

From: Jeffrey Epstein <jeevacation@gmail.com>

To: Stephen Hanson <[REDACTED]>

Subject: Fwd: Privileged and Confidential

Date: Thu, 12 Dec 2013 01:49:38 +0000

Attachments: DK1 12-11-13 Comments to WSComparison_28617402v12_LEGAL_-
[REDACTED].pdf; DK1 12-11-13 Comments to BRG --
Final_Assignment_of_LLC_Interest_(28862467_1).DOCX

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From: Darren Indyke <[REDACTED]>

Date: Wed, Dec 11, 2013 at 9:46 PM

Subject: Privileged and Confidential

To: Jeffrey Epstein <jeevacation@gmail.com>

In addition to my comments from earlier today which continue to apply to the new draft, my additional thoughts (marked on the attached pdf of the Separation Agreement and the word version of the Assignment):

Separation Agreement:

1. The Separation Agreement continues to contemplate a consulting term in Section 3, including a de facto consulting term through June 30, 2014 in Section 4(d). Under Section 3(b) and 4(d), Consulting services are now subject to reasonable discretion rather than sole discretion
2. Note the new carve-out in Section 5(b)(i) providing that "the restrictions set forth in clauses (A) - (D) of this paragraph shall not apply to two (2) restaurants, in the aggregate with respect to all or any of such restrictions, that are not located in New York City, New York and/or Atlantic City, New Jersey." Why is the carve-out only for "restaurants" and not "restaurants and restaurant businesses", when the restrictions relate to "restaurants and restaurant businesses". Does this mean that Steven cannot be involved in 2 "restaurant business" outside of NYC and AC during that 6 month period. I know that the concept of restaurant business is not defined, but it would seem to me that it is broader than just a restaurant. Now that the territory is the US, is limiting the carve-out from Steve's non-complete to 2 non-NYC or non-AC restaurants enough? Note that the restriction period now ends on June 30, 2014 and not June 15, 2014.
3. In addition to my comments from earlier today, the exceptions to the non-disclosure obligations in Section 5(c) should also include exceptions for disclosure in litigation that Steve or his entities prosecute or defend.
4. Section 11 - Steve's Guaranties. Note that now the obligation to remove Steve's guaranty is limited to commercially reasonable efforts, but there is an indemnity by the Company and Starwood. Assuming that the Company and Starwood are good for this obligation which could be in excess of \$500K in the aggregate, should the additional damages provisions in Section 12 (the obligation to pay the prevailing party \$500k) be expanded to include an award to the prevailing party in arbitration to enforce the indemnity obligation in Section 11?
5. Section 12 - note that the obligations to pay \$250K and \$500k to prevailing party in litigation remains in the revised draft. Consider expanding coverage to include payment to the prevailing party in arbitration to enforce the indemnity under Section 11.

6. In addition to comments regarding Schedule IX., note that the preamble on Schedule IX provides that Confidential Information does not include: "what is known by Executive without reference to any documents comprising any of such Covered Items so long as such knowledge is used **solely for Executive's own or his controlled affiliates' business use**" Seems to me that this phrase in bold could be read to mean that Steve can't use what he knows if it is in these Covered Items at Restaurants that employ him or in business that he becomes a partner in.

Regarding the Assignment:

My few comments are marked on the attached Assignment, but generally:

1. Why is this just formulated as an assignment and not an assignment and an assumption.
2. Why does the assignment not include in addition to the Interests, all rights and obligations in respect of the interest, including all rights and obligations under the LLC agreement.
3. Why is there not a mutual agreement by Starwood to purchase, and an acceptance and assumption of the interest, and all rights and obligations with respect thereto, including all rights and obligations under the LLC Agreement. Without reading the LLC Agreement I can't confirm (and I doubt) that it is sufficient that there is an agreement in the assignment that references to Steve's entities in the LLC Agreement will be replaced with Starwood.
4. There is typically in assignment and assumption agreements relating to Membership Interests, an indemnity by the Assignee in favor of the assignor for obligations and claims that arise under the LLC Agreement after the date of assignment. That is missing here.

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On Dec 11, 2013, at 4:47 PM, Jeffrey Epstein wrote:

territory, work for nikash, . ? after resrictvie period? . cure, ? notice of breach, ?

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Jeffrey Epstein

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