

1 Robert A. Rosette (Ariz. No. 18136)  
2 Steve M. Bodmer (Ariz. No. 025074)  
3 Rosette & Associates, PC  
4 565 W. Chandler Blvd., Suite 212  
5 Chandler, AZ 85225  
6 480-889-8990 (Office)  
7 480-889-8997 (Fax)  
8 rosette@rosettelaw.com

9 Attorneys for the Plaintiffs

10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE DISTRICT OF ARIZONA**

12 **LAC VIEUX DESERT BAND OF**  
13 **LAKE SUPERIOR CHIPPEWA**  
14 **INDIANS HOLDINGS MEXICO,**  
15 **LLC**, a Corporate Enterprise of the  
16 Lac Vieux Desert Band of Lake  
17 Superior Chippewa Indians, a  
18 federally recognized Indian Tribe; and  
19 **LAC VIEUX DESERT BAND OF**  
20 **LAKE SUPERIOR CHIPPEWA**  
21 **INDIANS**, a federally recognized  
22 Indian Tribe,

23 Plaintiffs,

24 vs.

25 **ARTURO ROJAS CARDONA**, an  
26 individual; **JUAN JOSE ROJAS**  
**CARDONA**, an individual; **JUEGOS**  
**DE ENTRETENIMIENTO Y**  
**VIDEOS DE GUADALUPE,**  
**SOCIEDAD DE**  
**RESPONSABILIDAD LIMITADA**  
**DE CAPITAL VARIABLE**, a  
Mexico Limited Liability Company;  
**ENTRETENIMIENTO DE**  
**MEXICO, SOCIEDAD ANONIMA**  
**DE CAPITAL VARIABLE**, a  
Mexico Registered Corporation; and  
**ATLANTICA DE INVERSIONES**

Case No. 2:08-cv-01067-ROS

**FIRST AMENDED COMPLAINT**  
**(CONTRACT AND TORT)**

**CORPORATIVAS, SOCIEDAD  
ANONIMA DE CAPITAL  
VARIABLE**, a Panama Registered  
Corporation; **JUEGOS DE  
ENTRETENIMIENTO Y VIDEOS  
DE MONTERREY, SOCIEDAD  
DE RESPONSABILIDAD  
LIMITADA DE CAPITAL  
VARIABLE**, a Mexico Limited  
Liability Company; **ATLICO USA,  
LLC**, a Nevada Corporation; **E-MEX  
HOLDINGS, LLC**, a Nevada  
Corporation; **ESCOBEDO  
RECREATION HOLDINGS, LLC**, a  
Nevada Corporation; **GUADALUPE  
RECREATION HOLDINGS, LLC**,  
a Nevada Corporation;  
**MATAMORAS RECREATION  
HOLDINGS, LLC**, a Nevada  
Corporation; **REYNOSA  
RECREATION HOLDINGS, LLC**,  
a Nevada Corporation; **SAN LUIS  
POTOSI RECREATION  
HOLDINGS, LLC**, a Nevada  
Corporation; **SAN PEDRO  
RECREATION HOLDINGS, LLC**,  
a Nevada Corporation; **XYZ  
CORPORATIONS, I-X** and **DOES,  
I-X**

Defendants.

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## I. INTRODUCTION

Plaintiffs, Lac Vieux Desert Band of Lake Superior Chippewa Indians Holdings Mexico, LLC (“LVDHM”), a Corporate Enterprise of the Lac Vieux Desert Band of Lake Superior Chippewa Indians, a federally recognized Indian Tribe, and Lac Vieux Desert Band of Lake Superior Chippewa Indians (“TRIBE”), a federally recognized Indian Tribe, bring this action for breach of contract, conversion, breach of fiduciary duty, fraud, breach of the implied covenant of good faith and fair dealing, constructive trust, and piercing the corporate veil against Defendants Arturo Rojas Cardona (Mexico and USA), Juan Jose Rojas Cardona (Mexico and USA), Juegos De Entretenimiento y Videos De Guadalupe, Sociedad de Responsabilidad Limitada de Capital Variable (Mexico), Entretenimiento De Mexico, Sociedad Anonima de Capital Variable (Mexico), Atlantica De Inversiones Corporativas, Sociedad Anonima (Panama), Juegos de Entretenimiento y Videos de Monterrey, Sociedad de Capital Variable (Mexico), ATLICO USA, LLC, (Nevada), E-MEX Holdings, LLC, (Nevada), Escobedo Recreation Holdings, LLC (Nevada), Guadalupe Recreational Holdings, LLC (Nevada), Matamoras Recreation Holdings, LLC (Nevada), Reynosa Recreation Holdings, LLC (Nevada), San Luis Potosi Recreation Holdings, LLC (Nevada), and San Pedro Recreational Holdings, LLC (Nevada) (all defendants are collectively referred to as “Defendants”). Defendants induced Plaintiffs to invest \$6,500,000.00 in a casino venture in Guadalupe, Mexico (“Guadalupe Casino”) by promising Plaintiffs a 26% equity interest and 26% of the Guadalupe Casino’s net revenues. Since the transfer of Plaintiffs’ investment funds in 2006, Defendants have breached the agreements governing the transaction (“Partnership Agreements”) by withholding the share of the Guadalupe Casino’s profit from

1 LVDHM. Moreover, Defendants converted LVDHM's capital investment for  
2 their own purposes, and refuse to either comply with the Partnership Agreements  
3 or refund the investment. Plaintiffs allege as follows:

## 4 **II. PARTIES**

5 **1.** Plaintiff LAC VIEUX DESERT BAND OF LAKE SUPERIOR  
6 CHIPPEWA INDIANS HOLDINGS MEXICO, LLC was a Corporate Enterprise  
7 of the Lac Vieux Desert Band of Lake Superior Chippewa Indians, a federally  
8 recognized Indian tribe at all times relevant to this Complaint.

9 **2.** Plaintiff LAC VIEUX DESERT BAND OF LAKE SUPERIOR  
10 CHIPPEWA INDIANS was a federally recognized Indian tribe at all times  
11 relevant to this Complaint.

12 **3.** Defendant ARTURO ROJAS CARDONA ("ARTURO CARDONA") was  
13 an individual and resident of Mexico and the United States who served as an agent  
14 with actual and/or apparent authority to act on behalf of all Defendants and in fact  
15 acted on their behalf at all times relevant to this Complaint. The citizenship and  
16 domicile of ARTURO CARDONA are unknown to Plaintiffs.

17 **4.** Defendant JUAN JOSE ROJAS CARDONA ("JUAN CARDONA") (alias:  
18 Pepe Rojas Cardona) was an individual and resident of Mexico who served as an  
19 agent with actual and/or apparent authority to act on behalf of all Defendants and  
20 in fact acted on their behalf at all times relevant to this Complaint. The citizenship  
21 and domicile of JUAN CARDONA are unknown to Plaintiffs.

22 **5.** Defendant ENTRETENIMIENTO DE MEXICO, SOCIEDAD ANONIMA  
23 DE CAPITAL VARIABLE ("E-MEX") was a Registered Corporation organized  
24 under the laws of Mexico at all times relevant to this Complaint. Defendant  
25 ARTURO CARDONA is the manager, owner, and legal representative of  
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1 Defendant E-MEX. Defendant JUAN CARDONA is an agent of E-MEX and  
2 handles the everyday affairs of E-MEX and holds himself out as the owner of the  
3 casinos operated by E-MEX.

4 **6.** Defendant JUEGOS DE ENTRETENIMIENTO Y VIDEOS DE  
5 GUADALUPE, SOCIEDAD DE RESPONSABILIDAD LIMITADA DE  
6 CAPITAL VARIABLE (“JDG”) was a limited liability company organized under  
7 the laws of Mexico at all times relevant to this Complaint. Defendant ARTURO  
8 CARDONA is the Manager and Chairman of the Board of Directors of Defendant  
9 JDG. As an individual shareholder he holds 1% of the shares in JDG, and through  
10 Defendant GUADALUPE RECREATION HOLDINGS, LLC, he holds 73% of  
11 the shares in JDG. JDG has a joint partnership with Defendant E-MEX.  
12 Defendant JUAN CARDONA is an agent of JDG’s and handles the everyday  
13 affairs of JDG.

14 **7.** Defendant GUADALUPE RECREATION HOLDINGS, LLC (“GRH”)  
15 (Nevada “NV” Entity # E0799242005-1) was a corporation organized under the  
16 laws of Nevada at all times relevant to this Complaint. Defendant ARTURO  
17 ROJAS, through the combination of his personal share ownership and the 77,500  
18 shares he controls through his ownership of Defendant Atlantica de Inversiones  
19 Corporativas, Sociedad Anonima de Capital Variable, is the sole owner of  
20 Defendant GRH.

21 **8.** Defendant E-MEX HOLDINGS, LLC (NV Entity # E0699772006-4) was a  
22 corporation organized under the laws of Nevada at all times relevant to this  
23 Complaint. ARTURO CARDONA is the Manager. Whether the LLC has more  
24 than one member is unknown to Plaintiffs. Defendant E-MEX HOLDINGS, LLC  
25 is believed to be a “holding company” (“a company formed to control other  
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1 companies, usually confining its role to owning stock and supervising  
2 management.” BLACK'S LAW DICTIONARY 275 (7th ed. 1999)). It is  
3 believed that the company was formed to “hold” Defendant E-MEX.

4 **9.** Defendant ATLANTICA DE INVERSIONES CORPORATIVAS,  
5 SOCIEDAD ANONIMA DE CAPITAL VARIABLE (“ATLICO”) was at all  
6 times relevant to this Complaint a Registered Corporation organized under the  
7 laws of Panama. ARTURO CARDONA is the owner of ATLICO. Defendant  
8 ATLICO holds 77,500 shares of Defendant GRH.

9 **10.** Defendant ATLICO USA, LLC (NV Entity # E0955092006-3) was a  
10 corporation organized under the laws of Nevada at all times relevant to this  
11 Complaint. ARTURO CARDONA is the Manager. Whether the LLC has more  
12 than one member is unknown to Plaintiffs. ATLICO, USA, LLC is believed to be  
13 a “holding company” formed to “hold” Defendant ATLICO.

14 **11.** Defendant ESCOBEDO RECREATION HOLDINGS, LLC (NV Entity #  
15 E0090892006-3) was a corporation organized under the laws of Nevada at all  
16 times relevant to this Complaint. ARTURO CARDONA is the Manager.  
17 Whether the LLC has more than one member is unknown to Plaintiffs.

18 **12.** Defendant MATAMORAS RECREATION HOLDINGS, LLC (NV Entity  
19 # E0052842006-2) was a corporation organized under the laws of Nevada at all  
20 times relevant to this Complaint. ARTURO CARDONA is the Manager.  
21 Whether the LLC has more than one member is unknown to Plaintiffs.

22 **13.** Defendant REYNOSA RECREATION HOLDINGS, LLC (NV Entity #  
23 E0719942005-9) was a corporation organized under the laws of Nevada at all  
24 times relevant to this Complaint. ARTURO CARDONA is the Manager.  
25 Whether the LLC has more than one member is unknown to Plaintiffs.

1 **14.** Defendant SAN LUIS POTOSI RECREATION HOLDINGS, LLC (NV  
2 Entity # E0090842006-8) was a corporation organized under the laws of Nevada at  
3 all times relevant to this Complaint. ARTURO CARDONA is the Manager.  
4 Whether the LLC has more than one member is unknown to Plaintiffs.

5 **15.** Defendant SAN PEDRO RECREATION HOLDINGS, LLC (NV Entity #  
6 E0091202006-3) was a corporation organized under the laws of Nevada at all  
7 times relevant to this Complaint. ARTURO CARDONA is the Manager.  
8 Whether the LLC has more than one member is unknown to Plaintiffs.

9 **16.** All Corporate Defendants identified in paragraphs 5-15 above (collectively  
10 “Corporate Defendants”) were at all times relevant to this Complaint the alter-egos  
11 of Defendants ARTURO CARDONA because of his ownership interest and  
12 position as an officer in each company and are also the alter-ego of JUAN  
13 CARDONA as he is the agent of each and every company. As stated above the  
14 domicile and citizenship of Defendant ARTURO CARDONA and defendant  
15 JUAN CARDONA is unknown to Plaintiffs.

### 16 **III. JURISDICTION**

17 **17.** Jurisdiction in the courts of the state of Arizona is proper and reasonable.  
18 Defendants contractually consented to resolve any disputes regarding the  
19 Defendants’ defaults under the Partnership Agreements detailed herein in the  
20 courts of the state of Arizona. Additionally, the Defendants purposefully availed  
21 themselves of the laws of Arizona.

### 22 **IV. FACTUAL ALLEGATIONS**

#### 23 **A. FACTUAL ALLEGATIONS REGARDING THE TRIBE’S** 24 **DECISION TO CONDUCT BUSINESS WITH DEFENDANTS.**

25 **18.** The TRIBE is a small, historically disadvantaged Indian tribe located on its  
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1 Reservation on the Upper Peninsula of Michigan. (*See* Ex. 27, Williams  
2 Declaration). The TRIBE recently made strides to overcome centuries of poverty  
3 through the operation of a modest casino on its Reservation pursuant to the Indian  
4 Gaming Regulatory Act (“IGRA”) 25 U.S.C. § 2701, *et seq.* and under its gaming  
5 compact with the State of Michigan. *Id.* The TRIBE’s remote location, however,  
6 limits the potential growth of its casino. *Id.* Thus, the TRIBE was attracted to off-  
7 reservation investment opportunities for economic development to strengthen and  
8 diversify its economy, and to hedge against threats to the vitality of its gaming  
9 operations in the United States. *Id.*

10 **19.** On or about September 2004, the Mexican government amended its 1947  
11 Regulation of the Federal Gaming and Raffles Law, paving the way for the  
12 legalization of casino gambling in Mexico. Pursuant to the 2004 amendment, the  
13 Mexican Secretariat of Government through the Office of the Director General for  
14 Gaming and Raffles granted permits to operate casinos throughout Mexico. The  
15 granting of such permits was subsequently deemed legal by the Supreme Court of  
16 Mexico. One of these permits (“the Permit”) was granted to Defendant E-MEX.  
17 Defendant ARTURO CARDONA is the legal representative, Manager, and  
18 majority shareholder and Defendant JUAN CARDONA is the agent of E-MEX  
19 and holds himself out in the public arena as the owner of the gaming facilities  
20 operated by E-MEX. The Permit allowed for gaming at up to sixty (60) sites  
21 throughout Mexico.

22 **20.** Defendant E-MEX utilized the Permit to conduct gaming at numerous sites  
23 all over Mexico, including in the state of Nuevo Leon, where the city of  
24 Guadalupe is located. To utilize the Permit in Guadalupe (a suburb of Monterrey,  
25 Mexico) Defendant E-MEX and Defendant JDG formed a joint venture under  
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1 which E-MEX was to allow JDG to utilize the Permit in exchange for JDG  
2 constructing and operating the gaming facility.

3 **21.** Defendants ARTURO CARDONA and Defendant JUAN CARDONA, and  
4 their common Louisiana-based attorney, Edwin Hunter, solicited investors in the  
5 United States to provide capital for the construction and development of casinos in  
6 Mexico to operate under the Permit. In particular, the Defendants targeted Indian  
7 tribes operating casinos in the United States as potential investors because of their  
8 reputation for having access to capital and familiarity with the gaming industry.  
9 The Defendants solicited the TRIBE's investment in numerous casinos including a  
10 casino development in Guadalupe, Mexico ("Guadalupe Casino").

11 **22.** After conducting initial diligence on the legality of gaming in Mexico,  
12 investigating the *bona fides* of the principals, particularly Defendants ARTURO  
13 CARDONA and JUAN CARDONA, and speaking with several other individuals  
14 who are and were based in Louisiana and Texas and that are investors in  
15 Defendants' ventures, the TRIBE determined the solicitation to be a credible  
16 opportunity.

17 **23.** On April 27, 2006, Edwin Hunter presented the TRIBE with a non-  
18 disclosure agreement regarding the proposed Guadalupe Casino to allow for the  
19 further investigation of a possible partnership. (*See* Ex. 1, Non-Disclosure  
20 Agreement). The TRIBE executed the non-disclosure agreement the following  
21 day. It also received and signed other non-disclosure agreements regarding other  
22 proposed gaming sites in Mexico for which ARTURO CARDONA and JUAN  
23 CARDONA were soliciting investment.

24 **24.** Between April 28, 2006 and May 5, 2006, Defendant ARTURO  
25 CARDONA and Defendant JUAN CARDONA and their attorneys David Jimenez  
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1 and Hunter conducted many telephone calls with the TRIBE's Chairman, James  
2 Williams, Jr., and the TRIBE's attorneys, in which Edwin Hunter and David  
3 Jimenez presented a proposed partnership structure to the TRIBE and provided  
4 information for the TRIBE to conduct its initial diligence. (*See* Ex. 27, Williams  
5 Declaration).

6 **25.** On or about May 5, 2006, the TRIBE wire transferred a good faith deposit  
7 from its account at National City \$250,000.00 US to account number 1007715 at  
8 Texas National Bank for credit to SAN PEDRO HOLDINGS, LLC which is part  
9 of a joint account held by at least Defendant SAN PEDRO HOLDINGS, LLC,  
10 Defendant ESCOBEDO RECREATION HOLDINGS, LLC, Defendant  
11 MATAMORAS RECREATION HOLDINGS, LLC, Defendant REYNOSA  
12 RECREATION HOLDINGS, LLC, and Defendant SAN LUIS POTOSI  
13 RECREATION HOLDINGS, LLC. (*See* Ex 7, Statement of Payments, Ex. 23,  
14 Bank Account Information, and Ex. 27, Williams Declaration).

15 **26.** After the TRIBE decided to invest in only one casino site, Defendants  
16 ARTURO CARDONA and JUAN CARDONA proposed having Defendant JDG  
17 become the vehicle through which the TRIBE would structure its investment. (*See*  
18 Ex. 27, Williams Declaration). Defendants ARTURO CARDONA and JUAN  
19 CARDONA promised the TRIBE a 26% equity interest in Defendant JDG and  
20 rights to 26% of the net revenues of the Guadalupe Casino in exchange for a  
21 capital investment by the TRIBE of \$6,500,000.00 (inclusive of the \$250,000 it  
22 had already sent Defendants). *Id.* The 26% equity position and rights to 26% of  
23 net revenue was attractive to the TRIBE, as was the fact that Defendant GRH, the  
24 majority investor in JDG, was a Nevada corporation, and that the governing law  
25 for the investment was to be American rather than foreign law and the forum for  
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disputes would be in the State of Arizona, where its tribal attorneys are located. (See Ex. 27, Williams Declaration).

**B. FACTUAL ALLEGATIONS REGARDING THE TRIBE.**

**27.** The TRIBE has a significant interest relating to the property and transactions which are the subject of this lawsuit because the funds used to invest in the Defendants' Mexican casino operation were tribal funds wired from tribal bank accounts to the Defendants' account. (See Ex 7, Statement of Payments, Ex. 21, Tribal Resolutions, and Ex. 23, Bank Account Information).

**28.** At the time that the TRIBE wired the first \$250,000 to Defendants, Plaintiff LVDHM did not exist. (See Ex. 23, Bank Account Information, and Ex. 27, Williams Declaration).

**29.** The offer to invest in Defendants' Guadalupe venture was made to the TRIBE. (See Ex. 1, Non-Disclosure Agreement).

**30.** The money used to advance and participate in the Defendants' Mexican casino investment was the property of the TRIBE and came from the TRIBE's general funds. (See Ex. 21, Tribal Resolutions).

**31.** When LVDHM acted as signatory to the Partnership Agreements it was acting in a corporate capacity in the TRIBE's interest and exclusively utilizing the TRIBE's funds. (See Ex. 20, Articles of Incorporation).

**32.** The tribal government has the duty under its tribal constitution to promote and protect the general welfare of the TRIBE and its members and to manage the economic affairs and property of the TRIBE. (See Ex. 27, Williams Declaration).

**33.** An adverse ruling by the Court could result in the loss of millions of dollars belonging to the TRIBE's membership. *Id.*

1 **C. FACTUAL ALLEGATIONS REGARDING THE FORMATION OF**  
2 **LVDHM BY THE TRIBE.**

3 **34.** In order to pursue what the TRIBE was led to believe was a legitimate  
4 opportunity for off-reservation economic development, the TRIBE created  
5 LVDHM as a holding company to enter into the necessary Partnership  
6 Agreements with the Defendants. (*See* Ex. 20, Articles of Incorporation).

7 **35.** The Articles of Incorporation state that all shares of LVDHM are owned by  
8 the TRIBE. *Id.* In addition, they state that LVDHM's Board of Directors is to be  
9 composed from individuals who are also members of the Tribal Council. *Id.*

10 **D. FACTUAL ALLEGATIONS REGARDING THE CITIZENSHIP,**  
11 **DOMICILE, AND RESIDENCY OF DEFENDANTS.**

12 **36.** It is believed that Defendants ARTURO CARDONA and JUAN  
13 CARDONA have several residences. The place where they maintain their  
14 permanent principal home is unknown to Plaintiffs.

15 **37.** Defendant ARTURO CARDONA may be a resident of Mexico and/or  
16 several states in the United States as he held himself out as living in several states.

17 **38.** Defendant ARTURO CARDONA provided the TRIBE with an address  
18 located in Inver Grove Heights, Minnesota during the diligence phase of the  
19 transaction. (*See* Ex. 25, Resume). Additionally, he provided the TRIBE with a  
20 United States phone number with a 612 area code, which corresponds to the  
21 greater Minneapolis area. *Id.* The resume he gave the TRIBE describes him  
22 maintaining offices in Chicago, Minneapolis, and Mexico City. *Id.* The resume  
23 lists his projects as being in Minneapolis, Chicago, Tampa Bay, Mexico City, and  
24 Los Angeles. *Id.*

25 **39.** The Nevada Secretary of State reports on the officer list for Defendant  
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1 ATLICO USA, LLC, Defendant ESCOBEDO RECREATION HOLDINGS, LLC,  
2 Defendant GRH, Defendant SAN LUIS POTOSI RECREATION HOLDINGS,  
3 LLC, and Defendant SAN PEDRO RECREATIONAL HOLDINGS, LLC that  
4 “Manager” ARTURO CARDONA lives in Inver Grove Heights, Minnesota. (*See*  
5 Ex. 22, Nevada Secretary of State). Those records have been updated annually  
6 since 2005 and as recently as January 18, 2008. *Id.*

7 **40.** The domestic charter for a company called Barakeil, LLC, registered on  
8 May 21, 2008, lists Defendant ARTURO CARDONA as the Manager, and lists  
9 his address as being in Lake Charles, Louisiana. (*See* Ex. 26, Barakeil).

10 **41.** During the initial diligence phase, Defendant ARTURO CARDONA  
11 provided the TRIBE with an article about him and one of his companies, Archon  
12 Design. (*See* Ex. 24, Archon Design and Tango Media). The article described  
13 Archon’s offices as being located in “Minneapolis, Chicago, and Mexico City.”  
14 *Id.* In the article it further stated “Staff: Four – U.S.: myself: Arturo Rojas  
15 Cardona.” *Id.* It then listed three other individuals in the Mexico City office. The  
16 implication was that ARTURO CARDONA headed up the Minneapolis and  
17 Chicago offices. *Id.*

18 **42.** A website for Archon Design, a link to which Defendant ARTURO  
19 CARDONA provided to the TRIBE during the diligence phase, listed two  
20 addresses, one in Minneapolis and one in Chicago. *Id.* It also provided a phone  
21 number for a number currently listed in Chicago. *Id.*

22 **43.** As recently as June 30, 2008, the World Wide Design Directory listed  
23 Archon Design with a Chicago address and a currently listed phone number in  
24 Chicago. *Id.*

25 **44.** The current website for the Tango Media design company, also owned by  
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1 Defendant ARTURO CARDONA, lists Chicago, Los Angeles, and Monterrey,  
2 Mexico, as the principal places of business. (*See* Ex. 24, Archon Design and  
3 Tango Media). The meetings that Defendants held in Mexico with Plaintiffs were  
4 usually all held at Tango Media's Monterrey offices.

5 **45.** Because Defendant ARTURO CARDONA is known to have offices in  
6 several cities in the United States, is known to have lived in the United States for  
7 numerous years and is believed to be currently living in the United States, it is  
8 possible that he is either a citizen of the United States or a dual national of the  
9 United States and Mexico. He may also be a citizen of Mexico lawfully admitted  
10 to the United States for permanent residence.

11 **46.** Defendant JUAN CARDONA was known to live in Monterrey, Mexico.  
12 (*See* Ex. 27, Williams Declaration). However after two shooting incidents, one of  
13 which targeted him personally and killed the driver in his vehicle, he is believed to  
14 have moved. In one e-mail to the Manager of LVDHM he reported that he left  
15 Monterrey after the first shooting to live somewhere else. (*See* Ex. 13, Email from  
16 J. Cardona to Chairman Williams). It is not known whether he has continued to  
17 reside in Mexico or whether he maintains a residence in the United States. The  
18 last time Plaintiffs were in Mexico, in April 2008, Defendant JUAN CARDONA  
19 appeared to be living in Monterrey. (*See* Ex. 27, Williams Declaration).

20 **47.** Defendant JUAN CARDONA is known to have lived in the United States  
21 for numerous years, to be an alumnus of the University of Iowa, and he indicated  
22 that some of his family members live in the United States. *Id.* He appears in  
23 manner and speech to be a person from the United States. *Id.* It is possible that he  
24 is a citizen of the United States or a dual national of both the United States and  
25 Mexico. He may also be a citizen of Mexico lawfully admitted to the United  
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1 States for permanent residence.

2 **E. FACTUAL ALLEGATIONS REGARDING THE STRUCTURE OF**  
3 **THE TRANSACTION BETWEEN LVDHM AND DEFENDANTS.**

4 **48.** As indicated above, Defendants E-MEX and JDG formed a joint venture  
5 partnership to utilize the Permit to conduct gaming in Mexico.

6 **49.** To consummate the transaction between the TRIBE and Defendants,  
7 Defendant JDG transferred 26% of its shares to LVDHM. Upon completion of  
8 this transaction, and to the present, Defendant JDG has been comprised of three  
9 partners: Defendant GRH, which controls 73% of JDG; Defendant ARTURO  
10 CARDONA, who controls 1%; and LVDHM, which controls 26%. (*See* Ex. 6,  
11 Minutes from August 28, 2006 Shareholder's Meeting). ARTURO CARDONA is  
12 the Manager of GRH. GRH is a Nevada LLC which is comprised of two partners:  
13 Defendant ARTURO CARDONA, and Defendant ATLICO, a Panamanian  
14 company of which ARTURO CARDONA is believed to be the sole or majority  
15 shareholder.

16 **50.** A Term Sheet, Security Agreement, Depository Agreement, Pledge  
17 Agreement, and the executed and notarized Shareholder's Meeting Minutes from  
18 the August 28, 2006 shareholders meeting (collectively "Partnership  
19 Agreements") of Defendant JDG explain the structure of the transaction.

20 **a. TERM SHEET INITIALED BY ARTURO CARDONA AND**  
21 **THE VICE-CHAIRMAN OF THE TRIBE'S TRIBAL**  
22 **COUNCIL.**

23 **51.** Defendants ARTURO CARDONA and JUAN CARDONA made written  
24 representations to the TRIBE's Chairman and attorney that are contained in a  
25 legally binding Term Sheet which was used to memorialize the intention of the  
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1 Parties before the agreements were executed. (*See* Ex. 2, Term Sheet). The Term  
2 Sheet contains no signature block but was verbally agreed to be legally binding. It  
3 was finalized some weeks before the other agreements. It was later initialed by  
4 the Parties. (*See* Ex. 2, Term Sheet and Ex. 6, Minutes from August 28, 2006  
5 Shareholder's meeting).

6 **52.** The TRIBE verbally agreed to the Term Sheet because it had paid a  
7 \$250,000 deposit on May 5<sup>th</sup>, 2006 and desired to have something in place to  
8 protect it while the specifics of the transaction could be memorialized in late  
9 August 2006. The Term Sheet laid out the general structure of the Parties'  
10 proposed agreement and served as an expression of their understandings.

11 **53.** Among others, the Term Sheet contains the following provisions:

12 If a dispute, controversy or claim ("Dispute") arises between the Parties  
13 relating to the interpretation or performance of the Project, or the grounds  
14 for the termination, appropriate representatives of each Party who shall  
15 have the authority to resolve the matter shall meet or confer within 10 days  
16 of written request of either party to attempt in good faith to negotiate a  
17 Resolution of the Dispute prior to pursuing other available remedies.  
Discussions and correspondence relating to trying to resolve such Dispute  
shall be treated as confidential information developed for the purpose of  
settlement.

18 Any Dispute which the Parties cannot resolve through mediation within ten  
19 (10) days, unless otherwise mutually agreed, shall be submitted to final and  
20 binding arbitration under the Rules of Arbitration of the International  
21 Chamber of Commerce ("ICC"), by three (3) arbitrators appointed in  
accordance with the said rules, the arbitration places shall be Monterrey,  
Nuevo Leon, Mexico.

22 The Security and Depository Agreements shall be under the jurisdiction and  
23 laws of the State of Arizona, United States.

24 (*See* Ex. 2, Term Sheet).  
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1 **54.** The “Project” referenced in the dispute resolution section is defined as the  
2 casino in Guadalupe, Mexico in the Term Sheet. (*See* Ex. 2, Term Sheet).

3 **55.** The agreement to arbitrate applies to those disputes the Parties agreed to  
4 submit to arbitration. The Parties did not agree to submit to arbitration in  
5 instances where the Parties defaulted under the Security and Depository  
6 Agreements agreements once they were executed. (*See* Ex. 2, Term Sheet, Ex. 4,  
7 Security Agreement, Ex. 27, Williams Declaration).

8 **56.** The Term Sheet illustrates that even from early on in the negotiation  
9 between the Parties they agreed that the “Security and Depository Agreements  
10 shall be under the jurisdiction and laws of the State of Arizona, United States.”  
11 (*See* Ex. 2, Term Sheet). Those agreements contain no arbitration provisions but  
12 rather conform to the agreement made in the Term Sheet that the “State Courts of  
13 Arizona” would have jurisdiction. (*See* Ex. 3, Depository Agreement, Ex. 4,  
14 Security Agreement, Ex. 27, Williams Declaration).

15 **b. SECURITY AGREEMENT EXECUTED BY LVDHM, JDG,**  
16 **ATLICO, GRH, AND ARTURO CARDONA.**

17 **57.** On or about August 14, 2006, LVDHM executed a Security Agreement  
18 with Defendants JDG, ATLICO, GRH, and ARTURO CARDONA. (*See* Ex. 4,  
19 Security Agreement). The Security Agreement, *inter alia*, confers upon LVDHM  
20 a security interest in 26% of the partnership interest in Defendant GRH owned by  
21 Defendant ARTURO CARDONA, individually or through Defendant ATLICO.  
22 *Id.* This security interest was called the “Collateral” which, when coupled with  
23 the 26% interest in JDG purchased by LVDHM as part of the formation of its  
24 partnership with Defendants, would be sufficient to allow LVDHM to exercise  
25 corporate control over JDG. The Security Agreement authorized LVDHM to take  
26

1 control of the Collateral in the event of an uncured default by JDG.

2 **58.** The Security Agreement defines what will be considered a “Default” and  
3 contains a forum selection clause for resolving disputes regarding a “Default” by  
4 Defendants E-MEX, GRH, JDG, ATLICO and ARTURO CARDONA,  
5 collectively referred to in the Security Agreement as the “Mexican Counterparts.”  
6 That forum selection clause provided that “Mexican Counterparts hereby consents  
7 to the jurisdiction of the Courts of the State of Arizona.” (*See* Ex. 4, Security  
8 Agreement).

9 **c. DEPOSITORY AGREEMENT EXECUTED BY JDG AND**  
10 **LVDHM.**

11 **59.** On or about August 25, 2006, LVDHM executed a Depository Agreement  
12 with Defendant JDG. (*See* Ex. 3, Depository Agreement). Section 2.3(a) of the  
13 Depository Agreement requires JDG to deposit on a daily basis 26% of the net  
14 revenues of the Guadalupe Casino, called the “Cash Flow Participation,” into an  
15 account on behalf of LVDHM. Section 2.3(b) of the Depository Agreement  
16 provides that any Cash Flow Participation not deposited into such an account on  
17 behalf of LVDHM shall be held by JDG in a trust account for LVDHM.

18 **d. PLEDGE AGREEMENT EXECUTED BY ARTURO**  
19 **CARDONA, GRH, JDG, AND LVDHM.**

20 **60.** LVDHM entered into a Pledge Agreement with Defendants GRH and JDG  
21 on or about August 25, 2006. (*See* Ex. 5, Pledge Agreement). The Pledge  
22 Agreement memorialized the arrangement whereby the Collateral under the  
23 Security Agreement would be delivered to the Secretary of the Board of Directors  
24 of JDG (who was also LVDHM’s representative on the Board) in the event of  
25 default. If such default were not timely cured, the Pledge Agreement authorized  
26

1 the Secretary of JDG to file the agreement with the Public Registry of Commerce  
2 of Nuevo Leon, Mexico, thereby consummating the transfer of the Collateral from  
3 Defendant ARTURO CARDONA to LVDHM.

4 e. **SHAREHOLDER'S MINUTES OF AUGUST 28, 2006.**

5 **61.** On or about August 28, 2006, Defendant JDG held a shareholders' meeting,  
6 chaired by Defendant ARTURO CARDONA, at which time JDG affirmed and  
7 acknowledged all of the aforementioned Partnership Agreements between  
8 LVDHM and JDG and, *inter alia*, appointed a representative of LVDHM to sit on  
9 and act as Secretary of JDG's Board of Directors. (*See* Ex. 6, Minutes from  
10 August 28, 2006 Shareholders' meeting). The minutes for this meeting were  
11 notarized and entered into the Mexican Public Registry for corporate documents.  
12 All Parties acknowledged by signature that the minutes also constitute a legally  
13 binding agreement with respect to the operation of the corporation under Mexican  
14 law.

15 **F. FACTUAL ALLEGATIONS REGARDING THE TRANSFER OF**  
16 **THE TRIBE'S FUNDS TO THE DEFENDANTS.**

17 **62.** Plaintiffs duly complied with its obligations pursuant to its partnership with  
18 the Defendants by transferring funds to the Texas National Bank account #100775  
19 selected by Arturo and Juan Cardona. At the time that the TRIBE wired the first  
20 \$250,000.00 US to Defendants, LVDHM did not exist. (*See* Ex. 23, Bank  
21 Account Information, Ex. 27, Williams Declaration). The funds used to invest in  
22 the Defendants' Mexican casino operation were tribal general funds and they were  
23 wired from the TRIBE's bank accounts to the Defendants' account. (*See* Ex. 7,  
24 Statement of Payments, Ex. 21, Tribal Resolutions, Ex. 27, Williams Declaration).  
25 After the TRIBE created LVDHM there were three more wire transfers to the  
26

1 Defendants' Texas National Bank account #100775. (*See* Ex. 7, Statement of  
2 Payments). The combined total of the four wire transfers was \$6,500,000.00. The  
3 transfers were as follows:

- 4 i. Around May 5, 2006, a \$250,000 wire transfer from the TRIBE's  
5 National City Bank account to San Pedro Recreation Holdings'  
6 Texas National Bank account;
- 7 ii. Around August 28, 2006, a \$2,700,000 wire transfer from the  
8 TRIBE's Wells Fargo account to the San Pedro Recreation  
9 Holdings' Texas National Bank account;
- 10 iii. Around August 28, 2006, a \$3,300,000 wire transfer from the  
11 TRIBE's Wells Fargo account to San Pedro Recreation Holdings'  
12 account;
- 13 iv. Around August 30, 2006, a \$250,000 wire transfer from LVDHM's  
14 Wells Fargo account to San Pedro Recreation Holdings' Texas  
15 National Bank account.

16 **63.** Per the agreements LVDHM's investment was to provide the capital to  
17 fund Defendant JDG's responsibilities under its joint venture agreement with  
18 Defendant E-MEX - namely, to operate a legally functioning gaming enterprise in  
19 Guadalupe, Mexico pursuant to the Permit.

20 **64.** Defendant Juegos de Entretenimiento y Videos de Monterrey, Sociedad de  
21 Capital Variable is named as a defendant in this lawsuit because Defendants used  
22 part of the funds transferred by the TRIBE to secure a contract through Juegos de  
23 Entretenimiento y Videos de Monterrey, Sociedad de Capital Variable with two  
24 Nevada Gaming Control Board licensed corporations, Ainsworth Game  
25 Technology and Aristocrat Technologies, Inc. (*See* Ex. 27, Williams Declaration).  
26

1 The contracts were either to lease or purchase slot machines for use in the  
2 Guadalupe Casino. Defendant JUAN CARDONA LVDHM Manager and Tribal  
3 Chairman, Jim Williams, that he purchased the slot machines for their other  
4 casinos from those two companies. This fact was verified through direct  
5 discussion with representatives of Aristocrat Technologies. (*See* Ex. 27, Williams  
6 Declaration).

7 **65.** It is believed that Defendant JDG is using the funds generated at the  
8 Guadalupe Casino for other undisclosed third-party contracts. Despite its requests,  
9 however, LVDHM has not been granted access to any information regarding the  
10 third-party contracts.

11 **G. FACTUAL ALLEGATIONS REGARDING THE DEFENDANTS'**  
12 **DEFAULT.**

13 **66.** LVDHM sought to manage its investment in Defendants' joint venture by  
14 securing an external auditor and retaining tax planning and management services  
15 for Defendant JDG.

16 **67.** On December 6, 2006 through December 8, 2006, representatives of  
17 LVDHM traveled to Monterrey, Nuevo Leon, Mexico. During this trip, LVDHM  
18 raised concerns about the auditing and tax planning of the Guadalupe Casino and  
19 Defendant JDG during meetings with representatives from JDG and Defendant E-  
20 MEX, along with representatives from the accounting firms Horwath Castillo  
21 Miranda ("HCM") and KPMG Cárdenas Dosal, S.C., and the law firm Baker &  
22 McKenzie.

23 **68.** On or about December 11, 2006, LVDHM requested attorney Luis  
24 Jimenez-Robles of Baker & McKenzie to prepare a tax planning services  
25 memorandum on which LVDHM could rely to properly structure its affairs in  
26

1 regard to its participation in Defendant JDG and the Guadalupe Casino.

2 **69.** On December 14, 2006, LVDHM identified several concerns about  
3 Defendant JDG's operations of the Guadalupe Casino having to do with, *inter*  
4 *alia*: the need for better segregation of duties within JDG; LVDHM's need to  
5 maintain a significant level of management of or control over JDG's Guadalupe  
6 Casino gaming operation; LVDHM's need for more information regarding internal  
7 controls at the Guadalupe Casino; and LVDHM's need for HCM to participate  
8 actively in external auditing of the Guadalupe Casino's books to ensure proper  
9 accounting and distribution of LVDHM's Cash Flow Participation.

10 **70.** Despite repeated commitments to do so, none of the Defendants took the  
11 actions necessary to address these concerns.

12 **71.** On or about December 15, 2006, Mr. Jimenez-Robles of Baker &  
13 McKenzie provided a memo discussing Mexican law as it applies to joint ventures  
14 and taxation.

15 **72.** On January 1, 2007, 60 days after the opening of the Guadalupe Casino,  
16 LVDHM's right to receive Cash Flow Participation under the Depository  
17 Agreement accrued.

18 **73.** On or about March 20, 2007, LVDHM attended a shareholders' meeting of  
19 Defendant JDG along with Defendant JUAN CARDONA regarding, *inter alia*:  
20 identification of JDG's revenues to date; mechanisms for LVDHM to legally  
21 receive funds from JDG after the payment of taxes all applicable taxes by JDG;  
22 the appointment of internal advisors for the development of adequate internal  
23 control standards at the Guadalupe Casino; the appointment of both internal and  
24 external auditors; and the identification of a process, including the execution of  
25 any and all necessary agreements, to accomplish each of these items. The minutes  
26

1 for this meeting were notarized and entered into the Mexican Public Registry for  
2 corporate documents. All Parties acknowledged by signature that the minutes  
3 constituted a legally binding agreement with respect to JDG's operation under  
4 Mexican law.

5 **74.** Subsequently, and despite their binding commitments evinced by their  
6 signature of the minutes of the March 20, 2007 meeting of Defendant JDG's  
7 shareholders, none of the Defendants ever took the actions necessary to address  
8 the concerns of LVDHM raised at this meeting.

9 **75.** At the same March 20, 2007 meeting, Defendant JUAN CARDONA  
10 proposed purchasing LVDHM's 26% partnership interest in Defendant JDG. To  
11 that point, LVDHM had not received any of the Cash Flow Participation to which  
12 it was entitled.

13 **76.** On or about March 20, 2007 and March 21, 2007, Defendant JUAN  
14 CARDONA and LVDHM negotiated the major terms of a proposed purchase of  
15 LVDHM's partnership interest in Defendant JDG, which terms were memorialized  
16 in a Letter of Intent. (*See* Ex. 8, Letter of Intent). In the Letter of Intent,  
17 Defendant JUAN CARDONA represented that Defendant E-MEX would buy out  
18 LVDHM's partnership interest in JDG for \$9,500,000.00 US no later than May 15,  
19 2007.

20 **77.** On or about March 22, 2007, representatives from LVDHM and Defendant  
21 E-MEX finalized the Letter of Intent and Defendant JUAN CARDONA signed the  
22 Letter of Intent on March 30, 2007.

23 **78.** On or about April 30, 2007, the Defendants' attorney David Jimenez  
24 represented that Defendant JUAN CARDONA would send the buyout funds  
25 directly to LVDHM on behalf of the Defendants, and that JUAN CARDONA  
26

1 agreed to pay all applicable taxes on the buyout funds.

2 **79.** On April 30, 2007, Baker & McKenzie provided LVDHM with a  
3 memorandum addressing potential tax implications of the proposed buyout.

4 **80.** Through verbal confirmation from David Jimenez, Defendant JUAN  
5 CARDONA promised to call LVDHM shortly after April 30, 2007 to resolve the  
6 unfulfilled obligations owed by the Defendants to LVDHM.

7 **81.** Despite the promise referenced immediately above, Defendant JUAN  
8 CARDONA never called anyone from LVDHM. On or about May 8, 2007, David  
9 Jimenez informed LVDHM's attorneys that JUAN CARDONA would not comply  
10 with his representations made in the Letter of Intent executed on March 22, 2007.

11 **82.** On or about May 10, 2007, LVDHM sent a "Demand and Intent to Send a  
12 Notice of Default" ("Demand") to JDG, GRH and ATLICO stating that the  
13 Defendants were not in compliance with the Partnership Agreements between the  
14 Parties. (*See* Ex. 9, Demand and Intent to Send Notice of Default). This Demand  
15 also noted that Defendant JDG had failed to disburse Cash Flow Participation  
16 funds to LVDHM or otherwise establish a trust account to hold such funds on  
17 LVDHM's behalf in accordance with JDG's obligations under the Security  
18 Agreement, the Depository Agreement, the registered and notarized Minutes of the  
19 JDG directors' meeting of March 20, 2007, and/or the verbal promises made by  
20 Defendant E-MEX to LVDHM on April 30, 2007. The Demand informed  
21 ARTURO CARDONA that LVDHM "has repeatedly attempted to contact JDG  
22 and E-MEX through E-MEX legal counsel regarding the requested actions." The  
23 letter described each of LVDHM's grievances and requested a cure of each issue.

24 **83.** On or about May 14, 2007, Defendant ARTURO CARDONA's attorney  
25 Edwin Hunter sent an e-mail to LVDHM representing that ARTURO CARDONA  
26



1 would wire transfer the Cash Flow Participation owed to LVDHM. (*See* Ex. 10,  
2 Email from E. Hunter to J. Finch).

3 **84.** On or about May 29, 2007, Edwin Hunter conducted a telephone call with  
4 LVDHM and stated that Defendant ARTURO CARDONA would transfer the  
5 Cash Flow Participation funds due and owing to LVDHM at some time during the  
6 week of June 4, 2007. No such transfer occurred the week of June 4, 2007.

7 **85.** On or about June 6, 2007, Edwin Hunter unilaterally pushed back the wire  
8 transfer date to June 15, 2007 (*See* Ex. 11, Email from E. Hunter to V.  
9 Kewenvoyouma). No payment was sent however.

10 **86.** On or about June 13, 2007, and still without ever having received a single  
11 Cash Flow Participation payment from the Defendants, LVDHM sent a “Notice of  
12 Default” to the Defendants. (*See* Ex. 12, Notice of Default). The Notice of  
13 Default was sent via Federal Express, an international courier, on June 13, 2007 to  
14 Defendant ARTURO CARDONA. The Notice of Default was also sent to  
15 Defendant JUAN CARDONA, and the Defendants’ attorneys David Jimenez and  
16 Edwin Hunter.

17 **87.** On or about June 14, 2007, Defendant JUAN CARDONA sent an e-mail to  
18 LVDHM containing excuses as to why Defendant JDG did not make the Cash  
19 Flow Participation payments to LVDHM. (*See* Ex. 13, Email from J. Cardona to  
20 Chairman Williams). Defendant JUAN CARDONA informed Plaintiffs that JDG  
21 was not prepared to issue an actual Cash Flow Distribution.

22 **88.** Despite the representations by Defendant JUAN CARDONA and Edwin  
23 Hunter, no wire transfer was sent from JDG to LVDHM on June 15, 2007.

24 **89.** The Defendants’ attorneys David Jimenez and Edwin Hunter subsequently  
25 informed LVDHM that any payment from Defendant JDG to LVDHM would only  
26

1 be made in the form of a loan subject to a promissory note executed by LVDHM,  
2 because JDG was not prepared to pay the money owed in the manner  
3 contemplated by the Parties. Plaintiffs were promised that Defendants would  
4 cancel the note not only after JDG generated audited financials and created the  
5 mechanisms pursuant to the Partnership Agreements to properly pay the TRIBE  
6 the Cash Flow Distributions.

7 **90.** Plaintiffs accepted the loan arrangement because they were desperate to  
8 secure at least some of the money owed to them for the tribal general fund and it  
9 was presented to them that the only way they could receive the money owed to  
10 them was by agreeing to the loan. (*See* Ex. 27, Williams Declaration).

11 **91.** On or about July 7, 2007, Defendant JDG wire transferred \$500,000.00 in  
12 the form of a loan to LVDHM. The wire transfer of funds sent to LVDHM was  
13 from Texas National Bank. This amount was roughly equal to the estimated Cash  
14 Flow Participation owed to LVDHM through March 31, 2007. The payment did  
15 not constitute the proper issuance of a Cash Flow Distribution.

16 **92.** After the July 7, 2007 wire transfer, the Defendants cut off formal  
17 communications with LVDHM despite repeated attempts by LVDHM to contact  
18 them to resolve the outstanding issues concerning the proposed buy-out and  
19 Defendant JDG's failure to pay LVDHM the Cash Flow Participation. Finally,  
20 LVDHM's attorneys were able to make contact with the Defendants in late  
21 August, 2007, and a meeting was scheduled between LVDHM and the Defendants  
22 in Monterrey, Mexico.

23 **93.** On or about September 4, 2007, LVDHM's attorneys met with the  
24 Defendants' attorney David Jimenez and Defendant JUAN CARDONA. At the  
25 meeting, David Jimenez and Defendant JUAN CARDONA demanded that  
26

1 LDVHM revoke the Notice of Default it had sent them on June 13, 2007 and  
2 stated that no further payments would be made until LVDHM did so. They  
3 promised that after LVDHM revoked it, that JDG would cancel the note, pay the  
4 Cash Flow Distribution funds due since the Casino commenced operations and  
5 would compensate Plaintiffs for the estimated value of their 26% interest in the net  
6 profit for the period April 1, 2007 through June 30, 2007. They also promised that  
7 JDG would pay estimated value of their 26% interest in the net profit for the  
8 period the July 1, 2007 through September 30, 2007 when due in October 2007.

9 **94.** Again feeling they had no option, on or about October 1, 2007, and in  
10 reliance upon the promises of David Jimenez and Defendant JUAN CARDONA  
11 made at the September 4, 2007 meeting, LVDHM sent a conditional “Revocation  
12 of Notice of Default” (“Revocation Notice”) to Defendant ARTURO CARDONA.  
13 (See Ex. 14, Revocation of Notice of Default, Ex. 27, Williams Declaration). The  
14 Revocation Notice referenced the representations JUAN CARDONA had made on  
15 behalf of JDG to satisfy LVDHM’s requests.

16 **95.** The Revocation Notice contained numerous conditions. It stated the  
17 revocation would automatically become null and void if the Defendants failed to  
18 come into compliance with the terms of the Partnership Agreements within a  
19 reasonable time, “not to exceed 60 days.”

20 **96.** The Revocation Notice also required Defendant JDG to pay all money  
21 owed to LVDHM for the period through June 30, 2007 and September 30, 2007  
22 within thirty (30) days, and required JDG to comply with its pre-existing  
23 contractual obligations to LVDHM.

24 **97.** None of the conditions contained in the Revocation Notice were satisfied  
25 by any of the Defendants. Thus, after the thirty (30) days for making the  
26

1 payments and the sixty (60) days for satisfying the other obligation had elapsed,  
2 the Revocation Notice became null and void by its terms.

3 **98.** No payments were wired to LVDHM by any of the Defendants.

4 **99.** On or about November 2007, the Defendants' attorney David Jimenez  
5 contacted LVDHM and indicated that the Defendants would not issue the Cash  
6 Flow Distribution and would only wire the estimated funds owed subject to a  
7 promissory note executed by LVDHM.

8 **100.** On or about November 6, 2007, LVDHM sent the Defendants a written  
9 demand for \$588,687.00 for the period of July 1, 2007 through October 31, 2007.  
10 This number was calculated by the TRIBE based on its review of daily e-mails the  
11 Casino's system generates and transmits to the TRIBE regarding the Casino's  
12 profits. The TRIBE has no idea if the numbers are accurate or whether they are or  
13 may be manipulated.

14 **101.** On or about November 15, 2007, LVDHM met with the Defendants'  
15 attorney Edwin Hunter in Las Vegas, Nevada. At that meeting, Edwin Hunter  
16 represented that his clients, including Defendants ARTURO CARDONA and  
17 JUAN CARDONA, would make the Cash Flow Participation payments Defendant  
18 JDG owed to LVDHM. (*See* Ex. 27, Williams Declaration).

19 **102.** On or about December 4, 2007, Edwin Hunter sent a letter to LVDHM  
20 stating that "Mr. Jose Rojas [Defendant JUAN CARDONA] informed me today  
21 that he intended to wire money to LVD on December 12, 2007." (*See* Ex. 15,  
22 Letter from E. Hunter to L. F. Boland dated December 4, 2007).

23 **103.** No wire transfer or communication between any of the Defendants or their  
24 legal representatives and LVDHM occurred on December 12, 2007.

25 **104.** On or about December 14, 2007, LVDHM sent a letter to Defendant  
26

1 ARTURO CARDONA regarding Defendant JDG's breach of its partnership  
2 obligations to LVDHM. (*See* Ex. 16, Letter from Chairman Williams to A. R.  
3 Cardona dated December 14, 2007).

4 **105.** On or about December 14, 2007, Edwin Hunter sent a letter to LVDHM  
5 stating the Defendants would not pay LVDHM unless LVDHM extended the cure  
6 period for making the payments in writing. (*See* Ex. 17, Letter from E. Hunter to  
7 L. F. Boland dated December 14, 2007).

8 **106.** On or about December 18, 2007, LVDHM sent a letter to Defendant  
9 ARTURO CARDONA regarding the revocation of the Notice of Default  
10 indicating LVDHM's desire to work with Defendants to resolve the issues. (*See*  
11 Ex. 18, Letter to A. R. Cardona from LVDHM dated December 18, 2007).  
12 LVDHM agreed to one final extension of the deadline to transfer all the funds  
13 owed by Defendants, setting a new and final deadline to receive the funds by 1 pm  
14 on December 21, 2007.

15 **107.** On or about December 21, 2007, Defendant JDG only transmitted  
16 \$275,000.00 to LVDHM in the form of a loan subject to a promissory note, which  
17 was signed by LVDHM. The amount was based on estimations for the period.

18 **108.** The wire transfer of funds sent to LVDHM originated from Texas National  
19 Bank. The amount was significantly less than the estimated \$588,687 owed  
20 through October 31, 2007 and only represented an estimated amount owed through  
21 June 30, 2007. Plaintiffs yet again felt they had no other choice but to accept the  
22 money in the form of a loan. (*See* ex. 27, Williams Declaration.) Plaintiffs were  
23 desperate to get the money, even in the form of a loan, given the fact that the  
24 holidays were approaching and the TRIBE needed money for its annual holiday  
25 expenditures for the tribal members. *Id.*

1 **109.** None of the Defendants made any payments to LVDHM due for the period  
2 of July 1, 2007 through September 30, 2007 as promised.

3 **110.** On or about December 28, 2007, LVDHM drafted and sent a letter  
4 regarding the “Continued Validity of the Notification of Default” to Defendants  
5 ARTURO CARDONA, JUAN CARDONA, E-MEX, JDG and Edwin Hunter.  
6 (See Exhibit 19, Continued Validity of the Notification of Default). This  
7 correspondence, sent via Federal Express, notified the Defendants that the Notice  
8 of Default remained effective because none of the Defendants had met the  
9 conditions contained in the Revocation Notice.

10 **111.** Over the next month, in various communications with Defendants and their  
11 attorneys, LVDHM urged the Defendants to cancel the loans, cure the arrears of  
12 the Cash Flow Participation payments that had never been issued and pay any  
13 amounts due for the period from July 1, 2007 forward. The Defendants failed to  
14 cure the defaults.

15 **112.** On or about January 28, 2008, LVDHM sent Defendant ARTURO  
16 CARDONA a revised letter via Federal Express regarding the “Continued Validity  
17 of the Notification of Default – Second Notice” via Federal Express. (See Ex. 19,  
18 Continued Validity of the Notification of Default). It identified the on-going  
19 default of Defendants and the obligation to cure their breach.

20 **113.** On or about February 11, 2008, LVDHM again sent a copy of the  
21 Continued Validity of the Notification of Default via e-mail to the Defendants’  
22 attorneys David Jimenez and Edwin Hunter. *Id.* A copy was also sent to  
23 Defendant JUAN CARDONA via e-mail. This letter notified all of the  
24 Defendants that due to continued non-compliance with their Partnership  
25 Agreements with LVDHM, the “Notice of Default” was still effective. Plaintiffs  
26

1 repeatedly, but to no avail, sent these letters to Defendants in an effort to get their  
2 attention in hopes of reaching a prompt and amicable resolution of the outstanding  
3 issues among the Parties.

4 **114.** On February 29, 2008, LVDHM initiated the process described in the  
5 Pledge Agreement to secure for itself the Collateral (the additional 26% interest in  
6 Defendant JDG). To initiate that process LVDHM sent notice of a partnership  
7 meeting which was set for April 8, 2008 in Monterrey, Mexico. (See Ex. 27,  
8 Williams Declaration).

9 **115.** On March 6, 2008 LVDHM learned through its attorneys that the Mexican  
10 Government confirmed that the permit under which Casino Guadalupe was  
11 supposed to operate is “inactive.” *Id.*

12 **116.** Jim Williams, the Manager of LVDHM and the TRIBE’s Chairman and his  
13 attorneys traveled to Monterrey to attend the partnership meeting called by  
14 LVDHM in accordance with the Pledge Agreement. *Id.* Attorney David Jimenez,  
15 after numerous months without any communication, contacted the TRIBE’s  
16 counsel in Mexico and indicated that Defendant JUAN CARDONA requested that  
17 the meeting be held at Tango Media’s offices rather than the location selected by  
18 LVDHM. *Id.* He said the Defendant JUAN CARDONA would participate in the  
19 meeting. *Id.*

20 **117.** On April 8, 2008 when Plaintiffs arrived for the meeting, Defendant JUAN  
21 CARDONA immediately indicated that he would not participate in the meeting as  
22 a partnership meeting and stated that the meeting was for “settlement purposes.”  
23 *Id.* Because of this LVDHM had to forgo the meeting that it needed in order to  
24 initiate the process required by the Pledge Agreement. It chose to do so because it  
25 believed settlement would actually be discussed. *Id.*

1 **118.** However, the meeting involved JUAN CARDONA in a hostile manner  
2 telling Jim Williams that he would never return Plaintiffs' investment and then  
3 conversely agreeing that money was owed to the TRIBE and that they would  
4 provide audited financials, cancel the promissory notes and then issue the Cash  
5 Flow Distribution. (See Ex. 27, Williams Declaration). He gave numerous  
6 excuses as to why Defendants have not sent the money they owed Plaintiffs. *Id.*  
7 He indicated that they would provide us all the documentation we requested. He  
8 also said that they would send JDG's tax filings. *Id.*

9 **119.** Finally, he stated that the best thing was for LVDHM to sell its interests.  
10 He asked Jim Williams to leave and return in the afternoon so that he could call an  
11 overseas financier who he said might be interested in buying LVDHM's shares  
12 (the same one who Defendants alleged would buy out LVDHM in the Letter of  
13 Intent of April 30, 2007). *Id.*

14 **120.** At the afternoon meeting no settlement discussion occurred. However, they  
15 asked Plaintiffs to hold off on any further legal action so that a buy-out could be  
16 arranged. *Id.*

17 **121.** Since that meeting Plaintiffs have received no communication directly from  
18 the Defendants, Defendants did not send the documentation they said they would,  
19 the promissory notes have not been canceled, LVDHM has yet to receive a single  
20 Cash Flow Distribution, and LVDHM did not receive any funds due, in the form  
21 of a loan or otherwise, for the period covering July 1, 2007 to the present.

22 **H. FACTUAL ALLEGATIONS REGARDING THE FORUM FOR**  
23 **ADDRESSING DEFENDANTS' DEFAULTS.**

24 **122.** The Parties, in an arms-length negotiation expressly agreed by contract in  
25 advance to submit to the jurisdiction of a specific court. Specifically, the  
26



1 “Mexican Counterparts” explicitly consented to the jurisdiction of the Courts of  
2 the State of Arizona. (See Ex. 4, Security Agreement). Per the terms of the  
3 Security agreement, “Mexican Counterparts” means: (a) Defendant E-MEX; (b)  
4 Defendant GRH; (c) Defendant ATLICO; (d) Defendant JDG; (e) the “Asociacion  
5 en Participacion” created by Entretenimiento de Mexico, S.A. de C.V. and Juegos  
6 de Entretenimiento y Video de Guadalupe, S. de R. L. de C. V.; and (f) Defendant  
7 ARTURO CARDONA. *Id.*

8 **123.** During the negotiations of the Partnership Agreements extensive discussion  
9 took place concerning dispute resolution. The product of this discussion was that  
10 the Parties agreed Arizona was the best place to resolve disputes if a default  
11 pursuant to the Partnership Agreements were to take place. *Id.* Arizona was seen  
12 as the most convenient place for litigation because it was closer than Michigan for  
13 the Defendants and was easily reachable by them from Monterrey in Northern  
14 Mexico. *Id.* In fact JUAN CARDONA and ARTURO CARDONA sent their  
15 private jet to the United States to pick up the Tribal Council on several occasion  
16 and on at least one occasion sent the plane to Arizona to pick up on the Plaintiffs’  
17 attorney. Plaintiffs favored Arizona because it is where the tribal attorneys are  
18 located, which would reduce litigation and travel costs if a dispute were to arise.  
19 *Id.* Part of what attracted the TRIBE to the deal and induced them to invest was  
20 the fact that the Defendants agreed to resolve disputes in the courts of Arizona and  
21 agreed to have Arizona law govern the dispute to keep the TRIBE out of foreign  
22 courts. *Id.*

23 **124.** The Security Agreement defines what will be considered a “Default” as  
24 follows:

25       Each of the following occurrences will constitute a Default:

1  
2 (a) A Default will occur hereunder or under any of the Transaction Documents.

3 (b) Juegos de Guadalupe will fail to transfer to LVDHM its Cash Flow  
4 Participation from the Gross Daily Profit at the time and in the manner  
5 required by this Agreement or any material breach of Mexican Counterparts  
6 that impacts LVD Mexico Holdings, LLC's interest in the Pledged  
7 Revenues.

8 (c) Mexican Counterparts will default in the due observance or performance  
9 of any of its other obligations in this Agreement or the Transaction  
10 Documents.

11 (d) The Casino fails to open due to the fault of an action taken by Mexican  
12 Counterparts.

13 (See Ex. 4, Security Agreement).

14 **125.** The Security Agreement also bound the Parties to the following: "[t]his  
15 Agreement is intended to take effect as a sealed instrument and will be governed  
16 by, and construed in accordance with, the laws of Arizona, without regard to its  
17 conflicts of law provisions. Mexican Counterparts agrees that any action or claim  
18 arising out of, or any dispute in connection with, this Agreement, any rights,  
19 remedies, obligations, or duties hereunder, or the performance or enforcement  
20 hereof or thereof, may be brought in the courts of Arizona." *Id.*

21 **126.** Thus, Defendant ARTURO CARDONA when he signed the Security  
22 Agreement agreed that he as an individual, and Defendants E-MEX, ATLICO,  
23 GRH and JDG, would all resolve any disputes regarding an alleged Default in the  
24 forum selected.

25 **127.** Due to their interlocking control structure and the fact that ARTURO  
26 CARDONA directly controls every Corporate Defendant as his alter, impliedly  
every Defendant agreed to the forum selection clause.

**128.** Defendants JUAN CARDONA, Juegos de Entretenimiento y Videos de

1 Monterrey, Sociedad de Capital Variable, ATLICO USA, LLC, E-MEX Holdings,  
2 LLC, Escobedo Recreation Holdings, LLC, Matamoras Recreation Holdings,  
3 LLC, Reynosa Recreation Holdings, LLC, San Luis Potosi Recreation Holdings,  
4 LLC, and San Pedro Recreational Holdings, LLC are not signatories to the  
5 Security Agreement. However, the non-contracting Parties are closely related to  
6 the contractual relationship because each participated in the transaction.

7 **129.** Defendant JUAN CARDONA is the agent for all of the Defendants,  
8 handles the day-to-day operations of the Defendants, and has been one of the  
9 points of contact in all negotiations, and correspondence. He attended meetings as  
10 the proxy of his brother Defendant ARTURO CARDONA. He earned income  
11 from the transaction that lies at the heart of this Complaint and bears significant  
12 responsibility for the transaction with Plaintiffs. He is believed to be an officer in  
13 Defendants' companies and has dominion and control over the Guadalupe Casino.

14 **130.** The non-contracting Party Juegos de Entretenimiento y Videos de  
15 Monterrey, Sociedad de Capital Variable benefited from the Partnership  
16 Agreements because it is believed to have used Defendant JDG's funds (including  
17 those provided by LVDHM) to contract with two Nevada Gaming Control Board  
18 licensed corporations, Ainsworth Game Technology and Aristocrat Technologies,  
19 Inc., to either lease or purchase slot machines for use in the Guadalupe Casino.  
20 Defendant ARTURO CARDONA is the Manager, legal representative and at least  
21 majority shareholder of Juegos de Entretenimiento y Videos de Monterrey,  
22 Sociedad de Capital Variable.

23 **131.** ATLICO USA, LLC and E-MEX Holdings, LLC are believed to be holding  
24 companies designed to "hold" the interests of Defendants ATLICO and E-MEX.  
25 Defendant ARTURO CARDONA manages, is the legal representative and is a  
26

1 shareholder in ATLICO USA, LLC and E-MEX Holdings, LLC. (*See* Ex. 22,  
2 Nevada Secretary of State).

3 **132.** Every single wire transfer from the TRIBE was sent to account number  
4 1007715 at Texas National Bank for credit to Defendant SAN PEDRO  
5 HOLDINGS, LLC which is part of a joint account held by at least Defendants  
6 SAN PEDRO HOLDINGS, LLC, ESCOBEDO RECREATION HOLDINGS,  
7 LLC, MATAMORAS RECREATION HOLDINGS, LLC, REYNOSA  
8 RECREATION HOLDINGS, LLC, and SAN LUIS POTOSI RECREATION  
9 HOLDINGS, LLC. (*See* Ex. 7, Statement of Payments, Ex. 23 Bank Account  
10 Information). Defendant ARTURO CARDONA was at all times relevant to this  
11 Complaint actively involved as the Manager, majority shareholder, owner, or  
12 beneficial owner in those Nevada registered LLCs. These corporations also  
13 maintain the exact same bank account, number 1007715. *Id.* Therefore, any of  
14 those companies could have control over the TRIBE's funds and have access to  
15 the funds.

16 **133.** It is believed that funds from Defendants' operations are commingled in  
17 the accounts held in the name of the aforementioned Nevada corporations at Texas  
18 National Bank and that the TRIBE's investment may have been moved between  
19 accounts at Texas National Bank, to other unknown accounts in the United States  
20 and Mexico and in and out of bank accounts in Panama held in the name of  
21 Defendant ATLICO or other unknown Panama registered companies.

22 **134.** The Nevada LLC's named as Defendants benefited from the Partnership  
23 Agreements with Plaintiffs because the TRIBE's money was and may be in an  
24 account to which those entities have access. Defendant ARTURO CARDONA  
25 manages, is the legal representative, and is a shareholder of the companies.

1 Defendant JUAN CARDONA and ARTURO CARDONA requested that the  
2 money be wired to a single account in which it is not clear whether GRH even has  
3 a sub-account to segregate funds associated with the Guadalupe Casino, GRH or  
4 JDG. By accepting the TRIBE's money into that single account, all the known  
5 business that have access to it became transaction participants.

6 **I. DEFENDANTS PURPOSELY AVOIDED THEMSELVES TO THE**  
7 **LAWS OF ARIZONA.**

8 **135.** Defendants purposely avoided themselves to the laws of Arizona because,  
9 as alleged above, the Defendants either agreed to the forum selection clause  
10 granting jurisdiction in the Courts of the state of Arizona or because they are the  
11 alter ego of ARTURO CARDONA and are transaction participants.

12 **136.** On at least one occasion Defendants sent a private jet to Arizona to conduct  
13 business related to this transaction.

14 **137.** Defendants agreed that the governing law of this transaction shall be that of  
15 Arizona.

16 **V. FIRST CAUSE OF ACTION – BREACH OF CONTRACT**

17 **138.** Plaintiffs herein reallege and incorporate by reference the allegations set  
18 forth above.

19 **139.** The Defendants, through their principal Defendant ARTURO CARDONA  
20 and agent Defendant JUAN CARDONA, presented a partnership opportunity to  
21 the TRIBE.

22 **140.** Specifically, Defendants ARTURO CARDONA and JUAN CARDONA  
23 promised the TRIBE a 26% equity interest in JDG and rights to 26% of the Gross  
24 Daily Profit of the Guadalupe Casino (Cash Flow Participation) in exchange for  
25 the TRIBE's capital investment \$6,500,000.00.

1 **141.** On behalf of the Defendants, Defendant ARTURO CARDONA executed a  
2 Term Sheet with LVDHM outlining the intended partnership structure for  
3 Defendant JDG. The Term Sheet expressed the intention that JDG would pay the  
4 Cash Flow Participation from the Guadalupe Casino to LVDHM. The Term Sheet  
5 outlined the intent of the transaction and was the foundation for the formal  
6 Partnership Agreements subsequently entered into by LVDHM with Defendants,  
7 ARTURO CARDONA, JUAN CARDONA, E-MEX, JDG, ATLICO, and GRH.

8 **142.** On or about August 25, 2006, LVDHM executed a Depository Agreement  
9 with Defendant JDG.

10 **143.** Section 2.3(a) of the Depository Agreement requires Defendant JDG to  
11 deposit the Cash Flow Participation from the Guadalupe Casino into an account on  
12 behalf of LVDHM on a daily basis. Section 2.3(b) of the Depository Agreement  
13 provides that any Cash Flow Participation not deposited into such an account on  
14 behalf of LVDHM shall be held in a trust account for LVDHM.

15 **144.** On or about August 14, 2006, LVDHM executed Security Agreement with  
16 Defendants JDG, ATLICO, GRH, and ARTURO CARDONA.

17 **145.** Sections 5(c) and (d) of the Security Agreement provides the Defendants  
18 “shall make all decisions regarding the company in conformance with its bylaws  
19 and at the direction of its Board of Directors, which at all times and at the  
20 direction of its Board of Directors... [and shall c]omply with all the applicable  
21 requirements, including all amendments thereto and with applicable provisions of  
22 Mexican Law... in connection with all Agreements executed for [*sic*] Juegos de  
23 Guadalupe [JDG] project.”

24 **146.** Section 7(a) and (b) of the Security Agreement further provides that a  
25 default under the Security Agreement shall occur upon a default of any transaction  
26

document, and/or if Defendant JDG fails to transfer Cash Flow Participation payments to LVDHM.

**147.** On or about August 28, 2006, Defendant JDG held a shareholders' meeting, chaired by Defendant ARTURO CARDONA, at which time JDG affirmed and acknowledged all of the aforementioned Partnership Agreements between LVDHM and JDG. The minutes for that meeting ("Shareholder Minutes") were certified and notarized, and constitute under Mexican law a legally binding agreement between all of the Defendants and LVDHM regarding the operation of the corporation under Mexican law.

**148.** LVDHM performed all its obligations to transfer funds to its partners which it did in the four wire transfers and LVDHM attempted to appoint an external auditor as required.

**149.** Defendant JDG breached the Depository Agreement and Security Agreement by failing to pay the required Cash Flow Participation from the Guadalupe Casino to LVDHM and by thwarting LVDHM's efforts to vindicate its right to appoint external auditors to monitor the Guadalupe Casino's finances.

**150.** Defendant JUAN CARDONA breached his agreement to make Cash Flow Participation payments to LVDHM on behalf of all of the Defendants.

**151.** Defendants have breached the Depository Agreement, Security Agreement and the agreements memorialized in the various Shareholder Minutes, by failing to take actions necessary to effectuate the intent of those agreements with LVDHM by, *inter alia*, preventing LVDHM from conducting external auditing services and failing to issue Cash Flow Distributions to Plaintiffs.

**152.** As a result of all of the Defendants' breaches described above, Plaintiffs suffered damages including but not limited to the loss of its \$6,500,000.00

1 investment that the Defendants arrogated for their own benefit and refuse to return  
2 to Plaintiffs, the lost opportunity from the potential investment of those funds in  
3 other ventures, unpaid Cash Flow Participation payments and dividends from  
4 Defendant JDG, interest thereon, and expenses, attorneys' fees and costs incurred  
5 by Plaintiffs in its attempts to enforce its agreements with the Defendants.

6 **VI. SECOND CAUSE OF ACTION – CONVERSION**

7 **153.** Plaintiffs herein reallege and incorporate by reference the allegations set  
8 forth above.

9 **154.** Plaintiffs transferred \$6,500,000.00 to the Defendants in a joint account  
10 accessible to ARTURO CARDONA and the Nevada LLC's who each shared the  
11 account.

12 **155.** Pursuant to this partnership, Defendant JDG should have paid the Cash  
13 Flow Participation to LVDHM.

14 **156.** Despite these contractual obligations and repeated oral and written  
15 promises, none of the Defendants ever paid the Cash Flow Participation to  
16 LVDHM.

17 **157.** ARTURO CARDONA on behalf of the Defendants have thus wrongfully  
18 taken \$6,500,000.00 from Plaintiffs for their own benefit. The Defendants exert  
19 dominion and control over the funds invested, as well as the fruits of Plaintiff's  
20 investment in the Guadalupe Casino, namely the construction and operation of that  
21 facility and the profits arising therefrom.

22 **158.** The Defendants' control of the funds invested by Plaintiffs is wrongful  
23 because the Defendants received the funds under the guise of promises to pay the  
24 Cash Flow Participation, but then refused to do so after receiving Plaintiffs'  
25 investment. Defendants' dominion over the investment deprived Plaintiffs of the  
26



ownership and use of the money.

**159.** The acts, omissions, and conduct of all Defendants constitute negligence, gross negligence, reckless, intentional, knowing, extreme and/or outrageous conduct against Plaintiffs.

**VII. THIRD CAUSE OF ACTION – BREACH OF FIDUCIARY DUTIES**

**160.** Plaintiffs herein reallege and incorporate by reference the allegations set forth above.

**161.** As business partners, ARTURO CARDONA, JUAN CARDONA, JDG, GRH, E-MEX, and ATLICO owed LVDHM fiduciary duties of loyalty, care and good faith and fair dealing.

**162.** Despite these obligations, the Defendants have instead made false or misleading representations to Plaintiffs concerning Defendant JDG's accounts and monies due and owing to Plaintiffs as a result of its participation in the partnership. They have also failed to account for such unpaid monies. Furthermore, the Defendants have consistently frustrated LVDHM's effort to vindicate its rights to ensure adequate external auditing of JDG's operations. Defendants have thus acted adversely to the partnership.

**163.** Plaintiffs have been harmed by the Defendants' actions because Plaintiffs have been deprived of both investment capital and of the opportunity to enjoy the fruits of that capital, namely the Cash Flow Participation. Plaintiffs have been forced to expend additional time and money in an effort to recover the wrongfully withheld funds.

**164.** The acts, omissions and conduct of all Defendants constitutes negligence, gross negligence, reckless, intentional, knowing, extreme and/or outrageous conduct against Plaintiffs.

1 **VIII. FOURTH CAUSE OF ACTION – FRAUD**

2 **165.** Plaintiffs herein reallege and incorporate by reference the allegations set  
3 forth above.

4 **166.** The Defendants, through their principal, Defendant ARTURO CARDONA,  
5 and agent, Defendant JUAN CARDONA, intentionally misrepresented the  
6 partnership opportunity to the Plaintiffs from the outset of this transaction.  
7 Between April 28, 2006 and May 5, 2006, ARTURO CARDONA and JUAN  
8 CARDONA conducted several telephone calls with the TRIBE's Chairman, James  
9 Williams, Jr. and the TRIBE's attorneys, in which they each intentionally  
10 misrepresented the proposed partnership structure for Defendant JDG, JDG's  
11 intentions to legally operate the Guadalupe Casino pursuant to Mexican law, and  
12 the validity of the Permit.

13 **167.** Specifically, Defendants ARTURO CARDONA and JUAN CARDONA  
14 promised LVDHM a "26% equity interest" in Defendant JDG and intentionally  
15 misrepresented that LVDHM would receive "26% of the net revenue" in exchange  
16 for a "capital investment" of "\$6,500,000.00."

17 **168.** On March 20, 2007, in an effort to induce LVDHM to forbear from  
18 declaring a default under the Depository and Security Agreements, Defendant  
19 JUAN CARDONA promised, on behalf of all of the Defendants, to appoint  
20 internal advisors and external auditors for the Guadalupe Casino to ensure that  
21 LVDHM's tax concerns were properly addressed under the laws of Mexico. He  
22 also promised the Defendants would make the required Cash Flow Participation  
23 payments of Guadalupe Casino revenues to LVDHM since none had been made.

24 **169.** The above representations made by the Defendants were false. None of the  
25 Defendants ever made any attempt to accomplish any of their promised acts. All  
26

1 of the Defendants knew their representations were false at the time they were  
2 made because they willfully failed to make any attempt to act in the promised  
3 manner and proceeded to misdirect the Plaintiffs.

4 **170.** Between April 11, 2007 and April 30, 2007, LVDHM made extensive  
5 efforts to contact the Defendants to notify them that no action had been taken to  
6 correct their defaults under the applicable Partnership Agreements; however, the  
7 Defendants intentionally avoided and refused to communicate with LVDHM.

8 **171.** On June 15, 2007, after the Defendants received the Notice of Default from  
9 LVDHM, Defendants, through their attorneys David Jimenez and Edwin Hunter,  
10 promised to transfer funds due and owing to LVDHM. Again, all of the  
11 Defendants knew the promises and representations made by their attorneys were  
12 false and misleading, as no effort to comply with those promises was ever made.

13 **172.** In a series of correspondence from November 2007 through December  
14 2007, Defendants and Defendants' attorney Edwin Hunter knowingly and  
15 intentionally delayed and refused to make Cash Flow Participation payments as  
16 promised to LVDHM. The Defendants also repeatedly asked for revocations of  
17 the Notice the Default and extensions to the period to cure the defaults but never  
18 fulfilled their promises when the Plaintiffs in good faith tried to cooperate with  
19 them.

20 **173.** Plaintiffs rightfully relied on each of the Defendants' aforementioned  
21 misrepresentations. LVDHM had no way of knowing the information supplied by  
22 the Defendants was false at the time it was presented by Defendants. Plaintiff's  
23 reliance on Defendants' misrepresentations caused injury to Plaintiffs because  
24 they were defrauded into transferring \$6,500,000.00 US to the Defendants'  
25 control, and because Plaintiffs delayed the exercise of contractual rights to collect  
26

1 under the default provisions of the Partnership Agreements based upon the  
2 Defendants continued false misrepresentations, imposing significant opportunity  
3 costs in terms of lost time and resources.

4 **174.** The acts, omissions, and conduct of all Defendants constitute negligence,  
5 gross negligence, reckless, intentional, knowing, extreme, and/or outrageous  
6 conduct against Plaintiffs.

7 **IX. FIFTH CAUSE OF ACTION – BREACH OF THE IMPLIED**  
8 **COVENANT OF GOOD FAITH AND FAIR DEALING**

9 **175.** Plaintiffs herein reallege and incorporate by reference the allegations set  
10 forth above.

11 **176.** Defendants breached the implied covenant of good faith and fair dealing  
12 with respect to the Depository Agreement, Security Agreement and Shareholder  
13 Minutes, by failing to take actions necessary to effectuate the intent of those  
14 Partnership Agreements with LVDHM, particularly by failing to properly structure  
15 Defendant JDG under Mexican law by withholding Cash Flow Participation  
16 payments due and owing to LVDHM and by preventing LVDHM from exercising  
17 its right to conduct or ensure the conduct of external auditing of the Guadalupe  
18 Casino.

19 **177.** The acts, omissions and conduct of all Defendants constitute negligence,  
20 gross negligence, reckless, intentional, knowing, extreme and/or outrageous  
21 conduct against Plaintiffs.

22 **X. SIXTH CAUSE OF ACTION – CONSTRUCTIVE TRUST**

23 **178.** Plaintiffs herein reallege and incorporate by reference the allegations set  
24 forth above.

25 **179.** In light of the Defendants' fraudulent conduct, their breach of fiduciary  
26

1 duties owed to LVDHM, their conversion of Plaintiffs' \$6,500,000 investment and  
2 Cash Flow Participation payments, as set forth above, the Defendants thus hold  
3 LVDHM's investment principal and all accrued Cash Flow Participation monies  
4 as constructive trustees for LVDHM's benefit with a duty to transfer all such  
5 funds to LVDHM.

6 **XI. SEVENTH CAUSE OF ACTION - PIERCING THE CORPORATE**  
7 **VEIL**

8 **180.** Plaintiffs herein reallege and incorporate by reference the allegations set  
9 forth above.

10 **181.** Defendant ARTURO CARDONA exercised complete domination of all  
11 Defendants and their officers and directors (himself), and completely financed and  
12 operated the same corporations through the misuse of fraudulent profits paid to  
13 those corporations or to related persons and entities while concealing an  
14 accounting of their scheme.

15 **182.** Defendant ARTURO CARDONA used Defendant companies, created in  
16 his name, which he managed, owned, or was the named chairman to defraud the  
17 Plaintiffs of millions of dollars.

18 **183.** Upholding the corporate entity in this case will sanction a fraud or promote  
19 injustice.

20 **184.** Defendant ARTURO CARDONA's use of each defendant company  
21 assisted him to transfer funds between companies which appear to be separate, but  
22 are actually under complete control and domination of ARTURO CARDONA.

23 **185.** Such domination was used to commit a fraud against the Plaintiffs as  
24 alleged herein.

25 **186.** As a result Plaintiffs have suffered severe damages as alleged herein.  
26

1 **187.** The Nevada LLC defendants are party to this piercing of the corporate veil  
2 scheme because of the dominion and control Defendant ARTURO CARDONA  
3 exercises over each and every one of those corporations and the possible  
4 commingling of funds among the joint account the Nevada LLC defendants share.

5 **188.** Defendants are accordingly liable to Plaintiffs for piercing the corporate  
6 veil in an amount to be proved at trial.

7 **XII. PRAYER FOR RELIEF**

8 **WHEREFORE,** Plaintiffs request judgment against all of the Defendants for  
9 compensatory, exemplary and/or punitive damages, in addition to interest,  
10 attorneys' fees and costs, and such equitable relief, including the imposition of a  
11 constructive trust, as may be deemed proper by this Court.

12 **RESPECTFULLY SUBMITTED** this 14th day of July, 2008.

13  
14 By: /s/ Steve M. Bodmer

15 Robert A. Rosette (Ariz. No. 18136)  
16 Steve M. Bodmer (Ariz. No. 025074)  
17 Rosette & Associates, PC  
18 565 W. Chandler Blvd., Suite 212  
19 Chandler, AZ 85225  
20 480-889-8990 (Office)  
21 480-889-8997 (Fax)  
22 rosette@rosettela.com  
23  
24  
25  
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**Certificate of Service**

I hereby certify that on July 14, 2008, I electronically filed the foregoing with the Clerk of the Court using the ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

/s/ Steve M. Bodmer

COPY of the foregoing mailed\*/  
electronically delivered \*\* this 14th day of  
July 2008 to:

John T. Gilbert  
Randy A. McCaskill  
ALVAREZ & GILBERT, PLLC  
14500 N. Northsight Blvd., Ste. 216  
Scottsdale, AZ 85260

Attorneys for Certain Defendants:

Atlico USA, LLC;  
E-Mex Holdings, LLC;  
Escobedo Recreation Holdings, LLC;  
Guadalupe Recreation Holdings, LLC;  
Matamoraas Holdings, LLC;  
Reynosa Recreation Holdings, LLC;  
San Luis Potosi Recreation Holdings, LLC;  
San Pedro Recreation Holdings, LLC; and  
Xochipilli, LLC