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Homeland Self Storage Management LLC Order Appointing James F. Hart as Special Master for Financial Discovery

John J. Goger
Superior Court of Fulton County

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**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

**HOMELAND SELF STORAGE
MANAGEMENT, LLC.; ET. AL.** :
 :
 :
PLAINTIFFS; :
 :
 :
v. :
 :
 :
**PINE MOUNTAIN CAPITAL
PARTNERS, LLC; ET. AL.** :
 :
 :
DEFENDANTS. :
 :
 :
_____ :

CIVIL ACTION FILE No.:
2014-cv-246999

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**ORDER
APPOINTING JAMES F. HART AS SPECIAL MASTER FOR FINANCIAL
DISCOVERY**

At a hearing held on December 2, 2014, this Court advised the parties it was considering the appointment of a special master pursuant to Uniform Superior Court Rule 46. In accordance with the Court's instructions, the parties submitted proposed orders and suggestions for potential candidates.

On Wednesday, December 10, 2014, this Court advised the parties that it was considering appointing James F. Hart, the Managing Member of Lightfoot Group, LLC, as Special Master. Neither party had any objection to the appointment of Mr. Hart.

On Friday, December 12, 2014, this Court entered the Order Deferring Defendants' Motion for Protective Order and Appointment of Special Master for Financial Discovery which explained the Court's reasoning behind appointing a Special Master, set forth the required qualifications, and defined the role of the Special Master.

Having considered the comments and suggestions of the parties, the Court now **APPOINTS** as Special Master **MR. JAMES F. HART**. The contact information for Mr. Hart is

as follows: 1827 Independence Sq., Atlanta, GA 30338, telephone: (678) 320-0079, email: jhart@lightfootgroup.com.

Until further order of the Court, the financial discovery in this matter will be directed to the Special Master and conducted as follows:

The Special Master is appointed for the limited purpose of reviewing both Plaintiffs' and Defendants' financial records (and any other documents the Special Master reasonably requests) for the period between January 2007 through August 2011 (the "Relevant Time Period") and is directed to proceed with all reasonable diligence. Plaintiffs shall provide all of their financial records for the Relevant Time Period directly to the Special Master without any added instruction or direction upon the request of the Special Master. The Wells Fargo Bank, N.A. and the Private Bank of Buckhead (collectively the "Banks") are hereby **ORDERED** to respond to the Plaintiffs' subpoenas and provide responsive documents directly and only to the Special Master. Likewise, the Special Master shall, without any added instruction or direction, subpoena any and all of Defendants' banking records from any financial institution, other than the Banks, for the Relevant Time Period. Such banking records shall be produced directly to and only to the Special Master. All financials and other bank records for the Relevant Time Period must be provided to the Special Master no later than January 30, 2015.

The Special Master will conduct a forensic investigation into the foregoing financial records to determine whether, as Plaintiffs allege upon information and belief, Defendant Kevin J. Irlbeck misdirected any of Plaintiffs' funds to Defendants' bank accounts while employed as CFO for Plaintiff Homeland Self Storage Management, LLC.

The parties shall cooperate with the Special Master and shall meet with him to carry out the terms and intent of this Order. The Special Master will take no direction or instructions from

any of the parties or their counsel of record. The Special Master will not share any parties' financial information with any of the other parties to this litigation absent permission of the Court. Any other person that the Special Master employs for purposes of this investigation will be subject to the same conditions as the Special Master. If the Special Master requires further information or direction, he will direct all such questions or concerns only to the Court.

Upon completion of the Special Master's investigation, the Special Master shall prepare and submit directly to the Court a written report containing an explanation of the methodology and results of that investigation. Counsel of record shall also receive a copy, on an attorney-eyes' only basis, of the Special Master's report. The Special Master's report shall be completed as soon as reasonably possible. Once the Special Master has received all the foregoing financial documents, he shall provide an estimate to the Court as to how much time is needed to complete the report, but should give an update to the Court no less than every 45 days, after January 30, 2015, concerning his progress.

If necessary, after reviewing the report from the Special Master, the Court may require additional examination by the Special Master or augment or expand the scope of the Special Master's review.


Plaintiffs shall bear all costs associated with the Special Master until such time as the Court has had the opportunity to review the report of the Special Master to determine if any fee-shifting would be appropriate under the circumstances. The Special Master shall charge an hourly rate of \$265.00 per hour for services provided by Mr. Hart and from \$50.00 to \$225.00 per hour for administrative and professional time, depending on the skill set needed. The full extent of the fee arrangement will be agreed to by the parties and Special Master.

USCR 46 requires that the Court enter an Order of appointment "only after" the master files an affidavit disclosing any ground for disqualification and certifying he will perform his

duties fairly and according to the instruction of the Court. Attached as an exhibit to this Order is the affidavit submitted to the Court by the Special Master.

Until further order of the Court, all other motion practice or further discovery by the parties is **STAYED** pending review of the report of the Special Master.

It is **SO ORDERED**, this 23 day of December 2014.



JUDGE JOHN J. GOGER,
SUPERIOR COURT OF FULTON COUNTY
ATLANTA JUDICIAL CIRCUIT

Copies to:

Jody M. Rhodes, Business Court Program Director & Staff Attorney

Attorneys for Plaintiff	Attorney for Defendants
<p>Robert J. Kaufman Richard Tillery KAUFMAN, MILLER & FORMAN, P.C. 8215 Roswell Road Building 800 Atlanta, GA 30350 Telephone: (770) 395-6720 Facsimile: (770) 390-9200 rjk@kauflaw.net rjt@kauflaw.net</p>	<p>John Da Grosa Smith Kristina M. Jones SMITH LLC 1320 Ellsworth Industrial Blvd Suite A1000 Atlanta, GA 30318 Telephone: (404) 605-9680 Facsimile: (404) 935-5226 jdsmith@smithlit.com kjones@smithlit.com</p>

AFFIDAVIT OF JAMES F. HART

State of Georgia

County of DeKalb

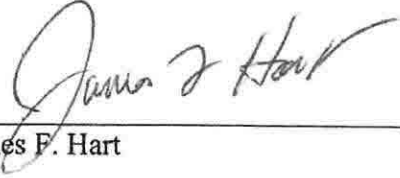
I, James F. Hart, personally appeared before the undersigned notary public,

Cory Burgerding, or other officer authorized to administer oaths and I state the following:

1. I have received the Fulton County Superior Court's Order Deferring Defendants' Motion for Protective Order and Appointment of Special Master for Financial Discovery in *Homeland Self Storage Management, LLC; et al. v. Pine Mountain Capital Partners, LLC; et al.*; CAFN 2014CV246999.
2. I understand the parties to the case are: Homeland Self Storage Management, LLC, Broward Real Estate Investments – Kennesaw LLLP; Broward Real Estate Investments – Peachtree Crest LLLP; BREI Breckenridge LLLP; Broward Real Estate Investments – Sandy Plains LLLP; BREI Stephens Center LP; BREI Cobb Parkway LLLP; BREI Ronald Regan LLLP; BREI Monument Road LLLP; BREI Girvin Road LLLP; BREI Beach Blvd LLLP; BREI Mansfield Holdings LLLP; Pine Mountain Capital Partners, LLC; Homeland Sports Card Collector, LLC; and Kevin J. Irlbeck.
3. I understand the parties are represented by Kaufman, Miller & Forman, P.C., and Smith, LLC.
4. There are no known grounds for disqualification that would prevent me from serving as Special Master under Uniform Superior Court Rule 46 in *Homeland Self Storage Management, LLC; et al. v. Pine Mountain Capital Partners, LLC; et al.*; CAFN 2014CV246999, in the Superior Court of Fulton County, Business Case Division.
5. I certify that I will discharge the duties of the Special Master as required by law and pursuant to the Court's instructions without favor to, or prejudice against, any party.

Further affiant sayeth not.

This 17th day of December, 2014.



James F. Hart

Sworn and ascribed before me
this 17 day of December, 2014.



Notary Public

My commission expires: 08/25/2018

