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Brett Elliott Berkowitz, Trevor B. Berkowitz, Aaron C. Berkowitz
and Glen Gremillion
and
Government of the Republic of Costa Rica

Spence International Investments, LLC, Bob. F. Spence, Joseph M. Holsten,
Brenda K. Copher, and Ronald E. Copher
and
Government of the Republic of Costa Rica

Pursuant to Articles 10.16 and 10.17 of the
Dominican Republic – Central America –United States Free Trade Agreement

Mark Kantor - Disclosure Statement

Based on Notices of Intent provided to me by Dr. Todd Weiler in connection with the matters of (1) *Brett Elliott Berkowitz, Trevor B. Berkowitz, Aaron C. Berkowitz and Glen Gremillion and Government of the Republic of Costa Rica* and (2) *Spence International Investments, LLC, Bob. F. Spence, Joseph M. Holsten, Brenda K. Copher, and Ronald E. Copher and Government of the Republic of Costa Rica*, I am aware of nothing that gives rise to any justifiable doubts about my impartiality or independence to serve as an arbitrator in those matters. Nevertheless, as a matter of prudence I wish to make the following disclosures.

1. Dr. Weiler is one of the counsel to the claimants in each such action. I first met Dr. Weiler in connection with arbitration and international law conferences and meetings about 10 years ago. I have met Dr. Weiler numerous times since then, principally at such conferences and meetings and in connection with the Editorial Committee and the Editorial Board of Transnational Dispute Management (TDM), the online journal, and the associated email discussion list known as OGEMID. I am Editor-in-Chief of TDM and Dr. Weiler is Articles Editor of TDM. We have corresponded regularly with respect to matters related to TDM and OGEMID. I was a “friend” of Dr. Weiler on Facebook, until “unfriending” him upon learning of the intention of claimants to nominate me as an arbitrator in these matters. Dr. Weiler has invited me to speak at conferences for which he has been part of the organizing committee. I have also met Dr. Weiler and his wife for dinner on several occasions in the company of others. I consider that I have a friendly relationship with Dr. Weiler. I will route all TDM/OGEMID-related matters involving Dr. Weiler through TDM’s publisher, MARIS N.V., for the duration of these proceedings. I will

cease any individual communication with Dr. Weiler other than occasional contacts at conferences and similar events, in each case in the company of third parties.

2. The law firm of Fasken Martineau DuMoulin LLP is one of the counsel to the claimants in each such action. I have met attorneys from that law firm at a number of arbitration and international law conferences and meetings, and associated social events. Mr. Henri C. Alvarez of that firm is a member of the Board of Directors of the American Arbitration Association (AAA), as am I. About a year ago, at my request, Mr. Alvarez recommended me to the British Columbia International Commercial Arbitration Centre for inclusion on their roster of arbitrators. To the best of my knowledge, I have not otherwise had any contact with that law firm or any of its attorneys. I will cease any individual communication with attorneys at the law firm other than occasional contacts at conferences, AAA board meetings and similar events, in each case in the company of third parties.

3. In each of 2005, 2006, 2007 and 2009, I served as a speaker for an Advanced Training Course on Managing Investment Disputes jointly sponsored by the United Nations Conference on Trade and Development (UNCTAD) and the Organization of American States (OAS). The participants in those courses are officials from Latin American governments. Representatives of the Government of the Republic of Costa Rica attended those courses as participants. UNCTAD invited me to serve as a speaker for the same training course in 2008, 2010 and 2011, but schedule conflicts prevented me from participating.

4. I do not maintain a current or complete list of engagements, publications, memberships or associations, whether on my website or otherwise. I am a member of or teach at a number of organizations. As noted, I am Editor-in-Chief of Transnational Dispute Management, from whom I receive a small fixed honorarium, and am a member of boards of editors of other periodicals. Advertising, sponsorship or other support by such a periodical or its affiliates for conferences and similar events is a matter within the authority of the publishers of those periodicals, not the editors. As noted, I am a member of the Board of Directors of the American Arbitration Association. I also attend numerous conferences and events related to *inter alia* arbitration and litigation, international business transactions, international law and commercial, investment, project finance and finance law. I am a member of a number of groups on Facebook and LinkedIn. I do not maintain records of fellow members, speakers, advertisers, sponsors, organizers, faculty, students, authors, participants, committee members, employees or attendees of such organizations, networks, periodicals or events, as that is not by itself a “known ... relationship which might reasonably affect impartiality or independence in the eyes of any of the parties.” Canon II, Code of Ethics for Arbitrators in Commercial Disputes, American Bar Association (2004); General Standard 2, International Bar Association Guidelines for Conflicts of Interest in International Arbitration (2004). I request any party in an arbitration for which I am proposed as an arbitrator to promptly disclose any facts or circumstances leading that party to question my impartiality or independence as soon as that information is reasonably available to the party and, for that purpose, to undertake a reasonable search of available information promptly after learning of my prospective appointment as arbitrator.

I understand that counsel for the claimants in these matters will provide this Disclosure Statement to the respondent Government of the Republic of Costa Rica.

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April 4, 2013