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January 11, 2012

MEMO ENDORSED

BY HAND

Hon. Judge Paul A. Engelmayer
U.S. District Judge
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

USDC SDNY
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RE: Lebewohl et al. v. Heart Attack Grill LLC, et al., Case No. 11-cv-3153.

Dear Judge Engelmayer:

My firm represents the Plaintiffs in this case. HAG has sought clarification of the Court's Order compelling HAG to disclose all "HAG owners and managers." HAG asserts that an LLC does not have any owners but rather only "owner-members" who are investors, and that only a person with "active managerial input" is a manager.

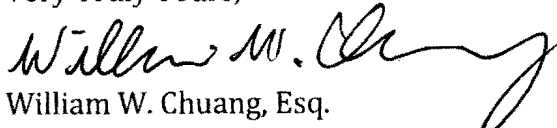
There is no merit to HAG's arguments. The Diet Center LLC, in its Operating Agreement, states that its members are managers. HAG has previously dismissed the relevant Operating Agreement clauses as merely "legal words" but legal words have legal effects. Consequently, the members of the Diet Center LLC are managers regardless of how members of a limited liability company are generally treated otherwise.

As to owners, Jon Basso submitted a declaration in support of HAG's Motion To Telephonically Appear At Mediation. In the first paragraph of that declaration, Mr. Basso states that the Diet Center LLC is "partly owned by others." Plaintiffs seek the disclosure of those other owners.

To be clear, members of the Diet Center LLC are not passive investors. The Operating Agreement allows members to enter into contracts on behalf of the company. In fact, Fred Mossler, who Plaintiffs believe to be a member, signed the licensing agreement for the HAG Marks on behalf of the Diet Center. Even if Mr. Mossler does not possess active managerial input, he certainly has relevant knowledge concerning the HAG Marks at dispute. Therefore, Plaintiffs ask for HAG to identify all members of the Diet Center LLC.

Furthermore, as Plaintiffs will be deposing Mr. Basso and the corporate defendants this Friday, January 13, we respectfully request that the Court compel HAG to disclose the identities of their members before that date.

Very Truly Yours,


William W. Chuang, Esq.

Enclosure

CC: Robert C. Kain, Jr. (by e-mail)
Darren Spielman (by e-mail)

HAG is required to identify any persons ~~with~~ whom Mr. Basso referenced as part-owners. Any investor who is other than a purely passive investor must be identified. An investor who has the power, whether or not exercised, to act on behalf of HAG, including by signing an agreement, must be identified. IF this information is not forthcoming during tomorrow's deposition, the parties may call the court. In the event of non-compliance tomorrow with the court's orders, the court will schedule a ^{second} continuation date for the deposition. * or its affiliate

SO ORDERED: 1/12/12



HON. PAUL A. ENGELMAYER
UNITED STATES DISTRICT JUDGE