IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

SACHS CAPITAL FUND I LLC, et al.,	:	
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Plaintiffs,	:	
	:	Case No. 480195-V
v.	:	
	:	
EM GROUP LLC, et al.,	:	
	:	
Defendants.	:	

Attorneys and Law Firms:

Jeremy W. Schulman, Esq., Koushik Battacharya, Esq., James "Jake" Schaller, Esq., Schulman Bhattacharya, LLC, counsel for the plaintiffs.

Jeffery M. Schwaber, Esq., Eduardo Garcia, Esq., Stein Sperling Bennett De Jong Driscoll PC, counsel for the intervenor.

Bradley D. Wine, Esq., Natalie A. Fleming Nolen, Esq., Eileen M. Brogan, Esq., Arvid S. Miriyala, Esq., Morrison & Foerster LLP, counsel for defendants Eli Kimel and EM Group, LLC.

MEMORANDUM DECISION AND
TEMPORARY RESTRAINING ORDER

On May 22, 2020, the parties appeared, through counsel, beginning at 1:30 p.m., for a hearing on the plaintiffs' motion for a temporary restraining order. The parties were given the opportunity to call witnesses and present exhibits. Counsel for the parties listed above presented argument. The court concludes that the motion should be granted, in part, for the reasons set out below.

Findings of Fact

Sachs Capital, LLC ("Sachs Capital") is the managing member of plaintiffs Sachs Capital Fund I, LLC, Sachs Capital-Empire, LLC and Sachs-Empire B, LLC. Through these entities,

Sachs Capital alleges that it has invested some $31 million in a private company, Empire Petroleum Partners, LLC ("Empire Petroleum"). Empire Petroleum distributes major motor fuel brands (*i.e.*, British Petroleum, Chevron, Citgo, Conoco, Exxon, Texaco, Shell, Mobil), in the Mid-Atlantic, Southeast, Southwest and the Midwest. Empire Petroleum also operates or supplies fuel to more than 80 convenience stores in these regions.

The named plaintiffs are limited liability companies organized under the laws of Delaware, with their principal place of business in Potomac, Maryland. Sachs Capital is the managing member of each of the plaintiff entities, and Andrew Sachs is the sole member of Sachs Capital, LLC.

Defendant EM Group, LLC ("EM Group") is a limited liability company organized under the laws of Maryland, with its principal place of business in Gaithersburg, Maryland. Defendant EMSG, LLC ("EMSG") is a limited liability company organized in November 2010 under the laws of Maryland, with its principal place of business in Gaithersburg, Maryland. EM Group owns a 67% common interest in EMSG.

Defendant Eli Kimel resides in Maryland. Kimel is a representative of EM Group, LLC, and is the chief executive officer of EMSG, and a member of EMSG's board of managers. Under the operating agreement, Kimel is responsible for the day-to-day management of EMSG, subject to oversight by its board of managers. Barclay Booth, who is not named as a defendant, is a representative of EM Group, and a member of EMSG's board of managers.

The plaintiffs collectively own a 33% interest in EMSG. According to the complaint, the plaintiffs, along with EM Group, created EMSG to manage their investments in Empire Petroleum. EMSG was formed to acquire, hold and dispose of interests in Empire Petroleum through a pass-through entity called Empire Petroleum Holdings ("EPH").

According to the complaint filed on March 2, 2020, Empire Petroleum has finalized a sale of its assets to GPM Investments, LLC for $480 million. This asset sale, it is alleged, constitutes a "liquidity event" under the operating agreement of Empire Petroleum because it is a sale or transfer of more than 50% of Empire Petroleum's assets to an entity that is not controlled by Empire Petroleum or its equity owners. Again, according to the complaint, of the $480 million in sale proceeds, EMSG, through EPH, is expected to receive $44 million at closing, with a potential to receive an additional $21 million through a post-closing earn out. Defendant EM Group, it is alleged, controls the bank account that will receive the proceeds of the sale of Empire Petroleum and has at least twice sent wiring instructions which, plaintiffs contend, violate the operating agreement.

According to the first affidavit of Andrew Sachs, filed with the complaint, Kimel is dissatisfied with the "waterfall" set out in Section 2.1(e) of Exhibit C of the Third Amended and Restated Limited Liability Company Agreement of EMSG, dated December 1, 2014. (the "operating agreement").[1] Sachs contends that Kimel does not plan to distribute the sales proceeds in accordance with the operating agreement, which sets out a detailed plan of distribution in the event Empire Petroleum is sold to an unrelated party, such as GPM Investments, LLC.[2] Sachs also alleges that on April 16, 2020, Kimel sent a letter to Empire Petroleum containing wire instructions that violate the operating agreement.

According to the operating agreement "net capital proceeds" means cash available to the company after the consummation of a capital transaction or liquidity event, after the repayment

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[1] First Affidavit of Andrew Sachs, dated May 1, 2020, at ¶¶ 22-29.

[2] *Id.* at ¶30. *See* Section 2.1(e) of Exhibit C to Third Amended and Restated Limited Liability Company Agreement of EMSG, LLC, dated December 1, 2014 (the "operating agreement"), attached to the complaint as Exhibit 1.

of EMSG's debt.[3] In November 2011, TZG-Sachs-Empire, LLC ("TZG-Sachs") loaned EMSG $17 million, which is alleged to be in default. According to the complaint, $20,483,985 in principal, accrued interest, and fees is now owed to TZG Sachs. In addition, it is alleged that there is $200,000 in debt it owed to Sachs Capital. TZG-Sachs has intervened as a plaintiff.

The plaintiffs contend that, after the payment of the above debt, the remainder of the funds received from the sale of Empire Petroleum will go to the Class A and Class B preferred interests, *i.e.*, to Sachs Capital and its affiliates. They further contend that the net proceeds of the Empire Petroleum sale will be entirely depleted before funds are available for distribution to any of EMSG's common members. According to the complaint, the operating agreement makes these distributions to the preferred members mandatory, and the EM Group and Kimel have refused to make distributions in accordance with the operating agreement. The plaintiffs see this as an anticipatory repudiation.

The plaintiffs' complaint contains three (3) counts. Count I seeks a declaratory judgment requiring the defendants to distribute the proceeds from the Empire Petroleum sale in accordance with Section 2.1(e) of Exhibit C to the operating agreement, as they interpret it. Count II is a claim for anticipatory breach of contract (*i.e.*, the operating agreement) against defendant EM Group. Count III is a claim against Kimel individually for breach of fiduciary duty.

Unsurprisingly, EM Group and Kimel have a different view of the events in question. According to their opposing brief and supporting affidavit, this lawsuit "is indicative of yet another action in a years-long pattern of surreptitious and intimidating conduct on the part of Andrew Sachs" and the entities he controls.

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[3] Exhibit A at p. A-6 & A-7 of the operating agreement. "Net Capital Proceeds" is a specifically defined term in the operating agreement.

Kimel and EM Group contend, first, that no sale of Empire Petroleum is imminent. They contend, second, that Andrew Sachs intentionally has excluded them from any involvement in the pending sale or the negotiations leading up to the sale. In support of these claims, they note that Sachs "abruptly" vacated EMSG's seat on the Empire Petroleum board in March 2020, and then prevented Kimel from assuming that seat, leaving EMSG without board representation and blocking EMSG from voting on any Empire Petroleum board issues. They also assert that Sachs has blocked them from gaining critical information about the sale.

According to Kimel, he did not receive an executed version of the Empire Petroleum sales agreement until April 23, 2020, and still has not received any of the exhibits to the sales agreement. He avers, based on reports he has received from various sources, that the terms of the sale recently have changed. Kimel says it may now be divided into both a liquidity event and a real estate refinancing, all to the benefit of Sachs and his entities. Kimel continues, in his affidavit: "The details of the sale will impact how proceeds from the sale are classified under the EMSG Agreement. Certain sale proceeds may qualify as EPP Liquidity funds, which would be distributed in one fashion, and other proceeds could qualify as ordinary distributions from Empire to EMSG, which would require a different treatment under the EMSG Agreement."[4]

In reply, the plaintiffs contend that Kimel and EM Group's opposition brief simply ignores facts and attempts to distract the court from the main issue, the interpretation of the operating agreement, as written, and how net capital proceeds are to be distributed. The plaintiffs also contend that the defendants have not explained (or really even defended) their anticipatory repudiation of that agreement. The plaintiffs also reject the assertion that the Empire Petroleum transaction has been delayed and that court intervention, therefore, is

[4] Affidavit of Eli Kimel, dated May 19, 2020, at ¶29.

unnecessary. In a second affidavit, Sachs alleges that on May 19, 2020, he participated in a conference call with members of Empire Petroleum's board, in which the board indicated that the sale "was on track and would close within four to six weeks."[5] They also note that Kimel, on May 14, 2020, attempted yet again to get Empire Petroleum to confirm that sales proceeds would be wired to an EMSG bank account under the control of Kimel and EM Group. This, the plaintiffs say, is further evidence of a breach of the operating agreement.

Discussion

The plaintiffs seek a temporary restraining order and request various forms of relief, ranging from requiring the defendants to distribute all of the Empire Petroleum sales proceeds directly to them to depositing all of the proceeds from the sale into the Registry of the Court. Defendants Kimel and EM Group oppose any form of temporary restraining order. Defendant EMSG is not currently represented by any counsel because, according to Kimel, its board consists of persons or entities who are both plaintiffs and defendants in this case, and, consequently, is deadlocked.

Under Md. Rule 15-504(a), a temporary restraining order may be issued only if the moving party demonstrates that, absent the order, it will suffer "immediate, substantial and irreparable harm." The purpose of a temporary restraining order is "to maintain the status quo pending a decision as to a justiciable controversy," *Harford County Educ. Ass'n v. Bd. of Educ. of Harford County*, 281 Md. 547, 585 (1977), or at least until the court can conduct an adversary hearing on a preliminary injunction. Md. Rule 15-504(a) ("A temporary restraining order may be granted only if .... irreparable harm will result to the person seeking the order before a full adversary hearing can be held on the propriety of a preliminary or final injunction."); *see State*

[5] Second Affidavit of Andrew Sachs, dated May 20, 2020, at ¶ 8.

Dep't v. Baltimore County, 281 Md. 548, 558 (1977)("[A] preliminary injunction will lie when it is necessary to preserve the status quo.")

In addition to the factors enumerated in Md. Rule 15-504(a), the Court of Appeals has determined that an applicant for a temporary restraining order also must satisfy the traditional, common law, four-factor test for the issuance of a preliminary injunction. *Fuller v. Republican Central Committee*, 444 Md. 613, 635-36 (2015). Those four factors are:

1. The likelihood that the plaintiff will succeed on the merits;

2. The "balance of convenience" of the parties, which is whether greater injury would result from the issuance of the injunction than from its denial;

3. Whether plaintiff will suffer irreparable injury if the injunction is denied; and

4. The public interest.

Dep't of Transportation v. Armacost, 299 Md. 392, 404-05 (1984). The burden of proof and persuasion at all times is on the party seeking the injunction. *Eastside Vend Distributors, Inc. v. Pepsi Bottling Group, Inc.,* 396 Md. 219, 241 (2006). And, in all cases, the decision to grant a temporary restraining order is discretionary. *Lamone v. Schlakman*, 451 Md. 468, 479 (2017).

The common law, four-factor test is not formulaic. There is no specific order in which to consider the factors or the weight each factor will have in a particular case, especially absent an injunction's effect on a governmental party. *See Fogle v. H & G Restaurant, Inc.*, 337 Md. 441, 456 (1995). Further, the four-factor test is not akin to proving the elements of a tort. "The four factors are simply that, *factors*, designed to guide trial judges in deciding whether [a temporary restraining order] should be issued." *DMF Leasing, Inc. v. Budget Rent-A-Car of Maryland, Inc.,* 161 Md. App. 640, 648 (2005) (emphasis in original). The Court of Appeals recently has noted,

however, that, ordinarily the first and the third factors "are generally considered to be the most significant." *Ademiluyi v. Egbuonu*, 466 Md. 80, 114-15 (2019).

The heart of any limited liability company is the operating agreement. Md. Corps. & Assns. Art., § 4A-402 (2014 Rep. vol). The operating agreement ordinarily controls all matters relating to internal governance, financial matters and the rights of the members of the entity. Under Maryland's Limited Liability Company Act, the State's policy "is to give the maximum effect to the principles of freedom of contract and to the enforceability of operating agreements." Md. Corps. & Assns. Art., §4A-102(a).[6] As is the case in Delaware, Maryland generally adheres to freedom of contract principles when interpreting operating agreements. *Wasserman v. Kay*, 197 Md. App. 586, 616 (2011); *see Elf Atochem North America, Inc. v. Jaffari*, 727 A.2d 286, 291-92 (1999). Under most circumstances ordinary principles of contract interpretation apply, and the court looks to the operating agreement of the entity to both determine rights and obligations, and whether any default duties have been modified. *See Fisk Ventures, LLC v. Segal*, 2008 WL 1961156, at *1 (Del. Ch. May 7, 2008)(observing that "[c]ontractual language defines the scope, structure, and personality of limited liability companies.")

Managing members owe common law fiduciary duties to the limited liability company and to the other members. However, under Md. Corps. & Assns. Art., § 4A-402(a), "members may enter into an operating agreement to regulate or establish any aspect of the affairs of the limited liability company or the relations of its members." This provision indicates "that provisions within operating agreements could alter existing duties or create other duties that would not

[6] This provision is nearly identical to the corresponding section of the Delaware limited liability company statute. 6 Del. § 18-1101(b). *See* M. Steele, *Judicial Scrutiny of Fiduciary Duties in Delaware Limited Partnerships and Limited Liability Companies*, 32 DEL. J. CORP. L. (2007). As a consequence, Delaware cases can be persuasive authority in this context. *Oliveira v. Sugarman*, 226 Md. App. 524, 538 n.10 (2016), *aff'd*, 451 Md. 208 (2017).

otherwise exist." *Wasserman*, 197 Md. App. at 616. Nonetheless, absent clear language in the operating agreement, the courts will be reluctant to relieve members of their common law fiduciary duties, even those who are remote or indirect controllers. *Feeley v. NHAOCG, LLC*, 62 A.3d 649, 660-65 (Del. Ch. 2012); *see AW Power Holdings, LLC v. FirstLight Waterbury Holdings, LLC*, 2015 WL 897785 (Conn. Super., Feb. 17, 2015). Both Kimel and Sachs may be such controllers owing fiduciary as well as contractual obligations, but it is not necessary to decide such matters at this juncture. *See 77 Charters, Inc. v. Gould*, C.A. No. 2019-0127-JRS, 2020 WL 2520272 (Del. Ch. May 18, 2020)(containing a thorough analysis of *In re USACafes, L.P. Litigation*, 600 A.2d 43 (Del. Ch. 1991) and its progeny).

Of particular relevance to this case, as the plaintiffs point out in their motion, is Section 4A-402(d)(1) of the Corporations and Associations Article.[7] That provision of the Maryland Limited Liability Company Act states: "A court may enforce an operating agreement by injunction *or by granting such other relief which the court in its discretion determines to be fair and appropriate in the circumstances*." (emphasis added).

This provision has not received significant appellate attention in Maryland. Yet, it is an express statutory grant of power for the court to act to protect the integrity of an operating agreement and to enforce a contracting party's reasonable expectations. This court concludes that under Maryland law, a court of equity has available to it, in addition to common law injunctive powers, the same panoply of remedies and options it would have if the defendant were a corporation, rather than an alternative entity like a limited liability company. *See Bontempo v. Lare*, 444 Md. 344, 368-70 (2015)(holding that Maryland courts are not limited to the statutory remedy of dissolution when devising a remedy for stockholder oppression). The reasons are at least, two-fold. First, the terms of an operating agreement may be enforced by a court of equity

[7] Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction at p. 17.

by injunction or other remedy under the statute. Second, although Maryland's appellate courts have not spoken directly to this question, leading commentators have endorsed the notion that courts of equity may apply close corporation-type oppression remedies to limited liability companies even absent an express grant of statutory authority. *See, e.g.*, O'Neal & Thompson, OPPRESSION OF MINORITY SHAREHOLDERS AND LLC MEMBERS § 7:24 (May 2020 update); D. Kleinberger & C. Bishop, *The Next Generation: The Revised Uniform Limited Liability Company Act*, 62 BUS. LAW. 515, 535-39 (2007). In this context, the purpose of the remedy simply is to protect the arrangements the members have chosen for themselves, not to restructure the arrangement under the judicial guise of safeguarding it.

Importantly, in this case, the operating agreement itself anticipates the court's exercise of authority under Section 4A-402(d)(1) of the Corporations & Associations Article. Section 12.13(a) of the operating agreement expressly provides, among other remedies, that any "nonbreaching party will be entitled to seek injunctive relief to prevent breaches of this Agreement and specifically to enforce the terms and provisions hereof in any action in any court of the United States or any state thereof having jurisdiction."[8] In short, the parties to the EMSG operating agreement have themselves embraced Section 4A-402(d)(1) and reserved the right to seek court intervention through equitable remedies. *See IHG Management (Maryland) LLC v. West 44th Street Hotel LLC*, 81 N.Y.S.3d 401 (N.Y. App Div. 2018) (applying Maryland law and affirming issuance of a preliminary injunction prohibiting the defendant from terminating a management agreement). Taken together, the statute and the operating agreement provide a source of authority under which the court may act.

[8] Operating Agreement at p. 30.

Likelihood of success on the merits is measured by whether the plaintiffs' claims in the instant litigation have a realistic chance of being resolved in their favor. *Ehrlich v. Perez*, 394 Md. 691, 708 (2006). Here, the operating agreement sets forth a plan of distribution in the event of a sale of Empire Petroleum, which is the very transaction before the court. What is in dispute, however, is the exact nature of the sale and the precise disposition of the expected proceeds under the operating agreement. In this case, the plaintiffs have made a strong showing that at least part of the funds from the sale of Empire Petroleum to GPM Investments, LLC likely is a "liquidity event" under the operating agreement and that some, if not all, of the net proceeds (after the payment of debt) must be distributed to EMSG's preferred members before any payments are made to members holding common interests. Further, they have shown, a high likelihood that all entity debt must be repaid before distributions to either preferred or common member interests. Yet, given the conflicting (and incomplete) information the court has received to date, it is impossible at this juncture to determine or approve a plan of distribution.

The plaintiffs also have alleged sufficient non-monetary injury resulting from the defendants' conduct. The describe in their motion substantial reputational injury. They note: "As private investment organizations that pride themselves on timely returning investments – and that are judges on the security and return they provide their investors – any sort of delay in paying back those who invested in Empire will significantly damage Plaintiffs' standing in the world of private investment and venture capital."[9] Irreparable injury exists when damages include harm to reputation, goodwill and customer relationships. *In re Shawe & Etling LLC*, 2015 WL 4874733, at *28 (Del. Ch. August 13, 2015), *aff'd*, 157 A.3d 152 (Del. 2017). For that reason, "the danger of losing valuable revenue-generating relationships is a harm that may not be

[9] Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction at 20.

compensable in any manner other than injunctive relief." *CRii, LLC v. Wellness Acq. Gp., Inc.*, 2009 WL 2998169, at * 13 (Del. Ch. Sept. 21, 2009). The plaintiffs cannot fulfill their promises to their investors if the funds from the Empire Petroleum transaction are not properly distributed, which constitutes irreparable harm.

Even were the plaintiffs' chances on the merits somewhat less than described above, the equities still favor court intervention,[10] both under the common law and under Section 4A-402(d)(1) of the Corporations and Associations Article. There is, in the court's view, an immediate need both to preserve the status quo and to adjudicate the multitude of disputes between the plaintiffs, on the one hand, and the defendants, on the other hand, without risk of dissipation of such substantial funds. In the court's view, given the parties' divergent views, no money should finally change hands until the matter is clarified. The court finds that irreparable harm will result if funds of such magnitude were distributed under the operating agreement by the defendants without court supervision. While a money judgment would suffice in many cases, it would not be adequate here. Moreover, the parties in this case, pursuant to Section 12.13(a) of the operating agreement, specifically bargained for pre-judgment, equitable intervention by a court should the need arise, which the court finds that it has.

As noted, "injunctions are designed to maintain the status quo between parties during the course of litigation." *Eastside Vend*, 396 Md. at 241; *see Lerner v. Lerner*, 306 Md. 771, 784 (1986). A key reason to issue a temporary restraining order is to preserve the status quo until the

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[10] It is not altogether clear whether the defendants conduct amounts to an anticipatory repudiation, such that the plaintiffs would be entitled to summary judgment on this issue. *See C.W. Bloomquist & Co. v. Capital Area Realty Investors Corp.*, 270 Md. 486, 494 (1973)("Ordinarily, in order to constitute anticipatory repudiation, there must be a definite, specific, positive, and unconditional repudiation of the contract by one of the parties to the contract."). That said, the case is not before the court on the merits and a final determination of this question can await further proceedings. Plaintiffs have sufficiently pleaded that the defendants have not agreed, and seemingly have refused, to distribute the proceeds of the Empire Petroleum transaction in accordance with the plaintiffs' reading of the operating agreement. Further, the plaintiffs have not asked for rescission, simply contract enforcement.

court can conduct an adversary hearing on a preliminary injunction or the matter can be adjudicated on the merits. The *status quo* means the preservation or maintenance of the last actual, uncontested status of affairs that preceded the pending controversy. *Maloof v. State Dept. of Env't*, 136 Md. App. 682, 693 (2001); *Maryland Comm'n on Human Relations v. Downey*, 110 Md. App. 493, 516 (1996). The status quo in this case is that no money finally changes hands. Consequently, the destruction of the *status quo* in the absence of an injunction constitutes "irreparable injury in the context of preliminary injunctions." *Lerner*, 306 Md. at 791. The court finds this to be the case in the present circumstances.

The court also finds that the public interest in this case militates in favor of granting a temporary restraining order. The public policy of Maryland with respect to limited liability companies is freedom of contract. This concept has been enshrined in our law through Corps. & Assns. Art., §4A-102(a) by the Maryland General Assembly. This freedom to organize one's financial affairs is particularly compelling when all parties to the operating agreement are sophisticated parties, as is the case here. Absent fraud, or other unusual circumstances, a contract among sophisticated parties will be enforced, as written, even if it turns out to be a bad business deal for one side or the other. It is neither the court's job, nor part of the court's function under the statute, to fix a deal which, in hindsight, is less than optimal. Yet, at this point, it remains to be determined by the court the precise nature of the deal that is to be enforced and which party, if any, has breached the operating agreement or their fiduciary obligations. Hence, the court will employ, along with traditional common law concepts, the statutory power granted by Section 4A-402(d)(1) of the Corporations and Associations Article to craft interim equitable relief.

For the reasons outlined above, it is this 22nd day of May, 2020, at 4:00, p.m.

ORDERED that the plaintiffs' motion for a temporary restraining order is granted, in part; and it is further

ORDERED, that defendants EM Group, LLC, EMSG, LLC and Eli Kimel, and anyone acting with them in concert or on their behalf, shall upon receipt, deposit all proceeds of the sale of Empire Petroleum Partners LLC to GPM Investments LLC, and shall also deposit any other distributions received from or in respect of Empire Petroleum Partners LLC, received from this date forward, into the Registry of the Clerk of the Circuit Court for Montgomery County, Maryland; and it is further

ORDERED, that the Honorable James R. Eyler (Ret.) is appointed Special Fiscal Agent for defendant EMSG, LLC; and it is further

ORDERED, that the Special Fiscal Agent shall examine the Empire Petroleum transaction, review and consider the EMSG operating agreement, and recommend to the parties and the court a plan of distribution of the proceeds of the Empire Petroleum transaction; and it is further

ORDERED, that counsel for the parties shall promptly provide the Special Fiscal Agent with copies of the pleadings, motions and other papers filed in this case, along with all documents pertinent to his examination of the Empire Petroleum transaction; and it is further

ORDERED, that the Special Fiscal Agent shall be compensated at his customary rate, subject to review and approval by the court, with the plaintiffs advancing 50% of the cost and the defendants advancing 50% of the cost, subject to a final allocation by the court; and it is further

ORDERED, that any party affected by this Temporary Restraining Order may apply for a modification or dissolution of this Temporary Restraining Order on two-days' notice, or such other time as the Court may prescribe; and it is further

ORDERED, that bond is waived under Md. Rule 15-503(c) for the reasons set forth on the record during the hearing on this motion, and, further, because under Section 12.13(b) of the operating agreement the posting of a bond has been expressly waived by the parties thereto; and it is further

ORDERED, that this Temporary Restraining Order expires at 4:00 p.m. on June 1, 2020, unless further extended by order of this Court or agreement of the parties; and it is further

ORDERED, that a full adversary hearing on the propriety of the issuance of a Preliminary Injunction shall take place on June 1, 2020, at 1:30 p.m. via BlueJeans (or such other electronic platform that may be available); and it is further

ORDERED, that a copy of this Temporary Restraining Order shall be filed with the Clerk of the Court as soon as practicable and shall be sent forthwith by e-mail to counsel for all parties of record and to Judge Eyler.

Ronald B. Rubin, Judge