015.xlsx

I'm fed up, what are the shotgun provisions in the contract?

Sent from my iPad

Begin forwarded message:

From: Ugo Colombo <ugo@ugocolombo.com>
Date: March 14, 2015 at 19:59:17 EDT
To: Masoud Shojaee <MShojaee@shomagroup.com>
Subject: Re: March 2015.xlsx

Masoud, I'm not making a penny, quality people cost and save money long term. If you cannot see that we might not see eye to eye on how to develop this project.

Sent from my iPad

On Mar 14, 2015, at 18:36, Masoud Shojaee <MShojaee@shomagroup.com> wrote:

Ugo we really need talk tomorrow face to face this is getting out of hand. We need to talk about these charges at the sales office and also who is going to be doing the sale. This project is becoming you n you n fees left n right. Going to havedinner now I can talk later tonight or tomorrow anytime face to face.

Sent from my iPhone

On Mar 14, 2015, at 6:30 PM, Ugo Colombo <ugo@ugocolombo.com> wrote:

I seriously hope this email was not authorized by you or it's just a joke!!
Ugo

From iPhone

Begin forwarded message:

From: Tania Martin <tmartin@shomagroup.com>
Date: March 14, 2015 at 18:07:50 EDT
To: Esther Thurmon <ethurmon@cmcrealestate.com>
Cc: Masoud Shojaee <MShojaee@shomagroup.com>, Ugo Colombo <ugo@ugocolombo.com>, Anibal J Duarte <Anibal@tcoa.us>, Art Murphy

<AMurphy@cmcrealestate.com>

Subject: FW: March 2015.xlsx

Esther,

Attached please find the capital call for the month of March.

I have included the Overhead fees payable only to CMC in the amount of \$50,000, as per your attached email, which recaps Masoud and Ugo's temporary agreement.

I have reduced the labor invoices from the Sales Office draw until we come to an agreement regarding the labor rates. It was agreed that the work would be done at cost; however, it is hard to comprehend these rates are your cost. The average number of work hours a year is 2080, and the average overhead rate is 35%, which is a conservative number used to compute employee costs and benefits. Doing the math, it would mean that Chad's annual salary is approximately \$222,000/year, \$108/hour; Joe Gomez about \$82,000/year, \$39/hr, Esteban Madruga and Mas Mathurin about \$107,000/yr, \$51/hr, and Ceasar Cabrera, \$111,000/yr, \$53.35/hr.

Masoud offered to work for these kinds of rates. If these are your actual rates, we will be happy to provide our own laborers and charge actual costs, which would probably be about 1/3 of these costs. Please keep in mind that you are also receiving the \$50K, previously \$100K, for overhead costs.

We will prepare the check for the sales office Draw and the overhead fees first thing Monday morning and fund the capital call, so you can pay the subs, accordingly.

It is my understanding that Masoud and Ugo are going to be discussing these issues this weekend and settling them once and for all.

Sincerely,

Tania M Martin
CFO

This email has been scanned by the Symantec Email Security.cloud service.

EXHIBIT 4

From: Ugo Colombo
Date: June 18, 2015 10:56:25 AM (-04)
To: Vanessa Grout;Masoud Shojaee;Anibal J Duarte
Cc: Art Murphy
Subject: **Re: resigning account**

Attachments:

Masoud, please understand that, aside from any misunderstanding there might have occurred between different teams, anything that mentions The Collection has to be approved by me and Ken. It's a brand that took decades to build. I have agreed to use the name for our project and I believe that asking for approval on use of the name is only reasonable. No press release, material or anything that mentions The Collection can be released without being approved by my side first. I'm sure you understand. All the best,
Ugo

From iPhone

> On Jun 18, 2015, at 16:47, Vanessa Grout <vgrout@cmcrealestate.com> wrote:
>
> All of my conversations with her have occurred in the presence of either Masoud or Lilibet with the exception of a phone call yesterday where I reiterated the below email. The only thing I wrote to her was the request I forwarded to you. Yesterday on the phone she asked me if we hired Tadd and I told her yes for CMC and Flatiron. This morning this reaction which came as a surprise.
>
> Vanessa Grout
>
>> On Jun 18, 2015, at 10:39 AM, Ugo Colombo <ugo@ugocolombo.com> wrote:
>>
>> I would like to see what you wrote her to induce such a response.
>>
>> From iPhone
>>
>>> On Jun 18, 2015, at 16:24, Vanessa Grout <vgrout@cmcrealestate.com> wrote:
>>>
>>> My response to Sissy.
>>>
>>> Vanessa Grout
>>>
>>> Begin forwarded message:
>>>
>>> From: Vanessa Grout <vgrout@cmcrealestate.com<mailto:vgrout@cmcrealestate.com>>
>>> Date: June 18, 2015 at 10:19:32 AM EDT
>>> To: Sissy DeMaria <sdemaria@krepsspr.com<mailto:sdemaria@krepsspr.com>>
>>> Cc: Lilibet Shojaee <lshojaee@shomagroup.com<mailto:lshojaee@shomagroup.com>>
>>> Subject: Re: resigning account
>>>
>>> Hi Sissy - I wish we could discuss this. There's absolutely no reason for you to resign. The messaging between Ugo and the Collection dealership is what I need to see in order to pass to Ken Gorin before the press release is circulated. All we need to do is to iron out this messaging separately to make sure it's spoken correctly.
>>>

>>> As we discussed yesterday you were going to send me that verbiage and once done circulate the press release to all. The press request from the Herald you forwarded to both Lilibet and me would have put Ugo, the 830 listing and the Flatiron project in jeopardy. I only asked that in light of our current projects in the Brickell market which has been receiving a lot of attention - you and I discuss these more random types of requests together before passing around as an 'opportunity'.

>>>

>>> Lastly you, me and Lilibet have candidly discussed, at least preliminarily in anticipation of your messaging, the positioning of the collection residences as the most luxurious property in coral gables. How we do this is a work in progress and something we were supposed to come up with jointly. I'd like to understand what happened so I can determine how to proceed. Please call me or let me know if you'd like to set up a conference call for the 3 of us.

>>>

>>> Vanessa Grout

>>>

>>> On Jun 18, 2015, at 9:25 AM, Sissy DeMaria <sdemaria@krepspr.com<mailto:sdemaria@krepspr.com>> wrote:

>>>

>>> Hi Vanessa,

>>>

>>> Good morning. I'm writing to let you know that I am going to resign The Collection Residences account. Shoma is my longstanding client and I must put their needs first at all times. I cannot be put in a position to be asked to send you press opportunities and messaging first, before them. I am not going to put myself, my firm or my client in the middle of this awkward dynamic. Today's meeting is thus canceled.

>>> Thank you for understanding.

>>>

>>> Kind regards,

>>>

>>> Sissy

>>>

>>>

>>>

>>> Sissy DeMaria

>>> President

>>> [cid:image006.jpg@01D0A9A8.ADF61590]

>>> Kreps DeMaria Public Relations & Marketing

>>> O. 305.663.3543 | C. 305.608.5350

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EXHIBIT 5

**UNANIMOUS WRITTEN CONSENT OF THE MANAGERS OF
CORAL GABLES LUXURY HOLDINGS, LLC,
IN LIEU OF A MEETING AS OF SEPTEMBER 18, 2015**

The undersigned (“Managers”), being the Managers of Coral Gables Luxury Holdings, LLC, a Delaware limited liability company (“CGLH”), do hereby adopt the following resolutions by unanimous written consent in lieu of a meeting effective as of the date first written above:

WHEREAS, CGLH plans to develop a proposed luxury residential and retail condominium project on its land located at 250 Bird Road, Coral Gables, Florida (the “CGLH Project”);

WHEREAS, CGLH has extensively negotiated a commitment letter with Queensfort Capital Corporation to arrange mezzanine financing of \$48,500,000 under the Employment-Based Fifth Preference Program (“EB-5”) for the proposed CGLH Project (the “EB-5 Commitment Letter”) in the form attached as Exhibit A;

WHEREAS, the undersigned believe it to be in the best interest of CGLH to execute, deliver, and enter into the EB-5 Commitment Letter;

WHEREAS, the undersigned believe it to be in the best interest of CGLH to sell the proposed 26,500 square feet of retail space fronting Bird Road and underground parking area to The Collection, LLC (or its affiliate) on the terms and conditions contained on Exhibit B (“The Collection Retail Agreement”) and to negotiate a license agreement with The Collection, LLC to allow the limited use of The Collection trademark, name and other marks for the CGLH Project (the “Collection License Agreement”);

NOW, THEREFORE, IT IS RESOLVED: that CGLH is hereby authorized and directed to execute, deliver, and enter into the EB 5 Commitment Letter, and such EB-5 Commitment Letter is hereby approved, confirmed and ratified in all respects; and it is

FURTHER RESOLVED: that Ugo Colombo and Masoud Shojaee, as Managers of CGLH (the “Managers”) be, and hereby, are authorized, empowered and directed for and on behalf of CGLH and in its name, jointly to execute and deliver the EB- 5 Commitment Letter and such Managers are further authorized jointly to take any and all other actions in furtherance of or to carry out the purpose of the foregoing resolution; and it is

FURTHER RESOLVED: that CGLH be, and hereby is, authorized to carry out any and all of its obligations and responsibilities contemplated herein and set forth in the EB 5 Commitment; and it is

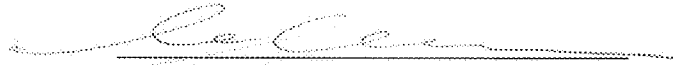
FURTHER RESOLVED: that CGLH be, and hereby is, authorized to negotiate a license and other agreements with The Collection, LLC for the limited use of The Collection trademark and brand in connection with the development, marketing and sale of the CGLH Project.

A facsimile or pdf copy of a signature to this Written Consent shall be deemed and treated for all purposes of execution to be as valid as an original signature thereto.

[Signatures appear on following page]

IN WITNESS WHEREOF, the undersigned Managers of Coral Gables Luxury Holdings, LLC have adopted and approved the foregoing resolutions effective as of the date first above written.

MANAGERS:



Ugo Colombo

Masoud Shojaee

[SIGNATURE PAGE TO WRITTEN CONSENT OF CORAL GABLES LUXURY HOLDINGS, LLC]

Exhibit A

EB-5 Commitment Letter

September ___, 2015

Coral Gables Luxury Holdings, LLC
701 Brickell Avenue, Suite 2410
Miami, FL 33131
Attn: Mr. Ugo Colombo & Mr. Masoud Shojaee

Re: A \$48,500,000 Mezzanine Loan (the "**Loan**") to Fund Capital Contribution Requirements in Connection with the Construction by Coral Gables Luxury Holdings, LLC (the "**Property Owner**") of the Collection Residences (the "**Project**") to be Located at 250 Bird Road, Coral Gables, Florida (the "**Property**")

Gentlemen:

You have requested that QueensFort Capital Corporation ("**QueensFort Capital**"), through an EB-5 lending entity as discussed herein (the "**Lender**") (QueensFort Capital and Lender, collectively "**Lender Parties**"), extend the Loan to a to-be-formed special purpose limited liability company (the "**Borrower**") that will directly own 100% of the membership interests in the Property Owner. Based upon discussions with and information provided by the CGLH Parties (as defined below) to date, Lender is pleased to confirm its conditional commitment to extend the Loan to the Borrower on the terms and conditions set forth in this letter and in the exhibits hereto (the "**Conditional Commitment**"). Mr. Colombo and Mr. Shojaee are sometimes referred to individually as a "**Principal**" and collectively as "**Principals**". The Property Owner, together with the Borrower and the Principals, are sometimes collectively referred to as the "**CGLH Parties**".

1. Relationship Between the Loan and the Contemplated Construction Loan

The Loan will be structured in anticipation of Property Owner receiving a binding commitment for a contemplated approximately One Hundred Million Dollar (\$100,000,000) construction loan (the "**Construction Loan**"), the proceeds of which shall be used to construct the Project and to satisfy the existing land loan with Florida Community Bank ("**FCB**"), currently having an outstanding principal balance of approximately \$16,200,000 (the "**Land Loan**") to be obtained by Property Owner from a third party lender (the "**Construction Lender**"). The funding and administration of the Loan will in many respects depend upon the final terms and conditions of the Construction Loan.

2. Funding of the Loan Through EB-5 Investment

Funding of the Loan will be effected through the Employment Based Fifth Preference ("**EB-5**") program which is administered by the United States Citizenship and Immigration Service ("**USCIS**"). Lender's obligations set forth in this Conditional Commitment are subject to Lender

successfully concluding the raise of the required funding amounts from foreign investors seeking visas granting rights to conditional residency in United States pursuant to all applicable laws and regulations (the “**EB-5 Process**”). Briefly, the EB-5 Process includes:

- i) the completion of due diligence reports and other offering materials by third-party professionals (the “**Offering Materials**”), under the supervision of Lender, that will be used by immigration agents engaged by Lender (the “Immigration Agents”) to solicit funds from foreign investors (“**Investors**”); Borrower shall have the right to review and reasonably approve the Offering Materials regarding factual statements and financial projections made regarding the Property, the Project and the Principals;
- ii) the Investors depositing funds into an escrow account (the “**Escrow Account**”) administered by a third-party escrow agent (the “**Escrow Agent**”) as described hereinafter;
- iii) formation by Lender of an entity to receive funds from the Escrow Agent, which entity will make an investment intended to conform to the requirements of the EB-5 Process;
- iv) preparation of a so-called “exemplar petition” in respect of the Lender, and the filing of such petition with the USCIS;
- v) the filing by each Investor with the USCIS of a petition on Form I-526, the granting of which enables the investor to apply for a conditional visa which will initially expire two years subsequent to its issuance (the “**I-526 Application**”);
- vi) subsequent to the approval by the USCIS of the Investor’s I-526 Application, the scheduling and attendance at an interview by the Investor with the USCIS - the successful conclusion of which results in the issuance of a conditional US residency visa; and
- vii) roughly two years subsequent to the issuance of a conditional visa, the filing by each Investor with the USCIS of a petition on Form I-829 (the “**I-829 Application**”), the approval of which will confirm the conditional visa as permanent.

Approval of the I-526 Applications depends in large part upon the qualification of the Property and the Project in accordance with the EB-5 Process. Accordingly, the CGLH Parties should be prepared to provide extensive information about the Property, the Project, the Principals, and economic data which will be included in the Offering Materials.

3. Timing of Fund Raising for the EB-5 Process; Termination of This Conditional Commitment

Closing of the Loan will be conditioned upon the Lender raising the funding for the Loan from numerous Investors. Lender will provide the CGLH Parties with periodic (not less than monthly) updates of its fund raising efforts. Upon Lender's written notice to the CGLH Parties, that the Investors have deposited not less than Thirty Five Million Dollars (\$35,000,000) into the Escrow Account and not less than \$27,200,000 of the funds (the “**Minimum Available Amount**”)

are eligible to be made available by Escrow Agent to Lender to advance to Borrower (collectively, “**Lender Condition Precedent**”), the Property Owner will be obligated to pay to Lender a one and one quarter (1.25%) percent loan commitment fee (the “**Fee**”) on the total funds raised through the EB-5 Process, whether or not the Loan actually closes. The Fee shall be deemed earned by Lender at the time it notifies the CGLH Parties in writing and provides evidence that it has met the Lender Condition Precedent. The Property Owner hereby agrees to indemnify Lender for any and all actual third party damages (in addition to the liquidated damages described below) that Lender may suffer after Lender meets Lender Condition Precedent, as a direct result of Borrower’s failure to timely close the Loan, or to timely satisfy the conditions to the initial disbursement under the Loan.

In no event shall the Property Owner be responsible for special, consequential or punitive damages. In the event Lender satisfies the Lender Condition Precedent and Borrower fails to close the Loan, the Property Owner shall pay Lender as agreed upon and liquidate damages (and in lieu of the Fee) the following (“Liquidated Damages”): (i) if the failure to close is due to a change in the general market conditions in Miami-Dade County, Florida negatively impacting the ability of the Property Owner proceed with the Project which is not within the control of the CGLH Parties, all actual out of pocket costs of Lender not previously paid for by Borrower or (ii) if the failure close is at the election of the CGLH Parties or such matter not contained within (i) above, the lesser of 1.25% of the Minimum Available Amount or \$606,000. Property Owner shall pay the Liquidated Damages within ten (10) business days after the expiration of the Closing Deadline (as defined below). Until the Loan closes or this Conditional Commitment is terminated as provided below, the Property Owner shall be prohibited from transferring all or any portion of the Property or incurring any secured or unsecured debt except for the Land Loan, trade payables incurred in the ordinary course of business, leases and other typical expenses incurred in connection with a Project of this nature. The obligations of the Property Owner under this provision shall survive any termination of this Conditional Commitment.

If Lender does not meet the Lender Condition Precedent at or prior to 5:00 p.m. (Eastern Standard time) on June 1, 2106, or such other day as Borrower and Lender shall mutually agree (the “**Fundraising Deadline**”) and provide written confirmation of such failure to Borrower, then:

- (i) Lender may terminate its obligations under this Conditional Commitment, without cause and regardless of circumstance and shall promptly return to Borrower and unused Reimbursable Expense deposit and other unused deposits actually paid by Borrower to Lender pursuant to this Conditional Commitment.
- (ii) The CGLH Parties may terminate their obligations under this Conditional Commitment (other than the provisions designated as surviving such termination) and thereafter seek alternative financing from other sources; except as aforesaid, the CGLH Parties have no other rights to terminate this Conditional Commitment.

Except as specifically provided in this Conditional Commitment, if and when this Conditional Commitment is terminated no signatory to this letter shall have any further obligation to any other signatory.

4. Provision of Information; Cooperation with Ongoing Underwriting and Lender Due Diligence

Lender has submitted this Conditional Commitment to the CGLH Parties after reviewing financial statements and other information provided to Lender by the CGLH Parties and their respective affiliates and representatives to date. Lender will require additional information as its continuing review of this information and the information required by the EB-5 Process progresses. Upon such further review, Lender may decline to extend the Loan as provided in this Conditional Commitment for any of the following reasons: (i) if any information submitted to Lender proves to have been inaccurate, incomplete or misleading in any material way; (ii) if any Material Adverse Change (as defined below) occurs, or any additional information is disclosed to or discovered by Lender that Lender in good faith believes constitutes a Material Adverse Change; (iii) if the results of Lender's or its representatives' due diligence are unsatisfactory to Lender, which due diligence with respect to underwriting of the CGLH Partners and the overall Project generally (as opposed to specific items not yet delivered to Lender such as the Construction Loan Commitment) shall be completed no later than October 1, 2015 or (iv) if any of the CGLH Parties fails to timely meet any condition precedent set forth herein that is required in order to document, close and secure the Loan. If Lender declines to extend the Loan as provided in this Conditional Commitment Lender shall promptly return to Borrower any unused portion of the Reimbursable Expense deposit and other unused deposits paid by Borrower to Lender pursuant to this Conditional Commitment.

For all purposes hereof Material Adverse Change shall mean any means any event or condition that has a material adverse effect on (i) the Property including the projections of the CGLH Parties regarding development of the Project and sale of its condominium units; (ii) the business, profits, operations or financial condition of the CGLH Parties, or (iii) the ability of Borrower to repay the principal and interest of the Loan as it becomes due or to satisfy any of the CGLH's material obligations under the Loan Documents.

The CGLH Parties agree to provide promptly to Lender throughout the Lender's due diligence, up to and including the Closing Date (as defined in Section 5), all information, undertakings and certifications reasonable requested by Lender to conduct its due diligence regarding the CGLH Parties, the Property, the Project, and any guarantor or indemnitor of Borrower, including all information necessary to create the Offering Materials. Additionally, the CGLH Parties agree to provide promptly to Lender throughout the EB-5 Process, up to and including the Closing Date and for a period of ninety-six (96) months following Closing, all information and related certifications (both from Borrower and, if required, its advisors and consultants) Lender reasonably requests in support of any Investor's I-526 Application and any Investor's I-829 Application.

Notwithstanding anything contained herein or in any other agreement previously entered into by any of the Lender Parties and the CGLH Parties, the CGLH Parties agree that Lender is and shall be entitled to disclose information regarding the CGLH Parties, the Property, the Project, and any guarantor of Borrower (other than personal financial statements of the Principals, in summary form, which may only be disclosed to Immigration Agents as part of their due diligence process and Lender shall use commercially reasonable efforts to obtain a confidentiality agreement from the Immigration Agents regarding the personal financial

statements of the Principals) to potential Investors, their representatives and other third parties participating in, and/or necessary to, the EB-5 Process as determined by Lender, including, without limitation, the USCIS and persons producing documentation for filing with the USCIS. With respect to reports of third parties commissioned by the CGLH Parties (or any of them) related to the Property or the Project, the CGLH Parties will obtain all consents required of their authors thereof for use of such reports by Lender as indicated above. The CGLH Parties acknowledge that Lender may have shared, and that Lender may in the future share, non-public information concerning the CGLH Parties with Lender's affiliates, advisors and other third parties involved in the EB-5 Process. By your execution of this Conditional Commitment, the CGLH Parties consent and agree to such disclosure.

5. Loan Documentation and Closing

The CGLH Parties and Lender agree to negotiate in good faith the terms of the financing documents consistent with the provisions set forth in this Conditional Commitment ("**Loan Documents**") and to act in good faith and to use commercially reasonable efforts, to meet the conditions to the closing of the Loan (the "**Closing**") set forth herein in Exhibit B – Key Terms of the Loan, including but not limited to: (i) receipt of a commitment for the Construction Loan in an original principal sum of approximately \$100,000,000 and payment of all commitment and other fees required thereunder as they become due; (ii) obtain the consent of the Construction Lender and the holder of the Land Loan, FCB, to the existence of the Loan; (iii) obtain agreement from the Construction Lender and FCB to enter into commercially reasonable inter-creditor agreements reasonably acceptable to Lender, including the agreement of the Construction Lender to assign the Construction Loan and all loan documents associated therewith (the "**Construction Loan Documents**") to Lender upon the occurrence of certain conditions; and (iv) obtain a guaranteed maximum price contract with a general contractor reasonably satisfactory to Lender for the construction of the Project which contract is either bonded or additional credit enhancements provided to ensure the contractor's performance thereunder. The date upon which such Closing takes place is referred to as the "**Closing Date**".

Property Owner hereby agrees to reimburse Lender from time to time upon Lender's request for Lender's reasonable out-of-pocket costs and expenses (including, without limitation, legal fees and expenses, appraisal fees, title and survey costs, documentary stamps, mortgage recording and other taxes, filing charges, engineering, environmental and insurance review costs, Escrow Agent fees, the preparation and translation of Offering Materials, the preparation of documentation for filing with the USCIS, travel and marketing material preparation costs, and the ongoing costs of construction monitoring) incurred in connection with the making of the Loan and undertaking the EB-5 Process, the preparation, review, negotiation, execution and delivery of the Conditional Commitment, the definitive Loan Documents and all documentation relating to the Loan and the EB-5 Process (collectively, the "**Reimbursable Expenses**"). The Reimbursable Expenses shall not exceed \$ _____, exclusive of attorneys' fees, without first obtaining the prior written consent of Borrower. Property Owner's obligations under this paragraph for Reimbursable Expenses shall survive any termination of the Conditional Commitment and shall be effective regardless of whether the Loan ever closes or whether the definitive Loan Documents are ever executed. The attached Exhibit D is Lender's current estimate of Reimbursable Expense that will be incurred in connection with the Loan, a \$100,000 deposit has been previously provided to the Lender.

6. Confidentiality Regarding Conditional Commitment and Loan; Exclusivity

This Conditional Commitment is delivered to the CGLH Parties upon the condition that, without Lender's prior written consent, neither its existence nor any of its contents shall be disclosed by any CGLH Party to any third party, and that the CGLH Parties will work exclusively with Lender to obtain third-party mezzanine financing for Borrower to be used solely in connection with the Project, provided, however, that the CGLH Parties shall be entitled to discuss and to obtain from third parties first mortgage construction financing for the Project of up to \$100,000,000 plus the amount of any shortfall in the Minimum Availability Amount in the Escrow Account when the Closing occurs, consistent with the contemplated Construction Loan, provided that as part of those discussions you notify prospective construction lenders that you have executed the Conditional Commitment letter with Lender for the Loan. Lender shall have the right to review and reasonably approve all public announcements and filings made by the CGLH Parties relating to the Loan that refer to the Lender Parties before such announcements or filings are made, and Lender shall have the right to make public announcements of its involvement with the Property and the Project and its financing subject to the CGLH Parties' review and reasonable approval.

7. Closing Deadline

Lender may terminate its obligations under this Conditional Commitment if : (i) Lender has failed to meet the Lender Condition Precedent or (ii) , without cause and regardless of circumstance (including the failure of either party to agree to definitive Loan Documents), if the execution and delivery of the definitive Loan Documents (in form and substance satisfactory to Lender) has not occurred at prior to 5:00 p.m. (Eastern Standard time) on the later of 60 days after the Lender Condition Precedent has been met or June 1, 2016, as such date maybe reasonably extended as a result of events of force majeure, or such other day as the CGLH Parties and Lender shall mutually in writing agree (the "**Closing Deadline**").

8. Brokers

The CGLH Parties acknowledge and warrant to Lender that no broker or advisor has been utilized by any of the CGLH Parties in connection with the placement of the Loan, and that there are no commissions or placement fees due to any party in connection with the Loan as a result of the actions of any of the CGLH Parties' acts. The CGLH Parties shall and by execution of the letter do hereby indemnify Lender for any (including the cost of defending same including reasonable attorney's fees), commissions or placement fees payable by virtue of any CGLH Parties' actions in violation of the foregoing representation or warranty.

9. Indemnity

Except as indicated below, the CGLH Parties hereby jointly and severally agree to and, by execution of this letter, do indemnify and hold harmless Lender Parties and each director, officer, employee, consultant, representative, affiliate, agent and controlling person thereof (each, an "**Indemnified Person**") from and against any and all losses, costs, claims, damages (including consequential damages), liabilities (or actions, investigations or other proceedings commenced or

threatened in respect thereof) and expenses (collectively “**Lender’s Claims**”) that arise out of, result from or in any way relate to (i) the acts or inactions of the CGLH Parties and their respective affiliates, directors, officers, employees, consultants, representatives or agents in connection with, or related to, this Conditional Commitment and the transactions contemplated hereby, including any failure of any CGLH Party to comply with their agreements and obligations hereunder, and/or (ii) any information prepared by CGLH Parties and submitted to Lender that (or prepared by a third party and CGLH Parties knew, after its review of the same) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, misleading (“**Inaccurate Borrower Information**”). The CGLH Parties hereby jointly and severally agree to reimburse each Indemnified Person, upon its demand, for any legal or other expenses reasonably incurred in connection with investigating, defending or participating in any such Lender’s Claims other than any of the foregoing claimed by any Indemnified Person to the extent finally determined by a court of competent jurisdiction to be incurred by reason of the gross negligence or willful misconduct of such Indemnified Person. The obligations of the CGLH Parties under this provision shall survive the termination of this Conditional Commitment or repayment of the Loan.

Lender Parties shall not be responsible or liable to any CGLH Party or any of their affiliates, partners or members or any other person or entity for any consequential damages that may be alleged as a result of this Conditional Commitment or the transactions contemplated hereby or thereby. The Lender Parties hereby jointly and severally agree to indemnify and hold harmless the CGLH Parties and each director, officer, employee, consultant, representative, affiliate, agent and controlling person thereof (collectively, “**Borrower Indemnified Parties**”) from and against any and all losses, costs, claims, damages, liabilities (or actions, investigations or other proceedings commenced or threatened in respect thereof) and expenses that arise out of (collectively “**Borrower’s Claims**”), result from or in any way relate to (i) the acts or inactions of the Lender Parties and their respective affiliates, directors, officers, employees, consultants, representatives, or agents in connection with or related to the Lender’s obligations under this Conditional Commitment or the Loan or the raising of any funds contemplated hereby, unless the Borrower’s Claims arise in whole or in part as a result of any of the Lender Parties using or relying upon Inaccurate Borrower Information, (ii) any violation of applicable law in connection with the raising of funds through the EB5 process; and (iii) any claims by Investors regarding the Offering Materials or other matters concerning the raising of funds for the Lender unless the claim is directly caused by Inaccurate Borrower Information. Lender Parties hereby jointly and severally agree to reimburse each Borrower Indemnified Party upon its demand, for any legal or other expenses reasonably incurred in connection with investigating, defending or participating in any such loss, claim, damage, liability or action or other proceeding, other than any of the foregoing claimed by any Indemnified Person to the extent finally determined by a court of competent jurisdiction to be incurred by reason of a violation of any applicable law by, or the gross negligence or willful misconduct of such Indemnified Person. The obligations of the Lender Parties under this provision shall survive the termination of this Conditional Commitment or repayment of the Loan.

10. Choice of Law; Venue

This Conditional Commitment, and the Loan which may be extended pursuant to this Conditional Commitment, shall be governed by the laws of the State of Florida, without regard to its

laws regarding conflicts of law. The venue for resolution of any dispute regarding this Conditional Commitment and/or the Loan shall be the Circuit Court for the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida.

11. Waiver of Jury Trial

THE CGLH PARTIES AND THE LENDER PARTIES, TOGETHER WITH THEIR RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS, REPRESENTATIVES AND AGENTS, HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONDITIONAL COMMITMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

12. Authority

The Property Owner is a limited liability company duly organized, validly existing, and in good standing under the laws of Delaware and has requisite power and authority to execute, deliver and perform its obligations under this Conditional Commitment and under all instruments which the Property Owner or the CGLH Parties has the obligation to execute, deliver and perform pursuant to the terms of this Conditional Commitment. The consummation of the transactions contemplated by this Conditional Commitment will not violate or conflict with the provisions of the CGLH Parties' organizational documents or any of their contracts or any required third party consent to the transaction (i.e. current mortgage lender) will be obtained prior to closing the Loan. The CGLH Parties have taken all necessary actions relating to the authorization of the execution and delivery of this Conditional Commitment. This Conditional Commitment constitutes the legal, valid and binding obligation of each of the CGLH Parties and is enforceable in accordance with its terms. The performance by each of the CGLH Parties and their respective obligations under this Conditional Commitment: (1) does not require the consent or approval of any person, agency or court not already obtained; and (2) will not conflict with, result in a breach of any terms of, or constitute a default under any agreement or order, statute, rule or regulation binding on you or it.

13. Entire Agreement

This Conditional Commitment sets forth the entire understanding of the parties as to the scope of the obligations of the parties hereto and supersedes all prior agreements, representations and understandings, if any, relating to the subject matter hereof. This Conditional Commitment may be executed in any number of counterparts, each of which shall be an original and all of which, when taken together, shall constitute one agreement, and this Conditional Commitment may not be assigned by any of the CGLH Parties without the prior written consent of Lender and may not be amended or any provision hereof or thereof waived or modified except by an instrument in writing signed by each of the parties hereto. No person or entity other than the parties hereto shall have any rights under or be entitled to rely upon this Conditional Commitment.

Lender's offer set forth in this Conditional Commitment will automatically terminate at 5:00 p.m. (Eastern Standard time) on September 15, 2015, unless you accept this offer at or prior to that time by returning to Lender executed counterparts.

We look forward to working with you to complete this transaction.

QUEENSFORT CAPITAL CORPORATION

By: _____
Name: _____
Title: _____

ACCEPTED AND AGREED

as of the ____ day of August, 2015:

Coral Gables Luxury Holdings, LLC

By: _____
Name: _____
Title: Manager

The undersigned hereby execute this Conditional Commitment to confirm their approval and acceptance of their respective obligations under hereof.

Ugo Colombo

Masoud Shojaee

List of Exhibits

- A. Legal Ownership Chart
- B. Key Terms of Loan
- C. Development Budget for the Project and Funding Sources
- D. Lender's Estimate of Reimbursable Expenses
- E. Timeline for the Design, Permitting, Financing, Construction and Sale of the Project
- F. Per Unit Pricing for Residential Condominium Units

EXHIBIT B

Key Terms of Loan

Capitalized terms not defined in this Exhibit have the meanings set forth in the cover letter of this Conditional Commitment.

Description of Project: A to-be-constructed mixed-use project located on 2.82 acres of land at 250 Bird Road, Coral Gables, Florida, that will consist of 128 residential condominium units containing 318,040 saleable square feet, indoor and outdoor amenity space for the residential owners, retail space containing 32,991 rentable square feet, and parking of which 232 are allocated to the condominium units, 50 available for sale, 42 spaces assigned to the City of Coral Gables for use by the general public as required by the applicable development approvals and _____ spaces for use by The Collection; the improvements will total approximately 893,000 gross square feet, of which approximately 777,000 gross square feet will be above-grade in a 10-story building and approximately 116,000 gross square feet will be below grade in one basement level.

Description of Loan: A \$48,500,000 mezzanine loan non-recourse to the members of the Borrower except for various recourse obligations to the “Guarantors” as described below, subordinate in repayment to (i) the existing Land Loan from FCB, and (ii) a to-be-arranged approximately \$100,000,000 Construction Loan from which proceeds will be used to satisfy or take an assignment of the Land Loan; the amount of the Loan is subject to reduction by an amount equal to \$500,000 times the number of Investors whose I-526 Applications are rejected by the USCIS.

Permitted Use of Loan Proceeds: All funds advanced by Lender to Borrower must be contributed to Property Owner and be used to pay directly costs identified in the development budget, as set forth in Exhibit C, except Loan proceeds may not be used to pay interest or fees due on the Loan. Property Owner may make changes to the amounts allocated to each major category in the development budget and reallocate contingency funds to line items in the development budget provided the total aggregate costs do not exceed the development budget by more than 4% or such other re-allocations agreed to by construction lender.

Borrower: A single purpose, bankruptcy remote limited liability company that will own directly 100% of the membership interests in the Property Owner and will be (i) indirectly controlled by the Principals, Ugo Colombo and Masoud Shojaee, and (ii) 100% economically owned by the Principals and their family members or trusts for their benefit (the “Owners”); see Exhibit A for more detail on the legal ownership structure for the Property.

Security: While the Land Loan or the Construction Loan remains outstanding, the Loan will be secured by a pledge of 100% of the membership interests in the Property Owner. Once the Construction Loan is repaid in full and if the retail space is leased to the Collection instead of purchased by the Collection pursuant to the Collection Agreement, the Loan will be converted or used to purchase the first mortgage position on the remaining real estate assets of the Property

Owner (“**Converted Loan**”); the Principals will seek to structure the Construction Loan so that the cost of the Converted Loan, including any mortgage recording taxes or legal fees, is minimized and, in any event, the Property Owner will bear all such costs. The Converted Loan shall permit the release of condominium units to purchasers pursuant to purchase contract and minimum release prices agreed to by Borrower and construction lender, the release of the space to Collection pursuant to the Collection Agreement (defined below) and the release of portions of the retail space and parking facilities pursuant to the terms and conditions hereof and the parties shall reasonably cooperate to minimize the application of the pre-payment premium in connection with each release. It has been suggested that having a provision in the Construction Loan permitting funds to be re-advanced, along with the cooperation of the Construction Lender to assign the note and mortgage evidencing and securing the Construction Loan, might alleviate any requirement for payment of documentary stamps. To the extent the Collection Agreement is in full force and effect and no Event of Default is continuing Lender may re-advance loan proceeds to pay for certain tenant improvements to be made to the Collection space in order to avoid the payment of the prepayment premium provided certain underwriting thresholds of Lender are met and Lender approves the budget for the tenant improvement allowance.

Availability of Loan Proceeds to Borrower: Funds raised through the EB-5 Process will initially be placed into the Escrow Account controlled by the Escrow Agent. As the Escrow Agent makes funds available to Lender for Loan Advances (see “Release of Funds from Escrow Account” below), the Borrower will be eligible to borrow such funds made available to Lender as follows:

(i) An initial advance of \$8,500,000 ("**Initial Advance**") as reimbursement to the Owners for the payment of qualifying costs as described above in “Permitted Use of Proceeds”, incurred at least one month prior to the date of such initial advance, subject to satisfying the “Conditions for Initial Advance of Funds to Borrower” as described below, which reimbursement amount may be distributed by the Borrower to its members.

(ii) Additional advances as such times the Loan Balance is less than \$38,000,000 plus the Initial Advance, shall be made available to Borrower no more frequently than once a month, with the first such additional advance being available contemporaneously with the Initial Advance. Additional Advances shall be conditioned on (a) the Borrower using the advance to make capital contributions to the Property Owner for the payment for qualifying costs as described above in “Permitted Use of Proceeds”; (b) the amount of the requested advance being no more than 75% of the qualifying costs as described above in “Permitted Use of Proceeds” incurred for the Project, as measured on an annual basis, which 75% shall be increased from time to time by Lender if deposits are available for application by the Property Owner for certain qualifying costs by lender but not permitted to be used by Property Owner by Florida law (i.e. deposits cannot be used to pay marketing expenses or brokerage commissions so the Loan proceeds will need to be used disproportionately for such purposes if deposit are available for other qualifying costs) ; (c) such qualifying costs incurred during the prior month by the Property Owner are set forth in the budget and (d) the Borrower and Property Owner not being in default of the Loan beyond the expiration of any notice, grace or cure periods, the Land Loan or the Construction Loan.

(iii) Additional advances at such times as the Loan Balance is greater than \$38,000,000 plus the difference between \$8,500,000 and the actual amount of the Initial Advance; such advances may be used for either of the purposes described in (i) and/or (ii) above, conditioned on (a) the Borrower and Property Owner not being in default of the Loan, the Land Loan or the Construction Loan, and (b) the Borrower remaining in compliance with "Limitations on Distributions to Members" as described below; note that Lender may require the Borrower to accept an additional advance equal to the amount of any portion of the available loan proceeds not advanced to the Borrower prior to the Project's completion of construction.

Release of Funds from the Escrow Account: A principal purpose of the Escrow Account is to ensure that there is funding available to make refunds to those Investors whose I-526 Applications are rejected in the amount of their \$500,000 original investment (the rejection rate has averaged approximately 10% over the twelve month period ending March 31, 2015); once the Closing occurs, the Escrow Agent will make available to Lender for Loan Advances an amount equal to no less than 80% of (a) the total amount raised through the EB-5 Process to date, minus (b) \$1,000,000 (or \$38,000,000, when the entire \$48,500,000 is raised from Investors); if additional funds are raised through the EB-5 Process post Closing, the Escrow Agent will make available to Lender for Loan Advances at least 80% of such funds; as and when an Investor's I-526 Application is approved, the Escrow Agent will make available to Lender for Loan Advances additional funds on a formulaic basis with the last \$1,000,000 remaining in Escrow being released with the approval of the final two I-526 Applications; as and when an Investor's I-526 Application is rejected, the Escrow Agent will refund \$500,000 to such rejected Investor and the amount available under the Loan will be reduced by an equal amount.

Interest Rate: The base interest rate is [6.375%] per annum (the "Note Rate Interest") and interest for partial months will be computed on an actual/360 basis; the default interest rate will be the lesser of (i) 12% per annum or (ii) the highest rate permitted by law.

Accrual of Interest: Starting on the earlier to occur of (i) the Closing Date, or (ii) the sixtieth (60th) day following the Lender's satisfaction of the Lender Condition Precedent, interest will accrue - and be payable monthly - on: (i) the entire amount of funds released to Lender from the Escrow Account to the extent required by the EB5 Process, see "Availability of Loan Proceeds to Borrower" above; Borrower will be credited with any earnings on the amounts released to Lender but not yet advanced to Borrower or (ii) if (i) is not required by the EB 5 Process, upon actual funding to Borrower.

Events of Default: To the extent that a detailed Construction Loan commitment is available prior to the Closing Date, and if the commitment outlines the events of default in adequate detail, the Loan will have comparable provisions related to events of default and the notice, cure and grace periods with respect thereto; absent such detail, the Loan will have default provisions typical of construction loans, including without limitation (i) violations of covenants articulated in this Conditional Commitment, (ii) events of defaults by Property Owner in major contracts, (iii) Material Adverse Changes and (iv) the bankruptcy of any of the Property Owner, the Borrower, or the Guarantors (see below).

Commitment Fee: 1.25% on the total amount actually raised and made available for use by Borrower through the EB-5 Process (estimated to be \$606,250 on the anticipated total raise of \$48,500,000) of which: (i) 1.25% of the amount then made available by Escrow Agent to Lender for Loan Advances at the Closing Date shall be paid by Borrower on the Closing Date and (ii) the remainder shall be paid at the time each additional Loan Advance is made to Borrower at the rate of 1.25% of each Loan Advance.

Maturity Date: 5 years from the last day of the month in which the Closing Date falls, which date is subject to extension by the Borrower per the “Extension Rights” below.

Extension Rights: The Borrower may extend the maturity date of the Loan for two 1-year periods, subject to (i) there being no outstanding defaults on the Loan or the Construction Loan at the time Borrower requests such extension; (ii) the Borrower providing 90 days advance written notice to the Lender of the extension request unless such extension is a direct result of a force majeure event; (iii) the Borrower paying an extension fee of 0.5% of the then outstanding loan balance at least 30 days before the new Maturity Date becomes effective; and (iv) the then outstanding balance of the Construction Loan plus the Loan being no greater than 70% of the estimated value of the Property Owner’s remaining assets, as determined by Lender in its sole by reasonable discretion at the time of the extension request.

Payments Due: Interest only in arrears at the end of each month, plus the outstanding loan balance at the Maturity Date, plus any required principal prepayments and the associated prepayment fees as described in “Due on Sale” and “Limited Prepayment Rights” and below.

Due on Sale: Except for the “Permitted Transfers” described below or sales of residential condominium units or the retail and parking components of the Project consistent with the Principals’ sales and marketing plan, the Borrower will provide advance notice to Lender in the event of a sale of the Project or a change in its direct or indirect ownership or control, and Borrower must offer to prepay the Loan in full. If the prepayment offer is accepted by Lender, the Borrower will be obligated to pay to Lender the outstanding loan balance plus the amount specified in “Prepayment Fee” below; if the sale of residential condominium units, the retail space or the parking produces net proceeds (after permitted brokerage and closing costs) which are in excess of amounts required by the Construction Loan to make payments thereon or to fund reserves required under the Construction Loan, such excess proceeds will be used to make payments on the Loan pursuant to an agreed upon minimum release price with a portion of such minimum release constituting a prepayment of principal with the balance being any prepayment penalty in respect of such principal prepayment pursuant to the calculations detailed under “Prepayment Fee” below.

Limited Prepayment Rights: Other than in circumstances requiring mandatory prepayments in respect of (i) major casualties, (ii) condemnation, (iii) the return of funds by the Borrower to an Investor whose I-526 Application has been rejected by the USCIS, (iv) as described in “Due on Sale” above, or (v) sales of residential condominium units or the retail and parking components of the Project consistent with the Principals’ sales and marketing plan, the Loan may not be voluntarily prepaid prior to six months after completion of the Project’s construction; thereafter, voluntary prepayments of all or a portion of the Loan may be made so long as, in the reasonable

opinion of Lender, such prepayment does not jeopardize immigration benefits sought by the Investors; in the event of any principal repayment, a "Prepayment Fee" (see below) will apply to any prepayment of Loan principal except with respect to circumstances (i), (ii) or (iii) above. In connection with (v) above the parties shall use reasonable efforts to minimize the "Prepayment Fee."

Prepayment Fee: An amount equal to the present value of the difference between (i) the monthly interest payments due on the principal being prepaid if such principal amount had remained outstanding until the Maturity Date, and (ii) the monthly interest that would accrue on the principal being repaid at 1/12th of the annual interest rate for U.S. Treasury securities maturing on or closest to the Maturity Date; the discount rate used in the present value calculation will equal the monthly interest rate determined in (ii) above.

Insurance: The Property Owner will be required to carrying an insurance program with the types and amounts of coverage from credit-worthy insurance companies in form and substance satisfactory to Lender in its reasonable discretion; without limitation upon the foregoing, the insurance program required to be carried by the Construction Lender shall be deemed acceptable to Lender, provided such insurance program: (i) to extend permitted by law, names Lender as an additional insured; (ii) provides for at least 30 days notice of termination to Lender; and (iii) subordinates the interest of Lender only to the Construction Lender or the holder of the Land Loan.

Guarantors for Certain Loan Matters: The Principals on a joint and several basis will serve as "Guarantors." The Guarantors will be required to maintain an aggregate net worth, on a market value basis, of no less than \$ _____ and an aggregate liquid assets of no less than \$ _____ until the later of (i) the date of full repayment of the Loan or (ii) the date upon which any claims arising from the guaranteed obligations are resolved if such claims are made prior to the repayment of the Loan in full. If the net worth or liquidity covenants are not maintained, Guarantors shall have the right to replace a guarantor with a replacement guarantor reasonable acceptable to Lender.

Recourse Loan Carveouts: There will be certain recourse carveouts to the non-recourse provisions of the Loan including environmental matters, fraudulent or intentional misrepresentation, willful misconduct, gross negligence, misappropriation of funds (including proceeds from the Construction Loan and the Loan, pre-sale deposits, proceeds from the sale of assets, rents, security deposits and proceeds paid under any insurance policies or condemnation proceedings), failure to maintain insurance unless Loan proceeds are not made available to Borrower for such purpose, fraud, intentional and material waste, unauthorized voluntary transfers, voluntary or collusive involuntary bankruptcy (including failure to oppose bankruptcy), breach of special purpose bankruptcy remote entity covenants that result in substantive consolidation (excluding any breach arising from failure to contribute capital), failure to pay real estate taxes, failure to provide required financial reporting, the purchase of all or a part of the Land Loan or Construction Loan or any unauthorized modifications to such Loans by the Property Owner or any of its affiliates, and any other reasonable carveouts agreed to by the parties, all of which shall be recourse to the Guarantors but only after notice and the expiration of cure periods in each and every case (where the breach is curable); the carveouts will be subject to

further refinement in the Loan documents, including, without limitation, the delineation between (a) certain carveouts (e.g., misappropriation) that will be recourse to the extent of Lender's resulting damages, and (b) others (e.g., voluntary/collusive involuntary bankruptcy, unpermitted transfers, unpermitted debt, the purchase of the Land Loan or Construction Loan or any unpermitted modifications to such Loans, frivolous interference with remedies, breaches of special purpose entity covenants with substantive consolidation) that will be full recourse for the amounts due under the Loan. In addition the Guarantor will be relieved of liability under the Guaranty and environmental indemnity from and after the date Lender or the mortgage lender takes control of the Property or the Borrower resulting in Guarantor having no ability to prevent the recourse carve-out actions from occurring or not occurring.

Environmental Indemnity: The Guarantors will execute a surviving indemnity agreement acceptable to Lender and shall indemnify Lender for any and all liabilities incurred in connection with applicable environmental laws.

Indemnity for Condominium Unit Claims: Property Owner and Borrower will execute a surviving indemnify agreement reasonably acceptable to Lender for and to hold the Lender harmless against all liability, loss, cost or expense asserted against Lender because of any claim or action made by a tenant, condominium unit owner, board of directors or condominium association at the Property as a result of applicable condominium laws or construction defects, except for any liability resulting because of: (i) Lender's actions or omissions or (ii) after Lender or a third party forecloses upon the Property (if the Loan shall have been converted to a mortgage-secured loan) or the Borrower's interests in the Property Owner. The parties shall endeavor to keep the existence of this indemnity and the terms and conditions thereof confidential.

Construction Completion Guaranty: The Guarantors will provide a guarantee to cause the Project to be constructed to completion (evidenced by a temporary certificate of completion or occupancy, as applicable, from the City of Coral Gables and any other governmental authority having jurisdiction over the Property and the Project), and to fund the costs to complete construction of the Project in a lien free manner in accordance with the Lender approved plans and specifications by the date 30 months after the Property Owner begins construction on the foundation of the Project, or such later date reflecting any construction delays caused by force majeure. A condition to Guarantors' requirement to perform under the Construction Completion Guaranty shall be Lender's and Construction Lender's obligation to make: (i) any licenses, permits and governmental approvals assigned to it as collateral for the Loan and (ii) the unfunded proceeds of each loan available to Guarantors for the completion of the Project, subject to Guarantor complying with the provisions of the Loan Agreement governing requisitions and disbursements of funds (except that no such disbursement requested by the Guarantor shall be withheld solely by reason of the failure to satisfy the condition precedent due to any uncured non-monetary Default or Event of Default that is impossible Guarantor to cure even if the Guarantor obtains possession of the Project).

Loan Interest Guaranty: The Guarantors will guarantee the payment when due of an amount equal to the Initial Advance.

I-526 Refund Guaranty: If the Escrow Account (see “Release of Funds from the Escrow Account” above) does not contain sufficient funds to refund to an Investor its \$500,000 investment if his/her I-526 Application is rejected for any reason, then the Guarantors will guarantee that the Borrower will prepay (without a Prepayment Fee) \$500,000 in respect of each such denied Investor.

Permitted Transfers: Without the written consent of Lender, the Principals will not in any manner, directly or indirectly, sell, transfer, convey, dispose of, finance, pledge or hypothecate all or any interest in the Property Owner, the Borrower or their economics; notwithstanding the foregoing, Lender will permit the Principals to transfer interests provided that: (i) 30 day advance written notice is provided to Lender; and (ii) at least one of the Principals retains exclusive operating control of the Property Owner along with at least 51% of the direct or indirect economic ownership of the Property, the Borrower, the Land Loan and the Construction Loan documents are not violated, and all others holding direct or indirect interests in the Property will at all times be persons with whom United States citizens are permitted to do business. Transfers between Ugo Colombo and his affiliates and family members to or from Masoud Shojaee and his affiliates and family members will also be permitted provided either Ugo Colombo or Masoud Shojaee controls the Borrower.

Conditions to Closing:

- 1) The Lender Condition Precedent has been satisfied;
- 2) Confirmation that the Property prior to the anticipated construction has an appraised value of at least \$40,000,000 through a third-party MAI appraisal commissioned by Lender;
- 3) Lender’s satisfactory review of the terms and conditions of a loan commitment issued by the Construction Lender for the Construction Loan in an amount equal to \$100,000,000 with a closing date no later than December 31, 2016, executed by Property Owner, together with proof of payment of all applicable commitment fees; such commitment shall be subject to Lender’s reasonable approval of: (i) the identity of the Construction Lender if the Construction Lender is not either a U.S. based lender or a foreign commercial bank or foreign institutional lender that complies with the then current O.F.A.C. requirements for doing business with foreign entities (ii) the terms of a commercially reasonable inter-creditor agreement that the Lender would enter into with the Construction Lender, and (iii) the terms of interest rate hedging arrangements selected by Borrower if the Construction Loan bears interest on a floating-rate basis.
- 4) FCB, the lender for the Land Loan, (a) agreeing to extend the Land Loan’s maturity date for one year to December 5, 2016, (b) granting its approval for the Loan, (c) executing an inter-creditor agreement acceptable to Lender, in its commercially reasonable discretion, and (d) granting its approval for the demolition of the existing structures on the Property.

- 5) Lender's approval of the identity of the general contractor who will construct the Project per a guaranteed maximum price contract, which contract is either bonded or additional credit enhancements provided to ensure the contractor's performance thereunder.
- 6) The Collection, LLC has entered into agreements with the Property Owner, on terms and conditions satisfactory to Lender, for the lease and/ or purchase of certain portions of the parking and retail areas of the Project consisting of _____ for a price no less than \$ _____ after completion of construction (the "**Collection Agreement**").
- 7) Lender's satisfactory review of: (a) an update survey; (b) a new title insurance policy issued to Lender; (c) environmental matters associated with the Property; (d) zoning and approvals granted for the development of the Property; (e) the plans and specifications, in their then current status, for the construction or development of the Project; (f) the then current development budget for the Project and planned funding sources (i.e. an updated **Exhibit C**); (g) the then current timeline for the financing, construction and sale of the completed units at the Project (i.e. an updated **Exhibit E**); (h) the major agreements either entered into or contemplated with third party vendors for services associated with the construction or development of the Project and the sale of its residential condominium units including with the general contractor, architects, engineers, marketing consultants and brokers; (i) all agreements either entered into or contemplated with the Principals or their affiliates including the Collection Agreement and for the purchase or use of any portions of the Project and for the provision of services such as development management, property management or residential condominium sales; (j) the condominium documents; (k) the organizational documents for the legal entities owning direct or indirect interests in the Property as set forth in Exhibit A; (l) the insurance program then in existence and contemplated for the construction and operation of the Project; (m) the financial condition of the Guarantors; and (n) credit, lien, USA Freedom Act and other background checks to be conducted by Lender on the Principals and other parties holding economic interests in the Property.
- 8) Execution of the definitive Loan Documents which will include customary closing representations by the Property Owner, Borrower, Guarantors and Principals, including without limitation, those related to: (a) organizational documents, (b) absence of material litigation, (c) authority, (d) non-contravention, (e) continuing accuracy of various items of information provided to Lender, and (f) opinions of legal counsel representing the Property Owner, Borrower, and Guarantors.

Conditions for Initial Advance of Funds from Lender to Borrower:

- 1) The Property Owner has pre-sold residential condominium units valued at no less than \$61,000,000, or 25% of the projected \$244,200,000 in gross residential sales, with a minimum deposit requirement of no less than 40% resulting in deposits of no less than \$18,300,000 (30% of \$61,000,000 in sales) that can be used to fund qualified development costs of the Project.

- 2) Evidence that the Owners collectively have contributed at least \$27,500,000 in cash to the Property Owner to fund costs for land acquisition, financing, pre-development, demolition and construction work undertaken to date.
- 3) The Property Owner has obtained all permits and approvals to develop the Project according to the Lender-reviewed plans and specifications except for those permits and approvals that are non-discretionary in nature because they can be satisfied by the submission of final plans and specifications and the payment of a fee, such as with the building permit.
- 4) The Property Owner has entered into a guaranteed maximum price contract which contract is either bonded or additional credit enhancements provided to ensure the contractor's performance thereunder; in addition, the general contractor under the contract shall have committed to at least [60%] of the total contract price based on purchases from subcontractors or line items under the general contractor's control.
- 5) Satisfaction of the usual requirements for making a loan draw with similar construction loans, including but not limited to receipt of contractor applications for payment, invoices, lien waivers, and an architect's certificate concerning the status of work completed.

Limitations on Distributions to Members: Prior to closing the Construction Loan and the first substantive draw thereunder, no distributions may be made to the Owners from any funding source, including draws under the Loan or deposits from residential condominium pre-sales except as specified above in section (i) of "Availability of Loan Proceeds to Borrower"; once the first substantive draw on the Construction Loan occurs, limited distributions may be made to the Owners as permitted by the Construction Loan and as specified in section (iii) of "Availability of Loan Proceeds to Borrower" until the aggregate equity invested by the Owners in the Property Owner (including the amount by which the \$40,000,000 value of the land exceeds its cost basis) is reduced to the greater of (a) \$30,000,000 or (b) 15% of the development budget as increased by any cost overruns in excess of contingency amounts contained within the development budget shown in Exhibit C (as updated); thereafter, no distributions will be permitted to the Owners until the Loan is fully repaid.

Affiliate Transactions: The Principals or their affiliates will provide certain services to the Property Owner including development management, property management and residential condominium brokerage services; all such arrangements where the Principals or their affiliates receive payments of fees or reimbursement of costs must be disclosed to Lender, be evidenced in writing, be on commercially reasonable terms and shall be subject to the approval of Lender in its sole discretion with the Lender granting pre-approval of the fee arrangements as they are presented by the Borrower. Lender has approved the Collection Agreement and the consummation of such transaction.

Prohibitions on Loans to the Property Owner or Borrower: Except for the Land Loan, the Construction Loan and the Loan, no loans may be made to the Property Owner or the Borrower

by any person including members, Principals and affiliates; the Land Loan will be repaid no later than when the first material funding occurs under the Construction Loan.

Funding of Any Cost Overruns in the Development Budget: Any cost overruns in excess of contingency amounts contained in the development budget as set forth in the original Exhibit C attached hereto must be funded with equity contributed by the Owners or the legitimate application of deposits from condominium pre-sales.

Lender Out-Of-Pocket Costs: The Borrower will pay all such actual out of pocket costs including legal, insurance consulting, construction monitoring and other general services which aggregate amount shall not exceed \$100,000, exclusive of attorneys' fees, without the prior written consent of Borrower.

Lender Approval Rights: In addition to certain approval set forth otherwise herein, the Lender will have the right to approve the follow actions, which approvals shall not be unreasonably withheld :

- 1) Any material changes to the matters reviewed by Lender in "Conditions to Closing" or "Conditions for the Initial Advance of Funds from Lender to Borrower" above including the terms and conditions of the Construction Loan as set forth in its definitive documents, the terms of the Land Loan, the plans and specifications for the construction of the Project, the development budget for the Project and planned funding sources (i.e. Exhibit C), the terms of the guaranteed maximum price contract with the general contractor, and any arrangements with the Principals or their affiliates for the provision of services or the purchase or use of portions of the Project;
- 2) Any refinancing of the Construction Loan, increase in the amount of the Construction Loan above \$100,000,000 or future advance in excess of \$100,000,000 except for any increase or future advance to fund shortfalls in the Loan amount as a result of Investors contributing less than \$48,500,000 into the Escrow Account or rejections of their I-526 Applications;
- 3) Any increase in the principal balance or refinancing of the Land Loan such that the outstanding principal balance of the Land Loan exceeds \$24,000,000.
- 4) The sale of any residential condominium unit at a price 15% or more below that specified for such unit in the per unit pricing matrix attached as Exhibit F;
- 5) Other than the Collection Agreement, the sale of any of the retail space for less than \$600 per square foot gross;
- 6) The sale of any other assets of the Property Owner except for the disposition of furniture, fixture and equipment within the normal course of business;
- 7) The leasing of any of the residential condominium units or retail space other than pursuant to a Lender approved plan; Property Owner shall submit a written request for

any such lease to Lender at least 10 days prior to the requested commencement date of such lease;

- 8) The business terms for any material modifications or workout under the Construction Loan or the Land Loan, or the delivery of the Property's deed-in-lieu of foreclosure;
- 9) The commencement or settlement of litigation if the amount in dispute (excluding insured amounts for which the carrier has not denied coverage) is in excess of \$250,000;
- 10) The resolution of any significant disputes involving the major contracts listed in "Conditions to Closing".
- 11) The acceptance of any insurance settlement or condemnation award by Property Owner or Borrower.

Financial Reporting Requirements: The following time periods shall be adhered to unless Property Owner and/or Guarantors are granted additional time as per the Construction Loan and then such additional time periods shall apply:

- 1) Annual accountant reviewed financial statements of the Borrower to be delivered within 120 days after the end of each calendar year;
- 2) Quarterly unaudited financial statements of the Borrower to be delivered within 60 days after the end of each quarter;
- 3) Quarterly updates of the development budget for the Project and planned funding sources (i.e. an updated Exhibit C attached);
- 4) Monthly report on the status of residential condominium sales and deposits resulting from pre-sales;
- 5) As and when identified, any changes made to a line item in the development budget as set forth in Exhibit C (as updated) that is greater than 5%;
- 6) As and when identified, any invoices that the Property Owner or Borrower will not be able to pay when due;
- 7) Detail for the use of funds associated with each draw request made under the Loan;
- 8) Copies of all reports sent to the Construction Lender including draw requests and status reports on construction;
- 9) Copies of all notices sent to or received from FCB, the Construction Lender, governmental authorities or other parties that may have a material impact on the development or economic results of the Property.

- 10) Annual, certified unaudited balance sheets of each of the Guarantors along with an updated list of all contingent liabilities (including guarantees), if any to be delivered within 90 days after the end of each calendar year.

Exhibit B

Sale of the Bird Road Retail and Underground Parking Area to The Collection, LLC

Coral Gables Luxury Holdings, LLC (“CGLH”) will sell the proposed 26,500 square of ground level retail space fronting Bird Road and the underground basement parking area (approximately 110,000 sf) in the proposed Collection Residences condominium project to The Collection, LLC or its affiliate (“The Collection”) subject to the following terms and conditions:

**Purchase Price for the
Bird Road Retail:**

The Collection will pay \$14,250,000 for the 26,500 square feet of ground level retail space to be developed by CGLH. Closing will occur upon the recording of the declaration of condominium, the issuance of a certificate of occupancy for the Bird Road Retail by the City of Coral Gables, the delivery of the Bird Road Retail in the Delivery Condition (defined below), CGLH’s delivery of title subject to the permitted exceptions provided in the purchase agreement and other requirements of the purchase agreement.

The Bird Road Retail Purchase Price will be adjusted based on the final square footage of the Bird Road Retail (based on the purchase price of \$500/sf). For example, if 27,000 square feet of Bird Road Retail is provided in accordance with the terms of the purchase agreement, the Purchase Price will increase by \$250,000 (500 sf multiplied by \$500/sf) for a Bird Road Retail Purchase Price of \$14,500,000.

The Bird Road Retail will be a separate commercial condominium unit(s) pursuant to a recorded Declaration of Condominium which will provide for general condominium assessments payable by the owners of the commercial units and residential condominium assessments. Real estate taxes and commercial condominium assessments will be prorated as of the closing date.

**Delivery Condition of the
Bird Road Retail**

CGLH shall deliver the Bird Road Retail to The Collection in a “shell condition” generally consisting of concrete floor, and basic utilities consisting of chilled water connections (for Buyer’s HVAC system), central out-side air system, central plumbing vent system, central toilet exhaust system, water (direct metered or sub-meter by The Collection), tubbed electrical service to the perimeter of the space (meters by The Collection), fire alarm connection box to Building’s central monitoring station and empty telephone/data conduits to perimeter of the space.

**Purchase Price for the
Basement Parking Area:**

The Collection will pay \$3,160,000 for the Basement Parking Area (based on \$40,000/space for the 79 excess spaces above the required parking ratio of 1 space/250 sf of Bird Road Retail). In the event that the excess spaces in the Basement Parking Area increase or decrease, the purchase price for the Basement Parking Area will increase (or decrease accordingly). For example, if the excess parking in the Basement Parking Area increases to 80 spaces, the purchase price for the Basement Parking Area will increase to \$3,200,000 (\$40,000 multiplied by 80 excess spaces).

The Basement Parking Area will be assigned to The Collection for its exclusive use under the declaration of condominium (and not as a common element or limited common element). The Basement Parking Area will not be subject to any condominium assessments and The Collection will pay the direct costs and expenses for the Basement Parking Area (electric, cleaning, etc).

Closing of the assignment of the Basement Parking Area to The Collection will occur upon recording of the declaration of condominium, the issuance of the CO for the Basement Parking Area, and subject to the simultaneous closing of the purchase of the Bird Road Retail by The Collection.

Deposit:

The Collection will pay a deposit in the amount of \$1,000,000 upon the execution of a Letter of Intent between CGLH and The Collection. Subject to the terms of the purchase contract referenced below, The Collection will be required to pay an additional \$1,000,000 deposit upon the pouring of the ground floor slab, and an additional \$1,000,000 deposit at “top-off” of the building for total deposits of \$3,000,000 and the balance of the purchase price paid at closing.

Purchase Contract:

Upon the approval of the prospectus and condominium documents for the proposed “Collection Residences” project by the State of Florida, a binding purchase contract will be executed by CGLH and The Collection consistent with the terms of this Exhibit B.

CGLH and The Collection will work together to structure the purchase (and transfer) of the Bird Road Retail and Basement Parking Area to The Collection through the use of a land trust and sale of membership interests. In addition, the Letter of Intent and purchase agreement may provide for a lease (under mutually acceptable terms and conditions) between CGLH and The Collection prior to the closing of the purchase (which will be subject to the mutual agreement of CGLH and The Collection as well as any construction or other lenders).

EXHIBIT 6

Frank Silva

From: Frank Silva
Sent: Tuesday, September 22, 2015 4:21 PM
To: Art Murphy
Cc: Ugo Colombo; Masoud Shojaee; Anibal Duarte; 'Tania Martin'
Subject: RE: CGLH Written Consent of Managers
Attachments: CGLH - Written Consent.pdf; FW: Collection Residences cash flow and financial summary; FW: Attached Image

Art,

I have attached a revised written consent which has already been signed by Masoud in his capacity as Manager on behalf of Shoma Coral Gables, LLC. When reviewing the proposed terms in Exhibit "A" to the consent, we believe it is important to keep the following in mind:

- According to CBRE's Appraisal Report (Market Study), \$700/sf for the retail space is well within the parameters of (current) comparables.
- CBRE's Appraisal Report (Market Study) also reports that the immediate surrounding area is projected to experience moderate, positive growth. Given the location of the proposed Project and CBRE's market analysis, one can reasonably anticipate that the value of the Project's retail/parking space will be higher than \$700/sf two years from now, when the Project is completed.
- \$700/sf for the retail space is the price specified in the Financial Summary (attached) which was prepared by CMC and submitted to prospective lenders.

Masoud requests a meeting with Ugo, in their capacity as the Company's Management Committee, to address any potential questions regarding the attached consent, as well as the most recent Capital Call for a Supplemental Capital Contribution (copy attached) which was made this past Wednesday. As you know, time is of the essence with respect to the foregoing matters in light of the September 30th deadline related to the potential EB-5 funding and the capital call funds which are necessary for payment of multiple outstanding invoices. Please let us know Ugo's availability for the meeting with Masoud. Thanks.

Frank

SHOMA

Frank Silva, Esquire
General Counsel
3470 NW 82nd Avenue - Suite 988
Doral, Florida 33122
Telephone: (786) 437-8658
Direct: (786) 437-8674
Cell: (786) 382-9627
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From: Masoud Shojaee
Sent: Saturday, September 19, 2015 7:59 PM
To: Frank Silva <FSilva@shomagroup.com>
Subject: Fwd: CGLH Written Consent of Managers

Sent from my iPhone

Begin forwarded message:

From: "Art Murphy" <AMurphy@cmcrealestate.com>
To: "Masoud Shojaee" <MShojaee@shomagroup.com>, "Anibal J Duarte" <Anibal@tcoa.us>
Cc: "Ugo Colombo" <ugo@ugocolombo.com>
Subject: CGLH Written Consent of Managers

Enclosed please find a Written Consent of Managers for the EB-5 Commitment Letter, sale of the Bird Road Retail and Basement Parking and negotiation of a license agreement with The Collection. Ugo has signed the enclosed in his capacity as a manager of Coral Gables Luxury Holdings, LLC.

Art Murphy
CMC Group, Inc.
T-305-372-0550 | amurphy@cmcrealestate.com

**UNANIMOUS WRITTEN CONSENT OF THE MANAGERS OF
CORAL GABLES LUXURY HOLDINGS, LLC**

The undersigned Managers (“Managers”), as the sole managers on the Management Committee of Coral Gables Luxury Holdings, LLC, a Delaware limited liability company (the “Company”), pursuant to that certain limited liability company agreement (“Operating Agreement”) dated October 8, 2013, without the formality of convening a meeting and waiving any and all notice requirements, do hereby adopt the following resolutions by unanimous written consent, effective as of September 18, 2015:

WHEREAS, the Company intends to develop a proposed luxury residential and retail condominium project (the “Project”) on the Property, as more particularly described in the Operating Agreement;

WHEREAS, the Company has engaged in extensive negotiations with QueensFort Capital Corporation (“QueensFort Capital”) in an effort to obtain mezzanine financing in the amount of Forty Eight Million Five Hundred Thousand Dollars (\$48,500,000.00) for the proposed Project, under the Employment-Based Fifth Preference Program (“EB-5”);

WHEREAS, an Appraisal Report (Market Study) by CBRE dated June 21, 2015 concluded that, based upon CBRE’s market analysis, there are no known factors that adversely impact the marketability of the proposed Project;

WHEREAS, the Managers believe it to be in the best interest of the Company for the Company to continue its negotiations with QueensFort Capital as part of the Company’s efforts to obtain mezzanine financing for the proposed Project;

WHEREAS, the Managers believe it to be in the best interest of the Company for the Company to fund and file an EB-5 exemplar petition and related documents with the U.S. Citizenship and Immigration Services (“USCIS”) on or before September 30, 2015, when the current re-authorization period for the EB-5 program will expire;

WHEREAS, the Managers believe it to be in the best interest of the Company for it to lease and/or sell approximately 26,500 square feet of retail space fronting Bird Road and certain underground parking area to a *bona fide* lessee or purchaser, such as The Collection, LLC, on the terms and conditions set forth in the attached Exhibit “A”; and

WHEREAS, the Managers wish to determine whether a license agreement with The Collection, LLC is necessary in order for the Company to use “The Collection Residences” as the name for the proposed Project.

NOW, THEREFORE, BE IT

RESOLVED, that the Company is hereby authorized and directed to continue its negotiations with QueensFort Capital as part of the Company’s efforts to obtain mezzanine

financing for the proposed Project; and be it further

RESOLVED, the Company be, and hereby is, authorized to consult legal counsel for purposes of determining whether a license agreement with The Collection, LLC is required in order to use "The Collection Residences" as the name for the proposed Project; and be it further

RESOLVED, that to the extent necessary, the Company be, and hereby is, authorized to negotiate a license and other agreements with The Collection, LLC for the Company's use of "The Collection Residences" as the name for the proposed Project; and be it further

RESOLVED, that any and all actions heretofore or hereinafter taken by the Company of the Managers on the Company's behalf, in connection with the matters covered by this Written Consent are hereby ratified, confirmed, adopted and approved as the act and deed of the Company on its own behalf.

This Written Consent may be executed in counterparts, and each counterpart will, for all purposes, be deemed an original instrument. All such counterparts together will constitute one and the same Written Consent. Facsimile or "pdf" transmission of any original signed counterpart and retransmission of any signed facsimile or "pdf" transmission will be the same as transmission of an original counterpart.

IN WITNESS WHEREOF, the undersigned Managers of Coral Gables Luxury Holdings, LLC have adopted and approved the foregoing resolutions effective as of the date first above written.

MANAGERS:

.....
Ugo Colombo, Manager


.....
Masoud Shojace, Manager

Exhibit "A"

Sale of the Bird Road Retail and Underground Parking Area

Coral Gables Luxury Holdings, LLC (the "Company") will sell or lease the proposed 26,500 square of ground level retail space fronting Bird Road and the underground basement parking area (approximately 110,000 sf) in the proposed Collection Residences condominium project (the "Project") to a *bona fide* purchaser ("Purchaser"), such as The Collection, LLC, subject to the following terms and conditions:

Purchase Price for the Bird Road Retail:

The Purchaser will pay \$18,550,000 for the 26,500 square feet of ground level retail space to be developed by the Company. Closing will occur upon the recording of the declaration of condominium, the issuance of a certificate of occupancy for the Bird Road Retail by the City of Coral Gables, the delivery of the Bird Road Retail in the Delivery Condition (defined below), the Company's delivery of title subject to the permitted exceptions provided in the purchase agreement and other requirements of the purchase agreement.

The Bird Road Retail Purchase Price will be adjusted based on the final square footage of the Bird Road Retail (based on the purchase price of \$700/sf). For example, if 27,000 square feet of Bird Road Retail is provided in accordance with the terms of the purchase agreement, the Purchase Price will increase by \$350,000 (500 sf multiplied by \$700/sf) for a Bird Road Retail Purchase Price of \$18,900,000.

The Bird Road Retail will be a separate commercial condominium unit(s) pursuant to a recorded Declaration of Condominium which will provide for general condominium assessments payable by the owners of the commercial units and residential condominium assessments. Real estate taxes and commercial condominium assessments will be prorated as of the closing date.

Delivery Condition of the Bird Road Retail

The Company shall deliver the Bird Road Retail to Purchaser in a "shell condition" generally consisting of concrete floor, and basic utilities consisting of chilled water connections (for Purchaser's HVAC system), central out-side air system, central plumbing vent system, central toilet exhaust system, water (direct metered or sub-meter by Purchaser), tubbed electrical service to the perimeter of the space (meters by Purchaser), fire alarm connection box to Building's central monitoring station and empty telephone/data conduits to perimeter of the space.

Purchase Price for the Basement Parking Area:

The Purchaser will pay \$5,480,000 for the Basement Parking Area (based on \$68,500/space for 80 excess spaces above the required parking ratio of 1 space / 25 sf of Bird Road Retail). In the event that the excess spaces in the Basement Parking Area increase, the purchase price for the Basement Parking Area will increase. For example, if the excess parking in the

Basement Parking Area increases to 81 spaces, the purchase price for the Basement Parking Area will increase to \$5,548,000 (\$68,500 multiplied by 81 excess spaces). The foregoing purchase price is based on a projected construction cost in the amount of \$8,000,000 for construction of the Basement Parking Area and will be increased accordingly in the event such cost is greater than \$8,000,000. In any such event, overruns incurred during construction of the Basement Parking Area will be allocated based on the prorated number of parking spaces that are leased or purchased.

The Basement Parking Area will be assigned to Purchaser for its exclusive use under the declaration of condominium (and not as a common element or limited common element). The Basement Parking Area will not be subject to any condominium assessments and Purchaser will pay the direct costs and expenses for the maintenance and operation of the Basement Parking Area (electric, cleaning, etc.).

Closing of the transfer/assignment of the Basement Parking Area to Purchaser will occur upon recording of the declaration of condominium, the issuance of the CO for the Basement Parking Area, and subject to the simultaneous closing of the purchase of the Bird Road Retail by Purchaser.

Deposit:

The Purchaser will pay a deposit in the amount of 10% of the purchase price upon the execution of a Letter of Intent between the Company and the Purchaser. Subject to the terms of the purchase contract referenced herein, the Purchaser will be required to pay an additional 10% deposit upon the pouring of the ground floor slab, and an additional 10% deposit at "top-off" of the building for total deposits of 30% of the purchase price and the balance of the purchase price paid at closing.

Purchase Contract:

Upon the approval of the prospectus and condominium documents for the proposed "Collection Residences" project by the State of Florida, a binding purchase contract will be executed by the Company and Purchaser consistent with the terms set forth in this Exhibit "A".

The Company and Purchaser may work together to structure the purchase (and transfer) of the Bird Road Retail and Basement Parking Area to Purchaser through the use of a land trust and sale of membership interests, so long as any costs and expenses incurred in the creation and authorization of such land trust to acquire the subject property is paid by Purchaser. In addition, the Letter of Intent and purchase agreement may provide for a lease (under mutually acceptable terms and conditions)¹ between the Company and the prospective purchaser prior to the closing of the purchase (which will be subject to the mutual agreement of the Company and purchaser as well as any construction or other lenders).

¹ In the event the Company elects to lease the underground / basement parking area ("Basement Parking Area"), the base lease rate for such Basement Parking Area will be \$45/sf based on a NNN expense structure, plus the cost of additional parking.

EXHIBIT 7

FRANK SILVA, ESQUIRE
Attorney at Law

3470 NW 82nd Avenue
Suite 988
Doral, Florida 33122

Telephone: (786) 437-8674
Facsimile: (786) 437-8606
Email: fsilva@fsilvalaw.com

*Frank Silva, Esquire
Florida Bar No.: 925888*

October 5, 2015

VIA EMAIL AND FEDEX

Michael W. Mackay, Esq.
Wormser, Kiely, Galef & Jacobs, LLP
825 Third Avenue
New York, NY 10022-7519

Re: Coral Gables Luxury Holdings, LLC

Dear Mr. Mackay:

I represent Shoma Coral Gables, LLC ("Shoma"). We acknowledge receipt of your enclosed letter dated October 2, 2015.

Masoud Shojaee will gladly meet with Ugo Colombo pursuant to Section 4.3(c) of the Operating Agreement. I don't know if you're aware, but Mr. Shojaee requested a meeting with Mr. Colombo back on Tuesday, September 22, 2015. A copy of that email request is enclosed and I have included that email's attachments for the sake of completeness. Your subsequent letter dated October 2nd is Mr. Colombo's apparent response to Mr. Shojaee's foregoing request for a meeting between them.

A review of your enclosed letter reveals that it omits some critical information. As you may or may not know, Mr. Colombo has a major financial interest in The Collection, LLC. He is also Manager of both Coral Gables Luxury Holdings, LLC and The Collection, LLC. Mr. Colombo's actions to date related to (i) the negotiation of terms for EB5 financing via QueensFort Capital, (ii) the negotiation of terms for the sale or lease of retail space and underground parking area to The Collection, LLC, and (iii) the question of whether a license agreement is necessary in order for Coral Gables Luxury Holdings, LLC to use "The Collection Residences" as the name for the Project indicate that Mr. Colombo is attempting to obtain an unfair financial advantage/benefit for The Collection, LLC at the expense of Coral Gables Luxury Holdings, LLC. Such scenario constitutes a clear conflict of interest for Mr. Colombo and a potential breach of Mr. Colombo's duties to Coral Gables Luxury Holdings, LLC.

Michael W. Mackay, Esq.
October 5, 2015
Page 2

Mr. Shojaee looks forward to meeting with Mr. Colombo in an effort to address these pending critical matters. We are available to meet this week and propose this Friday, October 9, 2015 at 9:00 a.m., at the Sales Office for the Project.

Sincerely,



Frank Silva, Esq.

FS/mfp

Enclosures (as stated)

cc: Masoud Shojaee (via email)
Ugo Colombo (via email)
Arthur Murphy (via email)
Anibal Duarte, Esq. (via email)

EXHIBIT 8

Art Murphy

From: Masoud Shojaee [MShojaee@shomagroup.com]
Sent: Tuesday, October 13, 2015 3:09 PM
To: Ugo Colombo; Ugo Colombo
Cc: Anibal Duarte Viera; Tania Martin; Art Murphy; Frank Silva
Subject: Urgent Pending Matters

Ugo,

I had hoped that you were going to attend this past Friday's meeting with me, so that we could go over the pending critical matters related to the project. Instead, you sent Art, who told me at the beginning of the meeting that he had no authority to make any final decisions on anything that he and I would discuss.

Nevertheless, in a good faith effort, I discussed the following matters with Art:

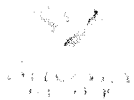
1. EB5 Financing - Art asked me to sign the QueensFort Capital commitment letter which you previously forwarded to me. The problem with that request is that we're still in negotiations with QueensFort Capital. As you know, we are scheduled to meet with them this week. Additionally, since the terms of the commitment letter refer to a sale between our company and The Collection, LLC, we need to either: (a) agree on the price amount for any potential sale or lease of retail space and basement garage spaces to The Collection, LLC or (b) notify QueensFort Capital that such space may be sold/leased to a third party.
2. Retail / Basement Garage - As I mentioned to Art, if the cost of the basement garage spaces for The Collection, LLC does not make business sense in light of the CBRE appraisal and market demand, we can reduce the size of the garage, which would reduce the cost of construction by approximately \$8-10MM and would reduce the equity and loan amount necessary for this project.
3. Whether License Agreement with The Collection, LLC is Necessary - As you know, we have been using and marketing "The Collection Residences" as the name of the project for about two years now. It is my understanding that by using "The Collection Residences" as the name for the project, we are using words that are merely descriptive or generic in nature. No license agreement is necessary. If there is any issue with our use of the design which The Collection, LLC uses for the letter "C" then we can easily eliminate that design or change it for our project.
4. Brokers, Website and Marketing - I have been informed by more than one person that you took down the website and have cancelled the marketing events that were previously scheduled for the project. When I brought this up with Art, he told me that you did that because we don't have a broker agreement. That comment by Art makes no sense. We have an agreement with CMC Realty and we have all been working under that agreement. The written contract still needs to be signed, but you never made that an issue and we have all been performing under our verbal agreement. If you insist that we have no agreement with CMC Realty, then I need to know the following:
 - How did we come up with the amounts for all of the Draws/Advances and sales related payments that have been made to date?
 - Do you intend to keep the existing sales agents and staff at the Sales Office? If not, are we going to hire a different realtor?
 - Since you've taken down the website and cancelled the scheduled marketing events, do you also intend to close the Sales Office?
 - If there is no sales activity, does that mean there is also no construction activity, and if so, why the overhead payments to CMC?

- If sales and construction are stopped, do you agree that we must lease the existing space on the property so that we can use that lease revenue to pay the debt service and fixed costs of the property?

Ugo, it's clear that you pulled the project's website and cancelled the scheduled marketing events because I have not agreed to your much lower price for sale/lease of space to your auto dealership. Your strategy placed this entire project at tremendous risk and it may not be salvageable unless we resolve these issues right away.

I am available to meet at the Sales Office at 7 PM or later any day this week to talk about these matters and get them resolved. The office will be closed at that time and we won't have to worry about any brokers or customers overhearing us. Just let me know what day works for you.

Masoud



Masoud Shojaee

President

3470 NW 82 Ave

Suite# 988

Doral, FL 33122

Phone: 786-437-8658

Fax: 786-437-8651

www.shomagroup.com

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EXHIBIT 9

HERBERT STETTIN, P.A.
4000 PONCE DE LEON BOULEVARD • SUITE 570
CORAL GABLES, FLORIDA 33146

HERBERT STETTIN
hmstettin@bellsouth.net

TELEPHONE (305) 374-3353
TELECOPIER (305) 374-7632

November 9, 2015

VIA ELECTRONIC TRANSMISSION

Francisco Silva, Esquire
Shoma Group - Legal Division
3470 NW 82nd Avenue, Suite 988
Doral, FL 33122

fsilvalaw@yahoo.com
fsilva@shomagroup.com

Jason B. Giller, Esquire
Jason B. Giller, P.A.
701 Brickell Avenue, Suite 2450
Miami, FL 33131-2849

jason@gillerpa.com

Re: Coral Gables Luxury Holdings, LLC / Shoma Coral Gables, LLC

Gentlemen:

This letter confirms that I am to be retained to act as the special master to supervise the dissolution of the partnership between Shoma Coral Gables, LLC and CMC Group, known as Coral Gables Luxury Holdings, LLC. We will treat the dissolution as part of the mediation proceedings begun on November 9, 2015; that is, as confidential except where absolutely necessary in dealing with third parties.

We spent a considerable time outlining the current issues and procedures necessary to identify and pay the obligations. To the extent there are any disputed items, I will decide those issues. In addition, I will be the initial contact person with brokers to list the property and to relet the existing buildings.

I have been promised complete and prompt access and assistance. I understand I will be provided with schedules necessary to promptly pay the outstanding bills, and the names of brokers who will be involved, whom I will contact initially.

I will bill for my time and at my standard hourly rate of \$550 and will bill each side 50% periodically. In the interim, I am enclosing my statement for services through the first day of mediation. Thank you for selecting me to serve in this matter.

Sincerely,

Herbert Stettin *hs*

By: _____
Herbert Stettin

HS/kh

Enclosure

cc: Sam Burstyn, Esquire
M:\STETTIN\Mediations\Shoma-Gables\L-Counsel.wpd

DA0093

HERBERT STETTIN, P.A.
4000 PONCE DE LEON BOULEVARD • SUITE 570
CORAL GABLES, FLORIDA 33146

HERBERT STETTIN
hmstettin@bellsouth.net

TELEPHONE (305) 374-3353
TELECOPIER (305) 374-7632

November 10, 2015

VIA ELECTRONIC TRANSMISSION

Francisco Silva, Esquire
Shoma Group - Legal Division
3470 NW 82nd Avenue, Suite 988
Doral, FL 33122

fsilvalaw@yahoo.com
fsilva@shomagroup.com

Jason B. Giller, Esquire
Jason B. Giller, P.A.
701 Brickell Avenue, Suite 2450
Miami, FL 33131-2849

jason@gillerpa.com

Samuel I. Burstyn, Esquire
801 Brickell Avenue, PH I
Miami, FL 33131-4943

Re: Coral Gables Luxury Holdings, LLC / Shoma Coral Gables, LLC

Gentlemen:

Confirming our telephone conversations of November 10, 2015, I was advised that Mr. Masoud Shojaee issued a public statement concerning the status of the joint venture and the availability of the property for sale. I want to make it clear again as I did during the mediation that confidentiality about the status of the mediation, the subjects being discussed and anything involving the partnership should not be discussed with any third parties. It is critical to the efficient liquidation of the partnership that no statement should be made to third parties concerning these subjects. Mike indicated told me that he had spoken to Mr. Shojaee who said it will not happen again. Let's be sure that it does not.

On another note, I think it is critical that you get me the information regarding the bills, the backup and those that should be paid immediately. As to those that there is a dispute over I will set up a process to deal with them as quickly as we can.

Sincerely,

Herbert Stettin *hsh*

By: _____
Herbert Stettin

HS/kh

Enclosure

M:\STETTIN\Mediations\Shoma-Gables\L-Counsel II.wpd

DA0094

EXHIBIT 10

Filing # 38419114 E-Filed 02/29/2016 09:46:34 PM

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION
CASE NO. 2016-2102 CA 05

SHOMA CORAL GABLES, LLC
a Delaware limited liability company,

Plaintiff,

vs.

GABLES INVESTMENT HOLDINGS, LLC
A Delaware limited liability company,
UGO COLOMBO, an individual, and
THE COLLECTION, LLC, a Florida
limited liability Company

Defendants

**DEFENDANTS' MOTION TO CONFIRM ARBITRABILITY, DISMISS COMPLAINT
FOR LACK OF SUBJECT MATTER JURISDICTION AND MOTION FOR
EXTENSION OF TIME TO ASSERT ANY OTHER GROUNDS FOR DISMISSAL¹**

Defendants GABLES INVESTMENT HOLDINGS, LLC, a Delaware limited liability company ("Gables"), UGO COLOMBO, an individual ("Colombo"), and THE COLLECTION, LLC, a Florida limited liability company, ("The Collection") by and through undersigned counsel do hereby specially appear and request this Court for an Order dismissing Plaintiff's Complaint and in support therefor state as follows:

¹ The instant motion shall be referred to as Defendant's "Motion to Dismiss".

CASE NO. 2016-2102 CA 40

INTRODUCTION

Pursuant to the Express agreement of the parties², the parties' dispute regarding "Major Decisions" that Plaintiff asserts in this lawsuit are subject to Section 4.3 of the Agreement (the "**Mandatory Dispute Resolution Provisions**") and have already been resolved against the Plaintiff. Moreover, on September 22, 2015, Shoma Coral Gables, LLC, (the "**Plaintiff**" or "**Shoma**") initiated the alternative dispute resolution process (under the Mandatory Dispute Resolution Provisions) by invoking same based on the very claims now presented to this Court (the "**Silva Demands**"). Those demands had been previously declined. Strictly following the Mandatory Dispute Resolution Provisions, Plaintiff, on November 5, 2015, issued a "Notice of Mediation", as explicitly provided for in Section 4.3(d) of the Mandatory Dispute Resolution Provisions ("**Notice of Mediation**"). (DA091). Said Notice of Mediation confirmed that the Plaintiff had selected the Honorable Herbert Stettin and that Defendant agreed to that request. See October 26, 2015 Letter to Frank Silva, Esq. (DA092). Pursuant to Plaintiff's Notice of Mediation, the initial mediation occurred on November 9, 2015 ("**Initial Hearing**"). At that time, the parties specifically agreed that the "Major Decisions" sought by Plaintiff were rejected and that the parties were proceeding to the next stage of the Mandatory Dispute Resolution Provisions, Section 4.3(e)(ii), the third party sale provision. On the same day, Judge Stettin, as authorized by the parties, confirmed in writing, that agreement, as well as the agreement of the parties to arbitrate any "disputed items" that might come up along the way. (The November 9, 2015 Agreement was

² See Section 4.3 of the Operating Agreement (the "**Agreement**") of Gables Luxury Holdings, LLC, a Delaware limited liability Company (the "**Company**"). Although the Agreement was improperly attached to Plaintiff's Complaint as Exhibit "A", it is included by the Defendants' and has also been included in Defendants' Appendix, which is being filed separately under seal. The annotation DA shall refer to Defendants' Appendix No. 1, followed by the page number, e.g., DAXX. The Agreement is at DA001-DA085, Section 4.3 can be found at DA030 - DA035.

CASE NO. 2016-2102 CA 40

memorialized in Judge Stettin's November 9, 2015 Letter)(the "November Agreement"). (DA093). The scope of Judge Stettin's retention was based upon the requirements of the operating agreement which, eventually require liquidation in all cases. *See e.g.*, §4.3, 5.6, 5.7, 10.1, 10.2. (DA030-035, DA046-49, DA058-062).

Judge Stettin's letter of November 9, 2015 also expressly reconfirmed the obligation of confidentiality. (DA093). Nevertheless, that very day, Plaintiff intentionally violated that order by issuing a self-serving press release which was also specifically proscribed by Section 11.4 of the Agreement.³ (DA065-066). Immediately after learning of this outrageous behavior, Judge Stettin severely admonished Mr. Silva and Mr. Shojaee (both Plaintiff's agents) who admitted to the violation. *See* Judge Stettin's Letter of November 10, 2015. (DA094). This conduct damaged the market value of the company.

Thereafter, the parties proceeded with the initial plan proposed by Judge Stettin which was quietly to retire all payables of the company.

As recently as February 24, 2016, the parties, including Plaintiff's current counsel, participated in a lengthy arbitration hearing before Judge Stettin.

BACKGROUND AND PROCEDURAL FACTS

The instant dispute arises from a failed non-binding attempt to co-develop a mixed use real estate project in Coral Gables, Florida⁴. As is common under these circumstances, the parties formed the Company to carry out their intentions vis-à-vis the development. (DA001-085). The

³ The needless yet deliberate filing of the Agreement with the Complaint is itself a violation of Section 11.4 and actionable against both the filing party and counsel under Rules 2.515 and 2.420, Fla. R. Jud. Admin.

⁴ The real property and current existing improvements shall be referred to as the "Property," while the to-be developed property shall be referred to as the "Project".

CASE NO. 2016-2102 CA 40

negotiated for [Operating] Agreement sets forth all of the parties' rights, obligations, remedies, and in many instances waivers of same. (DA001-085). In accord with the non-final nature of the development plan, the Agreement also contained specially tailored dispute resolution provisions. (DA030-035). For example, in the event any material (or as coined in the Agreement, "Major") decision(s) went unresolved after conference and non-binding mediation, the maximal (and ultimate) remedy was to wind down affairs, liquidate the Company's single asset and dissolve the Company.⁵ (DA030-035, DA046-49, DA058-062). All other disputes (which would be deemed, under the terms of the Operating Agreement as non-major, and which generally relate to the conduct of any Manager, are to be arbitrated). (DA036). (Generally, Section 4.3 governs the dispute resolution process). Notwithstanding this bright-line provision of the Operating Agreement and the fact that ALL of the issues raised in the Complaint were not only submitted to the Honorable Herbert Stettin (the current officiating arbitrator and liquidating Master) and adjudicated in favor of Defendants, Plaintiff has filed a frivolous Complaint attempting to revisit *all of the issues subject to the Mandatory Dispute Resolution Provisions*, seeking relief that it knows is **simply not available**. See Silva Demands; Agreement at Section 4.3(e). (DA086; DA035). As the record will demonstrate, all of the issues *now* attempted to be placed before this Court have been *resolved*. For the reasons set forth below, respectfully, this Court does not have subject matter jurisdiction, and Plaintiff's Complaint should be dismissed.

⁵ Such "Major Decisions" include:

- (i) the development plan;
- (ii) Project Budget
- (iii) related party transactions ("Affiliated Transactions").

See, e.g., Operating Agreement at pp. 25-29

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CASE NO. 2016-2102 CA 40

Between June and August 2015, material Project development matters remained unsettled. Such matters included, among others, pricing, budget, financing, marketing plan, design, and project brand. Despite numerous discussions between August and September, these material decisions remained outstanding. (The Unresolved Major Decisions/Disputes are generally set forth in the Silva Demands). (DA086-DA090) When the parties were unable to arrive at an agreeable business arrangement as to these Material Decisions, in the early part of October 2015, Silva and Shoma formally elected and invoked the Mandatory Dispute Resolution Provisions of the Agreement. See October 8, 2015 Letter from Frank Silva, Esq. (DA095-097). Specifically, Plaintiff sought to invoke those provisions as to the material issues raised in the Silva Demands. (DA095-097). On October 22, 2015, in furtherance of its election and pursuant to Section 4.3(d), Silva proposed mediators. See Letter from Frank Silva, Esq. dated October 22, 2015. (DA098). Gables promptly accepted Shoma's mediator, the Honorable Herbert Stettin. See Letter to Frank Silva, Esq. dated October 26, 2015. (DA092). On November 5, 2015 (also in accord with Shoma's prior election under Section 4.3), Silva issued and presented a formal Notice of Mediation -- effectively setting the mediation for November 9, 2015. See November 5, 2015 Correspondence from Frank Silva, Esq. (DA091) On the same day, Shoma also submitted a written request to Gables and Judge Stettin requesting to include the maturing Florida Community Bank Loan (a \$16.2M mortgage loan on the Company's Property), to the noticed mediation, notwithstanding the fact that the parties had not yet engaged in the initial stages of the Mandatory Dispute Resolution Provisions as to that issue.⁶ (DA099). On November 9, 2015, pursuant to Section 4.3,

⁶ This conduct was itself fraudulent. As of that, Shojaee was subject of an injunction precluding him from engaging in material loan transactions, including that with Florida Community Bank. Neither Shojaee nor Silva EVER DISCLOSED THAT FACT TO Gables OR Judge Stettin.

CASE NO. 2016-2102 CA 40

the parties attended the initial mediation held by the Honorable Herbert Stettin ("Initial Hearing"). At the Initial Hearing, all of the "unresolved major disputes", including every word of Plaintiff's January 27, 2016 Complaint (the "Hall Complaint") were addressed.

Among the other decisions agreed to among the parties during said Initial Hearing, was an agreement to privately, confidentially and irrevocably appoint Judge Stettin to serve as a paid Master to efficiently supervise the liquidation of the Property (the Company's sole asset) and thereafter the dissolution of the Company. (DA093). As discussed above, this process was in full accord with available remedies and processes under the Agreement. (DA030-035, DA046-49, DA058-062). In an effort to protect both the market perception (which strongly correlates with the value of the Property) and honor obligations under the Agreement, the parties agreed to keep the decision to liquidate the asset confidential and, until such time as that was final, work in good faith to keep the Company's necessary obligations current. (DA093). In the event any issue could not be resolved through agreement, Judge Stettin would "decide...any disputed items". See Judge Stettin's November 9, 2015 November 10, 2015 Letters ("it is critical that you get me the information regarding the [Company's] bills, the backup and those that should be paid immediately. (DA093-094). As to those that there is a dispute over, I will set up a process to deal with them as quickly as we can."). (DA094).

Notwithstanding Plaintiff's express agreement and written acknowledgment of the importance of keeping such matters confidential, within hours of the recess from the Initial Hearing, Plaintiff released public press releases claiming that he was "dropping the project" and "terminating [his] relationship to co-develop the project." See November 10, 2015 Miami Herald Article and Shoma press release. (DA103-108). This conduct was done in direct violation of Judge Stettin's order and Section 11.4 of the Operating Agreement, which *inter alia* forbids unilateral

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CASE NO. 2016-2102 CA 40

press releases. (DA094; DA065-066). The apparent purpose of Shojaee's blatant disregard of the direct order and agreement of confidentiality⁸ was simply for him to try and save face, by announcing that it was he that was "dumping" Gables. (DA103-106). To make matters even worse, the press release was aggressively promoted by the Plaintiff to the media resulting in immediate news stories destructive to the Project and further violating the Confidentiality Terms. (DA103-106). Immediately following this contemptuous, value destructive violation of both Section 11.4 and, as Silva knows the Florida mediation statutes, Judge Stettin issued a stern rebuke to Silva and Masoud. See Judge Stettin's Letter of November 10, 2015. (DA094). In this rebuke, Judge Stettin memorialized both an admission by Silva/Masoud of their improper conduct and a promise that they would not again violate confidentiality.⁹ (DA094).

In the days and weeks following the Initial Hearing, pursuant to the agreement reached on November 9, 2015, the parties continued to take steps to wind down the Company's affairs. The initial stage of which, as memorialized in Judge Stettin's November 9, 2015 correspondence, was to pay off all undisputed payables and irrevocably arbitrate any disputes between the parties. On December 10, 2015, Shoma "disputed" and refused to pay certain recurring regular payments owed to Defendant and Affiliated Entities, based upon the false claim that Defendant had improperly terminated the Project in September 2015¹⁰, and was therefore not entitled to such payments. See Frank Silva, Esq's December 10, 2015 electronic correspondence. (DA121-122). This basis,

⁸ The Order, agreement, Florida Mediation Statute, and Section 11.4 of the Operating Agreement shall be collectively referred to as the "Confidentiality Terms".

⁹ This very lawsuit, the extensive quotes given to the media by opposing counsel and attachment of the strictly confidential operating agreement are further violations of such covenants and demonstrate just how much concern Plaintiff and its legal team have for their agreements.

¹⁰ Despite the events leading up to the Initial Hearing, which took place in November 2015, this was the first instance that Plaintiff alleged Defendant had cancelled the Project.

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which Defendants fully briefed³¹ and ultimately prevailed on, was even more dubious in light of Plaintiff's own November press release claiming that it was Plaintiff that was "dumping" and "terminating" the Project. (DA109-120; DA103-108). These already adjudicated allegations are *now* presented to this Court as "grounds" for relief which, under the express terms of the Agreement, Shoma is simply not entitled to. (DA035-036). Moreover, as the alternative dispute process remains pending before Judge Steitin, this Court, respectfully lacks subject matter jurisdiction over them.

In Florida, like Delaware, arbitration is a "favored means of dispute resolution, [and] any doubts concerning the scope should generally be resolved in favor of arbitration." *See Auchter Co. v. Zaglund*, 949 So. 2d 1189 (Fla. 1st DCA 2007)(citing *Gainesville Health Care Ctr., Inc. v. Weston*, 857 So. 2d 278, 289 (Fla. 2nd DCA 2003); *see also Elia v. Hertrich Family of Auto. Dealerships*, 2013 WL 6606054, at *2 (Del. Super. Dec. 13, 2013) *aff'd*, 103 A.3d 514 (Del. 2014)(holding that Delaware courts routinely enforce arbitration provisions because of the "strong presumption in favor of arbitration" under Delaware law). "Subject matter jurisdiction" is the power and authority to lawfully hear and determine an existing cause. *Cunningham v. Standard Guar. Ins. Co.*, 630 So. 2d 179, 181 (Fla. 1994)(quoting *Malone v. Merex*, 109 So. 677, 683 (Fla. 1926). Where parties, under applicable arbitration laws, submit disputes to binding arbitration, the "arbitrators [shall have] sole authority to determine [those issues]" which in turn, deprives the trial court of subject matter jurisdiction over same. *See Ogler v. Franzen*, 669 So. 2d 269, 270 (Fla. 4th DCA 1995). When a trial court is faced with objection premised upon subject matter jurisdiction, the court must review the "nature of the case and the type of relief sought." *Godfrey*

³¹ Defendants have included a copy of the January 24, 2016 arbitration submission which includes an extensive legal brief on certain issues before the arbitrator. (DA109-120).

CASE NO. 2016-2102 CA 40

v. Reliance Wholesale, Inc., 68 So. 3d 930, 932 (Fla. 3d DCA 2011)(citing *Panucci v. Gen. Dynamics Corp.*, 842 So. 2d 797, 801 n. 3 (Fla. 2003). Where the issues sought to be presented to the Court are properly placed before an arbitrator, the Court is simply without jurisdiction to preside over same. See *Feather Sound Country Club, Inc. v. Barber*, 567 So. 2d 10, 11 (Fla. 2nd DCA 1990)(finding that were there appears to be a valid arbitration agreement, the Florida arbitration code “mandate[es] that courts yield their jurisdiction to arbitration...”). In turn, there is no doubt that the proper process would be to enter an Order immediately dismissing Plaintiff’s Complaint.

THE COLLECTION, LLC’S ADOPTION AND JOINDER

A stay is also appropriate as to the Collection because “it cannot be said that ‘resolution of the arbitrable claims will have no effect’ on the pending litigation.” *Shores of Pan., Inc. v. Safeco Inc. Co. of Am.*, No. 07-00602-KD-B, 2008 U.S. Dist. LEXIS 75956, at *13 (S.D. Ala. Sept 29, 2008)(quoting *Am. Int’l Group, Inc. v. Cornerstone Bus., Inc.*, 872 So. 2d 333, 338 (Fla. 2d DCA 2004)); see *Okeelanta Corp. v. U.S. Sugar Corp.*, 712 So. 2d 814, 815 (Fla. 2d DCA 1998)(reversing trial court decision and directing it to enter an order staying the litigation until the conclusion of an arbitration proceeding, noting that “[w]hile this court makes no determination regarding the effect the arbitration decision might have on the litigation, it cannot be said that the resolution of the arbitrable claims will have no effect on the claims pending in court”)(citing *Sabates v. Int’l Med. Ctrs., Inc.*, 450 So. 2d 514, 519 (Fla. 3d DCA 1984)); see also *Cornerstone*, 872 So.2d at 338 (finding trial court erred by denying a motion to stay pending arbitration where the claims involving third-parties “reasonably and logically derive from [the party’s] ostensibly arbitrable claim”; noting that “[w]here the claims involving a third party are based on the same

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CASE NO. 2016-2102 CA 40

operative facts and are inherently inseparable from the claims subject to arbitration, the third party is entitled to a stay of the proceedings pending arbitration even though it is not a signatory to the arbitration agreement" (internal citation omitted)). Here, there is no question that the arbitrable claims will have, *at a minimum* an effect and impact on the claims against The Collection, if not as to the legal issues, then surely the factual ones.

In all applicable regards, The Collection hereby adopts and joins in Defendants' Gables and Colombo's Motion to Dismiss and hereby requests this Court to enter an order dismissing Plaintiff's Complaint.

WHEREFORE, Defendants Gables, The Collection, and Colombo respectfully request this Court to enter an Order dismissing Plaintiff's Complaint, an award for attorneys fees incurred in drafting the instant motion and arguing same at any subsequent hearing, or in the alternative an extension of time to file applicable motions to dismiss the Complaint premised upon grounds not set forth herein, including but not limited to failure to state a claim until ten (10) days after the entry of any order denying the instant Motion to Dismiss, and all other relief deemed necessary and proper.

Dated this 29th day of February, 2016.

Respectfully Submitted,

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CASE NO. 2016-2102 CA 40

By: /s/ Jason B. Giller, Esq.
JASON B. GILLER
Florida Bar No. 77441

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Motion to Dismiss has been furnished by the Florida Courts e-filing Portal pursuant to Fla. R. Admin. 2.516(b)(1), this 29th day of February, 2016, and thereafter forwarded via the automated E-Filing system to the following: *Andrew Hall, Esq. and Matthew Leto, Esq.*, HALL, LAMB AND HALL, P.A., 2665 South Bayshore Drive, Penthouse One, Miami, FL [andyhall@hlhlawfirm.com and mletto@hlhlawfirm.com] and *Frank Silva, Esq.*, 3470 NW 82nd Avenue, Suite 988, Doral, FL 33122 [fsilva@shomagroup.com].

By: /s/ Jason B. Giller, Esq.
JASON B. GILLER
Florida Bar No. 77441

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JASON B. GILLER, P.A.
701 BRUCELL AVE., 24TH FLOOR - MIAMI, FL, 33131
TELEPHONE: (305) 909-1906 - FACSIMILE: (305) 489-8530 - EMAIL: JASONG@GILLERPA.COM

EXHIBIT 11

LAW OFFICES OF
JASON B. GILLER, P.A.

701 BRICKELL AVENUE · SUITE 2450
MIAMI, FL 33131
TELEPHONE: (305) 999-1906
FAX: (305) 489-8530
EMAIL: JASON@GILLERPA.COM

March 11, 2016

NOTICE SENT PURSUANT TO OPERATING AGREEMENT OF CORAL GABLES LUXURY HOLDINGS LLC

Via Federal Express and Electronic Mail (fsilva@fsilvalaw.com)

Frank Silva, Esq.
Shoma Coral Gables LLC
3470 NW 82nd Avenue, Suite 988
Doral, Florida 33122

Re: Determination of Fair Market Value –
Coral Gables Luxury Holdings LLC (“CGLH”)

Dear Mr. Silva,

As you know, our respective clients have been attempting to resolve certain Unresolved Major Decisions (as defined in the October 8, 2013 Operating Agreement of CGLH the “Operating Agreement”) concerning the Project (as defined in the Operating Agreement).

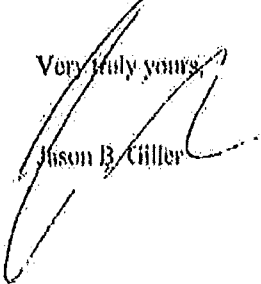
In view of the ongoing disputes between Shoma Coral Gables LLC (“Shoma”) and Gables Investment Holdings LLC (“GIH”), which are presently in arbitration pursuant to Section 4.3(d) of the Operating Agreement, it is in the best interests of Shoma, GIH and CGLH that the Fair Market Value of the Property (as such terms are defined in the Operating Agreement) be determined in accordance with Section 5.9 of the Operating Agreement as soon as possible.

Please be advised that Ugo Colombo, the Manager designated by GIH, hereby requests that a meeting be held at the offices of CMC Group Inc. on March 17, 2016, at 10:00 am but no later than March 26, 2016 letter to determine the Fair Market Value of the Property.

Shoma Coral Gables LLC
March 11, 2016
Page 2

If GIH and Shoma are unable to agree on the Fair Market Value at such meeting or sooner or by March 26, 2016, Ugo Colombo shall appoint an appraiser of the Property and commence the procedure set forth in Section 5.9 of the Operating Agreement with respect to the determination of Fair Market Value.

Very truly yours,


Jason B. Giller

MWM/si

Cc: Massoud Shojae
Arthur J. Murphy
Michael Mackay, Esq.

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FRANK SILVA, ESQUIRE
Attorney at Law

3470 NW 82nd Avenue
Suite 988
Doral, Florida 33122

Telephone: (786) 437-8674
Facsimile: (786) 437-8606
Email: fsilva@fsilvalaw.com
Frank Silva, Esquire
Florida Bar No.: 925888

March 22, 2016

VIA EMAIL ONLY

Jason B. Giller, Esq.
Jason B. Giller, P.A.
701 Brickell Avenue, Ste. 2450
Miami, FL 33131

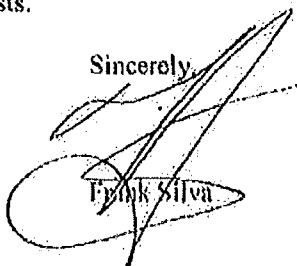
Re: Coral Gables Luxury Holdings, LLC

Dear Mr. Giller:

Shoma hereby acknowledges receipt of your enclosed notice dated March 11, 2016, wherein CMC seeks to initiate the Fair Market Value determination procedure set forth in Section 5.7 of the Operating Agreement. Although the notice is untimely, Shoma is willing to consider extending the applicable deadline for initiating such provision. No meeting is required under either circumstance.

Please let us know what CMC believes is the Fair Market Value of all of the assets of the Company. For the avoidance of doubt, "Fair Market Value" means all assets of the Company, including all of the approvals and entitlements for construction of improvements on the Property. Fair Market Value must be based on the Highest and Best Use of the Property. Obsolete existing improvements do not contribute to the Highest and Best Use of the Property and it is anticipated that any potential contributory value of such existing improvements will be offset by any demolition/disposal costs.

Sincerely,



Frank Silva

FS/mfp

cc: Michael Mackay, Esq.
Andrew Hall, Esq.
Matthew Leto, Esq.

FRANK SILVA, ESQUIRE
Attorney at Law

3470 NW 82nd Avenue
Suite 988
Doral, Florida 33122

Telephone: (786) 437-8674
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Email: fsilva@fsilvalaw.com
Frank Silva, Esquire
Florida Bar No.: 925888

March 28, 2016

VIA EMAIL ONLY

Jason B. Giller, Esq.
Jason B. Giller, P.A.
701 Brickell Avenue, Ste. 2450
Miami, FL 33131

Re: Coral Gables Luxury Holdings, LLC

Dear Mr. Giller:

I received your enclosed letter dated March 24, 2016. As I mentioned in my letter to you dated March 22, 2016, CMC's request for a Fair Market Value determination under Section 5.7 of the Operating Agreement is untimely.

Nevertheless, Shoma remains willing to consider extending the deadline in that section of the Operating Agreement, so that the parties can proceed under that provision. Shoma will not agree to any extension/reinstatement of the expired time period, unless CMC first confirms in writing that Fair Market Value in the proposed appraisal will be defined to include all assets (both tangible and intangible) of the Company and that the appraised Fair Market Value in that appraisal will be based on the Highest and Best Use of the Property.

Please let me know if CMC will confirm that Fair Market Value in the appraisal being proposed by CMC will be interpreted and applied as set forth hereinabove, so that we can proceed accordingly.

Sincerely,



Frank Silva

FS/mfp

cc: Michael Mackay, Esq.
Andrew Hall, Esq.
Matthew Leto, Esq.

EXHIBIT 12

LAW OFFICES OF
JASON B. GILLER, P.A.

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April 20, 2016

**NOTICE SENT PURSUANT TO OPERATING AGREEMENT OF CORAL GABLES
LUXURY HOLDINGS LLC**

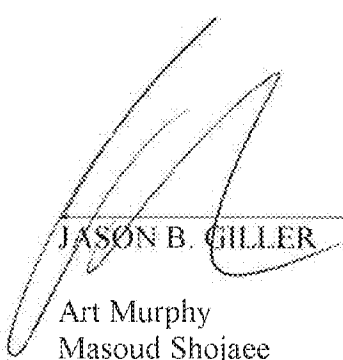
This firm, together with Michael Mackay of Wormser, Kiely, Galef & Jacobs LLP and Joseph Cicero of Chipman Brown Cicero & Cole, LLP represent Gables Investment Holdings, LLC (“CMC”), a 50% member of Gables Luxury Holdings, LLC (the “Company”). This notice is being transmitted pursuant to Sections 11.14 and 4.4(a) of the Company’s Operating Agreement dated as of October 8, 2013 (the “Agreement”).

Pursuant to Section 4.4(a) of the Agreement, CMC is hereby exercising its right to remove Mr. Shojaee as Shoma Coral Gables, LLC’s (“Shoma”) appointed Manager of the Company as a result of his commission of bad acts detrimental to the Company, as outlined herein. Mr. Shojaee has run afoul of the conduct required to be a Manager of the Company by, including without limitation:

- a. failing to disclose his divorce, which has and will materially and detrimentally impact the Company;
- b. failing to disclose that he does not have a controlling interest in Shoma, but rather he simply holds a minority interest therein and his soon to be ex-wife directly and beneficially owns a controlling interest in Shoma;
- c. failing to disclose that any authority that he has vis-à-vis Shoma Coral Gables, LLC is conditioned on written and continuing approval from his wife;
- d. failing to disclose that he was unable to perform material obligations under the Agreement without his wife’s approval and financial support;
- e. failing to disclose that he is restrained from “dispos[ing] of [or]...dissipat[ing] the value of any asset” without order of court, which includes the extension of any loans or mortgages;
- f. failing to disclose that he is restrained from “incur[ing] any...additional personal debt...[and/or] further encumbering any assets” except as permitted by the Court;
- g. failing to disclose his actual and direct conflict of interest in connection with applying for extensions of credit for the Company in light of the aforementioned restraints and his failure to provide his spouse with complete financial disclosures in his divorce proceedings;

- h. failing to disclose the fact that his wife, the super majority owner of Shoma Coral Gables, desired to liquidate marital assets and limit Mr. Shojaee's "temporary" control over same, and her litigation efforts regarding same;
- i. failing to disclose his unauthorized hiring of the law firm Hall, Lamb, and Hall, P.A. and *ultra vires* filing of lawsuits without requisite consent from Shoma;
- j. Mr. Shojaee's intentional frustration of the Company's listing and sales process of the Property;
- k. Mr. Shojaee's intentional and repeated violation of the confidentiality provisions of the Agreement;
- l. Mr. Shojaee's intentional and repeated violations of the Agreement relating to attendance at requested Company meetings;
- m. Mr. Shojaee's intentional and repeated violations of Florida statutes governing mediation;
- n. Mr. Shojaee's embezzlement of millions of dollars of funds from various marital companies and trust, including but not limited to, Aneli Artworks, LLC, \$600,000.00 of which appears to have been directly invested in the Company; and
- o. Mr. Shojaee's campaign to harm investments to reduce the value of the marital estate and create self-interested development opportunities for him post dissolution.

If within five days Mr. Shojaee does not inform us that he is challenging this removal and provide the bases for his challenge, CMC will exercise its right to appoint a new Manager to replace Mr. Shojaee. If, however, Mr. Shojaee challenges this removal, CMC will initiate arbitration proceedings under Section 4.4(a) of the Agreement in connection with Mr. Shojaee's aforementioned and related conduct as proper bases for his removal to Section 4.4(a) and seek fees relating thereto.



JASON B. GILLER

cc: Art Murphy
Masoud Shojaee
Michael Mackay, Esq.
Joseph Cicero, Esq.

EXHIBIT 13

Gables Investment Holdings, LLC
701 Brickell Avenue, Suite 2410
Miami, Florida 33131

August 18, 2016

VIA OVERNIGHT DELIVERY
Shoma Coral Gables LLC
3470 NW 82nd Avenue, Suite 988
Doral, Florida 33127

Attn: Masoud Shojaee

We received your new lawsuit seeking to compel us to remove Ugo Colombo as a manager. While we completely dispute your claims and motives, we do not wish to engage in additional continuing litigation with you. Accordingly, Mr. Colombo is no longer our designated manager. Pursuant to Section 4.1 (c) of the Coral Gables Luxury Holdings, LLC Operating Agreement, his successor is Massimo Valentini.

Please advise JAMS that your claim is moot.

Sincerely,



Arthur J. Murphy
Manager

cc: Joseph Cicero, Esq.
Coral Gables Luxury Holdings, LLC

EXHIBIT 14



August 25, 2016

VIA FEDEX

Arthur Murphy
CMC Group, Inc.
701 Brickell Avenue, Ste. 2410
Miami, FL 33131

Re: Coral Gables Luxury Holdings, LLC

Dear Mr. Murphy:

I received your enclosed letter regarding Ugo Colombo. As you know, Shoma requested that Mr. Colombo be removed as Co-Manager of Coral Gables Luxury Holdings, LLC. A copy of that request is enclosed for your convenience. According to your enclosed letter, CMC disputes the Bad Acts committed by Ugo Colombo and cites to Section 4.1(c) of the Company's Operating Agreement, which states as follows:

Subject to the provisions of Sections 4.1(a), 4.1(b) and 4.4, if a vacancy occurs on the Management Committee for any reason, the Member who appointed the departing Manager shall appoint such Manager's successor within ten (10) calendar days of such vacant.

Section 4.1(c) is clearly subject to Section 4.4 of that same Operating Agreement. Shoma triggered Section 4.4 of the Operating Agreement when it served CMC with the enclosed Request for Removal of Manager and also enclosed demand for nonbinding arbitration related to Mr. Colombo's Bad Acts.

Section 4.4 of the Operating Agreement clearly grants each Member the right to remove a Manager appointed by the other Member upon the occurrence of a Removal Event, such as a Bad Act. That same section of the Operating Agreement requires that the determination of a Bad Act must be submitted to non-binding arbitration administered by JAMS. Most importantly, the Operating Agreement requires that upon removal of a Manager pursuant to Section 4.4, the Member whose Manager was not removed *shall* appoint the new Manager.

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www.shomagroup.com

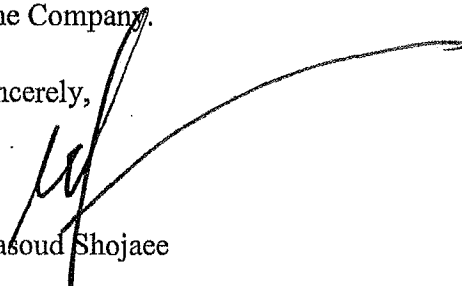
Arthur Murphy
August 25, 2016
Page 2 of 2

The Operating Agreement states that a determination of a Bad Act shall be submitted to the nonbinding arbitration set forth in Section 4.4(a); provided, however, that if the determination is not resolved by such arbitration, then the Bad Act must be determined by a Judicial Decision. Shoma is clearly entitled to a determination regarding the Bad Acts described in its enclosed Request for Removal and upon a determination that any of those Bad Acts occurred, Shoma must appoint the new Manager.

Any other interpretation or application of the foregoing rights and remedies under the Operating Agreement would eviscerate Shoma's vested rights under that Agreement and would allow CMC to indefinitely remove any Manager who commits a Bad Act and, upon receiving a request for removal from Shoma, simply replace the "bad" Manager with another bad Manager who is then free to commit additional Bad Acts, all without consequence to CMC or the Managers who commit the Bad Acts. Shoma therefore intends to proceed with the JAMS arbitration.

Please let us know if CMC wishes to propose an arbitrator for the arbitration. In the meantime, CMC's attempted appointment of Massimo Valentini as CMC's designated Co-Manager of the Company is rejected under the present circumstances and Mr. Valentini has no authority to act as a Co-Manager on behalf of the Company.

Sincerely,



Masoud Shojaee

MS/mfp

Enclosures (as stated)

cc: Frank Silva, Esq. (via email)
Andrew Hall, Esq. (via email)
Matthew Leto, Esq. (via email)

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EXHIBIT 15

Gables Investment Holdings, LLC
701 Brickell Avenue, Suite 2410
Miami, Florida 33131

September 15, 2016

Mr. Masoud Shojaee
Shoma Coral Gables LLC
3470 NW 8211d Avenue, Suite 988
Doral, Florida 33127

Dear Masoud,

Thank you for your letter. As you know, and consistent with your request, Mr. Colombo is no longer the manager appointed by Gables Investment Holdings, LLC. I have assumed those duties. I think a meeting would be helpful to better understand your position regarding your refusal to pay for janitorial expenses and other operating expenses of the company. I would also like to see the monthly bank reconciliations for 2016, a current cash report, and a cash flow analysis for CGLH so that I can determine what the company's cash position is. Please send these to me as soon as possible so we can address the checks that were sent by Frank Silva.

Since the income has decreased significantly due to your failure to pay maintenance and other expenses, and you also have made it clear that this property will never be developed by CGLH, what is the point of extending the loan and continuing to pay interest? We can discuss this at the meeting as well.

Sincerely,



Massimo Valentini
Manager

EXHIBIT 16



September 26, 2016

VIA OVERNIGHT DELIVERY

Massimo Valentini
Gables Investment Holdings, LLC
701 Brickell Avenue, Suite 2410
Miami, FL 33131

Re: Coral Gables Luxury Holdings, LLC

Dear Massimo:

I received your letter dated September 15, 2016. I believe that your effort to assume the duties of Ugo Colombo as the Manager appointed by Gables Investment Holdings, LLC ("CMC") to the Company breaches the Operating Agreement and that you have no authority to proceed. You also make certain claims which are completely incorrect and it appears to me that you are attempting to rewrite history. I will respond to each point below.

A. Removal of Ugo Colombo

You state that you have assumed the duties of Ugo Colombo as Co-Manager of the Company. You have no such authority under the Company's Operating Agreement.

Shoma requested that Ugo be removed as Co-Manager of Coral Gables Luxury Holdings, LLC. I have enclosed a copy of that request for your reference. If CMC disputes that Ugo committed any of those Bad Acts, then the determination of whether Ugo committed a Bad Act must be submitted to arbitration by JAMS. Shoma triggered this removal of Manager procedure when it served CMC with the enclosed Request for Removal of Manager and demand for nonbinding arbitration by JAMS related to Ugo's Bad Acts.

Shoma is clearly entitled to a determination of whether Ugo committed any of the Bad Acts described in its enclosed Request for Removal. Upon a determination that any Bad Act was committed, Shoma (not CMC) will appoint the new Manager. Your effort to get around the Agreement is unacceptable.

B. Operating Expenses

You claim that Shoma refuses to pay for janitorial services and other operating expenses. However, Shoma has not refused to pay for any properly authorized janitorial or other operating expenses. Rental operations are managed by CMC and its affiliate CMC Group, Inc. Since early November 2015, Shoma has not received any information from CMC or CMC Group, Inc. as to any Rent that was collected by either of them, delinquencies, vacancies, or any other lease-related

matters. Shoma notified the Property Manager, John Jolley of CMC Group, Inc., about utilities owed by one particular tenant at the Property, so that Mr. Jolley would bill the tenant. However, Shoma has never received a reply from Mr. Jolley and there is no evidence that anyone has received payment from the tenant for those utility bills.

As you can see from the enclosed historical Cash Flow report, there are a significant number of vacancies at the Property. We addressed this issue with CMC prior to Ugo's cancellation of the Project. Nothing was ever done. We currently do not collect enough rent to pay the interest that is due on the FCB Loan, making it necessary to fund the difference as well as the monthly operating expenses.

Many of the operational invoices are received by CMC only. CMC's accounting department stopped communicating with Shoma in November. In order to pay the utilities, Shoma consequently has been forced to go online because CMC changed the paper billing to online billing with CMC's email addresses. Shoma currently pays the Water and Sewer, FPL, and Waste Management online and all of those accounts are current. Emergency payments, such as insurance, have been processed and sent to CMC. To date, those checks are still outstanding. The only apparent explanation is that they have not been co-signed and forwarded to the vendors by CMC.

We had two janitorial companies at the Property, Great Cleaning Corp. for the 250 Bird Road building and Harvard Maintenance Inc. for the Aurora Street property. Great Cleaning continued to do the work through end of August 2016 and has agreed to continue furnishing their services until further notice. Harvard Maintenance, a CMC hired vendor, apparently stopped working in April 2016. CMC received the Harvard Maintenance invoices directly. It has not provided Shoma with any of those invoices. CMC also receives the invoices from Schindler Elevator. The last Schindler invoice received in Shoma's office was for maintenance through April. We do not have any information as to whether the contract was cancelled and have no outstanding invoice or correspondence from Schindler.

C. Financial Reports and Company's Cash Position

The September financials were delivered to CMC on October 30, 2015. Contrary to its usual practice, CMC did not acknowledge receipt of that financial package and it did not provide any questions or comments related to any of the financial reports which were delivered by Shoma since that time.

The financial package for the months of October through July 2016 were already delivered to CMC's attorneys on August 31, 2016. Additionally, CMC has access to the bank accounts online and is able to see all transactions and budget them accordingly, since CMC is the one with the rental operations information.

It should be noted that in February of this year, Shoma began receiving copies of cancelled checks that were suddenly being issued by The Collection in the monthly amount of \$3,745. Shoma has been unable to properly account for any terms or conditions related to those check payments because Shoma has no lease associated with those payments and the Management Committee never authorized The Collection to use any of the Company's property, other than a

limited number of alley way parking spaces. Shoma has requested a copy of all leases for the Property from CMC, but CMC has not provided them as of this date.

It should also be noted that CMC continues to "buy" alley parking spaces from the City of Coral Gables, even after that alley way property has been owned by the Company. Those alley parking spaces are being used by The Collection, and the Company receives a monthly payment in the amount of \$1,273.30 for them.

D. Decrease in Company Income

The Company's income has indeed decreased significantly. Contrary to what you claim in your letter, the Company's income has decreased significantly due to (i) Ugo and CMC's sabotage of the Project, (ii) the failure of CMC Group, Inc. (Ugo's affiliate) to properly maintain the property, (iii) CMC Group, Inc.'s failure to identify spaces available for lease while The Collection was secretly parking its cars in the Company's warehouse and The Collection's employees were using the Company's parking lot without proper authority. Additionally, CMC's affiliate is in charge of leasing space at the Property, but it's failed to lease prime office space in the 250 office building, even though most all of offices in there have been vacant for months.

E. Development of the Property

The property will not be developed by the Company because Ugo and CMC sabotaged the Project when Shoma refused to capitulate to their improper demands. We've already stated our position on that in the lawsuit, so there's no need for me to repeat it here.

F. Request for Meeting

As it relates your request that I meet with you, I am willing to meet with you with the understanding that neither I nor Shoma recognize you as Co-Manager of the Company and with the further understanding that Shoma and I are not waiving any of our rights and remedies as they relate to removal of Ugo as Co-Manager of the Company. At that time, we could also discuss the issue of extending the FCB loan. I would be meeting with you simply as an authorized representative of CMC. If that is acceptable to you and CMC, then we can proceed to schedule the meeting.

Sincerely,


Masoud Shojae

MS/mfp

Enclosures (as stated)

cc: Andrew Hall, Esq.
Matt Leto, Esq.
Frank Silva, Esq.

EXHIBIT 17

Gables Investment Holdings, LLC
1550 Biscayne Boulevard, Suite 300
Miami, FL 33132

VIA OVERNIGHT DELIVERY & EMAIL

Shoma Coral Gables LLC
Attn: Massoud Shoajee
3470 NW 82nd Avenue, Suite 988
Doral, Florida 33127

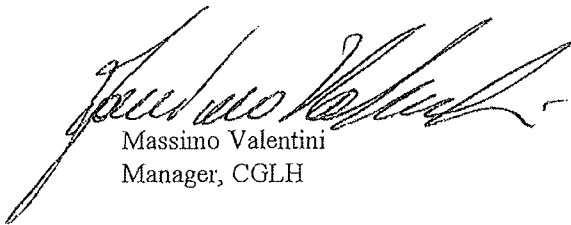
Dear Massoud:

RE: Coral Gables Luxury Holdings, LLC

I received the enclosed letter signed by you requesting my signature as co-manager of Coral Gables Luxury Holdings, LLC. Since you have taken certain strategic positions in the litigation Shoma Coral Gables, LLC has filed, please confirm in writing that you acknowledge my appointment as manager of Coral Gables Luxury Holdings, LLC.

Once I receive this written confirmation from you, I am prepared to sign the enclosed document.

Sincerely,



Massimo Valentini
Manager, CGLH

Enclosure

EXHIBIT 18

Alex Galt

From: Massimo Valentini
Sent: Friday, February 3, 2017 10:10 AM
To: Art Murphy
Subject: FW: FCB Loan
Attachments: 20170131151526314.pdf

Massimo Valentini
CMC Group Inc
T-305-372-0550 | mvalentini@cmcrealestate.com



1550 BISCAYNE BOULEVARD, STE 300 | MIAMI, FL 33132
305.372.0550 | CMCGROUPMIAMI.COM

From: Massimo Valentini
Sent: Friday, February 3, 2017 10:10 AM
To: 'Rick Ortiz' <rortiz@fcb1923.com>
Cc: 'Masoud Shojaee' <MShojaee@shomagroup.com>
Subject: FCB Loan

Rick,

Sorry for the delay, but I am still waiting for a response to the attached letter. I expected a quicker response.

Massoud and I are meeting this afternoon to wrap this up and to address the capital requirements related to the loan and other issues.

Massimo Valentini
CMC Group Inc
T-305-372-0550 | mvalentini@cmcrealestate.com



1550 BISCAYNE BOULEVARD, STE 300 | MIAMI, FL 33132
305.372.0550 | CMCGROUPMIAMI.COM

Gables Investment Holdings, LLC
1550 Biscayne Boulevard, Suite 300
Miami, FL 33132

VIA OVERNIGHT DELIVERY & EMAIL

Shoma Coral Gables LLC
Attn: Massoud Shoajee
3470 NW 82nd Avenue, Suite 988
Doral, Florida 33127

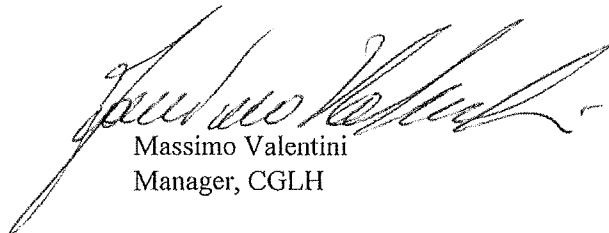
Dear Massoud:

RE: Coral Gables Luxury Holdings, LLC

I received the enclosed letter signed by you requesting my signature as co-manager of Coral Gables Luxury Holdings, LLC. Since you have taken certain strategic positions in the litigation Shoma Coral Gables, LLC has filed, please confirm in writing that you acknowledge my appointment as manager of Coral Gables Luxury Holdings, LLC.

Once I receive this written confirmation from you, I am prepared to sign the enclosed document.

Sincerely,



Massimo Valentini
Manager, CGLH

Enclosure

EXHIBIT 19

FRANK SILVA, ESQUIRE
Attorney at Law

3470 NW 82nd Avenue
Suite 988
Doral, Florida 33122

Telephone: (786) 437-8674
Facsimile: (786) 437-8606
Email: fsilvalaw@yahoo.com
Frank Silva, Esquire
Florida Bar No.: 925888

February 7, 2017

VIA EMAIL AND FEDEX

Massimo Valentini
Gables Investment Holdings, LLC
701 Brickell Avenue, Suite 2410
Miami, FL 33131

Re: **Coral Gables Luxury Holdings, LLC**
NOTICE SENT PURSUANT TO OPERATING AGREEMENT
OF CORAL GABLES LUXURY HOLDINGS, LLC

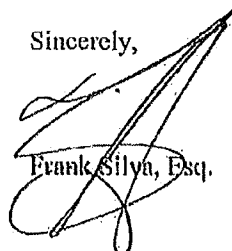
Dear Mr. Valentini:

Following Gonzalo Dorta's rejection of Shoma's proposal regarding interim governance of Coral Gables Luxury Holdings, LLC (the "**Company**"), we once again reviewed the Operating Agreement. The commission of a Bad Act triggers a removal mechanism which shifts the right to appoint a Manager from CMC to Shoma once the Bad Act is determined or confirmed, initially by submission to JAMS and finally by the Court. Ugo Colombo's effort to avoid the shift of control over appointment of the new Manager, by his resignation and subsequent corporate appointment of you, does not amend or waive the foregoing provisions of the Operating Agreement.

In this context, your appointment as a Manager of the Company is valid until the Bad Act is established and that event will automatically result in the removal of you or any other CMC or Ugo Colombo appointee. In the interim, you may serve as a Manager of the Company, provided that your acts are subject to judicial scrutiny and financial responsibility should they be contrary to the best interests of the Company.

Having made the point as requested regarding your authority, Shoma insists that you join in the execution of the letter extension related to the Company's loan with Florida Community Bank.

Sincerely,



Frank Silva, Esq.

FS/mfp

cc: Masoud Shojaee (via email)

EXHIBIT 20

HALL, LAMB, HALL & LETO, P.A.

ATTORNEYS AT LAW
OFFICES AT GRAND BAY PLAZA
PENTHOUSE ONE
2665 SOUTH BAYSHORE DRIVE
MIAMI, FLORIDA 33133

TELEPHONE 305 374-5030
FACSIMILE 305 374-5033
TOLL FREE 800 376-5030
www.hhlawfirm.com

OF COUNSEL
JON W. ZEDER

ANDREW C. HALL
ADAM S. HALL
ADAM J. LAMB
MATTHEW P. LETO
ROARKE O. MAXWELL
DANIEL DAVIS
VANESSA PALACIO
KEITH R. GAUDIOSO
JOSHUA M. SALMON

February 8, 2017

(cicero@chapmanbrown.com)
Joseph Cicero
CHIPMAN BROWN CICERO & COLE, LLP
1313 N. Market Street
Suite 5400
Wilmington, DE 19801

Re: Shoma Coral Gables, LLC v. Gables Investment Holdings, LLC
Case No.: 2016-2102 CA 40

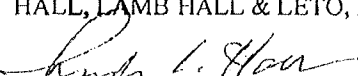
Dear Mr. Cicero:

Based upon Massimo Valentini's January 31, 2017 letter, it was our understanding that CMC had agreed to extend the FCB loan once Mr. Valentini's authority to act as co-manager of the joint venture was confirmed. Yesterday, Frank Silva sent a letter to Mr. Valentini acknowledging his right to act as the co-manager pending a determination of whether Mr. Colombo committed a bad act as defined in the Operating Agreement, in which event Shoma would be provided the right to appoint a new co-manager.

In that context and based upon his express agreement, Mr. Valentini should execute the loan extension immediately. The only reason to withhold his signature would be to create a strategic default in hopes of placing pressure on the joint venture for purposes of the ongoing litigation or to create an opportunity for your ultimate client to purchase the property.

Should Mr. Valentini withhold his signature, Shoma intends to hold him personally responsible for any resulting damages to the maximum extent permitted under the law applicable to this matter.

Sincerely,

HALL, LAMB HALL & LETO, P.A.

ANDREW C. HALL

cc: Frank Silva
Jason Giller
Gonzalo Dorta

{10709/00476831.1}

EXHIBIT 21

MASSIMO VALENTINI

February 9, 2017

Re: Enclosed Letters

Masoud,

Last Friday morning, I reconfirmed with you a scheduled meeting here for 4pm^a. You never got back to me. Only after I waited an hour, was I told that you were not coming. On September 15, 2016, 5 months ago, I began my efforts to meet with you and work with you as co-manager of Coral Gables Luxury Holdings, LLC^b. You refused and told me 5 times that I have no authority and that you would not meet with me as a co-manager^c. Nevertheless, in light of Shoma's recent attempted capital call, and in an effort to avoid any further defaults with FCB, I fully expected you to meet with me on Friday or at least give me your written confirmation of my unconditional authority to act on the bank extension as co-manager, and as you know, I so advised Rick^d.

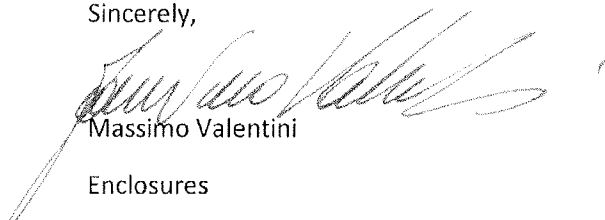
What kind of impression do you think your conduct is making on the bank?

Instead to simply meet with me or give me your written confirmation of the management authority, you'd have it be operated by attorneys. One of your dishonest attorneys, Francesco Silva, even personally threatened me with lies, and made statements the opposite of what you personally said to me in your September 26th letter^e. Now Hall, Lamb & Leto, is threatening to take my home "to the maximum extent permitted under the law," for what? Because you won't meet with me and give me a simple letter^f?

When I agreed to help the company, I didn't sign up for this. I am a married man with 6 children, I cannot continue to be treated like this and, at this moment, am considering resigning, specifically because of Mr. Hall and his outrageous threats and lies. When did CMC agree? CMC has nothing to do with this case!

Please Masoud, I am asking you one last time to come and meet with me.

Sincerely,



Massimo Valentini

Enclosures

^a February 3, 2016 email to Rick Ortiz

^b September 15, 2016 Letter to you

^c September 26, 2016 Letter from you

^d Letter sent to you (as email attachment)

^e February 7, 2017 Letter from Francesco Silva

^f February 8, 2017 Letter from Andrew Hall

EXHIBIT 22

LAW OFFICES OF
JASON B. GILLER, P.A.

701 BRICKELL AVENUE · SUITE 2000
MIAMI, FL 33131
TELEPHONE: (305) 999-1906
FAX: (305) 489-8530
EMAIL: JASON@GILLERPA.COM

February 10, 2017

SENT VIA EMAIL¹

Andrew C. Hall
Hall, Lamb Hall & Leto, P.A.
2665 South Bayshore Drive
Penthouse One
Miami, Florida 33133

Re: FCB Loan Extension

Dear Mr. Hall,

Enclosed and delivered to you in *escrow*, please find Massimo Valentini's executed consent. Once I have received and approved Mr. Shojaee's unconditional acknowledgment of Mr. Valentini's status, as the Manager duly appointed by Coral Gables Luxury Holdings, LLC, and upon further written instruction by me, you may deliver the enclosed consent to the bank.

Sincerely,

/s/ JASON B. GILLER

JBG/ik
Enclosures

cc: Joseph Cicero, Esq. (cicero@chipmanbrown.com)
Matthew Leto, Esq. (mleto@hlhlawfirm.com)

¹ AndyHall@hlhlawfirm.com

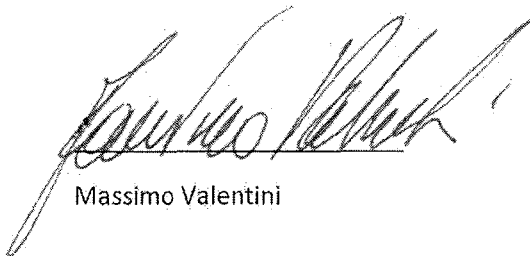
CORAL GABLES LUXURY HOLDINGS, LLC
Unanimous Written Consent of the Managers

The undersigned, being all of the managers of Coral Gables Luxury Holdings, LLC, a Delaware limited liability company (the "Company"), pursuant to the Company's Certificate of Formation, limited liability agreement and the Delaware Limited Liability Company Act, without the formality of convening a meeting and waiving any and all notice requirements, do hereby consent to the Company action specified below and do hereby adopt, approve and ratify the following resolutions by written consent:

WHEREAS, the undersigned Managers of the Company consent to approve the FCB Temporary Extension Letter, retroactively requesting for an extension of 90 days to and including March 5, 2017.

Coral Gables Luxury Holdings, LLC

Manager:



Massimo Valentini

Manager:

Masoud Shojaee

EXHIBIT 23

HALL, LAMB, HALL & LETO, P.A.

ATTORNEYS AT LAW

OFFICES AT GRAND BAY PLAZA

PENTHOUSE ONE

2665 SOUTH BAYSHORE DRIVE

MIAMI, FLORIDA 33133

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FACSIMILE 305 374-5033

TOLL FREE 800 376-5030

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OF COUNSEL
JON W. ZEDER

ANDREW C. HALL
ADAM S. HALL
ADAM J. LAMB
MATTHEW P. LETO
ROARKE D. MAXWELL
DANIEL DAVIS
VANESSA PALACIO
KEITH R. GAUDIOSO
JOSHUA M. SALMON

February 13, 2017

Via email

Jason B. Giller, Esq.
JASON B. GILLER, P.A.
701 Brickell Avenue, 24th Floor
Miami, FL 33131

Re: FCB Loan


Dear Mr. Giller:

I am in receipt of your letters dated February 10, 2017 and February 13, 2017. As I previously advised Mr. Cicero on February 8, 2017, Massimo Valentini is authorized to act as co-manager of Coral Gables Luxury Holdings, LLC pending a determination of whether Mr. Colombo committed a bad act as defined in the Operating Agreement, in which event Shoma would be provided the right to appoint a new co-manager. Shoma reserves its rights to proceed with that determination notwithstanding the current appointment. However, until that determination occurs, Mr. Valentini is recognized as co-manager of the joint venture and is authorized to execute documents on its behalf, including the loan extension with Florida Community Bank. Therefore, we expect your immediate written confirmation that we are permitted to provide the signed authorization to the bank.

Mr. Valentini has already been placed on notice that it is his responsibility to act in the best interests of the joint venture. His refusal to execute the extension in order to leverage a waiver of Shoma's rights under the Operating Agreement would be viewed as nothing more than bad faith for which Shoma reserves its rights under the applicable law.

Sincerely,

HALL, LAMB HALL & LETO, P.A.



ANDREW C. HALL

cc: Frank Silva
Joseph Cicero
Michael Mackay

EXHIBIT 24

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: CORAL GABLES LUXURY : CONSOLIDATED
HOLDINGS, LLC : C.A. No. 2017-0168-TMR

- - -

Chancery Courtroom No. 12C
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware
Friday, May 26, 2017
2:00 p.m.

- - -

BEFORE: HON. TAMIKA MONTGOMERY-REEVES, Vice Chancellor

- - -

ORAL ARGUMENT RESPONDENT'S MOTION TO DISMISS AND THE
COURT'S RULING

CHANCERY COURT REPORTERS
500 North King Street
Wilmington, Delaware 19801
(302) 255-0521

1 It is clear that unless the parties
2 can come to an agreement about their unresolved major
3 disputes, they will be forced to sell the company's
4 property, which all seem to agree is substantially all
5 of the company's assets, to either a third party or to
6 the other member; and that will trigger dissolution.

7 In the event this process breaks down,
8 I still retain my discretion at that point to grant
9 dissolution. Therefore, in any circumstance, the end
10 will result in dissolution. The liquidating trustee
11 will then take over the company's affairs and
12 distribute any funds accordingly so any dispute will
13 be resolved.

14 Thus, I am going to dismiss this
15 matter in favor of the procedure set out in the
16 operating agreement. And if the parties require a
17 judicial dissolution at some later point after
18 following the procedures in the operating agreement,
19 they may at that time return to this Court.

20 To the extent an order is needed, it
21 is so ordered.

22 That is all that I have for today. I
23 hope you have a good Memorial Day weekend.

24 Thank you.

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ALL COUNSEL: Thank you, Your Honor.

(Court adjourned at 3:08 p.m.)

- - -

CERTIFICATE

1
2
3 I, JEANNE CAHILL, RDR, CRR, Official
4 Court Reporter for the Court of Chancery of the State
5 of Delaware, do hereby certify that the foregoing
6 pages numbered 3 through 51 contain a true and correct
7 transcription of the proceedings as stenographically
8 reported by me at the hearing in the above cause
9 before the Vice Chancellor of the State of Delaware,
10 on the date therein indicated.

11 IN WITNESS WHEREOF I have hereunto set
12 my hand at Wilmington, Delaware, this 30th day of May,
13 2017.

14
15
16 /s/ Jeanne Cahill

17 Jeanne Cahill, RDR, CRR
18 Official Chancery Court Reporter
19 Registered Diplomat Reporter
20 Certified Realtime Reporter
21
22
23
24