

1. Filing of any type of Bankruptcy proceeding by Pelican (any Pelican Company) or Guarantor Jonathan Scully;
2. Insolvency of Pelican, any Pelican Company or Jonathan Scully;
3. Failure of Pelican, any Pelican Company, or Jonathan Scully to perform any obligation required by this agreement or any applicable note, including Jonathan Scully's failure to perform as personal guarantor within Ten (10) days of demand being made upon him to so perform;
4. Failure to make payments under this agreement or any applicable note when due;
5. Felony criminal conviction of Jonathan Scully;
6. Breach of Fiduciary Duty by Jonathan Scully;
7. Failure of Jonathan Scully to run Pelican profitably and/or to devote 100% of his business time to Pelican.
8. Failure of Jonathan Scully to execute a non-compete agreement in favor of Millennium and Pelican as required by VI.2. below within 60 days of the signing of this agreement, regardless of the cause of such failure.
9. Pelican or Jonathan Scully's failure to provide information to Millennium as requested, or providing incorrect or false information in this contract.

B. REMEDIES FOR DEFAULT

1. If Pelican or Jonathan Scully shall be in DEFAULT of this agreement as defined in IV. above, then the entire balance of all loans, advances, draws on line(s) of credit and notes, as well as all other obligations of Pelican and Jonathan Scully shall become immediately due. Millennium need not legally place Pelican and/or Jonathan Scully in default. If Millennium, in its sole discretion, elects to grant time for Pelican and/or Scully to cure such DEFAULT, the time for doing so and the terms of such cure shall be set in the sole discretion of Millennium and/or Ross Laris; or,
2. All ownership and membership of Pelican/Pelican Companies shall be immediately be transferred from Jonathan Scully and Pelican/Pelican Companies to Millennium. Such transfer does not release Guarantor, Jonathan Scully, from his obligations as Guarantor under this agreement.
3. If Millennium in its discretion chooses not to execute its rights upon DEFAULT, but instead allows time for Pelican or Jonathan Scully to cure such default, or otherwise agrees to delay execution, such choices shall not constitute a waiver by Millennium of any rights hereunder.

V. ADDITIONAL DOCUMENTS

All Pelican Companies' company documents, such as operating agreements, and the company book evidencing and listing ownership shall at the direction of Ross Laris be amended to reflect the ownership and membership in all such Pelican Companies by Millennium of 50.1%. Moreover, Pelican and Jonathan Scully, individually and as CEO/Manager of said companies, and as parties to this agreement, agree to execute any and all documents necessary to complete, clarify or document this transaction and any other transactions necessitated by it.

VI. MISCELLANEOUS ADDITIONAL TERMS

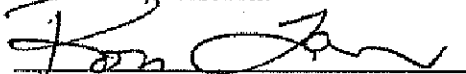
1. The parties herein acknowledge that Ross Laris and/or Millennium may have other business interests that compete directly or indirectly with Pelican. The parties hereby agree that no business venture of Ross Laris, Millennium, or any entity affiliated with either shall be considered a breach of any kind of legal duty whatsoever to Pelican or Jonathan Scully. This agreement and the ownership and membership interests in Pelican by Millennium or its designee shall in no way limit the business activity of Millennium or Ross Laris, whether such activity exists now, or in the future.
2. Jonathan Scully, if presented with such by Millennium and/or Pelican any time after execution of this agreement, shall execute a non-compete agreement in favor of Millennium and/or Pelican that is compliant with the laws of the State of Louisiana.
3. Millennium and Ross Laris shall have the right to assign its/his interest in this agreement, and any ownership and/or membership in Pelican, or any rights against Pelican or Jonathan Scully to any person or entity, at Millennium and/or Ross Laris' sole discretion. Neither Pelican, nor Jonathan Scully shall assign its rights hereunder, or derived from this agreement, without the sole written consent of Millennium and Ross Laris.
4. The Operating Agreements and Articles of Organization, and all other company formation documents of Pelican (Pelican Companies) shall be amended to allow for this agreement and the actions contemplated and required by it to take place. Notwithstanding any provision therein to the contrary, a 50.1% vote, either in person at a meeting or in writing, shall be all that is required to take company action for any Pelican Company. Jonathan Scully shall execute any and all amendments to the Pelican company documents to reflect this, within 7 days after the signing of this document, or before the first loan advance or draw on any line of credit provided by Millennium is made, whichever occurs first, and shall provide certified copies of such documents to Ross Laris within 24 hours of their execution.
5. Jonathan Scully and Pelican certify that no Pelican Company is currently in Bankruptcy of any kind, that no Bankruptcy filing has been contemplated for any Pelican Company, and that Pelican is not insolvent, nor is insolvency imminent. Jonathan Scully and Pelican further certify that the Pelican company documents, including any Articles of Organization, Incorporation, Operating Agreements and by-laws, allow for this contract to occur, and that execution of this contract is not a violation of any such document, nor a violation of law, nor a violation of legal duty to another person or entity, whether fiduciary, contractual, or otherwise.
6. This parties agree that this document has been mutually drafted by the parties and each party has had the opportunity to review it with his/its counsel and therefore, fully understands it. The parties agree that this document is not ambiguous, legally or otherwise. However, should a court and/or arbitrator deem this document or any

document generated as a result of it is ambiguous, then such ambiguity shall not be construed against either party, since the document was mutually drafted.

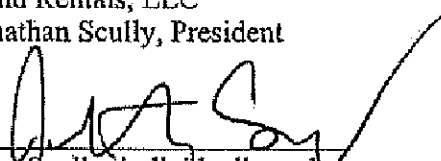
7. This document and any dispute arising out of it or any document executed as a result of it shall be decided pursuant to the laws of the State of Louisiana. The parties agree that any legal action taken between the parties, arising out or in any way related to this contract and/or their business relationship, shall be filed and litigated in the Seventeenth Judicial District for Lafourche Parish, Louisiana. Moreover, the prevailing party shall be entitled to collect all legal expenses, including attorneys' fees from the losing party.
8. The benefits and rights of Millennium and Ross Laris herein shall inure to their respective heirs, beneficiaries and assigns.
9. The parties may execute this document by signing separate originals, which if done, shall combine to form one original document.

SIGNED THIS 6 DAY OF Sept, 2021.


Millennium Supply Boats, LLC by:
Ross Laris, President


Ross Laris

Pelican Companies of America, LLC
Pelican Rentals and Services, LLC
Pelican Contractors of USA, LLC
Pelican Industrial of USA, LLC
Pelican Equipment Company, LLC
Pelican Marine and Oil, LLC
Pelican Transportation and Logistics, LLC
Jonathan Scully Companies, LLC
Pelican Real Estate of America, LLC
Lake End Rentals, LLC
By: Jonathan Scully, President


Jonathan Scully, individually and as
Personal Guarantor of Pelican

UNITED STATES OF AMERICA
STATE OF LOUISIANA
PARISH OF TERREBONNE

PERSONAL GUARANTEE

I, JONATHAN SCULLY, D.O.B. 04/11/92, SSN XXX-XX-0403, HEREBY PERSONALLY THE PERFORMANCE OF ANY AND ALL OBLIGATIONS OF PELICAN AND THE PELICAN COMPANIES (USED SYNONIMOUSLY THEREIN) TO MILLENIUM SUPPLY BOATS, LLC, ROSS LARIS, AND ANY AND ALL OF THEIR DESIGNEES, HEIRS AND/OR BENEFICIARIES, AS CONTAINED IN, REQUIRED BY, AND PURSUANT TO THAT CONTRACT AND PERSONAL GUARANTEE EXECUTED BETWEEN THE PARTIES THERETO ON THE 6 DAY OF Sept, 2021, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT "A". SAID ANOTHER WAY, THIS PERSONAL GUARANTBE BINDS ME, JONATHAN SCULLY, IN ADDITION TO ALL OTHER OBLIGATIONS REQUIRED THEREUNDER, TO PERSONALLY REPAY ALL LOANS, ADVANCES, DRAWS ON LINES OF CREDIT, INTEREST, ATTORNEYS' FEES REQUIRED BY THE ABOVE DESCRIBED AND ATTACHED DOCUMENT IN FAVOR OF MILLENIUM SUPPLY BOATS, LLC AND/OR ITS DESIGNEE, INCLUDING ALL BENEFICIARIES, HEIRS OR ASSIGNS. THIS PERSONAL GUARANTEE AND ALL ITS TERMS ALSO APPLY TO ANY AND ALL NOTES EXECUTED BY THE PELICAN COMPANIES (AS DEFINED IN THE DESCRIBED AND ATTACHED CONTRACT) IN FAVOR OF MILLENIUM AND SHALL BE ATTACHED TO EACH SUCH NOTE AND BECOME PART AND PARCEL TO IT UPON ITS ATTACHMENT. MY OBLIGATIONS HEREUNDER SHALL ALSO INURE TO THE PERSONAL BENEFIT OF ROSS LARIS SHOULD HE MAKE PERSONAL DEMAND UPON ME TO ACT AS GUARANTOR. THIS PERSONAL GUARANTEE ALSO INURES TO THE BENEFIT OF ALL BENEFICIARIES, HEIRS AND ASSIGNS OF ROSS LARIS.



JONATHAN SCULLY

Sept 6 - 21

DATE

PELICAN COMPANIES OF AMERICA, L.L.C.

ACT OF CASH SALE AND ASSIGNMENT

UNITED STATES OF AMERICA

BY: JONATHAN W. SCULLY

STATE OF LOUISIANA

TO: MILLENNIUM SUPPLY BOATS, LLC

PARISH OF

TERREBONNE

BE IT KNOWN That on the days and dates hereinafter provided, but effective as of
September 6, 2021;

BEFORE THE UNDERSIGNED NOTARIES PUBLIC, duly commissioned and qualified in and for
the State of Louisiana, and Parishes hereinafter described, and in the presence of the undersigned
competent witnesses;

PERSONALLY CAME AND APPEARED:

JONATHAN W. SCULLY (XXX-XX-0403), a person of the full age of majority and of full
capacity, domiciled in the Parish of St. Mary, State of Louisiana, with the current mailing address of
3721 Fifth Street, Berwick, LA 70342 (hereinafter sometimes referred to as "Seller");

who declared that:

1. Seller is the owner of certain outstanding Membership Interests and Sharing Ratios of
PELICAN COMPANIES OF AMERICA, L.L.C., a Louisiana limited liability company, (the
"Company") in the amounts and proportions set forth in Exhibit A attached hereto. The said
Exhibit A attached hereto also shows the owners of all of the Membership Interests and Sharing
Ratios in and to the Company that are issued and outstanding. The Membership Interests and
Sharing Ratios of the Company that are owned by Seller are not represented by certificates.
Capitalized terms used in the agreement have the same meanings as those terms as defined in the
Operating Agreement of the Company.

2. a. Seller does hereby transfer, sell, assign, set over and deliver with all legal
warranties, unto

MILLENNIUM SUPPLY BOATS, LLC, a Louisiana limited liability company, created,
organized and in good standing pursuant to the Laws of the State of Louisiana, represented

Scully to Millennium Supply Boats, LLC

Pelican Companies of America, L.L.C.

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[Signature]
Dy. Clerk of Court



herein its sole manager and member, Ross Laris, with a current mailing address of P.O. Box 128, Lockport, LA 70342 (hereinafter sometimes referred to as "Buyer")

the following described property, to-wit:

50.1 % membership units of Seller's Membership Interests and Sharing Ratios in, to and of PELICAN COMPANIES OF AMERICA, L.L.C. of whatsoever nature and kind, which Seller certifies, represents and warrants are correctly described in Exhibit A attached hereto.

for and in consideration of the price of Ten Dollars and no/100 (\$10.00) Dollars and other good and valuable consideration as provided for in the Contract and Personal Guarantee by and between the parties dated September 6, 2021, receipt of which the said Seller hereby acknowledges and grants a receipt and full discharge therefor.

3. Seller declares that the Membership Interests and Sharing Ratios in the Company conveyed to Buyer this date are free of any and all liens, mortgages, UCC filings and security interests whatsoever in favor of any person, and agree to indemnify, defend and hold the Buyer harmless from and against any and all claims arising from any liens, mortgages, UCC filings and security interests asserted by any person against the Membership Interests and Sharing Ratios of the Company heretofore owned by Seller and which are transferred to Buyer herein, and this indemnification shall extend to Buyer's reasonable attorneys fees and costs in defending against the claims and in enforcing this indemnification.

4. Seller certifies that it has not taken any actions in the management of the Company without the consent of the Required Interest that has or would have (a) created obligations on behalf of the Company or (b) materially modified the financial condition of the Company.

5. Buyer acknowledges and agrees to be bound by the terms, provisions and conditions, as Member, of the Operating Agreement of the Company, if any, effective as of the Company's creation, as the same may have been amended from time to time (hereinafter sometimes referred to as the "Operating Agreement") and certifies that (a) Buyer is a natural person domiciled in the State of Louisiana and have full power to execute and deliver this agreement and certification and perform its obligations under the Operating Agreement; (b) Buyer has executed this agreement and agree to be bound by the terms, provisions and conditions, as a Member of the Company, under the Operating Agreement as aforesaid; (c) Buyer's' authorization, execution, delivery and performance under and pursuant to the Operating Agreement, as a Member, do not

Scully to Millennium Supply Boats, LLC
Pelican Companies of America, L.L.C.

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conflict with any other agreement or arrangement to which Buyer is a party, or by which it is bound; (d) each Buyer, as a Member, is acquiring the interest of Seller for Buyer's own account as an investment and without the intent to distribute the interest; (e) Buyers acknowledge that the interest of Seller acquired by Buyer hereunder, have not been registered under the Securities Act of 1933 or any state securities laws and is subject to certain transfer restrictions as provided in the Operating Agreement and applicable law; and (f) the disposition made by Seller to Buyers is made in accordance with all applicable laws.

6. The parties confirm that this sale and assignment constitutes an amendment to the operating agreement(s), if any, of the Company to the extent necessary to permit this transfer to occur. Seller hereby warrants and represents he is authorized to make this transfer.

7. Buyer declares that his notice address for all notices due him as a member of the Company is 3721 Fifth Street, Berwick, LA 70342.

Seller declares that his notice address for all notices due him as a member of the Company is P.O. Box 128, Lockport, LA 70342.

STATE OF LOUISIANA
PARISH OF St. Mary

THIS DONE, PASSED AND SIGNED at Berwick, Louisiana on this 3 day of December, 2021 before the undersigned competent witnesses, the undersigned appearers and me, Notary, after due reading of the whole.

WITNESSES:

James A. Fuhrer II
James A. Fuhrer II

Jonathan W. Scully
Jonathan W. Scully, Seller

Brian Arceneaux
Brian Arceneaux

Tiffany Buonopane
NOTARY PUBLIC

Scully to Millennium Supply Boats, LLC
Pelican Companies of America, L.L.C.
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OFFICIAL SEAL
TIFFANY BUONOPANE
LSNID#152770-Notary Public
State of Louisiana/Parish of Lafourche
Commissioned for life

STATE OF LOUISIANA
PARISH OF Terrebonne

THIS DONE, PASSED AND SIGNED at Raceland, Louisiana on this 3 day
of December, 2021 before the undersigned competent witnesses, the undersigned
appears and me, Notary, after due reading of the whole.

WITNESSES:

Wendy Plaisance
Wendy Plaisance

Ross Laris
MILLENNIUM SUPPLY BOATS, LLC, Buyer
By: Ross Laris
Its: sole manager/member

DAJ
Dustin Arment

Emily Callais
NOTARY PUBLIC



EMILY CALLAIS
NOTARY PUBLIC NO. 165277
STATE OF LOUISIANA
PARISH OF TERREBONNE
My Commission is for Life

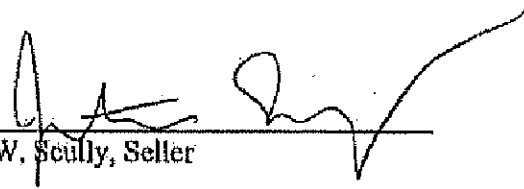
EXHIBIT A
TO
ACT OF CASH SALE AND ASSIGNMENT
MEMBERSHIP INTERESTS AND SHARING RATIOS OF
PELICAN COMPANIES OF AMERICA, L.L.C

HOLDERS AND OWNERS OF MEMBERSHIP INTERESTS AND SHARING RATIOS OF PELICAN COMPANIES OF AMERICA, L.L.C. BEFORE GIVING EFFECT TO THIS ACT OF CASH SALE AND ASSIGNMENT:

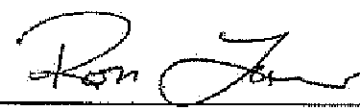
| NAME | MEMBERSHIP INTEREST/SHARING RATIOS OWNED |
|--------------------|--|
| JONATHAN W. SCULLY | 100% |
| ----- | ----- |
| ----- | ----- |
| TOTAL | 100% |

HOLDERS AND OWNERS OF MEMBERSHIP INTERESTS AND SHARING RATIOS OF PELICAN COMPANIES OF AMERICA, L.L.C. AFTER GIVING EFFECT TO THIS ACT OF CASH SALE AND ASSIGNMENT:

| NAME | MEMBERSHIP INTEREST/SHARING RATIOS OWNED |
|------------------------------|--|
| MILLENNIUM SUPPLY BOATS, LLC | 50.1% |
| JONATHAN W. SCULLY | 49.9 % |
| ----- | ----- |
| TOTAL | 100% |



 Jonathan W. Scully, Seller



 MILLENNIUM SUPPLY BOATS, LLC, Buyer
 By: Ross Laris
 Its: sole manager/member

OPERATING AGREEMENT
OF
PELICAN COMPANIES OF AMERICA, LLC

ARTICLE 8 OF THIS OPERATING AGREEMENT LIMITS THE TRANSFER OR HYPOTHECATION OF THE MEMBERSHIP INTERESTS (AS DEFINED HEREIN). THE MEMBERSHIP INTERESTS ARE TRANSFERABLE ONLY UPON COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY.

THE MEMBERSHIP INTERESTS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED WITHOUT AN EFFECTIVE REGISTRATION THEREOF UNDER THE SECURITIES ACT, DELIVERY OF AN OPINION OF LEGAL COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED AND/OR THE SUBMISSION TO THE COMPANY OF SUCH OTHER EVIDENCE AS MAY BE SATISFACTORY TO THE COMPANY THAT ANY SUCH TRANSFER WILL NOT BE IN VIOLATION OF THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, AND ANY RULE OR REGULATION PROMULGATED THEREUNDER.

THE MEMBERSHIP INTERESTS ARE BEING OFFERED AND SOLD UNDER THE EXEMPTION PROVIDED BY SECTION 4(2) OF THE SECURITIES ACT. THERE IS NO OBLIGATION ON THE ISSUER TO REGISTER THE MEMBERSHIP INTERESTS UNDER THE SECURITIES ACT. A PURCHASER OF ANY MEMBERSHIP INTERESTS MUST BE PREPARED TO BEAR THE ECONOMIC RISK OF THE INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

THE MEMBERSHIP INTERESTS HAVE NOT BEEN REVIEWED OR APPROVED BY THE SECURITIES ADMINISTRATORS OF ANY STATE OR OTHER JURISDICTION; NOR HAVE THEY BEEN QUALIFIED OR REGISTERED UNDER THE APPLICABLE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION AND ARE BEING OFFERED AND SOLD IN RELIANCE UPON EXEMPTIONS FROM THE QUALIFICATION OR REGISTRATION REQUIREMENTS OF SUCH LAWS. THEREFORE, A PURCHASER OF ANY INTEREST WILL NOT BE ABLE TO RESELL IT UNLESS THE INTEREST IS QUALIFIED OR REGISTERED UNDER THE APPLICABLE STATE SECURITIES LAWS OR LAWS OF OTHER JURISDICTIONS OR UNLESS AN EXEMPTION FROM SUCH QUALIFICATION OR REGISTRATION IS AVAILABLE.

RECEIVED AND FILED

JUL 08 2024
[Signature]
Dy. Clerk of Court



**OPERATING AGREEMENT
OF
PELICAN COMPANIES OF AMERICA, LLC**

For and in consideration of the covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, this Operating Agreement (the "Agreement") is made and entered into effective as of _____ (the "Effective Date") by all members listed below (the "Members" or "Parties," individually, a "Member" or "Party") to establish the terms of the operation of PELICAN COMPANIES OF AMERICA, LLC, a Louisiana limited liability company (the "Company"):

This Operating Agreement is subject to, and governed by, the Act and the Articles of the Company filed with the Louisiana Secretary of State. In the event of a direct conflict between the provisions of this Operating Agreement and the mandatory provisions of the Act or the provisions of the Articles of the Company, such provisions of the Act or the Articles of the Company, as the case may be, will be controlling.

**ARTICLE 1
DEFINED TERMS**

1.1 **Defined Terms.** The terms used in this Agreement with their initial letters capitalized, shall, unless the context otherwise requires, have the meanings specified in this Section. The singular shall include the plural and the masculine gender shall include the feminine and neuter, and vice versa, as the context requires. When used in this Agreement, the following terms shall have the meanings set forth below.

(a) "Act" shall mean the Limited Liability Company Law of Louisiana, as the same may be amended from time to time.

(b) "Agreement" shall mean this Operating Agreement, as originally executed and as amended from time to time, as the "here", "hereto", "hereby" and "hereunder", when used with reference to this Agreement, refer to this Agreement as a whole, unless the context otherwise requires.

(c) "Bankruptcy" shall mean, and a Member shall be deemed, a "Bankrupt Member" upon (i) the entry of a decree or order for relief against the Member(s) by a court of competent jurisdiction in any involuntary case brought against the Member under any bankruptcy, insolvency or other similar law (collectively, "Debtor Relief Laws") generally affecting the rights of creditors and relief of debtors now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent under applicable Debtor Relief Laws for the Member or for any substantial part of its assets or property; (iii) the ordering of the winding up or liquidation of the Member's affairs; (iv) the filing of a petition in any such involuntary bankruptcy case, which petition remains undismissed for a period of 180 days or which is not dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code any corresponding provision of any future United States Bankruptcy law); (v) the commencement by the Member of a voluntary case under any applicable Debtor Relief Law now or hereafter in effect; (vi) the consent by the Member(s) to the entry of an order for relief in an involuntary case under

JONATHAN SCULLY, ET AL

DOCKET NO: 138571 DIV. B

VERSUS

16TH JUDICIAL DISTRICT COURT

ROSS LARIS, ET AL

PARISH OF ST. MARY

STATE OF LOUISIANA

**OPPOSITION TO TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

NOW INTO COURT, through undersigned counsel, come Defendants, Millenium Supply Boats, LLC (Millenium) and Ross Laris, specially appearing herein and with full reservation of their rights to arbitration and exceptions including exception to subject matter jurisdiction based upon arbitration, venue, improper cumulation of actions, lack of procedural capacity, unauthorized use of summary proceedings; and No Right of Action, opposes the issuance of the existing Temporary Restraining Order ("TRO") and any preliminary injunction for those reasons set forth in the Memoranda submitted in support of their exception, and Defendants Exhibits 1 through 12 filed in the record, which are incorporated herein by reference.¹

The Ex Parte Order states:

"A temporary restraining order is issued and Ross Laris and Millenium Supply Boats, Inc. and those acting in concert therewith are hereby restrained and enjoined from exercising or purporting to exercise, any authority or control with respect to operations, management, finances, accounts, or otherwise on behalf of Pelican Companies...(all named)... Such authority for control and operations, management, or otherwise for these companies is duly recognized to be exercised by Jonathan Scully or his designee, until further order of this Court. The bond for this Temporary restraining order is set at \$15,000...."

THE TEMPORARY RESTRAINING ORDER- SHOULD BE VACATED:

Defendants object to the validity of this Order on numerous grounds set forth in the memoranda filed in support of exceptions reference above. The procedure set forth in La. C.C.P. Art. 3601 through 3604 was not followed.

This restraining order was issued with no notice to Laris or Millenium, no opportunity to be heard in Opposition, and no explanation was given in the Petition. In contrast, La. C.C.P. Art. 3603 states:

A. A temporary restraining order shall be granted without notice from the court when all of the following occur:

(1) It clearly appears from specific facts shown by a verified petition, by supporting affidavit, or by affirmation as provided in Article 3603.1(C)(3) that immediate and irreparable injury, loss, or damage

¹ See Exhibit 1, Contract and Guarantee; Exhibits 2 through 11, Operating Agreements from May of 2023 signed by Jonathan Scully

will result to the applicant before the adverse party or his attorney can be heard in opposition.

(2) The applicant's attorney certifies to the court in writing the efforts that have been made to give notice or the reasons supporting the applicant's claim that notice should not be required. (Emphasis added)

The TRO should not have been issued because the application did not show immediate and irreparable injury or loss would result to the applicant before the adverse party or his attorney could be heard in opposition. Counsel for Laris and Millenium was in touch with counsel for the applicant but there was no notification before the TRO was signed. The application had no explanation of how irreparable injury would occur before opposing counsel was notified of an intent to file a request for a TRO as required by La.C.C.P. Art 3603(A)(2).²

The application contained no written certification to the court of efforts made to give notice to defendants or the reasons supporting the application's claim that no notice is required under La.C.C.P. Art 3603(A)(2).

La. C.C.P. Art 3604(A), provides in pertinent part:

"A temporary restraining order... Shall state why the order was granted without notice and hearing..."

The Order entered in the above caption matter does not state why the order was granted without notice and hearing.

La. C.C. P. Art 3604(A) further states that the order:

"shall expire by its terms within such time after entry, not to exceed ten days, as the court shall prescribe."

The Order entered in the above captioned matter does comply with this requirement and instead states no deadline and instead extends "until further order of this Court" in violation of La.C.C.P. Art 3604(A). The failure to comply with the statutory requirements is fatal to the validity of the temporary restraining order issued herein.³

THE APPLICATION FOR PRELIMINARY INJUNCTION SHOULD BE DENIED:

An injunction is "a harsh drastic remedy that shall only issue when the petitioner is threatened with irreparable harm and has no adequate remedy at law".⁴

In *Boswell v. Lawrence*, a 40% minority owner of a Louisiana limited liability company claimed that the majority owner violated an operating agreement. The minority owner, like

² The parties had been working under the terms of the operating agreements, Exhibits 2 through 11, since May of 2023 so there was no immediacy when Mr. Scully decided they were invalid on July 8, 2024.

³ See *Dauphine v. Carencro High School*, 843 So. 2d 1096 (La. 2003)

⁴ *Boswell v. Lawrence*, 2015 WL 9589389 (La App. 4th Cir., 12/23/15)

Jonathan Scully, filed a civil suit for money damages and also sought an injunction. The district court found that the minority owner failed to show irreparable harm which is a requirement to receive a preliminary injunction. In affirming, the Fourth Circuit recognized that a written operating agreement was in effect which provided the rules for division between the owners. Thus, no injunction was allowed, as there was no irreparable harm because the remedy sought was a monetary damage award. Mr. Scully has failed to show he sustained irreparable injury to justify an injunction. He likewise seeks money.

"A preliminary injunction is an interlocutory procedural device designed to preserve the status quo, as it exists between the parties."⁵

This preliminary injunction did not maintain the status quo and contradicted the operating agreements between the parties. The operating agreements recognize Millennium as the majority owner of 50.1%. In contrast, the order restrained the majority owner from access to any financial involvement stating the majority owner, Millennium, and its owner Mr. Laris are:

"hereby restrained and enjoined from exercising or purporting to exercise, any authority or control with respect to operations, management, finances, accounts, or otherwise on behalf of Pelican Companies... "Such authority for control and operations, management, or otherwise for these companies is duly recognized to be exercised by Jonathan Scully or his designee, until further order of this Court."

This was an abuse of discretion. When Mr. Scully served as manager, there were financial problems including his use of company funds that is reflected in \$189,000 being owed by him to the Pelican Companies⁶ as well as other management failures, including failure to pay payroll and sales taxes timely.⁷ There are reasonable concerns that caused Millennium to start an audit, an audit which was stopped by this restraining order.⁸

Distributions are not allowed except if the members of a Louisiana limited liability company comply with certain requirements including the asset levels exceeding liabilities and there is compliance with the existing Operating Agreements.⁹ The existing TRO purportedly gives the minority shareholder rights not allowed under the above referenced authorities, disregarding the existing operating agreement and applicable law. Since the TRO, Mr. Scully has reportedly sold equipment and received profits which should be allocated to pay current or overdue business expenses. However, this court's TRO suggests that Millennium and Laris have no right to access

⁵ *Meredith v. I Am Music, LLC* 263 So. 3d 1143, 1146 (La. App. 1st Cir. 2019)

⁶ See Exhibit 12, p. 2.

⁷ *Id.*

⁸ *Id.*

⁹ See LSA R.S. 12:1327(A).

that information, so Defendants are uninformed despite provisions in the shareholder agreements requiring Defendants to have access and approval. The order states that Millennium and Laris are hereby restrained and enjoined from exercising or purporting to exercise, any authority or control with respect to operations, management, finances, accounts, or otherwise on behalf of Pelican Companies. This TRO has allowed Mr. Scully to wrongfully stop the financial audit of the books of the Pelican Companies, not maintain the status quo.

With regard to the request for a preliminary injunction, Plaintiffs' burden is articulated by the Louisiana First Circuit as follows:

"Generally the requirements to prevail at a hearing on a Motion for Preliminary Injunction are a showing that: (1) the injury, loss of damage the Mover will suffer if the injunction does not issue may be irreparable; (2) the Mover is entitled to the relief sought; and (3) the Mover is likely to prevail on the merits of the case."¹⁰

The court distinguishes between a mandatory injunction and a prohibitory injunction, stating a prohibitory injunction merely preserves the status quo.¹¹ The TRO issued herein is a mandatory injunction because it prevents the defendants from exercise of their rights under Louisiana law as majority owners of a limited liability company; specific rights under shareholder agreements signed by Mr. Scully before trial. Defendants' designee, an outside auditor, has been prevented from completing his financial audit of the books of the Pelican Companies. The existing TRO is inconsistent with the provisions of limited liability law set for in LSA R.S. 9:1327A which include enforcement of restrictions on distributions in shareholder agreements.

The Order that says: "Such authority and control for operations, management or otherwise, for these companies is duly recognized to be exercised by Jonathan Scully or his designee." This is the type of judgment that happens only after a trial on the merits, not a restraining order or preliminary injunction.

The operating agreements state the membership is Millennium -- 50.1%; Jonathan W. Scully -- 49.9%.¹² The financial and accounting records of the Pelican Companies are to be determined by accounting methods selected by members holding 50.1% of the membership which with the present allocation means Millennium.¹³ Distributions are to be made at such time as 50.1% of the membership determines, which at present means Millennium.¹⁴

¹⁰ See *Meredith*, at fn. 5.

¹¹ *Id.*

¹² See Defendants Exhibits filed with Exceptions in the record, Exhibits 2 through 11, p. 4, Section 5.1.

¹³ See Exhibits 2 through 11, p. 3, Section 4.1

¹⁴ See Exhibits 2 through 11, p. 4, Section 6.3.

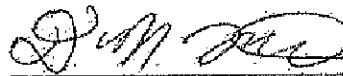
Mr. Scully was manager until that title and authority was revoked in April of 2024 for the reasons of poor management, including use of company funds for personal pursuits, not repaying indebtedness to the Pelican Companies, and other items set forth in the declaration of Matthew Bernard.¹⁵ The Operating Agreement states that the manager can be removed at any time, with or without cause, by members owning 50.1% of the ownership interest.¹⁶ Even when Mr. Scully was the manager, the duties of the manager were limited in various ways and in that regard under the operating agreement mentioned above, he was not authorized to make or accept loans without the approval of Millennium.¹⁷ The manager was not allowed to sell company assets without approval of Millennium.¹⁸ These rules were the status quo for more than a year before suit.

The Temporary Restraining Order was an abuse of discretion because Mr. Scully failed to sufficiently allege or demonstrate the required showing of irreparable injury. Now that these facts and evidence have been brought to the court's attention, the order should be immediately vacated. No preliminary injunction is warranted.

For the above reasons, and those set forth in our Memoranda in Support of Jurisdictional and Non-Jurisdictional Exceptions and Exhibits 1 through 12 filed in the record herein including the ten operating agreements and the Declaration Under Penalty of Perjury of Matthew Bernard, the Motion for Preliminary Injunction should be denied.

Respectfully submitted:

SALLEY HITE MERCER & RESOR, LLC



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¹⁵ See Exhibit 12.

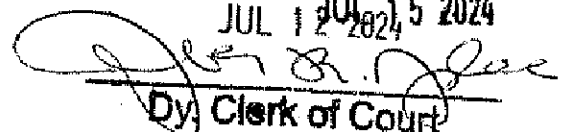
¹⁶ See Exhibits 2 through 11, p. 13, Section 8.12.

¹⁷ See Exhibits 2 through 11, p. 13, Section 8.8(c).

¹⁸ See Exhibits 2 through 11, p. 13, Section 8.8(b).

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JUL 15 2024



Dy, Clerk of Court

Facsimile: (985) 447-3233
criviere@rivierelaw.com
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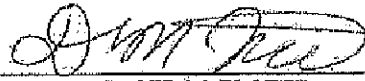
-and-

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*Specially Appearing as Counsel for
Defendants, Ross Loris and Millenium
Supply Boats, LLC, with full reservation of
Exceptions of Lack of Subject Matter
Jurisdiction, Prematurity, Improper Venue,
Improper Cumulation, Lack of Procedural
Capacity, and Improper Use of Summary
Proceedings*

CERTIFICATE OF SERVICE

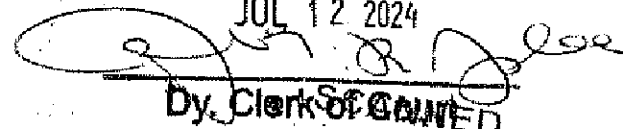
I hereby certify that I have on the 12th day of July 2024, served a copy of the foregoing pleading on counsel for all parties to the proceeding, either by facsimile, hand delivery, email and/or mailing the same by United States Mail, properly addressed, and first-class postage prepaid.



DAVID M. FLOTTE

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JUL 12 2024



By Clerk of COURT

JUL 15 2024

JONATHAN SCULLY, ET AL

DOCKET NO: 138571 DIV. B

VERSUS

16TH JUDICIAL DISTRICT COURT

ROSS LARIS, ET AL

PARISH OF ST. MARY

STATE OF LOUISIANA

DECLARATION OF MATTHEW BERNARD UNDER PENALTY OF PERJURY

I, Matthew Bernard, a person of the full age of majority, and a resident of the state of Louisiana, do hereby certify, verify, and affirm under penalty of perjury:

By way of background, I obtained a Bachelor of Science in accounting from Nichols State University in 1992. I have been providing financial consulting services to companies for years. I am employed by Oscity, LLC, a company that is majority owned by Ross Laris. My prior work included US Well Services, Inc. as Chief Financial Officer and then Chief Administrative Office. Prior to that, I served as President of Gulf Offshore Logistics, LLC from 2010 to 2014 and as Executive Vice President/Chief Financial Officer of Gulf Offshore Logistics, LLC from 2007 to 2010. I served as Corporate Controller for Edison Chouest Offshore from 2002 to 2007. From 1992 to 2002, I worked for Ernst & Young's audit practice in the New Orleans, The Hague (the Netherlands) and Houston offices rising to the senior manager level.

I was requested to by Ross Laris to assist with the financial aspects of the following Pelican companies beginning in mid-2023:

Jonathan Scully Companies, LLC, Lake End Rentals, LLC, Pelican Companies of America, Pelican Contractors, of USA, LLC, Pelican Equipment Company, Pelican Industrial of USA, LLC, Pelican Marine and Oil, LLC, Pelican Real Estate of America, LLC, Pelican Rentals and Services, LLC, Pelican Transportation and Logistics, LLC
(hereinafter "Pelican Companies")

I am familiar with operating agreements between Pelican Companies, Millenium Supply Boats, LLC and Ross Laris. The operating agreements marked as Exhibits 2 through 11 dated in May of 2023 are authentic and regularly kept in the course of business. Those were the operating agreements in effect on July 8, 2024.

The operating agreements reflect that Millenium Supply Boats, LLC, a company owned by Ross Laris, was a 50.1 percent owner of the listed Pelican Companies and Jonathan Scully was a minority shareholder of the Pelican Companies as of May of 2023. See Article 5, page 4 of all operating agreements. They also reflect and arbitration clause. Article 18, p. 20. All are signed by Jonathan Scully.



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Starting about mid- 2023, Ross Laris asked me to get involved with the Pelican Companies which were losing money. In addition to mounting losses, there were problems which included overdue payroll taxes and sales taxes as described below.

Ross, as owner of Millennium Supply Boats, LLC which was majority owner of the Pelican Companies, decided to remove Mr. Scully as a manager of the Pelican Companies. Some of the details leading to the change were as follows:


- 1) Pelican Companies failed to remit local sales taxes in multiple local jurisdictions in previous periods. This required entry into payment plans with said jurisdictions to satisfy outstanding balances due. Pelican Companies just recently completed paying the back taxes as part of those payment plans.
- 2) In January 2024, Ross Laris contributed \$75,000 in order for Pelican Companies to satisfy past due Louisiana state sales taxes that the Company was delinquent in paying.
- 3) Later in 2024, Ross Laris contributed \$60,000 to satisfy past due obligations related to federal withholdings from employee payroll and the Company portion of payroll taxes. The Company failed to pay these taxes when due. This resulted in a lien being placed on the Company's bank account.
- 4) The Company was required to negotiate a payment plan with a customer whereby a Pelican vendor put a lien on a Pelican customer's construction project because Pelican failed to pay its vendor for this particular project. The amount required to satisfy Pelican's obligation (and to have the lien released) is approximately \$83,000.
- 5) At Mr. Scully's termination, the Pelican Companies had a receivable due from Jonathan Scully in the amount of approximately \$189,000. This is primarily related to personal charges placed by Mr. Scully on his Pelican credit card and the bill for the credit card is paid by the Company. From time to time, Mr. Scully will reimburse the Company for charges, but the balance has grown to this amount. The Company was paying these personal expenses and recording a receivable from Mr. Scully at the same time it was failing to meet its obligations as noted above. This is on top of his salary of over \$100,000.

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- 6) Financial statements for the first quarter of 2024 show a net loss for the combined Pelican Companies. Total liabilities for the combined Pelican Companies exceeded total assets by over \$5 million dollars (\$5,000,000).

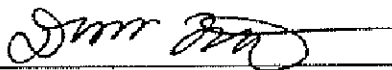
In accordance with 28 U.S. Code § 1746 - Unsworn declarations under penalty of perjury, I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on this 11th day of July, 2024.


MATTHEW BERNARD

Respectfully submitted:

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*Specially Appearing as Counsel for Defendants,
Ross Laris and Millenium Supply Boats, LLC,
with full reservation of Exceptions of Lack of
Subject Matter Jurisdiction, Prematurity,
Venue, Improper Cumulation, Lack of
Procedural Capacity, and Improper Use of
Summary Proceedings*

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CERTIFICATE OF SERVICE

I hereby certify that I have on the 12th day of July 2024, served a copy of the foregoing pleading on counsel for all parties to the proceeding, either by facsimile, hand delivery, email and/or mailing the same by United States Mail, properly addressed, and first-class postage prepaid.



DAVID M. FLOTTE

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