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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91281446
Party	Plaintiff MVNTN Owner LLC
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Date	06/24/2024
Attachments	2024.06.24 -- MVNTN's Reply ISO Its Motion to Reopen Discovery.pdf(35951 bytes) MVNTN Exhibits 1-7.pdf(3419123 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MVNTN OWNER LLC, Opposer, v. BONA FIDE LIVE, INC., Applicant.	Consolidated Opposition No. 91281446

OPPOSER'S REPLY IN SUPPORT OF ITS MOTION TO REOPEN DISCOVERY

Opposer's request to reopen discovery due to Applicant's untimely document production is straightforward and narrow, and the relief Opposer seeks remains necessary. Applicant's response to Opposer's motion does nothing to change this. Far from it, Applicant's brief is fraught with factual inaccuracies. Applicant tries to marshal these misstatements to support its misplaced arguments against Opposer's motion. For example, Applicant accuses Opposer of making "false representations" to the Board because Opposer's opening motion did not reflect a telephone call that happened *after* the motion filing; Applicant then relies on this false and illogical assertion as the sole basis for accusing Opposer of bad faith in applying the legal standard.

Applicant continues to play fast and loose with the facts, so Opposer must file this reply brief to correct the false and misleading record Applicant attempts to lay. Opposer also points out the flaws in Applicant's arguments and Applicant's lack of any genuine evidentiary basis for its positions. Applicant continues to make misleading and self-serving arguments, which further reinforce Opposer's need to take corrective discovery and have an opportunity to seek additional relief from the Board if these tactics persist.

I. Applicant Makes Numerous Factual Misstatements in Its Response Brief.

In the facts section of its response brief, Applicant makes multiple false and misleading statements about the parties' underlying dispute and the circumstances giving rise to this motion. Opposer quickly corrects some of them here:

1. *Applicant has not operated the Exit/In venue since Applicant's lease and trademark license from Opposer expired at the end of 2022*. Applicant states that it is the most recent owner/operator of the Exit/In venue. (27 TTABVUE 3.) This creates the false impression that Applicant somehow is still involved in running the Exit/In club or owning any business associated with the venue. Applicant does not. To the contrary, Opposer owns the Exit/In physical property and the EXIT/IN trademark that has been associated with the music venue located at that property for decades, and *Opposer* has operated the club directly under its longstanding EXIT/IN name since spring 2023. (24 TTABVUE ¶¶ 2-4; Ex. 1 (April 2023 press article regarding Opposer's takeover and reopening of Exit/In venue); Ex. 2 (Opposer's Exit/In website, captured in April 2023).) Applicant has had no involvement in Opposer's present, direct operation of the Exit/In.

2. *Applicant misstates the expiration date of its lease and license to the Exit/In.* Applicant incorrectly claims that its lease and license to the Exit/It from Opposer ended on December 31, 2023 (*i.e.*, six months ago). (27 TTABVUE 3.) That is incorrect. The agreement actually expired at the end of 2022. (24 TTABVUE ¶ 3; Ex. 3 at EI000071 (lease/license documents); *see* 9 TTABVUE 3-4 & Ex. 2 (January 2023 press coverage of vandalism upon Applicant's departure from venue upon expiration of lease/license at end of 2022).)

3. *Applicant misstates the time period of the negotiations for and sale of the Exit/In property and EXIT/IN trademark to Opposer.* Applicant incorrectly claims that, "In 2023, the prior owners of the Property, Anthony and Nash Partnership, had begun negotiations to sell the Property with [Opposer's corporate affiliate] AJ Capital Partners." (27 TTABVUE 3.) In fact, the sale from Opposer's predecessor was completed years earlier in 2021. (*See* Ex. 4 (Opposer's trademark assignment from its predecessor, dated June 30, 2021).) Indeed, Opposer has discussed Applicant's departure from the venue in Board filings since mid-2023. (5 TTABVUE ¶ 2.)

4. *Applicant's description of the extensions in this proceeding are false and misleading*. Applicant claims that Opposer has sought five extensions of time in this proceeding, while Applicant supposedly has not requested any. (27 TTABVUE 4.) The first part of that assertion is misleading and, in any event, a red herring; the second part is false. All but one of the extensions Opposer has sought in this case has been a consequence of Applicant's refusal to provide discovery or to address Applicant's untimely provision of discovery. The June 2023 extension request related to Applicant's refusals to provide relevant discovery (5 TTABVUE), which ultimately necessitated Opposer's successful motion to compel (9-13 TTABVUE). The December 2023 extension

request (14 TTABVUE) related to scheduling Applicant's owner Chris Cobb's deposition around the winter holidays following Applicant's December 13, 2023 document production to comply with the Board's order granting Opposer's motion to compel (13 TTABVUE; Ex. 5). The two most recent extensions have related to resolving the instant discovery dispute concerning Applicant's untimely document production on April 17, 2024. (22 TTABVUE (Apr. 19, 2024); 25 TTABVUE (May 17, 2024).) And, contrary to Applicant's assertion, Applicant has, in fact, sought an extension of dates in this proceeding. (18 TTABVUE.) As the Board knows, extensions of dates in oppositions are routine and granted as a matter of course, so the mere fact that extensions have been requested and granted in this case is unexceptional. Opposer has pursued this case expeditiously, and Applicant's suggestion otherwise misrepresents the record and procedural history.

5. *Applicant falsely claims that its efforts to purchase the Exit/In property and the EXIT/IN trademark from Opposer's predecessor are "clearly irrelevant" to the Tennessee civil case*. Contrary to Applicant's assertion (27 TTABVUE 6), the recently produced documents reflecting offers Grubb Properties made at Applicant's behest to purchase the Exit/In are relevant to the Tennessee litigation *because Applicant has made them so*. Although Opposer's Tennessee Complaint primarily seeks redress for Applicant's vandalism and other breaches of Applicant's lease, Applicant's Counterclaim – which Applicant fails to mention in its response brief – seeks to recover from Opposer the value of the physical property on the argument that Opposer supposedly interfered with Applicant's attempts to purchase it in 2021 (Ex. 6 at pp. 27-31 ¶¶ 14, 28, Prayer for Relief (b)). In fact, Applicant's Tennessee pleading alleges that "Mr. Cobb attempted to purchase the Properties from its then-owners, Anthony Rentals and Gene Horton Nash Trust." (*Id.* at ¶ 14.) Accordingly, Applicant's offers to purchase the property in 2021 absolutely are relevant to the issues in the Tennessee action, entirely contradicting Applicant's misplaced claim that Opposer is using discovery in the Tennessee case for nefarious purposes. (27 TTABVUE 6.)

6. *Applicant makes ridiculous accusations against Opposer of supposed bad faith and making "false representations" to the Board by not reflecting in Opposer's motion a phone call amongst counsel that happened* ***after*** *the motion filing*. Opposer discusses this fabricated argument below in Section II.D; however, the illogic and implausibility of Applicant's claim that Opposer somehow acted improperly by not discussing events that happened in the future is obvious. (27 TTABVUE 6-7.)

Opposer does not intend for this list to be exhaustive (given constraints on the length of this reply brief), nor should Opposer's decision not to engage with the arguments Applicant has woven into its facts section be treated as Opposer's agreement with any of Applicant's assertions. To the contrary, Opposer provides this list to correct Applicant's misstatements relating to the issues in the motion. Applicant's representations on such matters are not reliable.

II. All the *Pioneer* Factors Support Reopening Discovery.

Applicant's attempts to argue against reopening discovery under the *Pioneer* factors either are based on misleading assertions of supposed facts or are supported by no persuasive facts or argument at all. Opposer demonstrated in its motion how all four factors favor reopening discovery. (24 TTABVUE 6-8.)

A. Reopening Discovery Will Not Cause Applicant Any Prejudice.

Applicant claims – without any basis whatsoever – that time is of the essence because trial evidence supposedly will be lost if dates are extended by the approximately three months Opposer seeks for discovery to reopen. (27 TTABVUE 8-9.) Applicant does not identify a single witness whose testimony supposedly is likely to be lost during this time. To the contrary, Applicant has not taken a single deposition in this proceeding. Applicant only identified two people in its initial disclosures. (Ex. 7 at 2-3.) One is Chris Cobb, Applicant's sole owner and the deponent at issue. The other is Nick Spiva, an alleged former operator of the Exit/In venue, who (at best) has not been involved in operating the club since 1978. Applicant has not served any discovery requests on this third party in this proceeding. Applicant provides no information or specificity whatsoever why the short time it will take for Opposer to collect corrective discovery somehow would cause any evidence to become unavailable. In other words, Applicant's argument on this factor is baseless and entirely speculative.

B. Opposer Requests that the Board Reopen Discovery Only Briefly, So There Will Be No Cognizable Impact on These Proceedings.

The additional time Opposer requires to collect corrective discovery from Applicant is not significant and, in any event, is necessitated by *Applicant's* delay. Again, Opposer's request to reopen discovery is narrow in both scope and duration. The approximately three months Opposer

proposes adding to the schedule would not be the "significant delay" Applicant claims (again, without any basis).

Nor does Applicant provide any explanation or basis for its bald assertion that the additional time supposedly would "impact this proceeding." To the contrary, any additional time that may be required to correct *Applicant's* untimely discovery is of *Applicant's* making, not Opposer's. Applicant made an untimely document production seven-and-a-half months after discovery closed, yet Applicant is attempting to argue that discovery now having closed nine months ago somehow weighs in its favor. As a matter of simple logic, it does not. Applicant cannot use its own delay as a basis for arguing against the corrective discovery Opposer seeks.

C. Applicant – Not Opposer – Is the Reason Reopening Discovery Is Needed.

To the extent reopening discovery will create any cognizable delay in this proceeding, it is a consequence of Applicant's failure to timely produce responsive documents. Tellingly, Applicant's response brief *makes no mention whatsoever* of Applicant's untimely April 17, 2024 document production in its argument regarding this *Pioneer* factor. (27 TTABVUE 9-10.) That untimely production of a purported 2018 trademark license raises important questions about the reasonableness and veracity of Applicant's document searching, collection, and production in this proceeding. Applicant's production created the need to reopen discovery, and the recent revelation that offers to buy the Exit/In property made at Applicant's behest included express offers to purchase the EXIT/IN trademark from Opposer's predecessor only further reinforced that need. Applicant cannot now gloss over its own failures to somehow claim that its production of a purported trademark license for the mark at issue in this case seven-and-a-half months after the close of discovery somehow is Opposer's fault. Applicant is the cause of this situation, not Opposer.

D. Opposer Has Acted in Good Faith, and Applicant's Senseless Argument to the Contrary Evinces *Applicant's* Bad Faith.

Opposer has acted in good faith throughout. Applicant makes just one argument otherwise, and it is entirely illogical. The position Applicant tries to gin up is so absurd that it points toward Applicant's bad faith, further reinforcing Opposer's need for the requested corrective discovery and opportunity to seek further relief from the Board if necessary.

Applicant's sole argument for Opposer's supposed bad faith is entirely implausible and contradicted by Applicant's own recitation of the record in this proceeding. In its motion, Opposer explained that it had tried to resolve the discovery dispute around correcting Applicant's untimely discovery without involving the Board; however, Applicant had declined to provide the reasonable information or assurances Opposer has requested to redress these issues, and Applicant's counsel had not responded to Opposer's email sent weeks earlier on the issue. (24 TTABVUE ¶¶ 10, 17 & Ex. 1.) This was entirely accurate, truthful, and complete when Opposer filed this motion on May 14. Yet Applicant now accuses Opposer of supposed bad faith for Opposer's alleged failure to reference in the motion a telephone call that took place amongst counsel *three days later* (May 17). (27 TTABVUE 6-7, 10.) Indeed, Applicant and its counsel each go so far as to accuse Opposer of making a "false representation to the Board" for this supposed omission. (*Id.* at 7; *id.* at Kepchar Decl. ¶ 4.) But that is not how time works. Applicant has no basis to accuse Opposer of bad faith because Opposer did not discuss events that occurred *after* the motion was filed.

Indeed, the call only happened because Opposer's counsel initiated it, and even then it did not satisfy Opposer's concerns with the underlying discovery issues. Until Opposer's counsel called Applicant's on May 17, Applicant had not responded whatsoever to the questions and requests Opposer proffered on April 30 to try to avoid this motion. (24 TTABVUE Ex. 1.) Opposer did not make any "factual mischaracterization" in its motion, as Applicant falsely claims.

(27 TTABVUE 10.) Applicant does not assert any other arguments to contradict Opposer's good faith in bringing this motion to try to correct Applicant's untimely document production. Nor could it.

To the contrary, Applicant's boldfaced fabrication on this factor actually is indicative of *Applicant's* bad faith, particularly when viewed in conjunction with Applicant's numerous other false and misleading factual assertions in Applicant's response brief (which Opposer debunked in Section I above). That Applicant would even make such an argument demonstrates that Opposer requires the relief it seeks so it can test Applicant's latest representations about Applicant's discovery efforts and seek additional relief from the Board if necessary (such as by filing another motion to compel).

III. The Relief Opposer Seeks Is Not Moot.

Reopening discovery on the narrow basis Opposer has requested remains necessary. The relief Opposer seeks in this motion is twofold. First, Opposer needs to depose Applicant and its sole owner Chris Cobb regarding the recently produced documents, so Opposer can understand their significance and learn the steps Applicant took to search for and collect documents that led to Applicant's untimely production. Applicant's agreement to permit questioning by trademark counsel in Cobb's upcoming deposition in the Tennessee civil case addresses this aspect of Opposer's motion, provided no issues arise that impede Opposer's questioning. Second, since it appears Applicant will not be producing any additional documents before Cobb's deposition, Opposer still needs an opportunity to obtain and/or move to compel any further responsive documents that may be identified during the deposition. This aspect of Opposer's motion remains outstanding. Applicant's counsel so far has declined Opposer's request to extend dates more than two days past Cobb's deposition, which obviously would not allow for any follow-up production

or exchanges amongst counsel that may be required after the deposition. Furthermore, if discovery is not reopened, Applicant would not have any recourse to move to compel any unproduced documents that may be identified during deposition that Applicant refuses to provide. Instead, Opposer would need to expend yet more cost chasing such documents by filing a new request to compel the documents out of time, essentially going back to square one on this motion to reopen the discovery period. The more efficient approach is for Opposer to be able to pursue these documents now with the short additional time Opposer seeks after the deposition – just one month – to nail down these outstanding discovery issues created by Applicant's untimely production and the associated questions that Applicant's alleged newfound discovery of a trademark license raise.

IV. Conclusion

For the foregoing reasons, as well as those set forth in Opposer's motion, Opposer respectfully requests that the Board grant this motion and reopen discovery as proposed therein. (24 TTABVUE ¶ 18.)

Dated: June 24, 2024

Respectfully submitted,

By: */s/ Ian Block*

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of this document was served via email upon Applicant's Attorney of Record on Jun 24, 2024, as follows:

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Exhibit 1

Exit/In opens doors under AJ Capital ownership

Nashville Business Journal (Tennessee)

April 7, 2023 Friday

Nashville Business Journal

Length: 286 words

Byline: Julia Masters

Body

Exit/In opens doors again April 7 after being closed since November.

A sold-out Taylor Swift-themed 107.5 The River Eras Party kicks off the opening, followed by a full April show calendar.

During renovations, new owners Adventurous Journeys (AJ) Capital Partners have prioritized the building's over 50-year history.

"As the next stewards in line, we're committed to doing whatever is necessary to reestablish her health and set the stage for another legendary half-century and beyond. AJ's track record of restoring and reviving historic spaces speaks for itself, both here in Nashville and across our portfolio," said Tim Ryan, AJ Capital principal focused on live music venues, boutique hotels and other experiential real estate, in a previous emailed statement.

An in-house team is being used for bookings.

Upcoming shows:

- Yheti, 04/13
- Vancouver Sleep Clinic, 04/14
- Coco & Clair Clair "So Sexy" Tour, 04/15
- Elijah, 04/16
- Henry Jamison & Donovan Woods, 04/18
- Megan Moroney, 04/19
- Gable Price and Friends, 04/20
- RVSHVD + Willie Jones, 04/21
- Poprocks: Top 40 Gets Heavy!, 04/22
- Mr. Grey, 04/23
- TWIZTD, 04,27
- Conner Smith: If I went to college, 04/28
- Michigander, 04/29

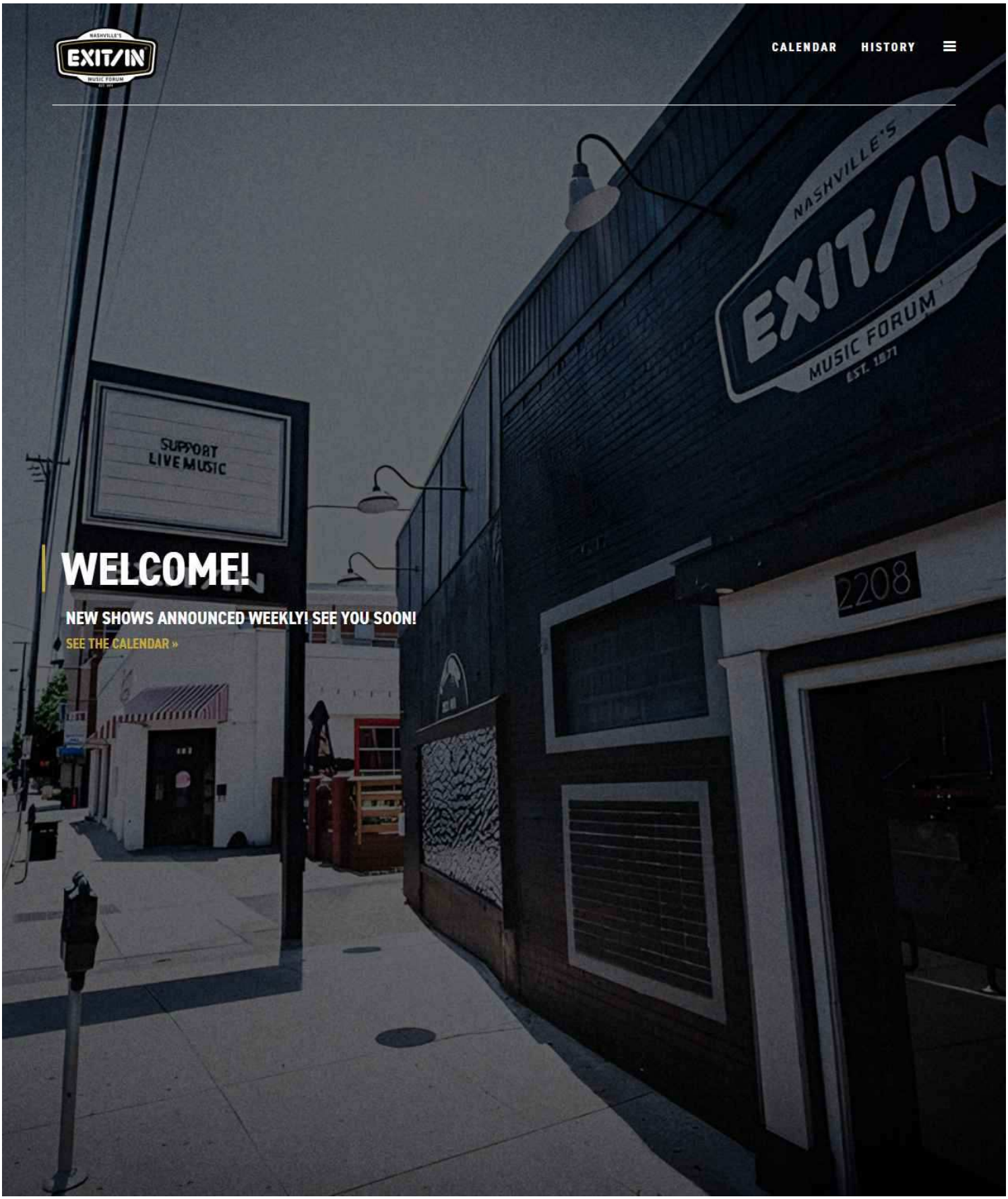
• Cal Scruby, 04/30

Located at 2208 Elliston Pl., Exit/In and the Hurry Back building were purchased by AJ Capital Partners in summer 2021 for $6.45 million, becoming one of several music venues under the company's portfolio. The "Rock Block" venue has been run by Chris and Telisha Cobb for the past 18 years.

Since 1971, Exit/In has played host to household names like Johnny Cash, Willie Nelson, Linda Rondstadt, The Red Hot Chili Peppers and more.

Load-Date: April 7, 2023

Exhibit 2


EXIT/IN
CALENDAR
HISTORY
SUPPORT
LIVE MUSIC
NASHVILLE'S
EXIT/IN
MUSIC FORUM
EST. 1971
2208
WELCOME!
NEW SHOWS ANNOUNCED WEEKLY! SEE YOU SOON!
SEE THE CALENDAR »

UPCOMING EVENTS

APR 13
YHETI

APR 14
VANCOUVER SLEEP CLINIC

APR 15
COCO & CLAIR CLAIR "SO SEXY" TOUR

APR 16
ELIJAH

APR 18
HENRY JAMISON & DONOVAN WOODS

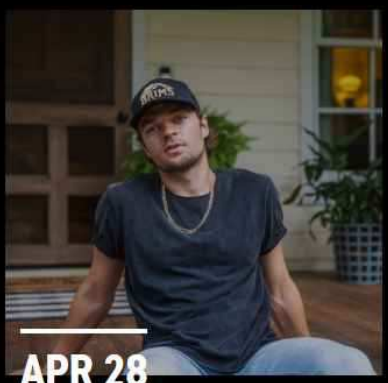
APR 19
MEGAN MORONEY

APR 20
GABLE PRICE AND FRIENDS

APR 21
RVSHVD + WILLIE JONES

APR 22
POPROCKS: TOP 40 GETS HEAVY!

APR 27
TWIZTID



APR 28
CONNER SMITH: IF I WENT TO COLLEGE

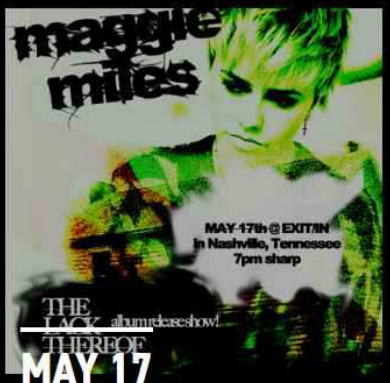
APR 29
MICHIGANDER

APR 30
CAL SCRUBY

MAY 3
HAKEN

MAY 6
KOO KOO KANGA ROO

MAY 9
KID PASTEL



MAY 17
MAGGIE MILES

MAY 18
CAROLINE JONES

MAY 19
BOB VYLAN - BAN BOB VYLAN TOUR

MAY 20
ARDEN JONES

TOUR

SEE ALL SHOWS

1 2 Next »

WE'RE SO GLAD YOU'RE HERE.

Over our past 50+ years, we've been fortunate enough to bring some of the world's most iconic artists to the community. From a rich past to a promising future, our story is still being written. We can't wait to have you be a part of it. Welcome to Exit/In!

Learn more about our history.

SIGN UP FOR EXIT/IN SHOWS, GIVEAWAYS & MORE:

FIRST NAME LAST NAME

EMAIL CELL PHONE

1 2 Next »

WE'RE SO GLAD YOU'RE HERE.

Over our past 50+ years, we've been fortunate enough to bring some of the world's most iconic artists to the community. From a rich past to a promising future, our story is still being written. We can't wait to have you be a part of it. Welcome to Exit/In!

Learn more about our history.

SIGN UP FOR EXIT/IN SHOWS, GIVEAWAYS & MORE:

FIRST NAME

LAST NAME

EMAIL

CELL PHONE

Sign Up

By signing up, you agree to our terms & conditions. We'll be respectful of your inbox and only send the good stuff. Pinky promise.

2208 Elliston Place, Nashville, TN. 37203

Privacy & Terms

FOLLOW US

@Exit/In

Exhibit 3

LEASE

THIS LEASE made and entered into by and between **ANTHONY AND NASH PARTNERSHIP,** a Tennessee general partnership, hereinafter called "Landlord," and **LAISSEZ LES BONS TEMPS ROULER, INC.,** an Alabama corporation, hereinafter called "Tenant".

W I T N E S S E T H:

For and in consideration of the rentals, undertakings and mutual covenants hereinafter set forth, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, subject to the terms and conditions hereinafter expressed, certain improved real estate located at 2208 Elliston Place, Nashville, Davidson County, Tennessee, and described more particularly on Exhibit "A" attached hereto and incorporated herein by reference, provided that the premises leased herein covers only the building located at the above street address and included in the above legal description, together with a right of pedestrian passage from the exit along the west wall of the leased premises to the ally to the rear of the leased premises, and specifically excludes the patio and deck area adjacent to such building. Said improved real estate is hereinafter referred to sometimes as the "leased premises." To have and to hold the leased premises, together with the improvements and appurtenances thereto belonging, unto Tenant, its successors and assigns for a term, commencing on September 1, 2011 and ending on August 31, 2016.

This Lease shall be unconditionally guaranteed by Josh Billue (the "Guarantor").

The parties hereto mutually covenant and agree as follows, this lease being expressly subject to the terms and conditions hereinafter set out:

1. **Rent.** Tenant agrees to pay to Landlord for the leased premises during the term hereof monthly rent as follows:

(a) September 2011 through August, 2012 $6,000.00 per month
(b) September 2012 through August, 2013 $6,120.00 per month
(c) September 2013 through August, 2014 $6,240.00 per month
(d) September 2014 through August, 2015 $6,360.00 per month
(e) September 2015 through August, 2016 $6,480.00 per month

All rentals are payable in advance on the first (1st) day of each and every month and shall be payable without notice or demand and without deduction, set-off or abatement. It is the intention and agreement of Landlord and Tenant that the rent herein specified shall be strictly net to Landlord during the term of this Lease, that all taxes, insurance premiums, utilities, exterior and interior maintenance and repairs, and all other costs, expenses, and obligations of every kind relating to the leased premises which may arise or become due during the term hereof shall be paid by Tenant and that Landlord shall be indemnified by Tenant and is hereby so indemnified by Tenant, against such costs, expenses and obligations.

In addition to rent hereunder, Tenant shall pay to Landlord, together with and at the time required for monthly payments of rent hereunder, one-twelfth ($1/12^{th}$) of the estimated annual real property taxes attributable to the leased premises calculated as set forth in Section 5 herein.

Tenant shall pay a late charge of five percent (5%) of (a) any monthly rental installment and (b) any other amounts payable by Tenant to Landlord hereunder, not paid within ten (10) days after the due date thereof.

2. **Condition.** Tenant has examined the leased premises and accepts the same AS IS in their present state and condition as of the date hereof without any representations or warranties, express or implied, in fact or in law, by Landlord as to the nature, condition or usability thereof, or as to the use or uses to which the leased premises may be put.

3. **Use.** Tenant agrees that it will not use or allow the leased premises or any part thereof to be used or occupied for any unlawful, disreputable or immoral purpose and will not permit any act to be done or any condition to exist on the leased premises which may constitute a nuisance, public or private, or which may make void or voidable or increase the cost of any insurance then in force with respect to the leased premises. Tenant agrees that it will comply promptly with all restrictions and with all laws and regulations of federal, state and municipal authorities applicable to the leased premises and to the business conducted thereon. The leased premises shall be continuously used during the term hereof by Tenant as a night club providing live musical performances under the name "Exit In". Tenant is granted a limited license to use the name "Exit In" on the leased premises only, as the name of such night club to be operated on the leased premises for so long as this Lease is in effect and provided there is no default hereunder. Landlord at all times shall retain sole and exclusive ownership and right to the name "Exit In" subject only to the limited license granted herein.

4. Improvements and Repairs. Landlord shall be responsible for maintenance and repairs of (a) structural components of exterior walls and (b) structural components of the roof and re-roofing after expiration of the useful life of the roof, except that any repairs or maintenance to structural components of exterior walls or the roof caused by negligence or other wrongful conduct of Tenant, its agents, employees, contractors, or others acting in its behalf, which shall be the responsibility of Tenant. Without limiting the foregoing, Landlord shall have no responsibility or liability for painting, caulking, or other finishes on exterior walls, or non-structural components of exterior walls or for roof leaks prior to expiration of the useful life of the roof. Tenant shall be responsible for the maintenance, repair and replacement of the interior walls, roof (other than re-roofing as provided therein), windows, doors, floor, heating, ventilation and air conditioning system, plumbing system, electrical system, fire extinguishers and alarms, security system, and other components of the leased premises and building thereon, except that Landlord shall be responsible for exterior walls and re-roofing as set forth above. Except as specifically provided above, Landlord shall have no obligations of any kind, nature or description with respect to the leased premises or any improvements thereon. Without limiting the foregoing, in the event the heating, air conditioning and ventilation system, or any component thereof, is in need of replacement, in the reasonable judgment of Landlord, or in the event the roof is in need of repair prior to the expiration of its useful life, in the reasonable judgment of Landlord, then Tenant shall replace such component or make such repair on written notice from Landord. Work to perform such replacement shall commence within thirty (30) days after notice from Landlord to Tenant. Such work shall be diligently and continuously prosecuted by Tenant until complete. No structural alterations of, or additions to, any improvements currently on the leased premises or the construction or placement of any other improvements upon the leased premises shall be made by Tenant without first securing the prior written consent of Landlord, which shall be in Landlord's

sole discretion. All repairs, replacements, improvements and alterations which Tenant may make at any time upon the leased premises shall be performed in a good and workmanlike manner and in compliance with all applicable building codes, and zoning laws, and all other laws, ordinances and regulations. Any improvements made by Tenant to or upon the leased premises during the term hereof shall, upon the expiration of this Lease for whatever reason, be and become the sole property of Landlord. Tenant covenants that at no time during the term hereof will it create, or permit to be created or to remain, and will promptly discharge, any lien, encumbrance or charge upon the leased premises. Tenant further covenants that it will pay fully as the same become due and payable all charges and expenses incurred in connection with any repairs, replacements, improvements and alterations made on or to the leased premises during the term hereof. Tenant shall at all times during the term hereof, at its own expense, maintain the leased premises in a good state of repair and safe and sanitary condition and in compliance with all applicable building codes, laws, ordinances, rules and regulations. Tenant shall make, at Tenant's sole cost and expense all improvements necessary to bring the leased premises into compliance with applicable building codes, laws, ordinances and regulations during the term of this Lease, including changes in such building codes, laws, ordinances and regulations. Without limiting the foregoing, Tenant shall deliver the leased premises to Landlord upon expiration or earlier termination of this Lease in at least as good a condition and repair as the condition and repair upon the commencement hereof.

5. **Taxes.** Tenant, in addition to the basic net rental provided for herein, shall pay during the term hereof all real estate taxes, assessments, and other governmental levies and charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind which are assessed against the property upon which the leased premises are located. In the event real property taxes for the leased premises are assessed together with other property, then Landlord shall apportion the taxes by calculating the portion of the total taxes attributable to the land and building located within the leased premises. Notwithstanding that this Lease covers only a portion of calendar year 2011, Tenant shall be responsible for and shall pay all 2011 taxes attributable to the leased premises. In addition to monthly payments of rent as provided herein, and all other payments required hereunder, Tenant shall pay to Landlord the following:

(a) Together with the execution hereof an amount equal to the full 2011 real property taxes attributable to the leased premises. Landlord shall pay from said amount the full 2011 taxes when such become due and payable.

(b) Together with and at the time required for payment of each monthly installment of rent payable hereunder, an amount equal to one twelfth ($1/12^{th}$) of the estimated annual real property taxes attributable to the leased premises, as reasonably calculated by Landlord. In the event the actual real property taxes assessed for any particular year of the term of the Lease are in excess of the amount estimated, then at the conclusion of the year, upon notice from Landlord, Tenant shall pay to Landlord any additional amount necessary to pay the full taxes for such year attributable to the leased premises. Provided Tenant is not in default of the Lease, at the expiration of the Lease term, or the renewal term validly exercised, Landlord shall remit to Tenant any amounts then held by Landlord in excess of real property taxes attributable to the leased premises for the portion of the last calendar year in the Lease term. In the event Tenant is in default hereunder, then Landlord, at its option and at any time during the term of the Lease, may set off and apply any such sums held by Landlord against Tenant's obligations hereunder.

6. **Insurance.** During the term of this Lease, Tenant shall provide and maintain insurance coverage for the leased premises at Tenant's sole cost and expense as follow:

(a) Fire and extended coverage insurance covering all improvements on the leased premises and covering all risks in the amount of the full replacement cost of the improvements on the leased premises. This policy shall name Landlord as the insured and shall show Landlord's mortgage lender, if any, and any future mortgage lender, as mortgagee under such policy.

(b) Comprehensive general liability insurance with limits of liability in an amount not less than **FIVE MILLION and NO/100 ($5,000,000.00) DOLLARS** combined single limit for each occurrence, including but not limited to coverage for the sale and service of alcohol on the leased premises. Said policy shall show Landlord as an additional insured.

(c) Workers compensation insurance covering Tenant's employees on the leased premises.

(d) Rent loss or business interruption insurance satisfactory to Landlord.

(e) Such other insurance as Landlord may reasonably require from time to time.

On or before commencement of the Lease, Tenant shall furnish to Landlord certificates of insurance evidencing the above insurance coverages, together with copies of policies therefor. Tenant shall maintain all such coverages in full force and effect during the full term hereof and shall pay all premiums for such policies of insurance prior to the due date thereof. Any and all renewal certificates of such policies shall be furnished at least thirty (30) days prior to the expiration date of the prior policies, showing the above coverages to be and continue to be in full force and effect. All such policies, or the certificates therefor, shall provide that Landlord shall be entitled to thirty (30) days' written notice prior to cancellation of any policy. In the event Tenant fails to pay insurance premiums for any of the above policies, then Landlord, at Landlord's sole option, may pay such amounts due in order to keep such insurance coverages in effect, and Tenant shall reimburse Landlord for the amount paid within five (5) days of written notice that such sums have been advanced by Landlord.

Tenant shall comply with all rules and directives or any insurance board, company or agency determining rates of hazard for the leased premises, including but not limited to the installation of any equipment and/or the correction of any condition required or recommended by such entity.

Landlord and Tenant each hereby waive any and all rights of recovery, claim, action or cause of action against the other, their agents, officers or employees, for any loss or damage that may occur to the leased premises, or any improvements thereon, or any personal property of any party therein, by reason of fire, the elements or any other cause, which loss is insured against under the terms of any insurance policies covering Landlord and Tenant, regardless of cause or origin, including negligence of the other party hereto, its agents, officers or employees. The policies of insurance provided by Tenant hereunder shall include provisions allowing this waiver of subrogation rights.

7. **Indemnity.** Tenant shall indemnify and hold harmless Landlord, and Landlord's, agents, employees, successors and assigns, from and against all injury, loss, costs, expenses, claims, liability and damages to any person or property arising out of or in connection with (a) any act or omission of Tenant, its agents, contractors, employees, or others acting on its behalf, and (b) any other injury, loss or damages occurring on or in connection with the leased premises, except for any such matter arising out of the gross negligence of Landlord.

8. **Utilities.** Tenant shall pay all charges for natural gas, electricity, water, sewage, heat, telephone and other utilities, facilities or service of any kind used, rendered, or supplied upon or in connection with the leased premises. If any such utilities are not separately metered to the leased premises, then Tenant will pay Tenant's allocable share of such utilities, as reasonably determined by Landlord, within fifteen (15) days after written notice is given by Landlord to Tenant of the amount payable.

9. **Assumption of Risk.** Tenant shall, and does hereby, assume all risks of loss or injury to the property or person of all persons at any time coming upon the leased premises during the term hereof, and Tenant shall, and does hereby agree to, indemnify and save harmless Landlord for and from any and all claims, demands, suits, judgment costs or expenses on account of any such loss or injury.

10. **Casualty Loss.** In the event all or a substantial part of the leased premises are damaged or destroyed by fire or other casualty, and if insurance proceeds are available to fund restoration or repair, the Landlord will proceed to restore the same to substantially the same condition existing immediately prior to such damage or destruction unless such damage or destruction is incapable of repair or restoration within one hundred twenty (120) days, in which event Landlord may, at Landlord's option and by written notice given to Tenant within sixty (60) days of such damage or destruction, declare this Lease terminated as of the occurrence of such damage or destruction. To the extent after fire or other casualty that Tenant shall be deprived of the use and occupancy of the leased premises or any portion thereof as a result of any such damage, destruction or the repair thereof. Tenant shall be relieved of the same ratable portion of the rent hereunder as the amount of unusable space in the leased premises bears to the gross square footage of the leased premises. Notwithstanding the foregoing, in the event of damage by fire or other casualty resulting from the carelessness, negligence or intentional or other improper conduct of the Tenant, or Tenant's agents, employees or others acting on Tenant's behalf, the Tenant shall have the full liability and responsibility for repairing and/or rebuilding from such casualty loss and for other damages and losses incurred by Landlord.

11. **Condemnation.** If the whole of the leased premises, or such portion thereof as will make the leased premises unsuitable for Tenant's purposes, is condemned for any public use or purpose by any legally constituted authority, this Lease shall be terminated automatically upon the date when possession is taken by such public authority, and rent shall be accounted for between Landlord and Tenant as of the date of surrender of possession. In the event only a portion of the leased premises is condemned for any public use or purpose without rendering the leased premises unsuitable for the purposes of Tenant, there shall be no termination of the Lease and rent shall continue as set forth herein. Any and all monetary awards for the taking of the leased premises by eminent domain or under the threat thereof and for incidental damages thereto shall belong to and inure to the exclusive benefit of Landlord.

12. **Environmental Matters.** The term "hazardous substances," as used herein shall mean pollutants, contaminants, toxic or hazardous wastes or any other substances the use and/or the removal of which is restricted, prohibited or penalized by any "environmental law," which term shall mean any federal, state or local law, ordinance or other statute of a governmental authority relating to pollution or protection of the environment. Tenant hereby agrees that (a) no activity will be conducted on the leased premises that will produce any hazardous substance; (b) the leased premises will not be used in any manner for the storage of any hazardous substances; (c) Tenant will not install or place upon the leased premises any underground or above ground tanks of any type and will not store, or allow the storage of, on the leased premises any gasoline, oil, diesel fuel or other petroleum products; (d) Tenant will not allow any surface or subsurface conditions to exist or come into existence that constitute or with the passage of time may constitute a public or private nuisance; and (e) Tenant will not permit any hazardous substances to be brought into the leased premises. If at any time during or after the term of this Lease, the leased premises are found to be in violation of any of the covenants set forth in this section due to acts or occurrences during the occupancy of Tenant, or caused by Tenant, then Tenant shall diligently institute proper and thorough cleanup and remediation procedures at Tenant's sole cost. Tenant agrees to indemnify and hold Landlord harmless from all claims, demand, actions, liabilities, costs, expenses (including Landlord's attorney fees), damages and obligations of any nature arising from or as a result of the use of the leased premises by Tenant. The foregoing indemnification and the responsibilities of Tenant shall survive the termination or expiration of this Lease. To the best of Tenant's knowledge the premises are free from environmental contamination at the execution of this Lease.

13. **Quiet Enjoyment.** Landlord covenants that it has good title to the leased premises and is under no disability which would impair its right to enter into this Lease. Tenant, upon the payment of the rent herein provided and upon performance of all the terms and conditions hereof, shall quietly have and enjoy the leased premises during the term hereof without hindrance by or disturbance from Landlord or anyone claiming by or through Landlord.

14. **Surrender.** Tenant shall, upon the last day of the term or upon the sooner vacation of the leased premises by Tenant as herein provided, peaceably and quietly surrender the leased premises to Landlord, including all improvements thereon, in as good condition and repair as at the commencement of the term. Tenant may, upon the termination of this Lease if it is not in default hereunder, remove from the leased premises all movable trade fixtures installed by Tenant thereon, provided any damage or other injury to the leased premises resulting from such removal shall be repaired and the leased premises fully restored by Tenant. All items not removed by Tenant upon the termination hereof shall become the property of Landlord.

15. **Landlord's Rights Upon Default.** Each of the following events, at the option of Landlord, shall constitute a default and breach of this Lease by Tenant:

(a) If Tenant shall fail to pay Landlord any rent or any other amount due under this Lease, within ten (10) days after the due date therefor.

(b) If Tenant shall fail to perform or comply with any of the other terms or conditions of this Lease within ten (10) days after notice by Landlord to Tenant specifying the term or condition to be performed or complied with.

(c) If any proceedings are commenced by or against Tenant or Guarantor in any court under any bankruptcy or insolvency act or statute, or for the appointment of a trustee or receiver of Tenant's or Guarantor's property.

(d) If the leased premises shall be deserted or vacated.

In the event of any default hereunder, Landlord may, at any time thereafter and without notice (and without prejudice to any other remedy available to Landlord), pursue any one or more of the following remedies:

(i) Terminate this Lease at its option and re-enter and repossess the leased premises and dispossess and remove therefrom Tenant, or any other occupants thereof, and their effects, without being liable for any prosecution therefor. In such event, Tenant shall be liable to Landlord, immediately and upon demand, for the amount of all loss and damages suffered by Landlord by reason of such termination, whether caused by the inability to relet the leased premises on satisfactory terms or otherwise.

(ii) Enter upon and take possession of the leased premises without terminating this Lease and without relieving Tenant of Tenant's obligations to make all payments of rent and all other sums owed hereunder. In such event, Landlord may dispossess and remove therefrom Tenant, or any other occupants thereof, and their effects, without being liable for any prosecution therefor; and Landlord may, at its option, relet the leased premises or any part thereof, as the agent of Tenant, and Tenant shall, immediately and upon demand, pay the difference between the rent and other costs and charges herein reserved and agreed to be paid by Tenant for the portion of the term remaining at the time of re-entry or repossession and the amount, if any, received or to be received under such reletting for such portion of the term.

(iii) Exercise all other rights and remedies available to Landlord hereunder and at law or in equity.

Should this Lease be placed in the hands of an attorney for default or breach, or for the enforcement of any rights herein reserved or stipulated, Tenant agrees to pay all costs incident thereto, including reasonable attorneys' fees.

All actions taken by Landlord pursuant to this Section shall be without prejudice to any other remedies that otherwise might be available under this Lease or applicable law.

16. **Landlord's Right to Perform; Right of Entry.** If Tenant shall default in the performance of any covenant or condition of this Lease required to be performed by Tenant, Landlord may, at its option (and with no obligation whatsoever on Landlord's part), perform such covenant or condition for the account and at the expense of Tenant. The amount of any cost or expense incurred by Landlord in connection therewith shall be deemed additional rent and may, at the option of Landlord, be added to any subsequent installment of rent due and payable under this Lease and shall be due and payable from Tenant upon demand from Landlord. Landlord shall have the right to enter the leased premises for the purpose of correcting or remedying any such default and to remain until the default has been corrected or remedied. Any such correction by Landlord shall not be deemed to waive or release the default of Tenant or the right of Landlord to take any

action as may be otherwise permissible hereunder in the case of any default. Landlord may at reasonable times and on reasonable notice to Tenant enter the leased premises to inspect them. The provisions of this paragraph shall survive termination of this Lease.

17. **No Waiver.** The failure of Landlord or Tenant to insist upon a strict performance of any term or condition of this Lease shall not be deemed a waiver of any right or remedy that Landlord or Tenant may have and shall not be deemed a waiver of any subsequent breach of such term or condition.

18. **Landlord-Tenant Relationship.** It is expressly agreed and understood that Landlord shall not be construed or held to be a partner or associate of Tenant in the conduct of its business, it being expressly understood and agreed that the sole relationship between the parties hereto is that of landlord and tenant.

19. **Assignment/Sublease.** Tenant covenants (a) not to assign, mortgage or otherwise encumber this Lease, (b) not to sublet the leased premises in whole or in party and (c) not to transfer or encumber any ownership interest in Tenant, or any member in Tenant, without, in each case, the prior written consent of Landlord, which consent shall be in Landlord's sole discretion. It is understood and agreed that Tenant shall remain fully liable on the Lease in such event and that any assignee or sublessee shall be bound by all the terms and provisions of this Lease. Landlord has the right to assign this Lease at any time. In the event of any such assignment by Landlord, Tenant agrees to recognize and attorn to the assignee as the new Landlord under this Lease.

20. **Notices.** All notices and other communications to be given hereunder by either party shall be in writing and shall be delivered personally, mailed by certified United States mail, postage prepaid, return receipt requested, to the other (and the date of any notice by certified mail shall be deemed to be the date of certification thereof), or forwarded by nationally recognized overnight express delivery service, delivered or addressed to the parties as follows:

Landlord: Anthony and Nash Partnership
c/o Gene H. Nash
2933 Donna Hill Drive
Nashville, TN 37214

Tenant: Laissez Les Bons Temps Rouler, Inc.
Attn: Josh Billue
1905 Russell Street
Nashville, TN 37206

or at such other address as either party may later designate in writing.

21. **Entire Agreement.** The entire agreement between the parties hereto is contained in this instrument and it is expressly agreed that no obligations of Landlord or Tenant shall be implied in addition to those herein expressly contained. Any amendment to this Lease must be in writing signed by the parties hereto in order to be binding.

22. **Binding Effect.** The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and to their respective successors and assigns.

23. **Holdover.** Tenant shall, upon the last day of the term or upon the sooner termination as herein provided, peaceably and quietly surrender the leased premises to Landlord, in as good condition and repair as at the initial taking of occupancy of the leased premises by Tenant. In the event Tenant shall holdover possession of the leased premises after termination of the Lease, then Tenant shall be deemed a tenant at sufferance, and not a tenant for month-to-month or a tenant for years. In the event of a holdover after expiration of the Lease, the rental hereunder shall automatically continue at a rental rate equal to one hundred fifty percent (150%) of the rental in effect on the expiration under the Lease, and shall be payable on demand. In such event, Tenant shall give possession of the leased premises to Landlord immediately on demand.

24. **Subordination to Mortgages and Deeds of Trust.** This Lease shall (at the particular mortgagee's option) be subject and subordinate at all times to the lien of any existing mortgage or deed of trust encumbering the leased premises, and to any mortgage or deed of trust which hereafter may become a lien on the leased premises; and Tenant hereby expressly subordinates this Lease to any such mortgages and deeds of trust, whether now existing or hereafter arising, provided such mortgagee enters into a non-disturbance agreement with Tenant allowing Tenant to continue in occupancy of the leased premises under the terms hereof for so long as Tenant is in compliance hereunder. Although no instrument or act on the part of Tenant shall be necessary to effect such subordination, Tenant will, nevertheless, execute and deliver such further instruments subordinating this Lease to the lien of any such mortgages or deeds of trust as may be desired and requested by the particular mortgagee. Tenant will complete and deliver estoppel certificates to Landlord, or its designee, for the benefit of Landlord and any lender or purchaser from Landlord within ten (10) days after written request. The estoppel certificates shall be in such form as may be required by such parties.

25. **Severability.** In the event that any provision of this Lease conflicts with applicable law, such provision shall be void to the extent it is contrary to applicable law and shall be modified to the extent necessary to conform to such law; and the other provisions of this Lease shall be given effect as fully as possible without the conflicting provision. To this end, the provisions of the Lease are declared to be severable.

26. **Captions.** The headings and captions contained in this Lease are for reference purposes only and shall not limit or extend the meaning or terms of any paragraph or section contained herein.

27. **Time of Essence.** Time is of the essence of this Lease and all provisions hereof.

28. **Limitation of Liability.** The liability of Landlord hereunder is limited to the interest of Landlord in the leased premises. No action shall lie against Landlord, or recovery shall be granted against Landlord for breach hereof, except to the extent of Landlord's interest in the leased premises.

IN WITNESS WHEREOF, the parties hereto have executed this Lease to be effective September 1, 2011.

LANDLORD:

ANTHONY AND NASH PARTNERSHIP,
a Tennessee general partnership

By:_____
Gene H. Nash, Partner

TENANT:

LAISSEZ LES BONS TEMPS ROULER, INC., an Alabama corporation

By:_____
Josh Billups, President

EXHIBIT A

[Property Description]

A certain tract or parcel of land in Davidson County, Tennessee, more particularly described as follows:

Being the westerly half of Lot No. 1 and all of Lots Nos. 2 and 3 on the plan of P.D. Maddin's Subdivision of Lots Nos. 8, 9, 10, 15, 16, 17 and parts of Lots 11 and 18, of the Elliston Property, as of record in Book 57, page 139, Register's Office for said County, the Plan of the Elliston Lots being of record in Plan Book 1, page 105, Chancery Court at Nashville.

Said part of Lot No. 1 and all of Lots Nos. 2 and 3 adjoin and front together 131 feet on the northwesterly margin of Elliston Place and extend back 197.5 feet on the southwesterly line of Lot No. 3 and northeasterly margin of Louise Avenue and 157.9 feet on the northeasterly line of the westerly one-half of Lot No. 1, to a 10 foot alley in the rear, measuring 125.0 feet thereon. Included in said description, but specifically excluded therefrom, is that portion of the subject property taken for widening of Elliston Place of approximately 8 ½ feet.

Being the same property conveyed to B.E. Anthony and wife, Patricia T. Anthony, and Gene H. Nash and wife, Margaret E. Nash, by deed from Rockwood Theaters, Inc. of record in Book 5031, page 163, said Register's Office."

LESS THAN AND EXCEPT FOR THE FOLLOWING:

(1) "Beginning from a point on the southwest corner of Lot 3 at Elliston Place and Louise Avenue, running 57 feet in an eastward direction along the north side of Elliston Place to a point, thence running 98 feet in a northward direction on a line parallel with the subject structure being leased to a point, thence 25 feet in a westwardly direction to a point on the west side of said Lot 3 to a point 100 feet from the point of beginning," and

(2) the patio and deck area adjacent to the building located within the above legal description.

Notwithstanding anything herein to the contrary, the only property which is subject to this Lease is the building located at 2208-2210 Elliston Place, Nashville, Tennessee, now and formerly used as the Exit In, together with a right of pedestrian passage from the exit along the west wall of the Exit In building to the alley to the rear of the Exit In building. If the above legal description should include additional property, then such additional property is hereby removed from the definition of "leased premises" herein.

ASSIGNMENT OF LEASE WITHOUT RELEASE

FOR VALUE RECEIVED, the undersigned, **LAISSEZ LES BONS TEMPS ROULER, INC.**, an Alabama corporation ("Assignor") hereby assigns and sets over to **JR FACILITY MANAGEMENT, LLC**, a Tennessee limited liability company ("Assignee"), the entire right, title and interest of Assignor in and to the Lease dated as of September 1, 2011 entered into between **ANTHONY AND NASH PARTNERSHIP**, a Tennessee general partnership ("Landlord") and Assignor as Tenant of certain real property located at 2208 Elliston Place, Nashville, Davidson County, Tennessee (the "Lease"), as more particularly described therein. Assignee hereby assumes and agrees to perform all liabilities and obligations of Assignor under the Lease without release of Assignor. Assignor and Assignee shall be unconditionally and jointly and severally liable and obligated to Landlord pursuant to the Lease. The undersigned, **JOSH BILLUE** ("Billue") is jointly and severally liable with Assignor and Assignee to Landlord for all obligations under the Lease pursuant to Guaranty previously executed by Billue of the Lease. Said Guaranty shall continue in full force and effect in accordance to its terms and Billue shall continue to be unconditionally and jointly and severally liable for all obligations under the Lease to Landlord. The undersigned **CHRIS COBB** ("Cobb") shall also unconditionally and jointly and severally guaranty the performance by Assignor and Assignee to Landlord of all obligations under the Lease pursuant to a Guaranty to be executed by Cobb together herewith.

Landlord hereby consents to the Assignment herein, but not to any subsequent or further assignment and such consent is not a waiver of any provisions of the Lease. Assignor and Assignee shall pay the legal fees incurred by Landlord in connection with the assignment evidenced hereby.

This instrument shall be governed by the laws of the State of Tennessee and shall be binding upon the parties hereto, their heirs, successors and assigns. This instrument contains the entire agreement of the parties and may not be amended or modified except by an instrument in writing executed between the parties hereto. This instrument may be executed in multiple counterparts, which when taken as a whole shall constitute a complete instrument. Facsimile and electronic signatures shall be effective as originals.

IN WITNESS WHEREOF, this instrument has been executed this 16th day of October, 2012.

ASSIGNOR:

LAISSEZ LES BONS TEMPS ROULER, INC.,
an Alabama corporation

By:_____
Josh Billue, President

503492.1/2010853

ASSIGNEE:

JR FACILITY MANAGEMENT, LLC, a Tennessee limited liability company

By:_____
Josh Billue, President

By:_____
Chris Cobb, Secretary

BILLUE:

_____
Josh Billue

COBB:

_____
Chris Cobb

LANDLORD:

ANTHONY AND NASH PARTNERSHIP, a Tennessee general partnership

By:_____
Gene H. Nash, Partner
POA: GENE RUSSELL NASH

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE is made and entered into between and among **ANTHONY & NASH PARTNERSHIP**, a Tennessee general partnership ("Landlord"), **LAISSEZ LES BONS TEMPS ROULER, INC.**, an Alabama corporation ("Assignor"), **JR FACILITY MANAGEMENT, LLC**, a Tennessee limited liability company ("Tenant"), **JOSH BILLUE** ("Billue") and **CHRIS COBB** ("Cobb"), (Billue and Cobb being herein collectively called "Guarantors").

WITNESSETH:

WHEREAS, Landlord and Assignor entered into the Lease dated effective September 1, 2011 (the "Lease"), under which Landlord leased to Assignor premises located at 2208 Elliston Place, Nashville, Davidson County, Tennessee, as more particularly described therein ("2208 Elliston Place"), and such premises were therein designated as the "leased premises," and the Lease was unconditionally, and jointly and severally, guaranteed by Billue pursuant to Guaranty dated September, 2011 (the "Billue Guaranty"); and

WHEREAS, pursuant to Assignment of Lease Without Release dated October 16, 2012, Assignor assigned its interest in the Lease to Tenant, provided that Assignor was not released from liability to Landlord under the Lease, and continues to be jointly and severally, and unconditionally, liable to Landlord for all obligations of Tenant under the Lease, and Cobb unconditionally, and jointly and severally guaranteed performance by Assignor and Tenant to Landlord of all obligations under the Lease pursuant to Guaranty executed by Cobb pursuant thereto (the "Cobb Guaranty"); and

WHEREAS, the parties have agreed that the Lease, as assigned, shall be amended as more particularly set forth herein, but no further or otherwise.

NOW, THEREFORE, for and in consideration of the mutual covenants of the parties, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree that effective January 1, 2014, the Lease is amended, as follows:

1. The "leased premises," shall mean, in addition to the premises located at 2208 Elliston Place, the additional land and building located at 2212 Elliston Place, Nashville, Davidson County, Tennessee ("2212 Elliston Place"). The definition of "leased premises" contained in the second paragraph of page 1 of the Lease, is amended to provide that the "leased premises" shall include 2212 Elliston Place, in addition to 2208 Elliston Place.

2. The term of the Lease shall run from January 1, 2014 and shall end on December 31, 2016. The last sentence of the second paragraph of page 1 is amended to reflect this change in the term of the Lease.

3. Provided there is then no default in the Lease, as amended hereby, and Tenant is in full compliance with the terms and provisions of the Lease, Tenant shall have the option to renew the Lease, as amended, hereby for two (2) additional renewal terms of three (3) years each, subject to the additional provisions hereof. In order to exercise its option for a renewal term, Tenant must give written notice of exercise to Landlord by not later than ninety (90) days prior to (a) expiration of the initial term of the Lease, in the case of the first renewal option, and (b) expiration of the first renewal option, in the case of exercise of the second renewal option. Time is of the essence of such exercise. In the event Tenant does not timely give such notice of exercise of a renewal option, then Tenant shall have no right to any further renewal of option granted hereunder. On timely exercise of any renewal option, then the Lease shall continue for the term of such renewal option in accordance with and subject to the terms and provisions set forth in the Lease, as assigned, and as amended hereby.

4. Rent for the initial term of the Lease shall be $12,480.00 per month. On exercise of a renewal term, rent shall increase by two percent (2%) annually for each year of the renewal term over the annual rent for the preceding year. Accordingly, the first paragraph of Section 1, "Rent," is amended to read as follows:

> Tenant agrees to pay Landlord for the leased premises during the term hereof monthly rent from January 1, 2014 through December 31, 2016 of $12,480.00 per month.

The rent for the first year of the first renewal option, if exercised hereunder, shall increase two percent (2%) over the rent for the initial term. Rent shall further increase by two percent (2%) annually for each year over the rent for the preceding year during each of the first and second renewal terms, if exercised. Each annual increase shall be compounded such that it shall be two percent (2%) over the rent for the preceding calendar year.

5. Beginning with calendar year 2014, Tenant shall be obligated to pay or reimburse Landlord for one half (1/2) of all real property taxes payable upon the leased premises. Accordingly, the third paragraph of Section 1, "Rent," of the Lease, is amended to read as follows:

> In addition to rent, Tenant shall pay to Landlord, together with and at the time required for monthly payments of rent hereunder, one-twelfth ($1/12^{th}$) of the estimated annual real property taxes for which Tenant shall be liable hereunder attributable to the leased premises calculated as set forth in Section 5 herein.

6. Tenant has examined the portion of the leased premises added herein known as 2212 Elliston Place, and accepts 2212 Elliston Place AS IS, without any representation or warranty, express or implied, in law or in fact, by Landlord as to the nature, condition or useability thereof, or as to the use or uses to which such portion of the leased premises may be put. To this end, it is understood that the provisions of Section 2, "Condition," of the Lease applicable to the leased premises, are expressly applicable to the portion of the leased premises known as 2212 Elliston Place. All provisions of the Lease applicable to 2208 Elliston Place shall be equally applicable to 2212 Elliston Place.

7. 2208 Elliston Place, which was the original leased premises subject to the Lease, shall continue to be continuously used during the term of the Lease, and all renewal terms, by Tenant as a nightclub providing live musical performances under the name "Exit In." 2212 Elliston Place shall be used continuously during the term of the Lease, and all renewal terms, by Tenant for restaurant purposes. Section 3, "Use," of the Lease is amended to reflect the foregoing use requirements. The provisions of Section 3 of the Lease, as amended hereby, shall be applicable to the entire leased premises, consisting of both 2208 Elliston Place and 2212 Elliston Place.

8. Commencing with calendar year 2014, Tenant, in addition to rent and other sums payable under the Lease, shall pay one-half (1/2) of all real property taxes upon the entire leased premises, the same being 2208 Elliston Place and 2212 Elliston Place. In addition, during the term and any renewal options exercised hereunder, Tenant shall pay the full amount of any increase in real property taxes over the real property taxes for calendar year 2013. Section 5, "Taxes," of the Lease is amended to reflect the foregoing. Without limiting such amendment, the obligation of Tenant to pay together with each monthly installment of rent an amount equal to one-twelfth ($1/12^{th}$) of the estimated annual real property taxes attributable to the leased premises, is modified such that the Tenant shall be obligated to pay one-twelfth ($1/12^{th}$) of the portion of the estimated real property taxes attributable to the leased premises for which Tenant is responsible hereunder.

9. Together with the execution hereof, Tenant shall provide to Landlord certificates of insurance evidencing that Tenant has in place the insurance coverages required in Section 6, "Insurance," of the Lease, for both 2208 Elliston Place and 2212 Elliston Place. Tenant shall maintain such coverages showing Landlord as insured as required in the Lease during the initial and all renewal terms of the Lease.

10. Each of Billue and Cobb shall execute a new Guaranty of the Lease, as assigned to Tenant, and as amended hereby, as well as all further modifications and amendments thereto, in such form as Landlord may require.

11. The provisions of the Lease are further amended to the extent necessary to conform to the foregoing.

12. This instrument contains the entire agreement of the parties with respect to the subject matter hereof and may not be amended or modified except by an instrument in writing executed between the parties hereto. This agreement is severable such that the invalidity or enforceability or any provision hereof will not impair the validity or enforceability of the remaining provisions.

IN WITNESS WHEREOF, this instrument has been executed to be effective on the day and date first above written.

ANTHONY AND NASH PARTNERSHIP, a Tennessee general partnership

By: Gene H. Nash

Gene H. Nash, Partner

ASSIGNOR: JR Facility Management LLC

~~**LAISSEZ LES BONS TEMPS ROULER, INC.,**~~

~~an Alabama corporation~~

By: _____

Josh Billue, ~~President~~

TENANT:

JR FACILITY MANAGEMENT, LLC, a Tennessee limited liability company

By: _____

Josh ~~B~~illue, President

By: _____

Chris Cobb, Secretary

GUARANTORS:

_____

Josh ~~B~~illue

_____

Chris Cobb

ASSIGNMENT AND SECOND AMENDMENT TO LEASE WITH RELEASE

THIS ASSIGNMENT AND SECOND AMENDMENT TO LEASE WITH RELEASE is made and entered into between and among **ANTHONY & NASH PARTNERSHIP**, a Tennessee general partnership ("Landlord"), **JR FACILITY MANAGEMENT, LLC**, a Tennessee limited liability company ("Assignor"), **BONA FIDE LIVE, INC.**, a Tennessee corporation ("Assignee"), **JOSH BILLUE** ("Billue") and **ROBERT C. COBB** ("Cobb"), (Billue and Cobb being herein collectively called "Guarantors").

WITNESSETH:

WHEREAS, Landlord and Laissez Les Bons Temps Rouler, Inc., an Alabama corporation ("Laissez"), entered into the Lease dated effective September 1, 2011 (said Lease, as assigned and amended as set forth herein, being herein called the "Lease"), under which Landlord leased to Laissez premises more particularly described therein and such premises were therein designated as the "leased premises," and the Lease was unconditionally, and jointly and severally, guaranteed by Billue pursuant to Guaranty dated September, 2011; and

WHEREAS, pursuant to Assignment of Lease Without Release dated October 16, 2012, Laissez assigned its interest in the Lease to Assignor, provided that Laissez was not released from liability to Landlord under the Lease, and continues to be jointly and severally, and unconditionally, liable to Landlord for all obligations under the Lease, and Cobb unconditionally, and jointly and severally, guaranteed performance by Laissez and Assignor to Landlord of all obligations under the Lease pursuant to Guaranty executed by Cobb pursuant thereto; and

WHEREAS, Landlord, Laissez, Assignor, Billue and Cobb entered into First Amendment to Lease effective January 1, 2014, amending the Lease, including the adding of additional property within the leased premises, as more particularly set forth therein, and pursuant thereto each of Billue and Cobb executed a new Guaranty of the Lease as set forth therein (the "Billue Guaranty" and the "Cobb Guaranty"); and

WHEREAS, Laissez has since been sold and is no longer associated with Assignor, Guarantors, or Assignee; and

WHEREAS, Assignor desires to assign its interest in and to the Lease to Assignee; and

WHEREAS, the parties have agreed that the Lease, as assigned, shall be further assigned and amended as more particularly set forth herein, but no further or otherwise, and that the Guarantors shall further guarantee the Lease, as assigned and amended.

NOW, THEREFORE, for and in consideration of the mutual covenants of the parties, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree, and the Lease is amended, as follows:

1. Defined terms set forth in the Lease, and also used herein, shall have the same meaning as set forth in the Lease.

2. Assignor assigns all its right, title, and interest in and to the Lease to Assignee without release of Assignor, which shall remain jointly and severally, and primarily, liable to Landlord for all obligations of Assignee under the Lease. Assignee accepts such assignment and agrees to perform all obligations as tenant under the Lease, jointly and severally, and primarily, with Assignor.

3. Landlord releases Laissez from any and all liability or obligations accruing from the Lease on or after the date hereof.

4. Assignor has exercised the final three (3) year renewal option under the Lease. Accordingly, the term of the Lease is extended for an additional three (3) years from January 1, 2020 until December 31, 2022. There are no additional options to renew the term of the Lease.

5. Rent for the first (1st) year of the extended term of the Lease provided herein shall be $13,508.75 per month. Rent for each succeeding year of the Lease term shall increase by two percent (2%) over rent for the preceding year. Accordingly, monthly rent for the last two (2) years of the Lease term shall be as follows:

01/01/21 – 12/31/21	$13,779.02 per month
01/01/22 – 12/31/22	$14,054.00 per month

6. Assignee shall be obligated to pay or reimburse Landlord for one half (1/2) of all base year real property taxes payable on the leased premises. In addition, Assignee shall be obligated to pay the full amount (100%) of any increase in real property taxes on the leased premises in excess of the real property taxes on the leased premises for calendar year 2013.

The amount of all real property taxes for which Assignee is obligated to Landlord under the Lease for calendar years 2017 and 2018 is $12,708.00. Said amount has not been paid.

Immediately upon the execution hereof, Assignee shall pay said amount to Landlord. Going forward, Assignee shall pay to Landlord the amount of Assignee's obligation for real property taxes for calendar year 2019, and thereafter, within fifteen (15) days after billing for such amounts by Landlord.

7. Each of Billue and Cobb shall execute a new Guaranty of the Lease, as assigned and amended as set forth herein, as well as any further modifications and amendments thereto, in such form as Landlord may require.

8. The provisions of the Lease are further amended to the extent necessary to conform to the foregoing.

9. This instrument contains the entire agreement of the parties with respect to the subject matter hereof and may not be amended or modified except by an instrument in writing executed between the parties hereto. This agreement is severable such that the invalidity or enforceability or any provision hereof will not impair the validity or enforceability of the remaining provisions. This agreement may be executed in multiple counterparts which when taken as a whole shall constitute a complete instrument. Facsimile and electronic signatures shall be effective as originals.

IN WITNESS WHEREOF, this instrument has been executed to be effective the 1st day of January, 2020.

ANTHONY AND NASH PARTNERSHIP, a Tennessee general partnership

By: Gene H. Nash
Gene H. Nash, Partner

ASSIGNOR:

JR FACILITY MANAGEMENT, LLC, a Tennessee limited liability company

By: _____
Josh Billue, President

ASSIGNEE:

BONA FIDE LIVE INC.,
a Tennessee corporation

By: _____
Name: ROBERT C COBB
Title: PRESIDENT

GUARANTORS:

_____
Josh Billue

_____
Robert C. Cobb

Exhibit 4

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM660834

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Anthony and Nash Partnership		06/30/2021	Partnership:

RECEIVING PARTY DATA

Name:	MVNTN Owner LLC
Street Address:	429 Chestnut Street
City:	Nashville
State/Country:	TENNESSEE
Postal Code:	37203
Entity Type:	Limited Liability Company: DELAWARE

PROPERTY NUMBERS Total: 3

Property Type	Number	Word Mark
Serial Number:	90801740	EXIT/IN
Serial Number:	90801683	EXIT/IN
Serial Number:	90801676	EXIT/IN

CH $90.00 90801740

CORRESPONDENCE DATA

Fax Number:

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.

Phone: 3122698000
Email: martus@nge.com
Correspondent Name: Ian J. Block
Address Line 1: Neal Gerber & Eisenberg LLP
Address Line 2: Two North LaSalle Street, Suite 1700
Address Line 4: Chicago, ILLINOIS 60602

ATTORNEY DOCKET NUMBER:	30040.0003
NAME OF SUBMITTER:	Ian J. Block
SIGNATURE:	/Ian J. Block/
DATE SIGNED:	07/19/2021

Total Attachments: 5
source=Trademark Assignment Agreement -- AN to MVNTN (002)#page1.tif
source=Trademark Assignment Agreement -- AN to MVNTN (002)#page2.tif

source=Trademark Assignment Agreement -- AN to MVNTN (002)#page3.tif
source=Trademark Assignment Agreement -- AN to MVNTN (002)#page4.tif
source=Trademark Assignment Agreement -- AN to MVNTN (002)#page5.tif

TRADEMARK ASSIGNMENT AGREEMENT

This TRADEMARK ASSIGNMENT AGREEMENT (this "Assignment") is made this 30th day of June 2021 (the "Effective Date"), by and between the Anthony and Nash Partnership, a general partnership organized in Tennessee with an address at 2933 Donna Hill Drive, Nashville, Tennessee 37214 ("Assignor"), and MVNTN Owner LLC, a Delaware limited liability company, with an address at 429 Chestnut Street, Nashville, Tennessee 37203 ("Assignee").

WHEREAS, Assignor owns all rights, title, and interest in and to the trademark EXIT/IN (as both a word mark in standard characters and design mark) as identified in the attached Schedule of Trademarks (the "Mark");

WHEREAS, the assignment effected hereby is in connection with the transactions contemplated by the Purchase and Sale Agreement dated as of March 1, 2021, (as amended, modified and/or assigned from time to time, the "Purchase and Sale Agreement"), pursuant to which Assignor has agreed to execute this instrument of assignment and thereby to assign to Assignee all of Assignor's rights, title, and interest in and to the Mark and that portion of Assignor's business to which the Mark pertains.

NOW, THEREFORE, pursuant to the terms of and in exchange for the consideration received in that certain Purchase and Sale Agreement, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. The recitals stated above are hereby incorporated herein and shall have binding and interpretive effect.

2. Assignor does hereby assign, convey and transfer to Assignee, and its successors, assigns, and legal representatives, the full and entire rights, title, and interest in and to the following property:

(i) the Mark;

(ii) the portion of Assignor's business to which the Mark pertains;

(iii) that part of the goodwill of Assignor's business connected with the use of and symbolized by the Mark;

(iv) all of Assignor's trademark rights in the Mark under the laws of any jurisdiction, including all rights granted under 15 U.S.C. § 1051, *et. seq.*, all rights granted under the statutes of any other jurisdiction, and all rights granted under the common laws of any jurisdiction (collectively, the "Trademark Rights");

(v) the right to claim the Trademark Rights and to obtain registrations therefor in the sole name of Assignee under the trademark laws of any jurisdiction; and

(vi) all causes of action for, and claims for damages by reason of, any infringement of the Trademark Rights in any jurisdiction, which causes of action and claims arose prior to the date of execution hereof.

[Signature Pages Follow]

IN WITNESS WHEREOF, Assignor and Assignee have caused this instrument to be executed on the date first indicated above.

Assignor:

ANTHONY AND NASH PARTNERSHIP

By: Gene Russell Nash

Name: Gene Russell Nash

Title: Authorized Agent

Date: June 29, 2021

Assignee:

MVNTN OWNER LLC,
a Delaware limited liability company

By: _____

Name: Benjamin Weprin

Title: President

Date: June 30, 2021

SCHEDULE OF TRADEMARKS

Trademarks:

1. EXIT/IN
2. EXIT/IN

Trademark Applications and Registration:

	Mark	Territory	App. Ser. No.	Reg. No.
1.	EXIT/IN	Tennessee	--	45092
2.	EXIT/IN	U.S.	90/801,740; 90/801,683	
3.	EXIT/IN	U.S.	90/801,676	

Exhibit 5

Block, Ian J.

From: Block, Ian J.
Sent: Thursday, December 14, 2023 12:14 PM
To: Kepchar, Karol
Cc: Eulgen, Lee J.
Subject: RE: Bona Fide Live Supplemental Production

Thanks, Karol. Just to confirm, are we correct in understanding that neither Bona Fide Live nor Mr. Cobb has any other documents relating to the GoFundMe campaign that was the subject of the motion to compel? For example, we were expecting this production to include at least some emails, such as between Mr. Cobb, on the one hand, and potential/actual donors, Grubb Properties, other BFL personnel, etc., on the other hand.

In terms of scheduling the BFL/Cobb deposition, between other case commitments and the holidays, we don't have availability to take the deposition between now and December 28. We also expect coordinating a convenient date for you and Mr. Cobb between now and then would be difficult as well. Are you willing to consent to a 30-day extension of dates, so we can work together to find a deposition date in January that works for everyone? If so, please let us know some potential dates. If not, we'll move for an extension on our own and notice the deposition unilaterally, but we'd prefer it not come to that.

Thanks in advance, and we look forward to hearing from you.

Regards,

Ian

Ian J. Block
Partner
Neal, Gerber & Eisenberg LLP

NEAL GERBER EISENBERG

Consider The Environment Before You Print

p: 312.269.2960 | **f:** 312.578.1548 | **e:** iblock@nge.com
Two North LaSalle Street, Suite 1700, Chicago, IL 60602
www.nge.com

From: Kepchar, Karol <kkepchar@AKINGUMP.com>
Sent: Wednesday, December 13, 2023 2:01 PM
To: Block, Ian J. <iblock@nge.com>
Cc: Eulgen, Lee J. <LEulgen@nge.com>
Subject: Bona Fide Live Supplemental Production

Ian, attached is the link to Applicant's supplemental production, per the Board's recent order.

ShareFile: https://akingump.sharefile.com/d-sabdf23b9d8774a2da353426365312788

password: 1238698437

Regards,

Karol A. Kepchar
Akin
Robert S. Strauss Tower | 2001 K Street N.W. | Washington, DC 20006 | USA | Direct: +1 202.887.4104 | Internal: 24104
Fax: +1 202.887.4288 | kkepchar@akingump.com | akingump.com | Bio

Exhibit 6

EFILED 05/09/23 09:16 AM CASE NO. 23C697 Joseph P. Day, Clerk

IN THE CIRCUIT COURT OF DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT
AT NASHVILLE

MVNTN OWNER LLC,	)	
	)	
Plaintiff/Counter-Defendant,	)	
	)	**Case No. 23C697**
v.	)	
	)	
BONA FIDE LIVE, INC., and ROBERT C. COBB,	)	
	)	
	)	
Defendants/Counter-Plaintiffs.	)	

ANSWER AND COUNTERCLAIM

Comes now Defendant Bona Fide Live, Inc., by and through its undersigned counsel, and submits this Answer and Counterclaim to Plaintiff's Complaint and states as follows:

FIRST DEFENSE

In response to the allegations set forth in the numbered paragraphs of the Complaint, Defendant Bona Fide Live, Inc. responds as follows:

1. The allegations set forth in paragraph 1 of the Complaint are hereby denied.

2. The allegations set forth in paragraph 2 of the Complaint are hereby admitted.

3. The allegations set forth in paragraph 3 of the Complaint are hereby admitted.

4. The allegations set forth in paragraph 4 of the Complaint are hereby admitted.

5. The allegations set forth in paragraph 5 of the Complaint are hereby denied.

6. The allegations set forth in paragraph 6 of the Complaint are hereby denied.

EFILED 05/09/23 09:16 AM CASE NO. 23C697 Joseph P. Day, Clerk

7. The allegations set forth in paragraph 7 of the Complaint are hereby denied.

8. The allegations set forth in paragraph 8 of the Complaint are hereby denied.

9. The allegations set forth in paragraph 9 of the Complaint merely restates allegations and states that a claim for damages is requested by Plaintiff elsewhere in the Complaint, and Defendant therefore denies same.

10. The allegations set forth in paragraph 10 of the Complaint are hereby denied.

11. The allegations set forth in paragraph 11 of the Complaint merely restates allegations and states that a claim for damages is requested by Plaintiff elsewhere in the Complaint, and Defendant therefore denies same.

12. Defendant lacks knowledge or information sufficient to admit or deny the corporate structure or locus of Plaintiff, and therefore Defendant hereby denies those allegations set forth in paragraph 12, in pertinent part. The remaining allegations set forth in paragraph 12 with respect to ownership of the Property are hereby admitted.

13. The allegations set forth in paragraph 13 of the Complaint are hereby admitted.

14. The allegations set forth in paragraph 14 of the Complaint are hereby admitted.

15. Defendant does not dispute this honorable Court's concurrent jurisdiction with a chancery court over the subject matter of this cause.

16. Defendant does not dispute the venue in which this cause was brought.

17. The allegations set forth in paragraph 17 of the Complaint are hereby admitted.

18. The allegations set forth in paragraph 18 of the Complaint are hereby admitted.

19. The allegations set forth in paragraph 19 of the Complaint are hereby admitted.

20. The allegations set forth in paragraph 20 of the Complaint are hereby admitted.

21. The allegations set forth in paragraph 21 of the Complaint are hereby admitted.

22. Defendant lacks knowledge or information sufficient to admit or deny the allegations set forth in paragraph 22 of the Complaint with regard to Plaintiff's intent and therefore denies same. Defendant hereby denies all other allegations set forth in paragraph 22 of the Complaint.

23. The allegations set forth in paragraph 23 of the Complaint with respect to previous owners are hereby admitted. The allegations with respect to AJ Capital's ownership are hereby denied.

24. The allegations set forth in paragraph 24 of the Complaint are hereby admitted.

25. The allegations set forth in paragraph 25 of the Complaint are hereby admitted.

26. The allegations set forth in paragraph 26 of the Complaint are hereby admitted.

27. The allegations set forth in paragraph 27 of the Complaint are hereby admitted.

28. The allegations set forth in paragraph 28 of the Complaint are hereby admitted.

29. The allegations set forth in paragraph 29 of the Complaint are hereby admitted.

30. Defendant lacks knowledge or information sufficient to admit or deny the allegations set forth in paragraph 30 of the Complaint, and therefore Defendant hereby denies same.

31. The allegations set forth in paragraph 31 of the Complaint with respect to the special warranty deed are hereby admitted. The allegations set forth in paragraph 31 of the Complaint with respect to the "Landlord Assignment" are hereby admitted to the extent Exhibit 5 can be authenticated.

32. The allegations set forth in paragraph 32 of the Complaint with respect to the "Landlord Assignment" are hereby admitted to the extent Exhibit 5 can be authenticated.

33. The allegations set forth in paragraph 33 of the Complaint are hereby admitted to the extent Exhibit 5 can be authenticated.

34. i. The allegations set forth in paragraph 34 and 34.i. of the Complaint are hereby admitted.

35. The allegations set forth in paragraph 35 of the Complaint are hereby admitted.

36. The allegations set forth in paragraph 36 of the Complaint are hereby admitted.

37. The allegations set forth in paragraph 37 of the Complaint are hereby admitted.

38. The allegations set forth in paragraph 38 and paragraph 38.ii. of the Complaint are hereby admitted.

39. The allegations set forth in paragraph 39 of the Complaint are hereby admitted.

40. The allegations set forth in paragraph 40 of the Complaint are hereby admitted.

41. The allegations set forth in paragraph 41 of the Complaint are hereby admitted.

42. The allegations set forth in paragraph 42 of the Complaint are hereby admitted. The allegations set forth in paragraph 42.iii. of the Complaint are hereby denied.

43. The allegations set forth in paragraph 43 of the Complaint are hereby denied.

44. The allegations set forth in paragraph 44 of the Complaint are hereby admitted.

45. The allegations set forth in paragraph 45 of the Complaint are hereby admitted. The allegations set forth in paragraph 45.ii. of the Complaint are hereby denied.

46. The allegations set forth in paragraph 46 of the Complaint are hereby denied.

47. The allegations set forth in paragraph 47 of the Complaint are hereby admitted.

48. The allegations set forth in paragraph 48 of the Complaint are hereby admitted.

49. The allegations set forth in paragraph 49 of the Complaint are hereby admitted.

50. The allegations set forth in paragraph 50 of the Complaint are hereby admitted.

51. The allegations set forth in paragraph 51 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

52. The allegations set forth in paragraph 52 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

53. The allegations set forth in paragraph 53 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

54. The allegations set forth in paragraph 54 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

55. The allegations set forth in paragraph 55 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

56. The allegations set forth in paragraph 56 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

57. The allegations set forth in paragraph 57 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

58. The allegations set forth in paragraph 58 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

59. The allegations set forth in paragraph 59 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

60. The allegations set forth in paragraph 60 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

61. The allegations set forth in paragraph 61 of the Complaint are hereby denied.

62. The allegations set forth in paragraph 62 of the Complaint are hereby denied.

63. The allegations set forth in paragraph 63 of the Complaint are hereby denied.

64. The allegations set forth in paragraph 64 and 64.A. of the Complaint are hereby denied.

65. The allegations set forth in paragraph 65 of the Complaint are hereby denied.

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66. The allegations set forth in paragraph 66 of the Complaint are hereby admitted.

67. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 67 of the Complaint and therefore denies same.

68. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 68 of the Complaint and therefore denies same.

69. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 69 and subparts (i) through (xi) of the Complaint and therefore denies same.

70. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 70 of the Complaint with respect to when Plaintiff allegedly entered the Property and therefore denies same. Defendant denies all other allegations set forth in paragraph 70.

71. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 70 of the Complaint with respect to vandalism and therefore denies same. The remaining allegations set forth in paragraph 71 of the Complaint are hereby denied.

72. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 72 of the Complaint with respect to spray painting on an exterior wall and therefore denies same. The remaining allegations set forth in paragraph 72 of the Complaint are hereby denied.

73. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 73 of the Complaint and therefore denies same.

74. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 74 of the Complaint with respect to what someone else observed and therefore denies same. The remaining allegations set forth in paragraph 74 of the Complaint are not directed to this Defendant and are therefore neither admitted nor denied.

75. Defendant lacks sufficient knowledge or information sufficient to admit or deny the allegations set forth in paragraph 75 of the Complaint with respect to when Plaintiff finally entered its Property. All remaining allegations set forth in paragraph 75 of the Complaint and its subparts are hereby denied.

76. The allegations set forth in paragraph 76 of the Complaint are hereby denied.

77. The allegations set forth in paragraph 77 of the Complaint are hereby denied.

78. The allegations set forth in paragraph 78 of the Complaint are hereby denied.

79. The allegations set forth in paragraph 79 of the Complaint are hereby denied.

80. The allegations set forth in paragraph 80 of the Complaint with respect to the partial language of Exhibit 1 is admitted. All other allegations set forth in paragraph 80 are hereby denied.

81. The allegations set forth in paragraph 81 of the Complaint are hereby denied.

82. The allegations set forth in paragraph 82 of the Complaint with respect to Plaintiff accurately quoting its own Demand Letter. All other allegations set forth in paragraph 82 are hereby denied.

83. The allegations set forth in paragraph 83 of the Complaint with respect to Plaintiff accurately quoting its own Demand Letter. All other allegations set forth in paragraph 83 are hereby denied.

84. The allegations set forth in paragraph 84 of the Complaint are hereby denied.

85. The allegations set forth in paragraph 85 of the Complaint with respect to Plaintiff accurately quoting its own Demand Letter. All other allegations set forth in paragraph 85 are hereby denied.

86. The allegations set forth in paragraph 86 of the Complaint with respect to Plaintiff accurately quoting its own Demand Letter. All other allegations set forth in paragraph 86 are hereby denied.

87. The allegations set forth in paragraph 87 of the Complaint with respect to Plaintiff accurately quoting its own Demand Letter. All other allegations set forth in paragraph 87 are hereby denied.

88. The allegations set forth in paragraph 88 of the Complaint with respect to Defendants' counsel appropriately responding to Plaintiff's baseless Demand letter. All other allegations set forth in paragraph 88 are hereby denied.

89. The allegations set forth in paragraph 89 of the Complaint are hereby denied.

90. The allegations set forth in paragraph 90 of the Complaint are hereby denied.

91. The allegations set forth in paragraph 91 of the Complaint are hereby denied.

92. The allegations set forth in paragraph 92 of the Complaint are hereby denied.

93. The allegations set forth in paragraph 93 of the Complaint are hereby denied.

94. The allegations set forth in paragraph 94 of the Complaint are hereby denied.

95. The allegations set forth in paragraph 95 of the Complaint are hereby denied.

96. The allegations set forth in paragraph 96 of the Complaint are hereby denied.

97. The allegations set forth in paragraph 97 of the Complaint are hereby denied.

98. The allegations set forth in paragraph 98 of the Complaint are hereby denied.

99. The allegations set forth in paragraph 99 of the Complaint are hereby denied.

100. The allegations set forth in paragraph 100 of the Complaint with respect to Plaintiff accurately partially quoting the Lease are hereby admitted. All other allegations set forth in paragraph 100 are hereby denied.

101. The allegations set forth in paragraph 101 of the Complaint are hereby denied.

102. The allegations set forth in paragraph 102 of the Complaint are hereby denied.

103. The allegations set forth in paragraph 103 of the Complaint are hereby denied.

104. The allegations set forth in paragraph 104 of the Complaint are hereby denied.

105. The allegations set forth in paragraph 105 of the Complaint with respect to Plaintiff accurately partially quoting the Lease are hereby admitted. All other allegations set forth in paragraph 105 are hereby denied.

106. The allegations set forth in paragraph 106 of the Complaint with respect to Plaintiff accurately partially quoting the Lease are hereby admitted. All other allegations set forth in paragraph 106 are hereby denied.

107. Defendant does not dispute that "MVNTN has defaulted on and breached the Lease," as stated in paragraph 107 of the Complaint. Defendant hereby denies all other allegations set forth in paragraph 107 of the Complaint.

108. The allegations set forth in paragraph 108 of the Complaint are hereby denied.

109. Defendant repeats and responds to each and every allegation set forth above in paragraphs 1-108 of the Complaint as if fully set forth herein.

110. The allegations set forth in paragraph 110 of the Complaint constitute a restatement of case law and require no response.

111. The allegations set forth in paragraph 111 of the Complaint are admitted.

112. The allegations set forth in paragraph 112 of the Complaint are hereby admitted.

113. Defendant lacks sufficient knowledge or information sufficient to admit or deny whether the Landlord Assignment is "valid" absent authentication and therefore denies the allegations set forth in paragraph 113 of the Complaint.

114. The allegations set forth in paragraph 114 of the Complaint are hereby denied.

115. The allegations set forth in paragraph 115 of the Complaint are hereby denied.

116. The allegations set forth in paragraph 116 of the Complaint are hereby denied.

117. The allegations set forth in paragraph 117 of the Complaint are hereby denied.

118. The allegations set forth in paragraph 118 of the Complaint are hereby denied.

119. The allegations set forth in paragraph 119 of the Complaint are hereby denied.

120. Defendant repeats and responds to each and every allegation set forth above in paragraphs 1-119 of the Complaint as if fully set forth herein.

121. The allegations set forth in paragraph 121 of the Complaint constitute a restatement of case law and require no response.

122. The allegations set forth in paragraph 122 of the Complaint are hereby admitted.

123. The allegations set forth in paragraph 123 of the Complaint are hereby admitted.

124. Defendant lacks sufficient knowledge or information sufficient to admit or deny whether the Landlord Assignment is "valid" absent authentication and therefore denies the allegations set forth in paragraph 124 of the Complaint.

125. The allegations set forth in paragraph 125 of the Complaint are hereby denied.

126. The allegations set forth in paragraph 126 of the Complaint are hereby denied.

127. The allegations set forth in paragraph 127 of the Complaint are hereby denied.

128. The allegations set forth in paragraph 128 of the Complaint are hereby admitted.

129. The allegations set forth in paragraph 129 of the Complaint are hereby denied.

130. The allegations set forth in paragraph 130 of the Complaint are hereby denied.

131. The allegations set forth in paragraph 131 of the Complaint are hereby denied.

132. The allegations set forth in paragraph 132 of the Complaint are hereby denied.

133. The allegations set forth in paragraph 133 of the Complaint are hereby denied.

134. The allegations set forth in paragraph 134 of the Complaint are hereby denied.

135. The allegations set forth in paragraph 135 of the Complaint are hereby denied.

136. Defendant repeats and responds to each and every allegation set forth above in paragraphs 1-135 of the Complaint as if fully set forth herein.

137. The allegations set forth in paragraph 137 of the Complaint constitute a restatement of case law and require no response.

138. The allegations set forth in paragraph 138 of the Complaint are hereby admitted.

139. The allegations set forth in paragraph 139 of the Complaint are hereby admitted.

140. Defendant lacks sufficient knowledge or information sufficient to admit or deny whether the Landlord Assignment is "valid" absent authentication and therefore denies the allegations set forth in paragraph 140 of the Complaint.

141. The allegations set forth in paragraph 141 of the Complaint are hereby denied.

142. The allegations set forth in paragraph 142 of the Complaint are hereby denied.

143. The allegations set forth in paragraph 143 of the Complaint are hereby denied.

144. The allegations set forth in paragraph 144 of the Complaint are hereby denied.

145. The allegations set forth in paragraph 145 of the Complaint are hereby denied.

146. The allegations set forth in paragraph 146 of the Complaint are hereby denied.

147. Defendant repeats and responds to each and every allegation set forth above in paragraphs 1-146 of the Complaint as if fully set forth herein.

148. The allegations set forth in paragraph 148 of the Complaint constitute a restatement of case law and require no response.

149. The allegations set forth in paragraph 149 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

150. The allegations set forth in paragraph 150 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

151. The allegations set forth in paragraph 151 of the Complaint are hereby admitted.

152. The allegations set forth in paragraph 152 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

153. The allegations set forth in paragraph 153 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

154. The allegations set forth in paragraph 154 of the Complaint are hereby denied.

155. The allegations set forth in paragraph 155 of the Complaint are hereby denied.

156. The allegations set forth in paragraph 156 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

157. The allegations set forth in paragraph 157 of the Complaint are hereby denied.

158. Defendant repeats and responds to each and every allegation set forth above in paragraphs 1-157 of the Complaint as if fully set forth herein.

159. The allegations set forth in paragraph 159 of the Complaint constitute a restatement of case law and require no response.

160. The allegations set forth in paragraph 160 of the Complaint are hereby denied.

161. The allegations set forth in paragraph 161 of the Complaint are hereby denied.

162. The allegations set forth in paragraph 162 of the Complaint are hereby denied.

163. The allegations set forth in paragraph 163 of the Complaint are hereby denied.

164. Defendant repeats and responds to each and every allegation set forth above in paragraphs 1-163 of the Complaint as if fully set forth herein.

165. The allegations set forth in paragraph 165 of the Complaint constitute a restatement of case law and require no response.

166. The allegations set forth in paragraph 166 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

167. The allegations set forth in paragraph 167 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

168. The allegations set forth in paragraph 168 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

169. The allegations set forth in paragraph 169 of the Complaint are not directed to this Defendant, and Defendant therefore neither admits nor denies the allegations.

170. The allegations set forth in the Prayer for Relief's subpart a in the Complaint are hereby denied.

171. The allegations set forth in the Prayer for Relief's subpart b in the Complaint are hereby denied.

172. The allegations set forth in the Prayer for Relief's subpart c in the Complaint are hereby denied.

SECOND DEFENSE

Accord and Satisfaction

173. Pursuant to Tenn. R. Civ. P. 8.03, Defendant hereby asserts the affirmative defense of accord and satisfaction.

174. Plaintiff repeatedly claims Defendant was in default under the Lease for its alleged failure to pay its December 2022 rent in a timely manner. (See, Compl. at ¶¶ 61, 69, 79, 80, 131).

175. On January 5, 2023, Ryan Meredith, an agent or employee of Plaintiff, emailed counsel for Defendant and requested "overdue rent for December 2022" in the amount of $14,756.70. Plaintiff's agent stated that this total amount included the $14,054.00 rent plus a five percent (5%) late charge of $702.70.

176. Defendant promptly issued a check in the amount of $14,756.70 on January 6, 2023.

177. Defendant's counsel responded to Plaintiff's agent, Mr. Meredith, via email on January 10, 2023 to inform him that Defendant had mailed its rent check. Plaintiff's agent replied "Thank you." 32 minutes later.

178. Plaintiff deposited Defendant's rent check in the amount of $14,756.70 on January 18, 2023.

179. The facts set forth above herein in paragraphs 173 to 178 constitute accord and satisfaction under Tennessee law. The tendered rent payment via check was solicited, offered and delivered to fully satisfy the original rent obligation. Defendant intended the tendered payment, which included the rent amount plus the contractually specified late charge stated by Plaintiff's agent, to completely satisfy the December 2022 rent obligation. Defendant's intent for this payment to fully satisfy the rent obligation was known to and confirmed by Plaintiff's agent. Plaintiff accepted the rent payment via check with the understanding that it completely satisfied the rent obligation, as it was written in the exact amount stated by Plaintiff's agent in his written request for same.

180. For the foregoing reasons, all claims asserted by Plaintiff for breach of contract or Lease because of Defendant's alleged failure to pay the December 2022 rent should be dismissed in their entirety.

181. Because the foregoing claim of breach should be dismissed, all claims against Defendant for its removal of movable trade fixtures that are contingent upon this alleged breach should also be dismissed, as those baseless claims are grounded in Plaintiff's claim of breach for failure to pay rent. (See, Compl. at ¶¶ 79-81, 128-135).

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THIRD DEFENSE

Estoppel

182. Pursuant to Tenn. R. Civ. P. 8.03, Defendant hereby asserts the affirmative defense of estoppel.

183. The voluntary conduct of Plaintiff, by and through its agents, absolutely precludes Plaintiff from asserting any rights either of property, contract or remedy against Defendant which, in good faith, relied on Plaintiff's conduct and has been led thereby to act in reliance thereon.

184. Plaintiff solicited, accepted and deposited payment from Defendant for December 2022's rent. In reliance on this conduct, Defendant understood its removal of all movable trade fixtures to be contractually allowed and its subsequent sell of these trade fixtures to be appropriate. Now, Plaintiff seeks to assert multiple causes of action contingent upon an alleged breach for failure to pay that, in fact, constituted no breach at all.

185. For the foregoing reasons, the doctrine of equitable estoppel should preclude Plaintiff from asserting any claims for breach arising from Defendant's failure to pay its December 2022 rent or its contractually allowed removal of its movable trade fixtures from the Property and subsequent sell of same.

FOURTH DEFENSE

Waiver

186. Pursuant to Tenn. R. Civ. P. 8.03, Defendant hereby asserts the affirmative defense of waiver.

187. Defendant had no obligation to leave behind its movable trade fixtures when it vacated the premises on December 31, 2022, because Defendant never breached the

contract in such a manner that would preclude its good faith reliance on the contractual provision allowing for the removal of its movable trade fixtures. (see, Pl.'s Ex. 1 at §14).

188. Though it did so, Defendant also had no duty under the contract to leave the Property in *better* condition than it when it took possession under the Lease.

189. Plaintiff solicited Defendant's December 2022 rent payment plus late charges, accepted Defendant's check in the exact solicited amount, and deposited Defendant's check into its bank account. By doing so, Plaintiff effectively waived all legal authority to claim breach of Lease for failure to pay the December 2022 rent and improper removal of movable trade fixtures contractually contingent thereon.

190. All claims grounded in Defendant's alleged breach for failure to pay the December 2022 rent and it alleged improper removal of its movable trade fixtures should be dismissed in their entirety.

FIFTH DEFENSE

Unclean Hands

191. Defendant hereby asserts the doctrine of unclean hands with respect to Plaintiff and its related corporate entities, employees or agents.

192. Here, the Court may decline to grant any relief to Plaintiff for its apparent willful engagement in unconscionable, inequitable or illegal acts with regard to the subject matter of this action.

193. The willful acts of Plaintiff and its related corporate entities, employees or agents would be condemned and pronounced as wrongful by fair-minded persons, and the doctrine of unclean hands is therefore an appropriate defense.

194. Plaintiff's attempts to undermine the business and business relationships of Defendant dates back prior to the purchase of the Property by Plaintiff when it purposefully and intentionally interfered with the attempted purchase of the Property by Defendant.

195. Following the purchase of the Property by Plaintiff in June 2021, Plaintiff made multiple attempts to force Plaintiff into vacating the premises prior to the end of its Lease, communicating possible claims of breach and other issues to Defendant.

196. Plaintiff has repeatedly been the subject of controversy in the local media and among the local community for its business practice of buying up locally-owned properties and small businesses, coming under particular ire among local residents for purchasing the Exit/In, one of the last remaining historic and locally, independently owned music venues in Nashville.

197. Upon information and belief, Plaintiff has attempted to improve its own public standing by planning and executing a public relations scheme designed to make itself out to be a victim by placing Defendants in a false light in the public eye.

198. Plaintiff has alleged multiple unsupported claims in this action, including, but not limited to, failure to pay rent, conversion of property and petty vandalism.

199. Defendant has demonstrated accord and satisfaction with respect to December 2022 rent above herein.

200. Defendant has demonstrated that Plaintiff failed to timely enter the premises after Defendant removed its movable trade fixtures, cleaned and vacated the Property on December 31, 2022. Plaintiff either entered the Property on January 2, 2023 and curiously failed to report any damage to the Metropolitan Nashville Police Department for three full days, or Plaintiff failed to enter and take possession of the Property when it alleges. (See, Compl. at ¶¶ 68, 70).

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201. Plaintiff or its agent proactively reported the alleged property damage to the local media, resulting in multiple news stories about the alleged damage and having the effect of portraying Defendants in a false light.

202. Any police report filed with the Metropolitan Nashville Police Department containing any false allegations made or asserted by Plaintiff or its agents would constitute a false report and a violation of Tennessee law.

203. All of the above fairly give rise to the concerning suspicion that even this cause of action, without Plaintiff counsel's knowledge, is part of Plaintiff's public relations scheme or designed to affect another pending legal action.

SIXTH DEFENSE

Failure to State a Claim Upon Which Relief Can Be Granted

204. Pursuant to Tenn. R. Civ. P. 12.02(6), Defendant respectfully moves this Court to dismiss all causes against it for Plaintiff's failure to state a claim upon which relief can be granted. In support of this motion, Defendant would show as follows:

Count I

205. With respect to Count I in the Complaint, which alleges breach resulting from damage to property, Plaintiff has failed to plead or demonstrate the following material facts in support of its claims:

i. that the leased Property was turned over in worse condition than when Defendant's Lease commenced;

ii. that Defendant was required to deliver the leased premises in *better* condition than when the lease commenced;

iii. that Defendant actually caused the alleged damage to the Property;

iv. that a third-party did not actually cause the damage to the Property between the time Defendant vacated and when Plaintiff finally took possession;

v. that Plaintiff or an agent acting on behalf of Plaintiff did not actually cause the alleged damage to the Property in an attempt to harm the business reputation of Defendant; and,

vi. that Plaintiff removed anything from the Property other than movable trade fixtures, which it was expressly allowed to remove under the Lease.

206. Defendant vacated the premises on December 31, 2022. Plaintiff then failed to take possession in a timely manner. Plaintiff failed to bother entering its Property until several days after Defendant vacated, most likely entering on January 5, 2023, the date on which Plaintiff filed a police report with the Metro Nashville Police Department.

207. Plaintiff's agent Ryan Meredith failed to mention any alleged damage to the Property to Defendants' counsel when he emailed on January 5, 2023 to request rental payment for December 2022.

208. If Plaintiff did enter the Property on January 2, 2023, as it alleges, but failed to file a police report until January 5, 2023, then that raises multiple issues as to Plaintiff's own conduct and true motives.

209. As reported by the Nashville Scene on January 16, 2023, the Exit/In marquee was discovered by Plaintiff to state "Sorry Not Sorry" and "Shirtpanties! - a local prankster's tag, which anyone who's visited a Nashville venue bathroom in the past 15 years is almost sure to have seen." This fact, in itself, implies that a third-party was responsible for at least some of the alleged damage, if not all of the alleged damage, between the date and

time Defendant vacated the Property and the time Plaintiff finally got around to entering and taking possession of its Property.

210. Plaintiff has offered no evidence or proof whatsoever that the Property was left in worse condition than when Defendant took possession years before Plaintiff and its related corporate entity AJ Capital Partners parachuted into town to buy up locally-owned properties and businesses.

211. Plaintiff and Defendants are currently involved in a separate legal action concerning ownership of a business name and trademark,[1] and Plaintiff continues to suffer from self-inflicted harm to its business reputation in the local community. By all indications, Plaintiff's present baseless action and its purposeful act of feeding the property damage story to the local media appears designed to affect the trademark action in some regard, portray itself as a victim for public relations purposes, and/or further harm the business reputation of Defendants. For whatever purpose, Plaintiff had multiple possible motives to cause damage to the Property, which Metro documents show that it planned to entirely renovate anyway.

212. Plaintiff has failed to demonstrate that the movable trade fixtures Defendant actually removed from the Property do not qualify as "movable trade fixtures" under the Lease or Tennessee law. Furthermore, Plaintiff has failed to specify what items Defendants removed, as opposed to what a third-party may or may not have stolen or damaged.

213. For the foregoing reasons, Count I should be dismissed for failure to state a claim upon which relief can be granted.

[1] MVNTN Owner LLC v. Bona Fide Live, Inc., U.S.P.T.O, Trademark Trial & Appeal Bd., Consol. Opp. No. 91281446.

Count II

214. Count II in the Complaint is legally contingent on Defendant's alleged breach of the Lease by failing to pay the December 2022 rent. Defendant had the legal and contractual right to remove movable trade fixtures from the Property.

215. As stated in paragraphs 173 to 181 above herein, there was no breach of the Lease for failure to pay the December 2022 rent. Therefore, Defendant maintained the legal and contractual authority to remove all movable trade fixtures. (See, Pl.'s Ex. 1 at §14).

216. All property Defendant removed from the Property constituted "movable trade fixtures," and Plaintiff's Complaint fails to sufficiently state or demonstrate that Defendant removed anything other than such trade fixtures. Most of the items on the list provided by Plaintiff in the Complaint fall squarely within the definition of movable trade fixtures under the Lease and Tennessee law. (See, Compl. at p. 15, ¶75.)

217. Plaintiff has failed to sufficiently state or demonstrate the condition of the Property when Defendants took possession in order to contrast it with the alleged condition caused by Defendant's removal of the movable trade fixtures when it vacated the Property on December 31, 2022. Given that Plaintiff only recently parachuted in from out of state to buy up local properties around Nashville for the profit-driven purpose of development, it comes as little surprise that they have no knowledge of the Property's condition prior to 2021.

218. Plaintiff has also failed to acknowledge anywhere in its Complaint the extensive renovation work for the Property that it had previously planned to commence immediately upon taking possession[2] or that Metro Codes issued a stop-work order on these extensive renovations that kept the Property closed for longer than anticipated. Withholding

[2]Metro Historical Zoning Commission Permit No. 2022085721, Dec. 21, 2022.

both facts from the Court, which are directly relevant to this action, should raise concerns about the truth and veracity of all of Plaintiff's claims.

219. For the foregoing reasons, Count II should be dismissed in its entirety.

Count III

220. Count III in the Complaint is a catch-all claim alleging failure to indemnify for alleged breaches of contract and damages that Plaintiff has failed to sufficiently plead or should be dismissed for multiple other reasons set forth above herein.

221. Having insufficiently pled any counts set forth in the Complaint, Defendant has not obligation whatsoever to indemnify Plaintiff. Thefore, Count III should be dismissed in its entirety.

Count V

222. Count V in the Complaint alleges conversion of items that allegedly belong to Plaintiff.

223. Plaintiff has failed to demonstrate or sufficiently plead any grounds supporting its claim that Defendant actually removed items from the Property that belong to Plaintiff.

224. Plaintiff has failed to demonstrate or sufficiently plead any grounds supporting its claim that Defendant actually removed items from the Property that do not qualify as movable trade fixtures.

225. Most of the items on the list provided by Plaintiff in the Complaint fall squarely within the definition of movable trade fixtures under the Lease and Tennessee law. (See, Compl. at p. 15, ¶75.)

226. Given that Defendant possessed the legal and contractual right to remove movable trade fixtures from the Property, all claims of conversion should be dismissed.

227. For the foregoing reasons, Count V should be dismissed in its entirety.

Prayer for Relief

228. Plaintiff has failed to sufficiently plead its prayer, as it has failed to set out the amount of damages it alleges to have sustained in a definite amount.

229. Tennessee law dictates that Plaintiff is prohibited from recovering money damages in excess of the amount sought in the Complaint.

230. Because Plaintiff has plead no amount, it is entitled to no amount.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant prays that this honorable Court dismiss all claims asserted against it in their entirety with prejudice and costs taxed to Plaintiff.

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COUNTERCLAIM

Counter-Plaintiff Bona Fide Live, Inc. for its causes of action against Counter-Defendant MVNTN Owner LLC states as follows:

PARTIES, JURISDICTION AND VENUE

1. Counter-Plaintiff Bona Fide Live, Inc. ("BFL") is a duly registered Tennessee corporation with its principal place of business located at 7751 Indian Springs Drive, Nashville, Tennessee 37221.

2. Counter-Defendant MVNTN Owner LLC, ("MVNTN") is a foreign limited liability company formed in the State of Delaware with its principal place of business located at 429 Chestnut Street, Nashville, Tennessee 37203.

3. This Court has subject matter over this cause and personal jurisdiction over the parties hereto pursuant to Tenn. Code Ann. § 16-10-101 and § 20-2-201.

4. Venue is proper in this Court pursuant to § 20-4-102.

STATEMENT OF CASE

5. This counterclaim arises from the tortious conduct of Counter-Defendant MVNTN, its officers, employees or agents.

STATEMENT OF FACTS

6. BFL is owned and operated by Counter-Plaintiff Robert C. Cobb ("Mr. Cobb").

7. Mr. Cobb and BFL are engaged in the business of producing live entertainment performances and music experiences.

8. BFL is engaged in booking entertainment performances, live music marketing and concert ticketing.

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9. For several years until December 31, 2022, Mr. Cobb and BFL operated EXIT/IN, one of the last remaining independent and locally owned music venues in Nashville, at 2208 Elliston Place, Nashville, Tennessee 37203 ("EXIT/IN Property").

10. For several years until December 31, 2022, Mr. Cobb and BFL operated Hurry Back, a restaurant and bar, at 2212 Elliston Place, Nashville, Tennessee, 37203 ("Hurry Back Property"). The Hurry Back Property was located immediately next to the EXIT/IN Property. (EXIT/IN Property and Hurry Back Property are hereinafter collectively referred to as the "Properties.")

11. Mr. Cobb, both as owner of BFL and previously in other business capacities, spent years renovating and improving the Properties by performing extensive work, acquiring intellectual property, and purchasing trade fixtures in furtherance of the respective businesses located within.

12. The type of business in which Mr. Cobb and BFL are engaged is a purely relationship-driven business.

13. Mr. Cobb, as owner of BFL, an employee and owner of EXIT/IN, and in other various professional and individual capacities spent over twenty years cultivating business relationships, working with booking agents, promoters, artists and managers, and promoting EXIT/IN nationally and internationally for the benefit of BFL and EXIT/IN.

14. Having owned and operated EXIT/IN for several years, as well as Hurry Back, Mr. Cobb attempted to purchase the Properties from its then-owners, Anthony Rentals and Gene Horton Nash Trust, for more money than was ultimately paid by MVNTN.

15. MVNTN purchased the Properties out from under Counter-Plaintiffs for $6,450.000 on June 31, 2023.

16. Upon information and belief, MVNTN intentionally interfered with Counter-Plaintiff's ability to purchase of the Properties.

17. Upon information and belief, upon taking possession of the Properties, MVNTN, by and through its employees, agents or officers, commenced a public relations campaign with the dual intention of portraying Mr. Cobb and BFL in a negative light and attempting to portray itself as a victim by make itself out to be a victim.

18. Upon information and belief, MVNTN, by and through its employees, agents or officers, contacted the local press, namely Ms. Molly Davis of *The Tennessean*, and encouraged her to write and publish an article about what MVNTN described as damage to the Properties and even sent her photos of the properties to be used in the requested article.

19. The reported damage to the Properties was reported locally and nationally online in January 2023, and the stories evidence MVNTN's apparent intent to cast Mr. Cobb in a negative light and detrimentally impact his business reputation in the relevant business community.

20. Since that time, Mr. Cobb has learned that third-parties in the relevant business community have communicated to others that Mr. Cobb "destroyed EXIT/IN."

21. Since that time, Mr. Cobb has experienced increasing difficulty doing business in the relevant business community with long-time business relations, including booking agents and others, who routinely fail to answer or return his phone calls like they did prior to the articles.

22. On or about January 9, 2023, Mr. Michael Mauer a marketing director of MVNTN communicated to Meta and misrepresented that MVNTN purchased the EXIT/IN business in order to gain exclusive access and control of Counter-Plaintiffs' social media business accounts.

23. Mr. Mauer knew or should have known that MVNTN only purchased the Properties, not the businesses.

24. Mr. Mauer made this representation while a legal dispute specifically involving ownership of the business name "EXIT/IN" and its trademark was pending before the U.S. Patent and Trademark Office's Trademark Trial and Appeal Board.[3]

25. Despite possession of this knowledge, MVNTN's employee or agent, Mr. Mauer, requested the transfer and gained exclusive control of EXIT/IN's Instagram and Facebook business accounts and maintains sole control of both at this time. Because of this, Counter-Plaintiffs have lost access to the ability to directly communicate to and with all the users, followers and friends thereon.

CAUSES OF ACTION

I. INTENTIONAL INTERFERENCE IN BUSINESS RELATIONSHIPS

26. Mr. Cobb and BFL maintained existing and prospective business relationships with an identifiable class of third persons, namely patrons, booking agents, artists, promoters, and managers.

27. MVNTN had knowledge of those specific types of existing and prospective relationships.

28. MVNTN had knowledge of Mr. Cobb's interest and attempts to purchase the Properties, as his efforts to save EXIT/IN and protect this locally owned venue were widely reported in the media.

[3] MVNTN Owner LLC v. Bona Fide Live, Inc., U.S.P.T.O, Trademark Trial & Appeal Bd., Consol. Opp. No. 91281446.

29. Through its purposeful and intentional conduct, MVNTN intended to terminate Mr. Cobb's and BFL's existing and prospective business relationships with the identifiable class of third persons.

30. Through its purposeful and intentional conduct, MVNTN intended to terminate Mr. Cobb's ability to purchase the Properties.

31. The predominant purpose of MVNTN's purposeful and intentional conduct was to injure Mr. Cobb and BFL.

32. Mr. Cobb and BFL suffered significant monetary damages as a direct result of losing the historic venue in which the EXIT/IN business was located for over fifty years and losing the building in which the Hurry Back business was located.

PRAYER FOR RELIEF

WHEREFORE, Counter-Plaintiffs seek the following relief from Counter-Defendant:

a. that Counter-Plaintiffs jointly be awarded compensatory damages in the amount of One Million and 00/100 Dollars ($1,000,000) for Counter-Defendant's intentional interference with existing and prospective business relationships;

b. that Mr. Cobb be awarded compensatory damages in the amount equal to the official appraised value of the Properties, which was Five Million, Thirty-Seven Thousand, Eight Hundred and 00/100 Dollars ($5,037,800) in 2022, for Counter-Defendant's intentional interference in Mr. Cobb's opportunity to purchase the Properties;

c. that Counter-Defendant be ordered to pay the costs of this suit, including all reasonable expenses and court costs; and,

d. that Counter-Plaintiffs be awarded any other legal, equitable and further relief as the Court deems just, equitable and proper.

Respectfully submitted,
CLEMMONS & CLEMONS, PLLC

/s/ John Ray Clemmons
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Counsel for Defendants/Counter-Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER and COUNTERCLAIM will be served on the following by hand-delivery:

Ms. Margaret M. Siller (#39058)
MAYNARD COOPER & GALE, P.C.
1201 Villa Place, Suite 103
Nashville, Tennessee 37212
Counsel for Plaintiff/Counter-Defendant

on this the 9th day of May, 2023.

/s/ John Ray Clemmons
John Ray Clemmons

Exhibit 7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MVNTN OWNER LLC, Opposer, v. BONA FIDE LIVE, INC., Applicant.	Consolidated Opposition No. 91281446

APPLICANT'S INITIAL DISCLOSURES

Pursuant to 37 C.F.R. § 2.120(a)(2)(ii), and in accordance with T.B.M.P. § 401.02 and Rule 26(a)(1)(A)(i)-(ii) of the Federal Rules of Civil Procedure, applicant Bona Fide Live, Inc. ("BFL" or "Applicant") hereby makes the following initial disclosures to oppose MVNTN Owner LLC ("Opposer").

By making these disclosures, BFL does not represent that it is identifying every document, tangible thing, or witness possibly relevant to its claims or defenses, nor does BFL waive its right to object to production of any document or tangible thing on the basis of any privilege, the work product immunity, relevancy, undue burden, or any other valid objection. Rather, the present disclosures represent BFL's good faith effort to identify information and documents subject to the disclosure requirements of Rule 26(a)(1). The following list should not be interpreted to be an admission that any of the identified individuals will have discoverable information.

Further, BFL's disclosures are made without in any way waiving:

1. The right to object on the grounds of competency, privilege, relevancy and materiality, hearsay or any other proper ground, to the use of any such information

for any purpose, in whole or in part, in any subsequent stage of proceeding in this proceeding or in any other action;

2. The right to object on any and all grounds, at any time, to any other discovery proceeding involving or relating to the subject matter of these disclosures; and

3. The right to supplement and/or amend these disclosures before or as a part of its pretrial disclosures in these proceedings.

FED. R. CIV. P. 26(a)(1)(A)(i): The name and, if known, the address and telephone number of each individual likely to have discoverable information — along with the subject of that information — that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment:

Chris Cobb - to be contacted only through BFL's counsel

Manager and Registered Agent of Applicant

- The acquisition by Laissez Bons Temps Roullez, Inc. of the EXIT/IN business operated on the premises leased from Anthony and Nash Partnership located at 2208 Elliston Place, Nashville, TN.

- Exclusive operation of the EXIT/IN business by Laissez Bons Temps Roullez, Inc. and its successor JR Facility Management LLC, and then by Mr. Cobb's business, Bona Fide Live, Inc., continuously from 2007 to December 31, 2022 (for purposes of these disclosures, such entities will be referenced collectively as "Applicant").

- Applicant's marketing, promotion, bookings, bookkeeping, merchandising, licensing, health and safety compliance, social media and online presence, and other day-to-day operations of the EXIT/IN business located at 2208 Elliston Place.

- Applicant's expansion of its business located at 2208 Elliston Place to include Applicant's HURRY BACK restaurant.

- Applicant's creation and placement of proprietary exterior signage for its EXIT/IN and HURRY BACK businesses.

- The history of the EXIT/IN business named and created by entrepreneurs Brugh Reynolds and Owsley Manier in 1971 and operated by Reynolds and Manier in the leased Elliston Place property.

- The September 1, 2011 lease from Anthony and Nash Partnership to the premises on Elliston Place wherein Applicant and owner/operators prior to Applicant ran the EXIT/IN business.

- US Application Serial Nos. 90/636,889 and 90/671,100, opposed herein.

- Applicant's priority of use in the EXIT/IN mark through a series of owner/operators of the EXIT/IN business beginning with the creation and operation of the EXIT/IN business by Messrs. Manier and Reynolds in 1971.

Nick Spiva – contacts: nick@spivahill.com

Retired Owner/Operator of the EXIT/IN business

- Acquisition in 1975 by/for Mr. Spiva and his business partner, Vianda Hill, of assets of the original EXIT/IN business (as created and operated by Messrs. Manier and Reynolds and other partners) from EXIT/IN's bankrupt estate which was liquidated under Chapter 7 of the US Bankruptcy Code.

- The EXIT/IN business from approximately 1976 to 1978.

- The acquisition of the EXIT/IN business by Wayne Oldham and Jack Dennett from Spiva/Hill.

In addition to the foregoing, BFL identifies and incorporates by reference the following additional persons who may have knowledge of facts relevant to this proceeding:

The persons identified by Opposer in its Initial Disclosures in this proceeding.

By indicating the general subject matter of information these individuals may have, BFL is in no way limiting its right to call any individual(s) listed to testify concerning other subject(s). BFL reserves the right to disclose additional individuals whom BFL may use to support its claims or defenses based on information learned during the course of this proceeding.

FED. R. CIV. P. 26(a)(1)(A)(ii): A copy — or a description by category and location — of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody or control and may use to support its claims or defenses, unless the use would be solely for impeachment:

At this time, Applicant believes it has in its possession, custody, or control and may use the following categories of documents to support its claims and defenses in this proceeding:

(1) U.S. Patent and Trademark Office records concerning Opposer's and Applicant's respective applications for marks containing or comprising EXIT/IN.

(2) Documents describing the creation of the EXIT/IN mark and operation of the EXIT/IN business by Messrs. Manier and Reynolds and subsequent owner/operators.

(3) Documents surrounding the chain of title of the real property located at 2208 Elliston Place wherein the EXIT/IN business was operated from 1971 to December 31, 2022 by a series of owners/operators.

(4) Documents relating to the day-to-day operations of the EXIT/IN business including, but not limited to, advertising and marketing efforts for the EXIT/IN marks and services, merchandising, bookings, regulatory compliance and licensing, finances, and taxes.

(5) Documents relating to the enforcement of the EXIT/IN mark.

BFL also believes that Opposer possesses, and has possessed since prior to the initiation of this proceeding, documents on which BFL may rely to support its claims or defenses in this proceeding.

Further, Opposer has, directly or indirectly, appropriated certain social media assets of Applicant, resulting in Applicant's inability to access such accounts and assets, for purposes of discovery or otherwise.

Provide a Computation of Any Damages Claimed by the Disclosing Party, Making Available For Inspection and Copying as Under Rule 34 the Document or Other Evidentiary Material, Not Privileged or Protected From Disclosure, on Which Such Computation is Based, Including Materials Bearing on The Nature and Extent of Injuries Suffered:

Not applicable.

Provide For Inspection and Copying Any Insurance Agreement Under Which Any Person Carrying on an Insurance Business May be Liable to Satisfy Part or All of a Judgment Which May be Entered in the Action or to Indemnify or Reimburse For Payments Made to Satisfy the Judgment. (See Fed. R. Civ. P. 26(a)(A)(iv)):

Not applicable.

Provide the Identities and Opinions of Any Expert Witnesses

BFL has not yet retained any experts to testify in this matter, but expressly reserve the right to do so in the future. As appropriate, BFL will supplement this response as required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

Respectfully submitted,

/s/ Karol A. Kepchar
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Attorneys for Bona Fide Live, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of *Applicant's Initial Disclosures* was served via email upon Opposer on February 3, 2023 as follows:

Ian J. Block
Neal Gerber and Eisenberg LLP
2 N. Lasalle Street, Suite 1700
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Dated: February 3, 2023

Karol A. Kepchar, Esq.

/s/ Karol A. Kepchar