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 DAVIDSON COUNTY CHANCERY
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IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

JOHN "RUSS" MABRY,)
)
 Plaintiff,)
)
 v.)
)
 GUNNISON INVESTMENTS LLC,)
)
 BRIAN LAYTON, SARAH LAYTON,)
)
 and GRANDOTE INVESTMENTS TN)
)
 LLC,)
)
 Defendants.)

Case No. 23-0393-TV

VERIFIED PETITION/COMPLAINT FOR DISSOLUTION OF LIMITED LIABILITY COMPANY, APPOINTMENT OF RECEIVER, DECLARATORY RELIEF, LIEN LIS PENDENS, AND OTHER DAMAGES

Plaintiff, John "Russ" Mabry, herein Petitions the Court to dissolve the limited liability company, Gunnison Investments LLC to appoint a receiver to manage the business and affairs of Gunnison Investments LLC, pending dissolution, and to declare that Mr. Mabry is entitled to access all financial information of Gunnison Investments LLC, and further brings this Complaint against Defendants for *lien lis pendens* and monetary damages, and states as follows:

PARTIES

1. Plaintiff, John "Russ" Mabry ("Mr. Mabry"), is a citizen and resident of Wilson County, Tennessee. Mr. Mabry holds a fifty percent (50%) ownership and voting interest in Gunnison Investments LLC.

2. Gunnison Investments LLC ("Gunnison") is a limited liability company organized under the laws of the State of Tennessee, with its principal place of business located at 618 Hamilton Ave., Nashville, Tennessee 37203. Gunnison may be served with process via its registered agent for service of process: Gunnison Investments LLC, at 618 Hamilton Ave., Nashville, Tennessee 37203.

3. Upon information and belief, Brian Layton is a citizen and resident of Davidson County, Tennessee. Mr. Brian Layton holds a ten percent (10%) ownership and voting interest in Gunnison.

4. Upon information and belief, Sarah Layton is a citizen and resident of Davidson County, Tennessee. Ms. Sarah Layton holds a forty percent (40%) ownership and voting interest in Gunnison.

5. Grandote Investments TN LLC ("Grandote"), is a limited liability company organized under the laws of the State of Tennessee, with its principal place of business at 618 Hamilton Ave., Nashville, Tennessee 37203. Grandote may be served with process via its registered agent for service of process: Brian Layton, at 618 Hamilton Ave., Nashville, Tennessee 37203. At all times relevant to the matters alleged herein, Brian Layton and Sarah Layton have held membership interests in Grandote.

JURISDICTION, VENUE, AND NATURE OF ACTION

6. Jurisdiction is proper in this Court pursuant to Tenn. Code Ann. §§ 16-11-101 *et seq.* and 48-249-618.

7. Venue is proper in this Court pursuant to Tenn. Code Ann. §§ 20-4-101 *et seq.* and 48-249-618.

8. Mr. Mabry seeks judicial intervention and equitable relief with respect to Gunnison.

9. Specifically, Mr. Mabry seeks judicial dissolution, winding-up, and termination of Gunnison pursuant to Tenn. Code Ann. § 48-249-601 *et seq.*

10. Mr. Mabry also seeks relief against Defendants Brian Layton and Sarah Layton as permitted by Tenn. Code Ann. §§ 48-249-114(a)(2) and 48-249-618(b).

11. Pursuant to Tenn. Code Ann. § 48-249-619(a), Mr. Mabry seeks the appointment of a receiver to wind-up and liquidate the business of Gunnison and/or the appointment a custodian to manage the business and affairs of Gunnison pending such liquidation.

12. Pursuant to Tenn. Code Ann. § 48-249-618(c), Mr. Mabry seeks the appointment of a receiver or custodian *pendente lite* with all powers and duties as this Court shall direct, to preserve the assets of Gunnison and/or to carry on the business of Gunnison until a full hearing can be had.

13. Mr. Mabry seeks the termination of the business of Gunnison, the winding-up of such business, and the liquidation and sale of Gunnison's assets, and upon dissolution and winding-up, distribution of the net proceeds of liquidation pursuant to Tenn. Code Ann. § 48-249-620 and/or other applicable sections of the Tennessee Revised Limited Liability Company Act.

14. Mr. Mabry seeks equitable relief, damages, and an award of costs, including but not limited to attorneys' fees, accounting fees, and investigative fees, against Defendants Brian Layton and Sarah Layton, as provided by Tenn. Code Ann. § 48-249-618(d).

15. Additionally, and alternatively, in conjunction with the dissolution of Gunnison, Mr. Mabry seeks equitable relief and damages against Defendants Brian Layton and Sarah Layton for breach of their fiduciary duties as members of Gunnison, including the duties of loyalty and care codified at Tenn. Code Ann. § 48-249-403.

16. In addition to the above, Mr. Mabry seeks damages against Defendants Brian Layton and Sarah Layton for said Defendants' actions in relation to the fraudulent conveyance of certain real property owned by Gunnison.

17. Mr. Mabry also seeks the issuance of a *lien lis pendens* to preserve Gunnison's sole asset pending resolutions of this dispute.

FACTS

18. On September 27, 2020, Gunnison was organized and formed pursuant to Articles of Organization filed with the Secretary of State for the State of Tennessee and recorded in the Register’s Office for Davidson County, Tennessee.

19. Mr. Mabry, Defendant Brian Layton and Defendant Sarah Layton are the sole members of Gunnison.

20. On September 27, 2020, Mr. Mabry and Defendants Brian Layton and Sarah Layton entered into an Operating Agreement (the “Operating Agreement”) to regulate the affairs of Gunnison, the conduct of its business, and the relations of its Members. A true and correct copy of the Operating Agreement is attached hereto as **Exhibit 1**.

21. Pursuant to Exhibit A of the Operating Agreement, the ownership and voting interests of Mr. Mabry, Defendant Brian Layton and Defendant Sarah Layton are comprised as follows:

<u>Member:</u>	<u>Ownership/Voting Interest:</u>
Russ Mabry	50%
Brian Layton	10%
Sarah Layton	40%

22. Pursuant to Article V, Section 2 of the Operating Agreement, any matter relating to the management and conduct of the business and affairs of Gunnison shall be decided by a Majority Vote - *i.e.*, more than fifty percent (50%) - of the Voting Interests of the Members.

23. Pursuant to Article V, Section 10 of the Operating Agreement, any vote, determination, action, or consent by the Members required or allowed under the terms of the

Operating Agreement or the Tennessee Revised Limited Liability Act shall be undertaken only upon a Majority Vote of the Voting Interest of the Members.

24. Pursuant to Article VII, Section 8 of the Operating Agreement, a proposed Transfer or Assignment to a third party may be made to a bona fide purchaser upon condition that: (a) the Member desiring to make such transfer delivers in writing to all the other Members notice of the name of the bona fide purchaser, the price and all terms of the proposed Transfer or Assignment; (b) the Member desiring to make such transfer first gives the other Members the option to buy his Interest in the Company at the price and on the same terms set forth in such written notice; and (c) all the other Members shall have thirty (30) days following the receipt of such notice to exercise such option by giving written notice of such election to the Member desiring to transfer his Interest in the Company and to the other Members.

25. On October 30, 2020, Gunnison purchased certain real property located at 1501 Linden Ave., Nashville, Tennessee 37212 (the "Property"), for the purchase price of \$1,645,000.00. A true and correct copy of the warranty deed is attached hereto as **Exhibit 2**.

26. The October 30, 2020 purchase of the Property was agreed to by all members of Gunnison.

27. On April 29, 2022, unbeknownst to Mr. Mabry, Brian Layton, acting in concert with Sarah Layton and on behalf of Gunnison, conveyed the Property, via quitclaim deed, to Grandote for \$0.00. A true and correct copy of the quitclaim deed is attached hereto as **Exhibit 3**.

28. At all times relevant to the matters alleged herein, Brian Layton and Sarah Layton held membership interests in Grandote, and thus had both a direct and indirect interest in the conveyance of the Property to Grandote pursuant to Tenn. Code Ann. § 48-249-404.

29. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that no such action had been approved by a Majority Vote of the Voting Interest of the Members pursuant to Article V, Sections 2 and 10 of the Operating Agreement.

30. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that none of the conditions prescribed by Article VII, Section 8 of the Operating Agreement had been satisfied.

31. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that the material facts of the transaction and the interests of Brian Layton and Sarah Layton in Grandote were not disclosed or known to Mr. Mabry, or authorized, approved, or ratified by the members of Gunnison.

32. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that the transaction was not fair to Gunnison.

33. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that the transaction was not of such a nature that the conflict of interest was waived by Gunnison's documents.

34. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that they had a material financial interest in Grandote.

35. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that the transaction should be considered by Mr. Mabry, as a member of Gunnison.

36. Despite knowing that the conveyance had not been approved by a Majority Vote of the Voting Interest of the Members pursuant to Article V, Section 2 and 10 of the Operating Agreement, that none of the conditions prescribed by Article VII, Section 8 of the Operating Agreement had been satisfied, that Brian Layton and Sarah Layton had both a direct and indirect

conflict of interest in the conveyance of the Property to Grandote, and that the members of Gunnison had not authorized, approved, or ratified the transaction, Brian Layton, acting in concert with Sarah Layton and on behalf of Gunnison, nevertheless conveyed the Property to Grandote, falsely representing that he had the authority to do so.

37. By conveying the Property to Grandote, Brian Layton and Sarah Layton have committed multiple violations of the Tennessee Revised Limited Liability Company Act and numerous breaches of fiduciary duties owed to Gunnison and Mr. Mabry. Brian Layton and Sarah Layton's violations include, but are not limited to, the following:

- a. Conveying the Property to Grandote in direct violation of the Operating Agreement and with no authority to do so;
- b. Utilizing Gunnison as an instrumentality or business conduit for their own individual purposes;
- c. Misappropriating opportunities of Gunnison with respect to the Property;
- d. Diverting Gunnison assets to Grandote/themselves to the detriment of Mr. Mabry;
- e. Engaging in a transaction in which there was both a direct and indirect conflict of interest; and
- f. Engaging in grossly negligent or reckless conduct, intentional misconduct, and violations of state law.

38. As a result of the foregoing, Brian Layton and Sarah Layton have breached their fiduciary duties owed to Gunnison and Mr. Mabry.

39. Mr. Mabry has been damaged by Brian Layton and Sarah Layton's breaches of their fiduciary duties.

40. The appointment of a receiver and/or custodian will ensure that Brian Layton and Sarah Layton's exploitation of Gunnison will conclude, and Gunnison's assets are preserved.

41. Likewise, the issuance of a *lien lis pendens* will preserve Gunnison's sole asset pending resolution of this dispute.

COUNT I – DISSOLUTION OF GUNNISON
(Gunnison, Brian Layton, Sarah Layton)

42. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 41 of the Petition/Complaint as if fully set forth herein.

43. Mr. Mabry seeks judicial dissolution, winding-up, and termination of Gunnison pursuant to Tenn. Code Ann. § 48-249-616 on grounds that it is just and reasonable under the circumstances.

44. Alternatively, Mr. Mabry seeks judicial dissolution, winding-up, and termination of Gunnison pursuant to Tenn. Code Ann. § 48-249-617 on the grounds that it is not reasonably practicable to carry on the business in conformity with the limited liability company documents.

45. The disputes between the members of Gunnison with respect to the fraudulent conveyance of the Property, make it impracticable for Gunnison to carry on its business affairs.

46. Brian Layton and Sarah Layton's breaches of fiduciary duties make it unreasonable for Gunnison to carry on its business affairs.

47. Mr. Mabry seeks equitable intervention by this Court and judicial dissolution of Gunnison on such terms and conditions as the Court should deem fair and reasonable and further contends that the Court should order the liquidation of all the assets of Gunnison, as well as order the disposition of the assets upon liquidation, in accordance with Tenn. Code Ann. § 48-245-1101.

48. Pursuant to Tenn. Code Ann. § 48-249-618(d), Mr. Mabry also seeks an award of costs, including but not limited to attorneys' fees, accounting fees, and investigative fees, against Brian Layton and Sarah Layton.

COUNT II – APPOINTMENT OF RECEIVER
(Gunnison, Brian Layton, and Sarah Layton)

49. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 48 of the Petition/Complaint as if fully set forth herein.

50. As set forth herein, Brian Layton and Sarah Layton have committed multiple violations of the Tennessee Revised Limited Liability Company Act and breaches of fiduciary duties owed to Gunnison and Mr. Mabry.

51. The Tennessee Revised Limited Liability Company Act grants the Court the authority, pursuant to Tenn. Code Ann. § 48-249-619, to appoint a receiver to wind-up and liquidate a limited liability company's affairs or a custodian to manage the business and affairs of a limited liability company pending dissolution.

52. Pursuant to Tenn. Code Ann. § 48-249-619(a), Mr. Mabry seeks the appointment of a receiver to wind-up and liquidate the business of Gunnison and/or the appointment of a custodian to manage the business and affairs of Gunnison pending such liquidation.

53. Pursuant to Tenn. Code Ann. § 48-249-618(c), Mr. Mabry seeks the appointment of a receiver or custodian *pendente lite* with all powers and duties as this Court shall direct, to preserve the assets of Gunnison and/or to carry on the business of Gunnison until a full hearing can be had.

54. Mr. Mabry seeks the termination of the business of Gunnison, the winding-up of such business, and the liquidation and sale of Gunnison's assets, and upon dissolution and

winding-up, distribution of the net proceeds of liquidation pursuant to Tenn. Code Ann. § 48-249-620 and/or other applicable sections of the Tennessee Revised Limited Liability Company Act.

COUNT III – BREACH OF FIDUCIARY DUTIES
(Brian Layton and Sarah Layton)

55. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 54 of the Petition/Complaint as if fully set forth herein.

56. As members of Gunnison, and pursuant to Tenn. Code Ann. § 48-249-403, Brian Layton and Sarah Layton owed Gunnison and its members fiduciary duties of loyalty and care.

57. As set forth herein, Brian Layton and Sarah Layton breached their duties of loyalty and/or care.

58. Mr. Mabry is entitled to recover the damages he incurred as a result of Brian Layton and Sarah Layton’s breaches of their fiduciary duties.

COUNT IV – ULTRA VIRES ACTION, TENN. CODE ANN § 48-249-105
(Brian Layton and Sarah Layton)

59. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 58 of the Petition/Complaint as if fully set forth herein.

60. Tenn. Code Ann. § 48-249-401(1) provides: “Each member has equal rights in the management and conduct of the LLC’s business.”

61. As set forth herein, at the time of the conveyance of the Property to Grandotc, Brian Layton and Sarah Layton knew that the conveyance had not been approved by a Majority Vote of the Voting Interest of the Members pursuant to Article V, Section 2 and 10 of the Operating Agreement, knew that none of the conditions prescribed by Article VII, Section 8 of the Operating Agreement had been satisfied, knew that they had both a direct and indirect conflict of interest in the conveyance of the Property to Grandotc, and knew that the members of Gunnison had not

authorized, approved, or ratified the transaction. Moreover, Brian Layton and Sarah Layton knew that Mr. Mabry had no knowledge of the conveyance.

62. The conveyance of the Property to Grandote was an ultra vires action pursuant to Tenn. Code Ann. § 48-29-105, in that neither Brian Layton nor Sarah Layton had Mr. Mabry's consent to convey the Property to Grandote.

63. As a result of the unauthorized and unlawful acts of Brian Layton and Sarah Layton, Mr. Mabry has suffered damages.

64. Mr. Mabry is entitled to have the Court enjoin or set aside the conveyance of the Property to Grandote and award damages.

COUNT V – FRAUDULENT TRANSFER, TENN. CODE ANN. § 66-3-301 et seq.
(Gunnison, Brian Layton and Sarah Layton)

65. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 64 of the Petition/Complaint as if fully set forth herein.

66. On October 30, 2020, Gunnison purchased the Property for \$1,645,000.00.

67. The October 30, 2020, purchase of the Property was agreed to by all members of Gunnison.

68. On April 29, 2022, unbeknownst to Mr. Mabry, Brian Layton, acting in concert with Sarah Layton and on behalf of Gunnison, conveyed the Property, via quitclaim deed, to Grandote for \$0.00.

69. As set forth herein, at the time of the conveyance of the Property to Grandote, Brian Layton knew that the conveyance had not been approved by a Majority Vote of the Voting Interest of the Members pursuant to Article V, Section 2 and 10 of the Operating Agreement, knew that none of the conditions prescribed by Article VII, Section 8 of the Operating Agreement had been satisfied, knew that Brian Layton and Sarah Layton had both a direct and indirect conflict of

interest in the conveyance of the Property to Grandote, and knew that the members of Gunnison had not authorized, approved, or ratified the transaction.

70. Despite such knowledge, Brian Layton, nevertheless conveyed the Property to Grandote, falsely representing that he had the authority to do so.

71. By conveying the Property to Grandote, Brian Layton transferred the assets of Gunnison to Grandote.

72. The transfer was to an insider, Brian Layton, who retained possession and control of the Property after the transfer and who concealed the transfer and the assets.

73. The conveyance of the Property by Brian Layton to Grandote, without any authority to do so, was made with the actual intent to defraud Mr. Mabry of his interest in the Property and without any consideration paid to Mr. Mabry and was therefore a fraudulent transfer pursuant to Tenn. Code Ann. § 66-3-305.

74. As a result of Brian Layton's fraudulent conveyance of the Property to Grandote, Mr. Mabry has suffered damages.

75. Mr. Mabry is entitled to have the Court set aside the fraudulent conveyance of the Property to Grandote and is entitled to an injunction against further fraudulent conveyances of the Property pursuant to Tenn. Code Ann. § 66-3-308.

76. Mr. Mabry is further entitled to punitive damages for the fraudulent acts of Brian Layton, acting in concert with Sarah Layton and on behalf of Gunnison.

COUNT VI – CONSPIRACY TO COMMIT FRAUD
(Brian Layton and Sarah Layton)

77. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 76 of the Petition/Complaint as if fully set forth herein.

78. Brian and Layton and Sarah Layton engaged in a common design between two or more persons to accomplish by concerted action an unlawful purpose and/or a lawful purpose by unlawful means.

79. As set forth herein, Brian Layton and Sarah Layton committed overt acts in furtherance of the conspiracy. Specifically, at the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that the conveyance had not been approved by a Majority Vote of the Voting Interest of the Members pursuant to Article V, Section 2 and 10 of the Operating Agreement, knew that none of the conditions prescribed by Article VII, Section 8 of the Operating Agreement had been satisfied, knew that they had both a direct and indirect conflict of interest in the conveyance of the Property to Grandote, and knew that the members of Gunnison had not authorized, approved, or ratified the transaction. Moreover, Brian Layton and Sarah Layton knew that Mr. Mabry had no knowledge of the conveyance.

80. Despite such knowledge, Brian Layton, acting in concert with Sarah Layton, nevertheless conveyed the Property to Grandote, falsely representing that he had the authority to do so.

81. Mr. Mabry was damaged as a result of Brian Layton and Sarah Layton's conspiracy.

82. Mr. Mabry is further entitled to punitive damages as a result of Brian Layton and Sarah Layton's conspiracy.

COUNT VII – LIEN LIS PENDENS

83. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 82 of the Petition/Complaint as if fully set forth herein.

84. Mr. Mabry seeks to set aside the aforementioned fraudulent conveyance of the Property.

85. Pursuant to Tenn. Code Ann. §20-3-101 et seq., Mr. Mabry claims and is entitled to a lien *lis pendens* against the Property.

86. Mr. Mabry seeks damages in excess of \$1,645,000.00 and the lien should be fixed in that amount.

COUNT VIII – BREACH OF OPERATING AGREEMENT
(Brian Layton and Sarah Layton)

87. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 86 of the Petition/Complaint as if fully set forth herein.

88. On September 27, 2020, Mr. Mabry and Defendants Brian Layton and Sarah Layton entered into the Operating Agreement to regulate the affairs of Gunnison, the conduct of its business, and the relations of its Members.

89. Pursuant to Article V, Section 2 of the Operating Agreement, any matter relating to the management and conduct of the business and affairs of Gunnison shall be decided by a Majority Vote - *i.e.*, more than fifty percent (50%) -of the Voting Interests of the Members.

90. Pursuant to Article V, Section 10 of the Operating Agreement, any vote, determination, action, or consent by the Members required or allowed under the terms of the Operating Agreement or the Tennessee Revised Limited Liability Act shall be undertaken only upon a Majority Vote of the Voting Interest of the Members.

91. Pursuant to Article VII, Section 8 of the Operating Agreement, a proposed Transfer or Assignment to a third party may be made to a bona fide purchaser upon condition that: (a) the Member desiring to make such transfer delivers in writing to all the other Members notice of the name of the bona fide purchaser, the price and all terms of the proposed Transfer or Assignment; (b) the Member desiring to make such transfer first gives the other Members the option to buy his Interest in the Company at the price and on the same terms set forth in such written notice; and (c)

all the other Members shall have thirty (30) days following the receipt of such notice to exercise such option by giving written notice of such election to the Member desiring to transfer his Interest in the Company and to the other Members.

92. On October 30, 2020, Gunnison purchased the Property for \$1,645,000.00.

93. The October 30, 2020, purchase of the Property was agreed to by all members of Gunnison.

94. On April 29, 2022, unbeknownst to Mr. Mabry, Brian Layton, acting in concert with Sarah Layton and on behalf of Gunnison, conveyed the Property, via quitclaim deed, to Grandote for \$0.00.

95. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that no such action had been approved by a Majority Vote of the Voting Interest of the Members pursuant to Article V, Sections 2 and 10 of the Operating Agreement.

96. At the time the Property was conveyed to Grandote, Brian Layton and Sarah Layton knew that none of the conditions prescribed by Article VII, Section 8 of the Operating Agreement had been satisfied.

97. The conveyance of the Property to Grandote by Brian Layton, acting in concert with Sarah Layton and on behalf of Gunnison, with knowledge that the conveyance had not been approved by a Majority Vote of the Voting Interest of the Members pursuant to Article V, Section 2 and 10 of the Operating Agreement and that none of the conditions prescribed by Article VII, Section 8 of the Operating Agreement had been satisfied, constitutes a material breach of the Operating Agreement.

98. As a direct and proximate result of Brian Layton and Sarah Layton's breach of the Operating Agreement, Mr. Mabry has suffered significant monetary damages.

99. Mr. Mabry is entitled to recover the damages incurred as a result of Brian Layton and Sarah Layton's breach of the Operating Agreement, including attorneys' fees.

COUNT IX – CONVERSION
(Brian Layton, Sarah Layton, and Grandote)

100. Mr. Mabry adopts and incorporates the allegations contained in Paragraphs 1 through 99 of the Petition/Complaint as if fully set forth herein.

101. Brian Layton, Sarah Layton, and Grandote have misappropriated assets (including money) to which Mr. Mabry has an ownership interest.

102. In doing so, Brian Layton, Sarah Layton, and Grandote have intentionally exercised dominion and control over those assets.

103. This misappropriation of assets by Brian Layton, Sarah Layton, and Grandote is in defiance of the true owner's rights.

104. Brian Layton, Sarah Layton, and Grandote specifically have converted assets owned by Mr. Mabry and used those assets for their own benefit.

105. Brian Layton, Sarah Layton, and Grandote are liable to Mr. Mabry for conversion and all damages arising therefrom.

COUNT X – DECLARATORY JUDGMENT
(Brian Layton, Sarah Layton, Gunnison, and Grandote)

106. Mr. Mabry adopts and incorporates the allegations contained in Paragraph 1 through 105 of the Petition/Complaint as if fully set forth herein.

107. Pursuant to Tenn. Code Ann. § 29-14-103, Mr. Mabry seeks a declaratory judgment from the Court declaring his right to full and complete access to Brian Layton, Sarah Layton, Gunnison, and Grandote's financial records and documents.

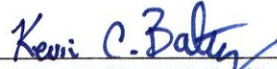
WHEREFORE, JOHN "RUSS" MABRY PRAYS FOR RELIEF AS FOLLOWS:

- a) For a Court Order dissolving Gunnison;
- b) For a Court Order appointing a Receiver and/or custodian for Gunnison;
- c) For an award of compensatory damages in favor of Mr. Mabry and against Brian Layton and Sarah Layton as a result of their breaches of fiduciary duties owed to Gunnison and Mr. Mabry;
- d) For an award of compensatory damages and the setting aside of the conveyance of the Property to Grandote as a result of the ultra vires actions of Brian Layton and Sarah Layton;
- e) For an award of compensatory damages, punitive damages, and the setting aside of the conveyance of the Property to Grandote as a result of Brian Layton's fraudulent conveyance of the Property to Grandote;
- f) For an award of compensatory damages and punitive damages, as a result of Brian Layton and Sarah Layton's conspiracy to commit fraud;
- g) For a Court Order granting Mr. Mabry the right to file and record a lien lis pendens as to the Property in the amount of \$1,645,000.00;
- h) For an award of compensatory damages for as a result of Brian Layton and Sarah Layton's breach of the Operating Agreement;
- i) For an award of compensatory damages as a result of Brian Layton, Sarah Layton, and Grandote's conversion of Mr. Mabry's assets;
- j) For a declaratory Order holding that Mr. Mabry is entitled to full and complete access to Brian Layton, Sarah Layton, Gunnison, and Grandote's financial records and documents;

- k) For an award of pre-judgment and post-judgment interest;
- l) For an award of reasonable attorneys' fees associated with this action;
- m) For all costs of this cause to be taxed to Defendants, including discretionary costs; and
- n) For such other further and general relief to which Mr. Mabry is entitled.

THIS IS THE PLAINTIFF'S FIRST APPLICATION FOR EXTRAORDINARY RELIEF.

Respectfully submitted,



BUTLER SNOW LLP

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Nashville, TN 37201

Phone: (615) 651-6700

Fax: (615) 651-6701

Attorneys for Plaintiff

DECLARATION OF JOHN "RUSS" MABRY

I, John "Russ" Mabry, declare and verify under penalty of perjury, that I am familiar with the facts set forth and the statements made in the foregoing Verified Complaint, that these averments are true to the best of my knowledge, information, and belief, and that the exhibits attached to the Verified Complaint are true and correct copies.

Signature:  john mabry (Mar 22, 2023 16:51 EDT)

Date: Mar 22, 2023







Declaration of John (Russ) Mabry

Final Audit Report

2023-03-22

Created:	2023-03-22
By:	Matta Hinson (matt.hinson@butlersnow.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAABarFBmwmaSt2FICBfij6ga0ssZfRHC-h

"Declaration of John (Russ) Mabry" History

-  Document created by Matta Hinson (matt.hinson@butlersnow.com)
2023-03-22 - 3:46:22 PM GMT
-  Document emailed to russ@mabrybuild.com for signature
2023-03-22 - 3:47:19 PM GMT
-  Email viewed by russ@mabrybuild.com
2023-03-22 - 8:50:27 PM GMT
-  Signer russ@mabrybuild.com entered name at signing as john mabry
2023-03-22 - 8:51:01 PM GMT
-  Document e-signed by john mabry (russ@mabrybuild.com)
Signature Date: 2023-03-22 - 8:51:03 PM GMT - Time Source: server
-  Agreement completed.
2023-03-22 - 8:51:03 PM GMT

Names and email addresses are entered into the Acrobat Sign service by Acrobat Sign users and are unverified unless otherwise noted.

EXHIBIT 1

FILED

2023 MAR 28 PM 12:23

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DAVIDSON CO CHANCERY CI

D.C. & M.

FILED

2023 MAR 28 PM 12: 23

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D.C.&M.

**OPERATING AGREEMENT
OF
GUNNISON INVESTMENTS, LLC**

This Operating Agreement (this "Agreement") is made, entered into, and effective as of the 27th day of September, 2020 ("Effective Date") by and among the undersigned parties, being all the members and owners GUNNISON INVESTMENTS, LLC (the "Company"), a Tennessee Limited Liability Company.

Recitals

WHEREAS, the Company was organized and formed as of September 27 2020, pursuant to Articles of Organization filed with the Secretary of State for the State of Tennessee and recorded in the Register's Office for Davidson County, Tennessee;

WHEREAS, the initial members of the Company are Russ Mabry ("Mr. Mabry") Sarah Britt Layton ("Mrs. Britt Layton") and Brian Layton ("Mr. Layton," collectively Mrs. Britt Layton and Mr. Layton are referred to herein as the "Members"), and the Members own all of the interests in the Company;

WHEREAS, the Members have agreed to enter into this Agreement to regulate the affairs of the Company, the conduct of its business, and the relations of its Members;

WHEREAS, the Members have agreed that this Agreement shall serve as an "operating agreement" within the meaning of Tennessee Code Annotated Section 48-249-202 of the Revised Tennessee Limited Liability Company Act (the "Act"); and

WHEREAS, the Company is a for-profit limited liability company authorized to do business in the State of Tennessee for all legal business purposes desired by the Members, as well as all reasonably necessary activities related thereto.



NOW, THEREFORE, in exchange for the mutual covenants and conditions contained herein and for other good and valuable consideration exchanged between the Members, the sufficiency of which is hereby acknowledged, the Members agree as follows:

ARTICLE I **FORMATION**

1. **Formation.** The undersigned parties hereby establish a Tennessee limited liability company under and pursuant to the Act, subject to the terms and conditions set forth in this Agreement.

2. **Name.** The name of the Company is GUNNISON INVESTMENTS, LLC. The Company shall conduct its business under such name.

3. **Principal Place of Business.** The principal place of business of the Company shall be GUNNISON INVESTMENTS LLC; 618 Hamilton Ave, Nashville, TN 37203. The business of the Company may also be conducted at such other or additional place(s) as may be designated by the Members.

4. **Registered Office and Agent.** The initial registered office of the Company shall be GUNNISON Investments; 618 Hamilton Ave Nashville TN 37203. The initial registered agent shall be Mr. Layton.

5. **Definitions.** As used herein the following terms shall have the following indicated meanings:

a. "Act" shall mean and refer to the Revised Tennessee Limited Liability Company Act, as amended, codified at Tennessee Code Annotated Section 48-249-201 *et seq.*

b. "Articles" shall mean and refer to the Articles of Organization of Gunnison Investments, LLC filed with the office of the Secretary of State for the State of Tennessee, as may be amended from time to time.



c. "Agreement" shall mean and refer to this Operating Agreement, as may be amended from time to time.

d. "Code" shall mean and refer to the Internal Revenue Code of 1986, as amended.

e. "Company" shall mean and refer to Gunnison Investments LLC, the limited liability company formed by the parties to this Agreement.

f. "Contributed Capital" shall mean and refer to with respect to any Member as of any particular time, the cumulative amount of capital contributions made by such Member to the Company less the cumulative amount of distributions made by the Company to such member.

g. "Majority Vote" shall mean and refer to a vote of the Members receiving more than Fifty Percent (50%) of the Voting Interest (defined below) in the Company.

h. "Managing Member" shall mean and refer to those Members of the Company authorized to execute instruments and documents in furtherance of the purposes of the Company identified herein below. The initial Managing Members are Mr. Mabry, Mr. Layton and Mrs. Britt Layton.

i. "Members" shall mean and refer to, collectively, the person(s) shown on the signature page executing this Agreement, together with any additional Members admitted pursuant to the provisions of this Agreement.

j. "Net Losses" shall mean and refer to the excess of all expenses of the Company over all income of the Company (including the amount of any losses recognized by the Company on the sale or other disposition of Company property) during a calendar year, all as determined in accordance with the method of accounting utilized by the Company for federal income tax purposes.

k. "Net Profits" shall mean and refer to the excess of all income of the Company over all expenses of the Company (including the amount of any gains recognized by the Company



on the sale or other disposition of the Company property) during a calendar year, all as determined in accordance with the method of accounting utilized by the Company for federal income tax purposes.

l. "Ownership Interest" means the ownership interest of each Member in the Company as further defined on **Exhibit A** attached hereto and made a part hereof.

m. "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include neuter and feminine references as applicable, and use of the singular shall include the plural where the context so requires.

n. "Voting Interest" shall mean and refer to the interest of each Member in the management and conduct of the business and affairs of the Company. The Members' Voting Interest in the Company is further defined on **Exhibit A** attached hereto and made a part hereof.

ARTICLE II **PURPOSE AND POWERS**

1. **Purpose.** The purpose and business of the Company shall be:

a. To perform all legal business activities desired by the Members, as well as all reasonably necessary activities related thereto.

b. To take all actions with respect to the assets of the Company which may become necessary or desirable and in the best interests of the Company.

c. To undertake any other lawful business activity, except as otherwise provided by the laws of the State of Tennessee.

2. **Powers.** In furtherance of the foregoing purposes, the Company shall have the power and authority to:



a. Acquire by purchase, lease, or otherwise real and/or personal property or any interest therein.

b. Borrow money in the name of the Company.

c. Mortgage, pledge, encumber, and grant security interests in the assets of the Company.

d. Sell, assign, lease, or convey all or any portion of the assets of the Company to any Person.

e. Lend its funds or make guarantees of obligations to others.

f. Retain counsel, accountants, financial advisers, and other professional personnel.

g. Exercise all additional powers provided under the Act.

h. Engage in such other activities and incur such other obligations as may be determined by the Members.

a.

ARTICLE III **CAPITAL**

1. **Initial Capital Contributions/Loans.** As evidenced by separate Company Resolution(s) or agreement(s), each Member has made all initial capital contributions and/or loaned funds to the Company as of the Effective Date hereof.

2. **Additional Capital Contributions/Loans.** The Members agree that to the extent additional capital contributions and/or loans are required, the additional capital contributions and/or loan(s) will be made by the Members in such amounts and at such time as agreed by a Majority Vote of the Voting Interests of the Members. If a Member does not agree or fails to make such additional capital contribution(s) and/or loan(s), then each of the remaining Member(s) shall be given the opportunity to fund such Member's portion of the required additional capital and/or loan. The Members making such additional capital



contribution(s), contribution(s), and/or loan(s) shall be entitled to treat such additional capital as a preferred capital contribution or preferred loan entitling such Member(s) to a preference return of the principal amount of such contribution plus Fifteen Percent (15%) per annum, compounded from the date of such contribution. Any such preferred capital contribution and/or loan shall be paid prior to any distributions being paid to any Members. Except as provided above, no Member shall be obligated to make any additional capital contribution to the Company, except as may otherwise be agreed by a Majority Vote of the Voting Interests of the Members.

3. Withdrawal and Return of Contributions. No Member shall have the right to demand the return of, or otherwise withdraw his contribution, or to receive any funds or property of the Company, except as specifically provided in this Agreement. The Members of the Company shall determine the timing and amounts of all capital contributions returned to the respective members contributing same by Majority Vote; provided, however, no distribution of profits shall be made to the Members until such time as all capital contributions have been returned to the Members. No Member shall have the right to demand and receive property other than cash in return for his contributions.

4. Capital Accounts. A Capital account shall be established for each Member in accordance with the regulations promulgated under Section 1.704-1(b)(2)(iv) of the Code. In general, each such capital account shall be credited with the amount of each Member's contributions to the Company as and when made and with that Member's share of Net Profits. Each Member's capital account shall be debited with his share of Net Losses and with the amount of all distributions made by the Company to that Member. No interest shall be paid on capital contributions or on balances in capital accounts.

ARTICLE IV **PROFITS, LOSSES AND CASH FLOW**

1. Allocations; Definitions of Percentage Interest. The Net Profits, Net Losses, and other tax attributes of the Company



shall be allocated in accordance with the respective Ownership Interests of the Members as reflected on **Exhibit A**.

2. Distribution of Cash Flow. The Members of the Company shall determine the timing and amounts of all cash distributions to the Members by a Majority Vote of the Voting Interests of the Members. No Member shall have priority over any other Member with respect to distributions of profits or distributions upon dissolution; provided, however, no distribution of profits shall be made to the Members until such time as all capital contributions have been returned to the Members. No Member shall have any right to demand and receive property, in lieu of cash, in return for his Company interest, but the Members reserve the right to distribute property in lieu of cash.

ARTICLE V **MANAGEMENT**

1. Member-Managed. Pursuant to Section 48-249-401(a) and Section 48-249-205(a) of the Act, the Company shall be a member-managed Tennessee limited liability company, as further set forth herein.

2. Management. The Members rights in the management and conduct of the business and affairs of the Company (the Voting Interest) is as shown on **Exhibit A**, and except as otherwise provided by the Act, any matter relating to such management and conduct shall be decided by a Majority Vote of the Voting Interests of the Members. In the event a Majority Vote cannot be attained with respect to any matter before the Members due to a tie vote, the Members agree that the Person then serving as the Company's accountant (and in the absence of such person, the individual most recently serving in such capacity) (the "Decision Maker") or Decision Maker's designee shall decide the matter. The Company shall indemnify and hold harmless the Decision Maker from any and all loss, damages, claims, liabilities, judgments, and other costs and expenses of every kind and nature, including attorneys' fees, which may be incurred by the Decision Maker by reason of its acceptance of and performance under this Section.



3. **Regular Meetings.** Regular meetings of the Members may be held without notice at times and at places as determined by the Members.

4. **Special Meetings.** Special meetings of the Members may be called by a majority of the Voting Interests of the Members on at least three (3) but no more than thirty (30) days' notice to each Member, identifying the time and place of such Special Meeting.

5. **Managing Member.** The Company shall have Managing Members. The Managing Members of the Company shall be authorized to execute instruments and documents in furtherance of the purposes of the Company identified herein. The initial Managing Members of the Company are Mr. Mabry, Mr. Layton and Mrs. Britt Layton

6. **Quorum.** The presence in person or by proxy of at least Fifty-One Percent (51%) of the Voting Interest of the Members shall constitute a quorum.

7. **Compensation.** Any salary or other compensation for Managing Members or other officers of the Company shall be decided by a Majority Vote of the Voting Interests of the Members.

8. **Other Interests / Non-Compete.** *Intentionally Deleted.*

9. **Borrowing, Contracts and Other Agreements.** The Company may borrow for Company purposes from any source upon such terms and conditions as the Members may determine to be acceptable consistent with the limitations of the Members status as a Managing Member as set forth herein. The Company may execute and/or negotiate on behalf of the Company any and all contracts and other documents reasonably related to the business of the Company and may make payments for materials and/or services furnished to the Company from the Company's account as set forth herein.

10. **Action by Members.** Except as expressly provided in this Agreement, any vote, determination, action, or consent by the Members required or allowed under the terms of this



Agreement or the Act shall be undertaken only upon a Majority Vote of the Voting Interest of the Members. Any such vote, determination or action may be evidenced by a written consent executed by Members holding the required Voting Interest necessary to approve the action which describes in sufficient detail the vote and determination or action so taken. Whenever the interest of any Member is held by two or more individuals (whether as tenants in common or as joint tenants with right of survivorship), any vote, determination or action by that Member may be undertaken only by two-thirds vote (or written consent) of each of the individuals having an interest in that membership interest. Whenever the interest of any Member is held by a corporation, partnership, limited liability company, trust, or other legal entity, any vote, determination, or action by that Member may be undertaken only by a single representative of the entity who has been designated or authorized by such entity to act on behalf of the entity.

11. Limitation on Liability; Indemnification. The Managing Members of the Company shall discharge and perform their duties and responsibilities under this Agreement in accordance with the general standards of conduct prescribed by the Act. No Managing Member shall be required to perform in accordance with or adhere to any standard other than that prescribed by the Act. The Managing Member(s) shall have no liability, responsibility, or accountability in damages or otherwise to any Member or the Company for, and the Company agrees to protect, indemnify, hold harmless, and defend the Managing Member(s) (on the demand of and to the satisfaction of such Managing Member(s)) from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, proceedings, costs, expenses, and disbursements of any kind or nature whatsoever (including, without limitation, all costs, expenses and attorneys' fees in connection with the defense, appeal and settlement of any and all suits, actions, claims, or proceedings instituted against the Managing Member(s) or the Company and all costs of investigation in connection therewith) which may be imposed on, incurred by, or asserted against the Managing Member(s) or the Company in any way relating to or arising out of, or alleged to relate to or arise out of, any action of inaction on the part of the Company or on the part of any Managing Member(s); provided, however, that each Managing Member(s) shall be



liable, responsible and accountable, and the Company shall not be liable to such Managing Member(s), for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, proceedings, costs, expenses, attorneys' fees, or disbursements resulting from such Managing Member(s)' failure to adhere to the standards of conduct prescribed by the Act. If any action, lawsuit, claim or proceeding shall be pending or threatened against the Company or Managing Member(s) relating to or arising or alleged to relate to or arise out of any such action or non-action, the Managing Member(s) shall have the right to employ, at the expense of the Company, separate counsel of the Managing Member(s)' choice in such action, suit, or proceeding. The Managing Member(s) shall have the right to bill the Company for, or otherwise request the Company to pay, at any time and from time to time after any Managing Member(s) have become obligated to make payment therefor, any and all amounts for which the Managing Member(s) are entitled to reimbursement under this Paragraph. The Company shall pay any and all such bills and honor any and all such requests for payment within sixty (60) days after such bill or request is received by the Company. In the event that a final determination is made that the Company is not so obligated in respect of any amount paid by it to the Managing Member(s), such Managing Member(s) shall refund such amount within sixty (60) days of such final determination.

12. **Amendment.** This Agreement may be amended, modified or supplemented only by a writing executed by a Majority Vote of the Voting Interests of the Members. The Members agree to enter into such amendments to this Agreement as shall be necessary to cause this Agreement to be consistent with any amendment to the Act.

ARTICLE VI **FISCAL MATTERS**

1. **Records.** Full and accurate books and records of the Company (including without limitation all information and records required by the Act) shall be maintained at its principal place of business or at such other place as determined by the Managing Members, showing all receipts and expenditures,



assets and liabilities, profits and losses, and all other records necessary for recording the Company's business and affairs. All Members shall have access to the books and records of the Company at reasonable times and upon reasonable notice.

2. **Fiscal Year.** The fiscal year of the Company shall end on December 31st of each year or on such other date as determined by a Majority Vote of the Members.

3. **Tax Status, Elections.** Notwithstanding any provision hereof to the contrary, solely for purposes of the United States federal income tax laws, each of the Members hereby recognizes that the Company will be subject to all provisions of Subchapter K of Chapter 1 of Subtitle A of the Code; provided, however, the filing of U.S. Partnership Returns of Income shall not be construed to extend the purposes of the Company or expand the obligations or liabilities of the Members. At the request of any Member, the Company shall file an election under Section 754 of the Code. The Company shall elect a method of accounting based upon the advice and recommendations of the Company's appointed accountants.

4. **Reports to Members.** Each of the following reports shall be prepared at the Company's expense and shall be delivered to each Member: (a) within ninety (90) days after the end of each fiscal year, all information necessary for the preparation of the Members' federal, state and local income tax returns; (b) within ninety (90) days after the end of each fiscal year, an annual report of the activities of the Company describing the Company's assets and operations for the year; and (c) any Member may obtain, at such Member's expense, such other reports on the Company's operations and condition as such Member may reasonably request.

5. **Accounting Decisions.** All decisions as to accounting matters, except as expressly provided in this Agreement, shall be made by a Majority Vote of the Voting Interests of the Members.

Such decisions must be satisfactory to the Company's accountant(s), if any.

6. **Bank Accounts.** All funds of the Company shall be deposited in its name at such financial institution approved by a Majority Vote of the Voting Interests of the Members, in such



checking and/or savings accounts or time deposits or certificates of deposit as shall be designated from time to time by a Majority Vote of the Voting Interests of the Members.

7. Tax Matters Member. The Tax Matters Member ("TMM") is the Member responsible for all administrative and judicial proceedings for the assessment and collection of tax deficiencies or the refund of tax overpayments arising out of a Member's distributive share of items of income, deduction, credit and/or of any other Company item (as that term is defined in the Code or in regulations issued by the Internal Revenue Service) allocated to the Members affecting any Member's tax liability.

a. The initial TMM shall be Mr. Layton. The TMM may resign his position by giving thirty (30) days written notice to all Members, whereupon the Members shall designate a new TMM.

b. The TMM shall promptly give notice to all Members of any administrative or judicial proceedings pending before the Internal Revenue Service ("IRS") involving any Company item and the progress of any such proceeding. Such notice shall be in compliance with such regulations as are issued by the IRS.

c. The TMM shall have all the powers provided to a tax matters partner in Sections 6221 through 6233 of Code, including the specific power to extend the statute of limitations with respect to any matter which is attributable to any Company item or affecting any item pending before the IRS and to select the forum to litigate any tax issue or liability arising from Company items.

d. The TMM shall be entitled to reimbursement for all reasonable expenses incurred with respect to any administrative and/or judicial proceedings affecting the Company.

ARTICLE VII **TRANSFER AND BUY-SELL**

1. **Definitions.** For purposes of this Agreement, "Transfer"



or "Assignment" of an interest in the Company shall mean any transfer, alienation, sale, assignment, pledge, or other disposition or encumbrance of all or any part of an existing interest in the Company, whether voluntarily or involuntarily, whether for or without consideration, and include transfers by operation of law (incident to divorce, bankruptcy, foreclosure, judicial sale, or otherwise). "Interest in the Company" includes both financial rights and/or governance rights except as otherwise provided herein. With respect to any non-individual Member, Transfer or Assignment of an Interest in the Company shall apply to any change in a majority of the ownership of any entity or partnership which owns an Interest in the Company or any change in the primary beneficiary(ies) for any trust which owns an interest in the Company.

2. Transfer or Assignment of Interest. No Transfer or Assignment of an Interest in the Company shall be made except on the following conditions:

a. A Member may Transfer an Interest in the Company under his will, or by intestate succession upon his death.

b. A Member may Transfer an Interest in the Company to an inter vivos trust all of the beneficiaries of which are members of the Member's family or to a trust for their benefit.

c. A Transfer of an Interest in the Company may be made to the spouse or Court-appointed guardian of a Member in the event of his physical or mental incapacity.

d. No other third Person Transfer or Assignment of an Interest in the Company shall be made, except as otherwise provided herein.

3. Transferee. The Transfer or Assignment of Interest in the Company provisions contained herein shall be binding upon any transferee of an Interest in the Company. A Person who receives a Transfer of an Interest in the Company affirmatively agrees thereby to be bound by the provisions of this Agreement, and shall become a Member as of the effective date of the transfer.

4. Prohibited Action. No Member may Transfer



governance rights to any Person, whether voluntarily or by operation of law, unless such Transfer is approved by Members holding a majority of the interests in the Profits and Losses of the Company and any such Transfer must be approved by a Majority Vote of the Voting Interests of the Members.

5. Transferee to Assume Company Obligations. In the event that, pursuant to this Article and in accordance with the permitted procedures hereunder, any Member Transfers or Assigns his Interest in the Company to any Person or entity other than one or more of the other Members or the Company, no such Transfer shall become effective until the proposed transferee agrees in writing to assume and be bound by all the obligations and restrictions to which the transferor Member is subject under the terms of this Agreement and any further agreement with respect to the business of the Company.

6. Lender Approval. In the event that, pursuant to the terms of any loan agreement, security agreement, deed of trust, or other agreement existing at any time between the Company and any lender, the approval of such lender is required prior to the time that any Transfer or Assignment of any Interest in the Company may occur, then, notwithstanding any provision of this Article to the contrary, no Transfer or Assignment of any Interest in the Company shall occur until all required approvals, consents, and/or releases of any such lender have been obtained.

7. Transfers by Operation of Law and Attachment. Transfers by operation of law and transfers by levy or attachment pursuant to a judgment or court order shall be subject to the terms and conditions of this Article. No judgment creditors may levy upon or attach the interest of a Member except as permitted by law.

8. Buy-Sell. A proposed Transfer or Assignment to a third party, other than as expressly permitted above, may be made to a bona fide purchaser upon condition that: (a) the Member desiring to make such transfer delivers in writing to all the other Members notice of the name of the bona fide purchaser, the price and all terms the proposed Transfer or Assignment; (b) the Member desiring to make such transfer first gives the other Members the option to buy his Interest in the Company at the price and on the same terms set forth in such written notice; and



(c) all the other Members shall have thirty (30) days following the receipt of such notice to exercise such option by giving written notice of such election to the Member desiring to Transfer his Interest in the Company and to the other Members.

In the event said option is not exercised within said thirty (30) day period, the option shall expire and be of no force and effect, and the Member desiring to Transfer his Interest in the Company may then consummate the sale to such third party. In no event, however, shall the Interest in the Company of the transferring Member be sold to any other party for less than the price stated in the aforesaid written notice or on terms and conditions materially different from those stated in said written notice. If the proposed third party sale is not consummated within ninety (90) days after the close of the 30-day option period, the transferring Member shall not sell his Interest in the Company without again offering the remaining Members the option to purchase as provided above.

ARTICLE VIII
DEATH, WITHDRAWAL, BANKRUPTCY
OR INCAPACITY OF A MEMBER

1. Resignation of a Member. Any Member may resign or withdraw from the Company at any time upon not less than thirty (30) calendar days' prior written notice to each other Member. No Member shall be entitled to any distribution from the Company as a result of his resignation. A resigned Member shall have no right to vote on any matter to be determined by the Members. A resigned Member shall have no liability or obligation to make any additional contribution of capital to the Company determined by the Members subsequent to his resignation. In the event that pursuant to the terms of any loan agreement, security agreement, deed of trust, or other agreement existing at any time between the Company and any lender, the approval of such lender is required in connection with a Member's desired withdrawal, then no withdrawal shall occur until all required approvals, consents, and/or releases of any such lender have been obtained.

2. Expulsion of a Member. If a Member consistently fails to discharge and perform that Member's duties and



responsibilities under this Agreement in accordance with the general standards of conduct prescribed by the Act or such Member's willful action or inaction causes material harm to the Company, then such Member may be expelled from the Company upon a Majority Vote of the Voting Interests of the Members.

ARTICLE IX **TERMINATION AND WINDING UP**

1. **Term.** The term of the Company commenced as of the date of formation and shall continue perpetually, until terminated in accordance with the provisions hereof or as provided by law.

2. **Events Causing Dissolution and Winding Up.** The Company shall be dissolved and its affairs wound up: (a) upon the sale of all or substantially all of the assets of the Company and the distribution of the net proceeds therefrom; (b) at any time upon the Majority Vote of the Voting Interests of the Members; or (c) as may be otherwise provided by law. The Company shall be terminated, when the winding up of Company affairs has been completed following dissolution.

3. **Winding Up Affairs on Dissolution.** Upon dissolution of the Company, the designated Member of the Company or other persons required or permitted by law to carry out the winding up of the affairs of the Company: (a) shall promptly notify all Members of such dissolution; (b) shall wind up the affairs of the Company; (c) shall prepare and file all instruments or documents required by law to be filed to reflect the dissolution of the Company; and (d) after paying or providing for the payment of all liabilities and obligations of the Company, shall distribute the assets of the Company, as provided by the terms of this Agreement.

4. **Distribution upon Dissolution.** Upon dissolution of the Company and the sale of its assets, the proceeds of such sale or the assets of the Company shall be allocated as follows: (a) to pay all outstanding liabilities and expenses of the Company; (b) to establish such reserves for unknown or contingent liabilities,



including without limitation reserves for environmental matters, as the designated Managing Member may determine; (c) to repay any outstanding preferred capital contributions and/or loans and any outstanding accrued preferred return on such capital contributions and/or loans to the Members on a pro rata basis to those Members who have outstanding preferred capital contributions; and (d) any remaining balance shall be distributed to the Members as cash flow distributions in accordance with their respective percentage of Ownership Interests.

5. Agreement Enforcement. In the event of any legal action or proceeding in connection with the enforcement or interpretation of this Agreement, the prevailing party in any such litigation shall be entitled to reasonable attorney's fees from the non-prevailing party(ies).

6. Waiver of Right to Partition and Decree of Dissolution. As a material inducement to each Member to execute this Agreement, each Member covenants and represents to each other Member that during the period beginning on the Effective Date through the term of the Company, no Member, nor his heirs, representatives, successors, transferees, or assigns, will attempt to make any partition whatever of any real property or any interest therein or any other Company assets whether now owned or hereafter acquired; and each Member waives all rights of partition provided by statute or principles of law or equity, including partition in kind or partition by sale. The Members agree that irreparable damage would be done to the goodwill and reputation of the Company, if any Member should bring such an action in a court to dissolve the Company. The Members agree that there are fair and just provisions for payment and liquidation of the interest of any Member, and fair and just provisions to prevent a Member from selling or otherwise alienating his interest in the Company. Accordingly, each Member hereby waives and renounces his right to such a court decree of dissolution or to seek the appointment by court of a liquidator or receiver for the Company. In the event of any legal action or proceeding in connection with the enforcement or interpretation of this paragraph, the prevailing party in any such litigation shall be entitled to an award of attorney's fees from the non-prevailing party.

ARTICLE X.



GENERAL PROVISIONS

1. **Notices.** All notices, consents, waivers, directions, requests, votes, or other instruments or communications provided for under this Agreement shall be in writing, signed by the party giving same and shall be deemed made on the date of hand delivery, the date of confirmed facsimile or electronic transmittal, or the acknowledged day of receipt if mailed by postage prepaid, certified or registered, return receipt U.S. Mail or other reputable parcel service to the address or other contact information provided on **Exhibit B** attached hereto, as may be changed from time to time by a Member by giving written notice of such change of address or contact information to all other Members.

2. **Integration.** This Agreement embodies the entire agreement and understanding among the Members and supersedes all prior agreements and understandings, if any, among and between the Members relating to the subject matter hereof. This Agreement may be signed in multiple counterparts and each member may sign on a separate signature page, all of which together shall constitute one and the same instrument.

Further facsimile and electronic signatures shall be as binding as originals, and signatures transmitted by facsimile and electronic means shall be deemed originals and shall be binding upon the Members.

3. **Captions.** The captions herein are inserted only as a matter of convenience, and in no way define, limit, or describe the scope of these provisions or the intent of any provision hereof.

4. **Applicable Law.** This Agreement and the rights of the Members shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee. It is intended that this Agreement be construed to be consistent with the provisions of the Act, and in the event any provision hereof is not consistent with or in conformity with the provisions of the Act, the Act shall control.

5. **Severability.** In case any one or more of the provisions



contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein, and any other application thereof shall not in any way be affected or impaired thereby.

6. **Binding Effect.** Except as herein otherwise provided to the contrary, this Agreement shall be binding upon, and inure to the benefit of, the Members and their respective heirs, executors, administrators, successors, transferees, and assigns.

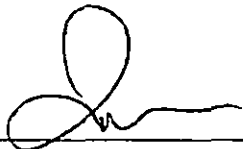
7. **Terminology.** All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; and the singular shall include the plural and vice versa.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the undersigned have executed this agreement as of the date identified herein.

MEMBER:

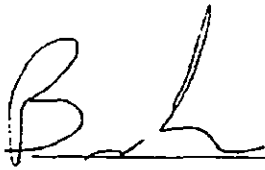
RUSS MABRY

By: 

 Russ Mabry

MEMBER:

BRIAN LAYTON

By: 

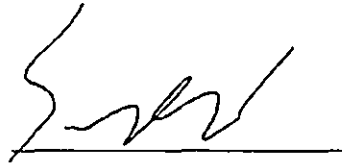


Brian Layton

MEMBER:

SARAH BRITT LAYTON

By:



Sarah Britt Layton

EXHIBIT A

OWNERSHIP INTEREST:

BRIAN LAYTON	10%
SARAH BRITT	40%
RUSS MABRY	50%

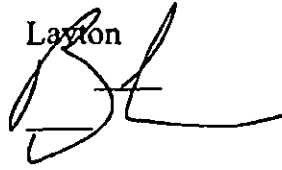
VOTING INTEREST:

BRIAN LAYTON	10%
SARAH BRITT	40%
RUSS MABRY	50%

Member:

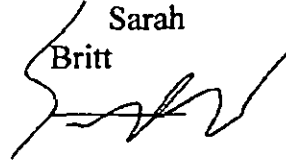
Brian

Layton



Member:

Sarah
Britt



Member:

Russ
Mary

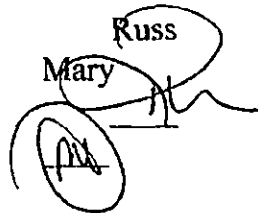


EXHIBIT B

Member: BRIAN LAYTON, an individual and resident of
Tennessee

TN

37

615.856.9527 (M)
blayton0818@gmail.com

Member: SARAH BRITT, an individual and resident of
Tennessee

_____, TN 37 _____

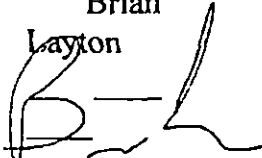
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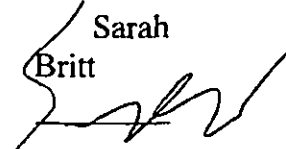
Member: RUSS MABRY, an individual and resident of
Tennessee

915 FIVE OAKS BLVD
MEMPHIS, TN 37 087
(901) 207-8074
RUSS @ BRITDEVELOPMENTGROUP.COM

Member:

Brian
Layton


Member:

Sarah
Britt


Member: Russ

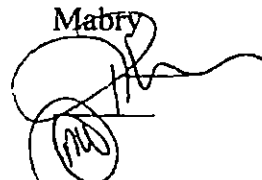
Mabry


EXHIBIT 2

FILED

2023 MAR 28 PM 12:24

CLERK & MASTER
DAVIDSON CO CHANCERY CT

D C & M

Karen Johnson Davidson County
 Batch# 511450 DEEDWARR
 11/09/2020 11:08:30 AM 3 pgs
 Fees: \$18.00 Taxes: \$6,086.50
 20201109-0131238

33597-5

Box 14

FILED
 2023 MAR 28 PM 12:24

WARRANTY DEED		State of Tennessee County of Davidson
<p style="font-size: small; text-align: center;">D. C. & M.</p> <div style="text-align: center;"> </div>	<p>The actual consideration or value, whichever is greater, for this transfer is \$1,645,000.00.</p> <p style="text-align: right;"> Affiant </p> <p>Subscribed and sworn to before me, this the 30th day of October, 2020.</p> <p style="text-align: right;"> Notary Public </p> <p>My commission expires: <u>3-6-2024</u> (AFFIX SEAL)</p>	
<p>THIS INSTRUMENT WAS PREPARED BY Attorneys Title Company, Inc. 2927 Berry Hill Drive, Nashville, TN 37204-3126</p>		
Address of New Owner(s) as follows:	Send Tax Bills To:	Map-Parcel Numbers
Gunnison Investments, LLC	"New Owner(s)"	105-13-0-085.00
618 Hamilton Avenue		
Nashville, TN 37203		

FOR AND IN CONSIDERATION OF THE SUM OF TEN DOLLARS, CASH IN HAND PAID BY THE HEREAFTER NAMED GRANTEES, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, WE,

Thomas G. Favreau and wife, Catherine C. Favreau

HEREINAFTER CALLED THE GRANTORS, HAVE BARGAINED AND SOLD, AND BY THESE PRESENTS DO TRANSFER AND CONVEY UNTO

Gunnison Investments, LLC, a Tennessee limited liability Company

HEREINAFTER CALLED THE GRANTEES, THEIR HEIRS AND ASSIGNS, A CERTAIN TRACT OR PARCEL OF LAND IN DAVIDSON COUNTY, STATE OF TENNESSEE, DESCRIBED AS FOLLOWS, TO-WIT:

LAND in Davidson County, Tennessee, being Lot No. 60 on the Plan of Belmont Land Company's property called Belmont Heights, of record in Plat Book 421, Page 34, Register's Office for Davidson County, Tennessee, to which said plan reference is hereby made for a more complete and accurate legal description thereof.

BEING the same property conveyed to Thomas G. Favreau and wife, Catherine C. Favreau, by Deed dated December 28, 1998 from Sandra E. Larson, of record in Book 11280, page 106, Register's Office for Davidson County, Tennessee.

THE conveyance of the above described parcel of land is subject to the following:

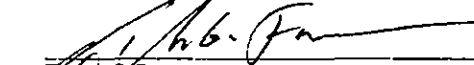
1. The Plan of record in Plat Book 421, Page 34, said Register's Office, shows an Owner's Certificate, and is subject to all matters as set forth therein.
2. Restrictive Covenants for Accessory Dwelling, Detached, of record in Instrument No. 20130802-0081026, Register's Office for Davidson County, Tennessee.
3. Restrictive Covenants for Mother-In-Law Apartment, of record in Instrument No. 20141118-0106037, Register's Office for Davidson County, Tennessee.
4. Taxes for the current year, which have been prorated and assumed by Grantor(s) and subsequent years not yet due and payable.
5. All applicable zoning ordinances.
6. All applicable utility, sewer, drainage and other easements of record.
7. All applicable subdivision assessments, covenants, bylaws, restrictions, declarations and easements of record.
8. All applicable building restrictions.
9. Other applicable matters of public record.

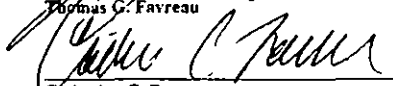
EXHIBIT 2

This is improved property, known as 1501 Linden Avenue, Nashville, TN 37212

TO HAVE AND TO HOLD the said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to the said GRANTEEES that we are lawfully seized and possessed of said land in fee simple, have a good right to convey it and the same is unencumbered, unless otherwise herein set out; and we do further covenant and bind ourselves, our heirs and representatives, to warrant and forever defend the title to the said land to the said GRANTEEES, their heirs and assigns, against the lawful claims of all persons whomsoever. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Witness my/our hand(s) this 30th day of October, 2020.




Thomas G. Favreau


Catherine C. Favreau

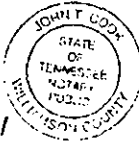
**STATE OF TENNESSEE
COUNTY OF DAVIDSON**

Personally appeared before me, a Notary Public of said County and State, **Thomas G. Favreau and Catherine C. Favreau**, the within named seller, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he/she executed the within instrument for the purposes therein contained.

Witness my hand and official seal at Nashville, Tennessee, this 30th day of October, 2020.



Notary Public
My Commission Expires: 1/17/21



True Copy Certification

I, Christopher M. Corriveau, do hereby make oath that I am a licensed attorney and /or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

C. M. Corriveau
Signature

State of Tennessee
County of Davidson

Personally appeared before me, Rachel Marie Collins, a notary public for the state of Tennessee, Christopher M. Corriveau who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Rachel Marie Collins
Notary Signature

My Commission Expires: 3-6-2024

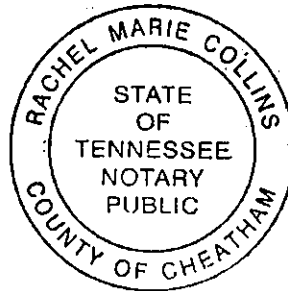


EXHIBIT 3

FILED

2023 MAR 28 PM 12: 24

CLERK & MASTER
DAVIDSON CO CHANCERY CT
D.C. 200

This instrument prepared by:
Midtown Title, LLC
1704 Charlotte Avenue
Suite 105
Nashville, TN 37203
File Number: 1-16685-AP

Karen Johnson Davidson County
Batch# 851677 DEEDQC
05/06/2022 11:02:40 AM 2 pgs
Fees: \$12.00 Taxes: \$0.00

20220506-0052456

This instrument was prepared from information supplied by the parties. Midtown Title, LLC has not conducted a title examination, survey, or settlement, and shall not be responsible for any matter that could have been resolved by a title examination, survey, or settlement.

FILED
2023 MAR 28 PM 12:24
CLERK & MASTER
DAVIDSON CO CHANCERY CT
D.C. & M.

STATE OF TENNESSEE
COUNTY OF DAVIDSON

The actual consideration or value, whichever is greater, for this transfer is \$0.00


Affiant



Subscribed and sworn to before me, this the 29th day of April, 2022.


Notary Public
My Commission Expires: 3-6-2024

Address New Owner(s)	Send Tax Bills To:	Map-Parcel Number(s)
Grandote Investments, LLC 618 Hamilton Ave Nashville, TN 37203	New Owner	105-13-085.00

QUITCLAIM DEED

FOR AND IN CONSIDERATION of the sum of One Dollar (\$1.00), and other good and valuable consideration, receipt of which is hereby acknowledged, I/we, **Gunnison Investments, LLC, a Tennessee limited liability company** ("Grantor") do/does hereby quitclaim and convey unto **Grandote Investments, LLC, a Tennessee limited liability company** ("Grantee"), his/her/their heirs and assigns, all of the Grantor's right, title and interest in and to a certain tract or parcel of land located in Davidson County, Tennessee and described as follows:

Land in Davidson County, Tennessee, being Lot No. 60 on the Plan of Belmont Land Company's Property called Belmont Heights of record in Plat Book 421, Page 34, in the Register's Office for Davidson County, Tennessee, to which Plan reference is hereby made for a more complete description of the property.

Being the same property conveyed to Gunnison Investments LLC, a Tennessee limited liability company by Warranty Deed from Thomas G. Favreau and wife, Catherine C. Favreau, dated October 30, 2020, recorded November , 2020, of record in Instrument No. 20201109-0131238, Register's Office for Davidson County, Tennessee.

This is improved property located at: **1501 Linden Avenue, Nashville, TN 37212**

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

Said property is conveyed subject to such limitations, restrictions and encumbrances as may affect the property.

EXHIBIT 3

QUITCLAIM DEED

IN WITNESS WHEREOF, Grantor has executed this instrument on this 29th day of April, 2022

GRANTOR:

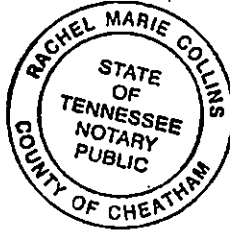
Gunnison Investments, LLC
a Tennessee limited liability company

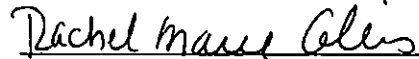
By: 
Brian Layton, Member

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared Brian Layton the within named bargainer(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that he is the member of Gunnison Investments, LLC, the maker, and is authorized by the maker to execute the foregoing instrument for the purposes therein contained.

WITNESS my hand and seal at office this 29th day of April, 2022.




Notary Public
My Commission expires: 3-6-2024