

CAUSE NO. 19-CV-2027

TERRY BOIKE, MANDY BOIKE,	§	IN THE DISTRICT COURT OF
MJT TX MANAGEMENT, LLC	§	
	§	
VS	§	GALVESTON COUNTY, TEXAS
	§	
JAMES T. SOMERVILLE,	§	Galveston County - 122nd District Court
SHOP BEACH BUDDIES, LLC D/B/A	§	
TIPSY TURTLE SEASIDE BAR & GRILL	§	____ JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION
AND JURY DEMAND**

Plaintiffs Terry Boike, Mandy Boike, and MJT TX Management, LLC ("Plaintiffs") file this original petition against Defendants James Somerville and Shop Beach Buddies, LLC, d/b/a Tipsy Turtle Seaside Bar & Grill, and state as follows:

I. REASON FOR ACTION

1. Defendant Somerville operates the Tipsy Turtle bar and beach rental business that was in dire financial condition in 2018. After persistent inquiries, Plaintiffs agreed to invest. The Boikes memorialized their investment with Somerville by creating MJT TX Management, which is a new company owned by Somerville and the Boikes that operates the bar and beach rental business.

2. Over the course of several months, Somerville accepted the Boikes' cash investment of \$100,000 and made capital improvements to the bar and beach rental business, which improved financially and began generating six-figure profits. Additionally, the Boikes worked hundreds of hours performing daily operations of the business.

3. Since August 19, 2019, Somerville has excluded the Boikes from any involvement in the business and has wrongfully retained or converted more than \$200,000 in profits that should have been shared with plaintiffs.

4. Somerville breached his contract and fiduciary duties by concealing the profits, by misappropriating company assets for personal benefit, and by failing to repay the Boikes' investment.

II. DISCOVERY CONTROL PLAN

5. Plaintiffs intend to conduct discovery under Level 3 of Texas Rules of Civil Procedure 190.

III. CLAIM FOR RELIEF

6. Plaintiffs seek monetary relief over \$200,000 but not more than \$1,000,000. Tex. R. Civ. P. 47(c)(4).

IV. PARTIES

7. Plaintiffs Terry Boike and Mandy Boike are married individuals residing in Galveston County, Texas.

8. Plaintiff MJT TX Management, LLC is a Texas Limited Liability Company registered to conduct business in the state of State and doing business in Galveston County, Texas.

9. Defendant Shop Beach Buddies, LLC, is a Texas Limited Liability Company who may be served via its registered agent James Somerville at his mailing address, 9392 Jamaica Beach, Jamaica Beach, TX 77554 and his usual abode at 16611 Pelican Road Jamaica Beach, TX 77554. Plaintiffs request citation for Shop Beach Buddies, LLC.

10. Defendant James Somerville is an individual residing and doing business in Galveston County, Texas who may be served at his usual abode at 16611 Pelican Road Jamaica Beach, TX 77554. Plaintiffs request citation for James Somerville.

V. JURISDICTION

11. The Court has subject-matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

VI. VENUE

12. Venue for this suit for breach of a written contract is permissive in Galveston County under Texas Civil Practice & Remedies Code section 15.035(a) because this county was identified as the place for an obligation under the contract to be performed and is where Defendants are domiciled.

VII. FACTS

13. On July 7, 2018, Defendants began operating the Topsy Turtle Seaside Bar & Grill located at 11745 FM 3005, Galveston, TX 77554, under a lease with the City of Galveston. Defendants also operated a beach rental business under a contract with the Galveston Park Board.

A. Plaintiffs invest in beach bar and rental business.

14. In the late summer of 2018, the Boikes visited the Topsy Turtle and developed a friendship with the owner, James Somerville, who explained he still had his umbrella rental business on East Beach.

15. Somerville persistently solicited Terry Boike to invest in his business. Somerville played on the Boikes' emotions following the unexpected passing of their son—selling their

existing investment as a way to move forward in their lives. At the time, the Topsy Turtle was struggling financially and needed an immediate cash infusion for equipment and operations.

16. Plaintiffs entered a discourse with Somerville about investing in Somerville's business, which culminated in an agreement to invest \$75,000 for 50% ownership of the Topsy Turtle. The parties agreed to form a new company, MJT TX Management, owned by Somerville and the Boikes, which would own and operate the Topsy Turtle. Although investment and new company structure was to begin in January 2019, Somerville pressed the Plaintiffs to pay cash in the fall of 2018 to keep the struggling business open. This started a series of payments by the Boikes to Somerville that were never repaid.

17. On October 29, 2018, Plaintiffs paid Somerville \$15,000 as a down payment on their partnership with Topsy Turtle. Somerville committed this money to supplies needed for the upcoming Lone Star Rally, as well as new equipment and repairs.

18. On October 30, 2018, Plaintiffs paid Pedro Gonzalez \$1,403.39 to install a dumpster fence for trash disposal. Prior to this, the business was in violation of City regulations because it did not have a place for trash.

19. On November 26, 2018, Somerville contacted the Boikes explaining that he was broke and unable to buy Christmas presents. The Boikes paid another \$30,000 towards their partnership with the Topsy Turtle.

20. During October, November, and December 2018, the Boikes regularly met with Somerville 'to make business plans for 2019.

21. On December 12, 2018, the parties created MJT TX Management, LLC ("MJT") with Mandy Boike as registered agent. MJT was to be the new company to own and operate the

Tipsy Turtle. The name MJT was selected because it was the first initials of the three members names: Mandy Boike, Jim Somerville, and Terry Boike.

22. On December 20, 2018, the Boikes paid \$3,697.75 for vent hood repair at the Tipsy Turtle.

23. On January 3, 2019, the Boikes met with Somerville at the Chili's restaurant in League City. They discussed their official roles within the business, shook hands, and declared themselves partners. The contracts and supporting documentation were signed by the parties the following days and the Boikes invested another \$30,000 with Somerville.

B. Somerville conceals misappropriation of profits.

24. In January 22, 2019, Somerville gave the Boikes access to bookkeeping and financial records. The Plaintiffs determined that the bar and beach rental business were operating as one company with merged accounts and finances and not separate legal entities as originally represented by Somerville.

25. Additionally, the Plaintiffs learned that in 2018 Somerville operated a second set of books to defraud the City of Galveston and Galveston Park Board under the terms of its lease, which requires a portion of the profits as an additional lease payment.

26. On February 21, 2019, after the Boikes invested another \$15,000, Somerville finally gave the Boikes access to other financial accounts and records for Shop Beach Buddies, LLC.

27. In March 2019, after the business started to improve, Somerville instructed the Boikes that they could not be at the Tipsy Turtle. Somerville tried to explain this by making the excuse that he needed to hide Boikes' investments in the business because of a requirement from the City of Galveston.

28. On April 4, 2019, Terry Boike discovered large sums of money missing from the business operating accounts. Somerville was solely responsible for making the deposits and the sales and deposits could not be reconciled. When the Boikes approached Somerville about the discrepancies, he blamed the credit card machine and bartenders taking cash tips. No action was taken against the bartenders because Somerville was responsible for the missing money.

29. From April through August 2019, the Boikes were integral to the operation of the bar and beach rental business working hundreds of hours without hourly or salary compensation. Terry Boike handled payroll, bookkeeping, and internet marketing. Mandy Boike booked and hosted weddings and also helped out at the bar. During this time, Somerville drew a salary of other benefits in excess of \$125,000.

30. During this time, Somerville took several steps to limit the Boikes access to financial information.

31. In June 2019, Somerville and the Boikes each took a draw of \$22,000 from Shop Beach Buddies, LLC. Somerville recognized the Boikes' ownership interest by taking the same draw as the Boikes.

32. The Boikes and Somerville started to plan for the Univision concert being held August 10, 2019 at East Beach. Shop Beach Buddies LLC was the only vendor allowed to sell beer at the concert.

33. In July 2019, the Boikes discovered that Somerville was using company money to pay off loans, personal expenses (including his personal American Express card), and bills owed to the Galveston Country Club. Additionally, there was more than \$30,000 of cash missing. Terry

Boike confronted Somerville who, again, concealed the misappropriation of funds for his personal benefit.

C. Somerville fails to account for more than \$150,000 in cash following a special event.

34. The final straw came during the planning and execution of the Univision special event on East Beach. During July and August 2019, the Boikes were integral to the operation of the bar and beach rental business and planning for the Univision concert.

35. The day before the Univision concert, Somerville raised the price of beer from \$5.00 to \$6.00, meaning that Somerville would need a much larger quantity of small bills to make change for beer purchases. To address this, Somerville requested that the Boikes draw more money from MJT tax account upon the promise that the money would be immediately repaid. On August 9, 2019, the Boikes withdrew \$15,000 cash from the MJT tax account at Frost Bank and delivered it to Somerville for use at the event. Somerville agreed to use the proceeds from the beer sales to immediately reimburse the \$15,000.

36. On August 10, 2019, the Boikes assisted with the management of beer sales and personnel at the Univision concert and knew the sales far exceeded expectations. Following the concert, Somerville showed the Boikes and others large tubs of cash generated by the beer sales and he estimated the tubs had in excess of \$150,000 in cash. Somerville and the Boikes agreed to meet the following day to count the cash. However, Somerville refused to meet and retained the tubs of cash for his personal benefit.

37. On August 12, 2019, the Boikes learned that Somerville paid for the beer by writing a check to Del Papa for over \$43,000 from the account of MJT TX Management. Somerville also used MJT funds to pay for event expenses like ice, rentals and other costs.

38. The following week, all the bar and beach rental income was diverted from MJT to an account controlled by Somerville, who continuously refused to meet with the Boikes, or provide an accounting of the tubs of cash, or to pay back the \$15,000 used for change for over 8 days

39. On August 19, 2019, Somerville's attorney J. Marcus Hill informed the Boikes that Somerville resigned from the partnership with the Boikes. Additionally, the Boikes were barred from going to the Topsy Turtle.

40. Subsequently, Somerville offered to repay a portion of the investment, but never actually paid anything to the Boikes.

41. As of the filing of this lawsuit, the Boikes invested in excess of \$100,000 which has not been repaid. Furthermore, Somerville refused to share any of the profits of the bar and beach rental business, including the cash profits from the Univision concert. Additionally, Somerville has refused to pay the \$15,000 in cash change used during the Univision concert.

VIII. COUNT 1—BREACH OF CONTRACT

42. The foregoing factual allegations are adopted and incorporated herein by reference for all purposes. See Tex. R. Civ. P. 58.

43. The Boikes and Somerville entered into a valid and enforceable written contract detailed above. Under that agreement the Boikes received a 50% share of the bar and rental business in exchange for their cash investments.

44. Defendant breached the contract by failing to deliver the promised business assets and by retaining the profits of the business.

45. Defendant's breach caused injury to Plaintiffs, which resulted in actual and economic damages.

46. Plaintiffs seek unliquidated damages within the jurisdictional limits of this Court.

IX. COUNT 2—NEGLIGENCE

47. The foregoing factual allegations are adopted and incorporated herein by reference for all purposes. *See* Tex. R. Civ. P. 58.

48. Defendants owed a duty to Plaintiffs to exercise reasonable care in their dealings with Plaintiffs and a duty to not damage Plaintiffs. The evidence will show that Defendants breached the duty owed to Plaintiffs by the acts set forth in this pleading. Each of the acts of negligence was a separate and distinct act of negligence and each was a proximate cause of Plaintiffs' resulting damages for which it now sues.

X. COUNT 3—NEGLIGENT MISREPRESENTATION

49. The foregoing factual allegations are adopted and incorporated herein by reference for all purposes. *See* Tex. R. Civ. P. 58.

50. As set forth herein, the Defendants made representations to the Plaintiffs in the course of Defendants' business or in a transaction in which the Defendants had an interest; the Defendants supplied false information for the guidance of others; the Defendants did not exercise reasonable care or competence in obtaining or communicating the information; the Plaintiffs justifiably relied on the representation, and; the Defendants' negligent misrepresentations proximately caused the Plaintiffs' injury.

51. Each of the acts of negligent misrepresentation was a separate and distinct act of negligent misrepresentation and each was a proximate cause of Plaintiffs' resulting damages for which it now sues.

XI. COUNT 4—FRAUD

52. The foregoing factual allegations are adopted and incorporated herein by reference for all purposes. *See* Tex. R. Civ. P. 58.

53. Defendants committed by fraud by knowingly making material misrepresentations regarding the business and investment to the Boikes, who reasonably relied on those fraudulent misrepresentations and suffered damages.

XII. COUNT 5—BREACH OF FIDUCIARY DUTY

54. The foregoing factual allegations are adopted and incorporated herein by reference for all purposes. *See* Tex. R. Civ. P. 58.

55. The Boikes and Somerville were partners in MJT TX Management, LLC. Therefore, Somerville owed a fiduciary duty to the Boikes. Somerville breached his fiduciary duty by failing to account for the business's assets, using business assets for personal benefit, and by failing to share profits of the business.

XIII. COUNT 6—DEMAND FOR ACCOUNTING

56. The foregoing factual allegations are adopted and incorporated herein by reference for all purposes. *See* Tex. R. Civ. P. 58.

57. The Boikes, as 50% owners of MJT and the bar and rental business, demand a full accounting of the business, including: income, profits, expenses, assets, and liabilities.

XIV. COUNT 6—ATTORNEY'S FEES

58. Plaintiffs are entitled to recover reasonable and necessary attorney's fees under Texas Civil Practice & Remedies Code chapter 38 because this is a suit for breach of a *written*

contract. Plaintiffs retained counsel, who presented Plaintiffs' claim to Defendant. Defendant did not tender the amount owed within 30 days after the claim was presented.

XV. COUNT 7—QUANTUM MERUIT

59. In the alternative to Count 1, Defendant accepted services and materials from Plaintiffs without compensating Plaintiffs. This including the Boike providing labor and materials to support the bar and beach rental business. In the alternative, the Court should award damages to the Boikes under the equitable doctrine of quantum meruit.

XVI. JURY DEMAND

60. Plaintiffs demand a jury trial and tender the appropriate fee with this petition.

XVII. CONDITIONS PRECEDENT

61. All conditions precedent to Plaintiffs' claim for relief have been performed or have occurred.

XVIII. REQUEST FOR DISCLOSURE

62. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

XIX. DISCOVERY

63. Plaintiff Terry Boike serves the attached Requests for Production and Interrogatories on Defendants. Responses are due 50 days after service.

XX. RULE 193.7 NOTICE

64. Pursuant to Texas Rule of Civil Procedure 193.7, Plaintiffs gives notice that they intend to use documents produced in response to written discovery in any pretrial proceeding or at trial, without the necessity of authenticating the documents.

XXI. REQUEST FOR RELIEF

65. For these reasons, Plaintiffs asks that the Court issue citation for Defendant to appear and answer, and that Plaintiffs be awarded a judgment against Defendant for the following:

- a. Actual damages;
- b. Exemplary damages;
- c. Prejudgment and post judgment interest;
- d. Court costs;
- e. Attorney fees; and
- f. All other relief to which Plaintiffs are entitled.

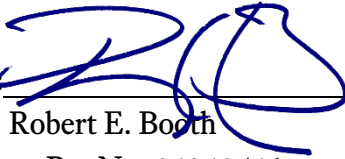
Respectfully submitted,

MILLS SHIRLEY L.L.P.

2228 Mechanic St., Ste 400

Galveston, TX 77550

Phone/Fax: 409.761.4001

By 
Robert E. Booth

Texas Bar No. 24040546

rbooth@millsshirley.com

L. Jeth Jones, II

Texas Bar No. 24012927

jjones@millsshirley.com

ATTORNEYS FOR PLAINTIFF

**TERRY BOIKE, MANDY BOIKE, AND
MJT TX MANAGEMENT, LLC**

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SHOP BEACH BUDDIES, LLC D/B/A	§	
TIPSY TURTLE SEASIDE BAR & GRILL	§	_____ JUDICIAL DISTRICT

**PLAINTIFF TERRY BOIKE'S
FIRST SET OF DISCOVERY TO DEFENDANTS**

To: Defendant James Somerville and Shop Beach Buddies LLC d/b/a Topsy Turtle Seaside Bar & Grill

Plaintiff Terry Boike serves the attached first set of discovery to defendants James T. Somerville and Shop Beach Buddies LLC d/b/a Topsy Turtle Seaside Bar & Grill.

Pursuant to Texas Rule of Civil Procedure 196, plaintiff Terry Boike serves the attached Request for Production to Defendants.

Pursuant to Texas Rule of Civil Procedure 197, plaintiff Terry Boike serves the attached Interrogatories to Defendants.

Plaintiff Terry Boike requests Defendants respond pursuant to the Texas Rules of Civil Procedure and to supplement or amended pursuant to Rule 193.5.

Respectfully submitted,

MILLS SHIRLEY L.L.P.

2228 Mechanic St., Ste 400

Galveston, TX 77550

Phone/Fax: 409.761.4001

By. 

Robert E. Booth

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ATTORNEYS FOR PLAINTIFF

**TERRY BOIKE, MANDY BOIKE, AND
MJT TX MANAGEMENT, LLC**

SECOND SET OF DISCOVERY TO DEFENDANTS

INSTRUCTIONS:

In responding to each request for production, interrogatory and request for admission set forth in the numbered lists below, please apply and follow these instructions:

1. **Request for Discovery Conference.** To facilitate the production of documents in a cost effective and useful manner, we request the parties engage in a discovery conference to discuss preservation and production of Your documents, including Electronic Data.
2. **Time Period.** Unless otherwise specified, please limit Your response to each request to the time period starting January 1, 2018 through the present.
3. **Definitions.** In interpreting these instructions and the subsequent numbered requests, the following terms and phrases shall have the specified meaning.

3.1. **Parties and Material Terms**

- 3.1.1. **“Defendants,” “You,” or “Your,”** refers to the party in this suit to which these requests are directed as identified above and for which You are responding under Rules 196, 197 and 198, including her/his/its agents, attorneys, adjusters, investigators, and all other persons acting or purporting to act on her/his/its behalf with respect to any matter inquired about in these discovery requests.
- 3.1.2. **“Somerville”** means defendant James Somerville, including his agents, attorneys, adjusters, investigators, and all other persons acting or purporting to act on his behalf with respect to any matter inquired about in these discovery requests.
- 3.1.3. **“Topsy Turtle”** collectively means the Shop Beach Buddies, LLC, including the Topsy Turtle Seaside Bar & Grill and the beach rental business at issue in this lawsuit, including its agents, attorneys, adjusters, investigators, and all other persons acting or purporting to act on its behalf with respect to any matter inquired about in these discovery requests.
- 3.1.4. **“MJT”** means MJT Texas Management, LLC including his agents, attorneys, adjusters, investigators, and all other persons acting or purporting to act on his behalf with respect to any matter inquired about in these discovery requests.

3.2. Standard Terms

- 3.2.1. “**Documents**” means any documents or electronically stored information—including but not limited to writings, emails, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. Additionally, “Documents” collectively refers without limitation to any document, tangible thing, or Electronic Data within the possession, custody, or control of the responding party, for which Texas Rules of Civil Procedure 176, 196.1 and 196.4 allow a party to request production. “Documents” also includes all drafts or versions of documents, such as those containing interlineations, corrections, redlines or written notations, or those that have notes, or other attachments.
- 3.2.2. The phrases “**relating to,**” “**pertaining to,**” or “**relating or pertaining to,**” shall mean any logical connection with a particular subject matter.
- 3.2.3. “**Electronic Data**” means to the fullest extent possible, electronically or magnetically stored information subject to discovery pursuant to Texas Rule of Civil Procedure 196.4.
- 3.2.4. “**Lawsuit**” refers to the above-captioned suit.
- 3.2.5. “**Person**” means any natural person, corporation, firm, association, partnership, joint venture, proprietorship, governmental body, or any other organization, business, or legal entity, and all predecessors or successors in interest.
- 3.2.6. “**Possession, custody, or control**” of an item means that the person either has physical possession of the item or has a right, contractual or otherwise, to possession or control equal or superior to that of the person who has physical possession of the item.

4. **Paper and Other Non-Electronically Stored Information.** Please produce copies of all producible paper documents in electronic form pursuant to **Section 6 (Production Format)** below and in accordance with the following:

- 4.1.1. **Imaging.** Paper documents produced electronically should be imaged at least at 300 DPI as multipage TIFF or multipage PDF files.

- 1) Imaged documents should be produced with OCR text in a side-by-side text file;
- 2) The images shall reflect, without visual degradation, the full and complete information contained in the original document; and,
- 3) If an original document contains color used in a manner material to the import or understanding of the document, the Producing Party shall comply with reasonable requests for color image formats of the original at the producing Party's cost.

4.1.2. **Unitization.** If a scanned document is more than one page, the unitization of the document and any attachments shall be maintained as it existed in the original when creating the image file. For documents that contain affixed notes which obscure any content of the document, the pages will be scanned both with and without the notes and those pages will be treated as part of the same document. The relationship of documents in a document collection (e.g., cover letter and enclosures, email and attachments, binder containing multiple documents, or other documents where a parent-child relationship exists between the documents) shall be maintained through the scanning or conversion process. If more than one level of parent-child relationship exists, documents will be kept in order, but all will be treated as children of the initial parent document.

5. **Request for Electronic Data.** Pursuant to Rule 196.4 of the Texas Rules of Civil Procedure, all requests specifically request production of electronic data. If a response to a request includes Electronic Data in the responding party's possession, custody, or control, produce in in electronic form pursuant to **Section 6 (Production Format)** and according to the following:

- 5.1. **Preservation and Collection.** An affirmative statement of the existence of electronic data responsive to the request, and the steps taken by You to preserve and collect responsive Electronic Data
- 5.2. **Custodians.** Identify all custodians of Electronic Data.
- 5.3. **Native Format.** Produce the Electronic Data in its native format.
- 5.4. **File Directory Paths.** Disclose the file directory path, where available, of each electronically stored document produced, in order to facilitate the discovery process and assist in the authentication of data.

- 5.5. **Special Software.** Where needed, and where not prohibited by a third party from doing so, make specific software or hardware available in order to allow producible electronically stored information to be inspected, queried or otherwise interacted with electronic data in order to create producible electronically stored information:
- 5.6. If the Electronic Data, through reasonable efforts, cannot be produced in a native or image storing format provide the following:
 - 5.6.1. A description of the nature of the electronic data, including a general and brief description of type contents in the electronic data responsive to the request;
 - 5.6.2. A description of the location of this data, and or the identity (including name, address and phone number) of the person and/or entity that has possession or the ability to access such magnetic or electronic data; and
 - 5.6.3. A description of format of the electronic or magnetic data, including the medium on which it is stored, the file type(s), the application typically used to read/write it, and file name(s) or file naming convention.
- 6. **Production Format.** If feasible, please produce Documents in an electronic format as processed data according to the following:
 - 6.1. **Cost Approval.** If You will expect reimbursement for costs of the production, please provide an estimate of the costs and obtain our pre-approval in writing.
 - 6.2. **Native Productions.** Produce the Electronic Data in its native format.
 - 6.3. **Imaged Productions.** For Electronic Data, also produce a side-by-side imaged production (either multipage TIFF or PDF) of the Electronic Data, provided that this form produces a substantially similar representation of the electronic data when viewed using the proper hardware and software, please produce electronic data in image storing files on a commonly used storage format. For Excel files, and files created with graphic, proprietary, or other software not ordinarily used in the practice of law, native files shall also be produced.
 - 6.4. **Unique Production Identifiers.** Imaged pages should contain Unique Production Numbers identifying the producing party, production date, and sequential number. If possible, the producing party should stamp each image with the production date.
 - 6.5. **Media.** Produce data via USB drive, hard drive or electronic download.

- 6.6. **Deduplication.** Do not globally (i.e. horizontally) de-duplicate production or apply email threading without our express and written authorization. Please de-duplicate vertically; that is, within a single custodian's document set.
- 6.7. **Load File.** Produce Concordance and Concordance Image Viewer (.DAT and .OPT files). For all Electronic Data files please provide a field in the .DAT file for a link to the native document.
- 6.8. **Metadata Fields.** The Load file should contain the following metadata fields, if available:

Beginning Identifier – BEGUIPI- The unique production identifier of the first page of the item;

End Identifier – ENDUPI – The unique production identifier of the last page of the item;

Beginning Family Identifier – BEGFAMUPI - The unique production identifier of the first page of the first item in the family;

End Family Identifier – ENDFAMUPI – The unique production identifier of the last page of the last item in the family

Source Name – NAME - The original name of the item or file when collected from the source custodian or system;

MD5 Hash – MD5 - The MD5 hash value of the item as produced;

Custodian – CUSTODIAN -The unique identifier for the original custodian or source system from which the item was collected;

Source Path – SPATH -The fully qualified file path from root of the location from which the item was collected;

Production Path – NATIVELINK -The file path to the item from the root of the production media;

Modified Date – MODDATE -The last modified date of the item when collected from the source custodian or system;

Modified Time – MODTIME - The last modified time of the item when collected from the source custodian or system; and

UTC Offset – UTCOFF - The UTC/GMT offset of the item's modified date and time.

The following additional fields shall accompany production of e-mail messages:

To – RECIPIENT – Addressee(s) of the message;

From – FROM – The e-mail address of the person sending the message;

CC – CC – Person(s) copied on the message;

BCC – BCC – Person(s) blind copied on the message;

Date Sent – DATESENT – date the message was sent;

Time Sent – TIMESENT - time the message was sent;

Subject – SUBJECT – Subject line of the message;

Date Received – DATERCVD – date the message was received;

Time Received – TIMERCVD - time the message was received;

Attachments – ATTACHMENTID - The beginning UPI(s) of attachments, delimited by comma

Mail Folder Path – MAILPATH - the path of the message from the root of the mail folder;

Message ID – MESSAGEID – The Microsoft Outlook or similar unique message identifier.

7. **Separate Requests.** Answer each request for production separately.
8. **Numbered Productions.** If available through reasonable steps, we request You provide a unique alpha-numeric identifier on each responsive item. If documents produced in response to a request for production contain identifiers, for each written response provide both the information that identifies the document and the identifier(s).
9. **Responsive Materials Not Produced.** If there are responsive materials to a request, but copies of the responsive materials are not produced at the time of serving responses, answer each request for documents separately by listing the documents and identifying them by stating the following:

- 9.1. The nature of the document (e.g., letter, handwritten note).
 - 9.2. The title or heading that appears on the document.
 - 9.3. The date of the document and the date of each addendum, supplement, or other addition or change.
 - 9.4. The identity of the author and of the signer of the document, and of the person on whose behalf or at whose request or direction the document was prepared or delivered.
10. **Responsive Document No Longer Exists.** For responsive documents that no longer exist or that cannot be located, identify each document, state how and when it passed out of existence, or when it could no longer be located, and the reasons for the disappearance or loss. Also, identify each person having knowledge about the disposition or loss of the document, and identify any other document evidencing the lost document's existence or any facts about the lost document.
 - 10.1. When identifying a document, You must state the following:
 - 10.1.1. The nature of the document (e.g., letter, handwritten note).
 - 10.1.2. The title or heading that appears on the document.
 - 10.1.3. The date of the document and the date of each addendum, supplement, or other addition or change.
 - 10.1.4. The identity of the author and of the signer of the document, and of the person on whose behalf or at whose request or direction the document was prepared or delivered.
 - 10.2. When identifying a person, You must state the following:
 - 10.2.1. The full name.
 - 10.2.2. The present or last known address and telephone number.
 - 10.2.3. The present occupation, job title, employer, and employer's address.
11. **Request for Electronic Text of the Numbered List.** To facilitate generating a response, should the responding party desire the electronic text of the numbered list below, please send a written request and we will make reasonable efforts to email You the list.

REQUESTS FOR PRODUCTION:

A. THE CONTRACT

1. Documents containing Your contracts with Terry Boike, Mandy Boike or MJT.
2. Documents containing Your contracts with the City of Galveston.
3. Documents containing Your contracts with the Galveston Park Board.
4. Documents containing Your contracts with any vendor or supplier for the Topsy Turtle.
5. Documents containing Your contracts with any Person regarding the Univision concert held on East Beach at issue in this lawsuit.
6. Documents containing any lease for any location for any business conducted by You.
7. Documents containing any email, text message or discussion made at or during the time You entered into the contracts responsive to RFPs 1 through 5.
8. Documents containing any drafts of any contracts responsive to RFPs 1 through 5.
9. Documents containing any modification of the contracts responsive to RFPs 1 through 5.

B. ELECTRONIC DATA

10. Documents containing any electronic accounting file or QuickBooks file used by any of the following related to the business activities at issue in this Lawsuit:
 - a. Topsy Turtle
 - b. Shop Beach Buddies, LLC
 - c. The Beach Rental Business
11. Documents containing any email or text message between You and any of the following related to the business activities at issue in this Lawsuit:
 - a. Terry Boike;
 - b. Many Boike;
 - c. Any customer;

- d. Any vendor;
 - e. Any supplier; and
 - f. Any Party to this lawsuit
12. Documents containing the hard drives for any computer used by any of the following related to the business activities at issue in this Lawsuit:
- a. James Somerville;
 - b. Shop Beach Buddies, LLC; or
 - c. Topsy Turtle.
13. Mobile devices used by any of the following related to the business activities at issue in this Lawsuit:
- a. James Somerville;
 - b. Shop Beach Buddies, LLC; or
 - c. Topsy Turtle.
14. Documents containing the statements and deposited/cash checks for any bank account used by any of the following related to the business activities at issue in this Lawsuit:
- a. James Somerville;
 - b. Shop Beach Buddies, LLC;
 - c. Topsy Turtle; or
 - d. MJT TX Management, LLC.
15. Documents containing any email and text message between You and any of the following:
- a. Terry Boike;
 - b. Mandy Boike
 - c. Any employee or representative of Shop Beach Buddies or the Topsy Turtle; or
 - d. Any employee or representative of MJT TX Management, LLC

C. BUSINESS OPERATIONS

16. Documents identifying all of Your customers.
17. Documents containing Your price lists for services.
18. Documents containing the pricing offered to You for any of Your vendors.
19. Documents containing any contact between You and any customer.
20. Documents containing any sales reports or receipts from any point of sale terminal used by You.
21. Documents containing financial information regarding Your business, including bank statements, checks, deposit slips, or hand tallies of cash.

INTERROGATORIES:

A. STANDARD

1. Identify every person who is expected to be called to testify at trial, including Your experts. *See* Tex. R. Civ. P. 192.3(d).
2. Identify all discoverable consulting experts—that is, consulting experts whose work has been reviewed by a testifying expert. *See* Tex. R. Civ. P. 192.3(e).
3. Identify every person who has impeachment or rebuttal evidence and describe the evidence each person has. If You have enough information to anticipate the use of impeachment or rebuttal evidence or witnesses, You must provide that information.
4. If You have ever been convicted of a felony or a crime involving moral turpitude, state the nature of the charge and the date and place of arrest and conviction. *See* Tex. R. Evid. 404(a)(2)(B), 609(a).

B. SPECIFIC

5. Identify each email address used by You or Your employees from January 1, 2018 through the present.
6. Identify each telephone number and mobile device used by You or Your employees from January 1, 2018 through the present.
7. Identify each bank account used by you from January 1, 2018 through the present by stating the:
 - b. Owner of the account;
 - c. Name and address of the bank; and
 - d. Account number.

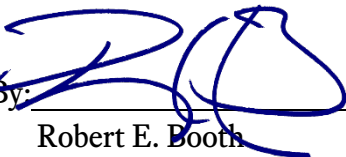
Respectfully submitted,

MILLS SHIRLEY L.L.P.

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ATTORNEYS FOR PLAINTIFF

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MJT TX MANAGEMENT, LLC**