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13 **Pro Hac Vice forthcoming*

14 *ATTORNEYS FOR PETITIONER*

15 **IN THE UNITED STATES DISTRICT COURT FOR THE**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 THE REPUBLIC OF NICARAGUA,
18 *Petitioner and Award Creditor,*

19 v.

20 THE LOPEZ-GOYNE FAMILY
21 TRUST, THE GOYNE FAMILY TRUST,
22 THE BOCHNOWSKI FAMILY TRUST,
23 THE BARISH FAMILY TRUST OF 2008,
24 HILLS EXPLORATION CORPORATION,
25 LG HAWAII OIL & GAS, INC., HAWAII
26 DEVELOPMENT CORPORATION, MR.
27 MICHAEL DAVID GOYNE, MS. EMILY
28 LOPEZ GOYNE, MR. DAVID MICHAEL
GOYNE, MS. ESTHER VALENTINA
GOYNE, MR. JAMES JOHN
BOCHNOWSKI, MS. JANET ANNE
BOCHNOWSKI, MR. DAVID A. BARISH,
MS. GALE RUTH FEUER BARISH, MR.
JAMES DOUGLAS GOYNE, MR.
RAYMOND GERALD BAILEY, MS.
ANITA MEJARITO-BUZMAN ROSS, MS.
ELSBETH IRENE FOSTER, MR. SCOTT
STUART SHOGREEN, MS. ELOISA
LOPEZ SHOWGREEN, MR. HAROLD
ORRIS SHATTUCK, MS. DIANE
ELIZABETH RADU AND MR. WALTER
JOHN BILGER,

Respondents and Award Debtors.

Case No.: _____

**PETITION TO RECOGNIZE AND
ENFORCE ICSID ARBITRATAL AWARD**

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ATTORNEYS AT LAW
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1 Petitioner THE REPUBLIC OF NICARAGUA (“**Petitioner**” or “**Nicaragua**”), by and
2 through its undersigned counsel, submits this Petition against THE LOPEZ-GOYNE FAMILY
3 TRUST, THE GOYNE FAMILY TRUST, THE BOCHNOWSKI FAMILY TRUST, THE
4 BARISH FAMILY TRUST OF 2008, HILLS EXPLORATION CORPORATION, LG HAWAII
5 OIL & GAS, INC., HAWAII DEVELOPMENT CORPORATION, MR. MICHAEL DAVID
6 GOYNE, MS. EMILY LOPEZ GOYNE, MR. DAVID MICHAEL GOYNE, MS. ESTHER
7 VALENTINA GOYNE, MR. JAMES JOHN BOCHNOWSKI, MS. JANET ANNE
8 BOCHNOWSKI, MR. DAVID A. BARISH, MS. GALE RUTH FEUER BARISH, MR. JAMES
9 DOUGLAS GOYNE, MR. RAYMOND GERALD BAILEY, MS. ANITA MEJARITO-
10 BUZMAN ROSS, MS. ELSBETH IRENE FOSTER, MR. SCOTT STUART SHOGREEN, MS.
11 ELOISA LOPEZ SHOWGREEN, MR. HAROLD ORRIS SHATTUCK, MS. DIANE
12 ELIZABETH RADU AND MR. WALTER JOHN BILGER (jointly, “**Respondents**” or
13 “**Debtors**”) and states as follows:

14 **NATURE OF THE ACTION**

15 1. Petitioner seeks to enforce the Respondents’ pecuniary obligations imposed by a March
16 1, 2023 arbitral award (“**Award**”)¹ issued under the Convention on the Settlement of Investment
17 Disputes between States and Nationals of Other States, Mar. 18, 1965, 17 U.S.T. 1270, 575
18 U.N.T.S. 159 (“**ICSID Convention**”).²

19 2. The United States, just like Nicaragua,³ has signed and ratified the ICSID Convention,
20 and it must thus recognize and enforce an award issued thereunder. *See* Ex. 2, ICSID Convention,
21 Art. 54(1). Further, the United States implemented Article 54(1) of the ICSID Convention through
22 22 U.S.C. § 1650a, requiring the United States to give “the same full faith and credit” to an ICSID
23 award “as if the award were a final judgment of a court of general jurisdiction of one of the several
24 States.” 22 U.S.C. § 1650a(a).

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26 _____
27 ¹A certified copy of the Award is attached as Exhibit 1 to the Declaration of Marco Molina (the “Molina Decl.”).
28 ² A true and correct copy of the ICSID Convention, Regulations and Rules is attached as Exhibit 2 to the Molina Decl.
³ *See* ICSID, List of Contracting States and Other Signatories of the Convention (indicating that Nicaragua signed the ICSID Convention on February 4, 1994, and that the ICSID Convention entered into force for Nicaragua on April 19, 1995), available at <https://icsid.worldbank.org/en/Pages/about/Database-of-Member-States.aspx>.

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- (“**Atherton Property**”). Mr. Bochnowski and Ms. Bochnowski reside at the Atherton Property.
- b. Mr. David A. Barish and Ms. Gale Ruth Feuer Barish are named Trustees of the Barish Family Trust of 2008. The Barish Family Trust of 2008 holds property located in this District at 15854 Poppy Lane, Monte Sereno, California, 95030 (“**Monte Sereno Property**”). Mr. and Ms. Barish’s last-known address is 3236 Southwest Idaho Street, Portland, Oregon, 97239.
- c. Hills Exploration Corporation is a company incorporated under the laws of the State of Colorado with its principal place of business in this District at 2546 Jackson Street, San Francisco, California, 94115.
- d. Ms. Elsbeth Irene Foster’s last-known address is in this District at 340 Archer Street, Monterey, California, 93940.
- e. Mr. Harold Orris Shattuck’s last-known address is in this District at 170 Fawn Lane, Portola Valley, California, 94028.
- f. Mr. Walter John Bilger’s last-known address is in this District at 4785 Sea Crest Drive, Seaside, California, 93955.
- g. Ms. Diane Elizabeth Radu’s last-known address is Suncrest Country Club Mobilehome Park at 73450 Country Club Drive, Space 51, in Palm Desert, California, 92260. On information and belief, Ms. Radu maintains contacts in this District.
- h. Mr. Michael David Goyne and Ms. Emily Lopez Goyne are Trustees of the Lopez-Goyne Family Trust. The last-known address of these Respondents is 92-1033 Koio Drive, Unit D, Kapolei, Hawaii, 96707. On information and belief, Mr. Goyne and Ms. Goyne maintain contacts in this District.
- i. LG Hawaii Oil & Gas, Inc. is a company incorporated under the laws of the State of Colorado with its principal place of business at 92-1033 Koio Drive, Unit D, Kapolei, Hawaii, 96707. On information and belief, LG Hawaii Oil & Gas, Inc. maintains contacts in this District.

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- 1 j. LG Hawaii Development Corporation is a company incorporated under the laws of
2 the State of Colorado with its principal place of business at 92-1033 Koio Drive,
3 Unit D, Kapolei, Hawaii, 96707. On information and belief, LG Hawaii
4 Development Corporation maintains contacts in this District.
- 5 k. Mr. David Michael Goyne and Ms. Esther Valentina Goyne are named Trustees of
6 the Goyne Family Trust. The last-known address of these Respondents is 2550
7 Kuhio Avenue, Apartment 2102, Honolulu, Hawaii, 96815. On information and
8 belief, Mr. Goyne and Ms. Goyne maintain contacts in this District.
- 9 l. Mr. James Douglas Goyne is a California resident. His last-known address is 33219
10 Wilson Street, Wildomar, California, 92595. On information and belief, Mr. Goyne
11 maintains contacts in this District.
- 12 m. Mr. Raymond Gerald Bailey resides at 3300 Towers Boulevard, Apartments 132
13 and 138, Seabrook, Texas, 77586. On information and belief, Mr. Bailey maintains
14 contacts in this District.
- 15 n. Ms. Anita Mejarito-Guzman Ross resides at 2030 Northwest Mullridge Place, Unit
16 S206, Issaquah, Washington, 98027. On information and belief, Ms. Ross maintains
17 contacts in this District.
- 18 o. Mr. Scott Stuart Shogreen resides at 15730 116th Avenue NE, Bothell, Washington,
19 98011. On information and belief, Mr. Shogreen maintains contacts in this District.
- 20 p. Ms. Eloisa Lopez Shogreen resides at 15730 116th Avenue NE, Bothell,
21 Washington, 98011. On information and belief, Ms. Shogreen maintains contacts in
22 this District.

23 9. The Court may exercise personal jurisdiction over Respondents because they are
24 individuals or entities that reside in this District and/or maintain contacts in this District.

25 10. This Court has subject matter jurisdiction over this proceeding under 28 U.S.C. § 1331
26 and 22 U.S.C. § 1650a because it is a civil action arising under the laws and treaties of the United
27 States to enforce an ICSID award. Specifically, “[t]he district courts of the United States...shall
28

1 have exclusive jurisdiction over actions and proceedings” to enforce an ICSID award. 22 U.S.C. §
2 1650a(b).

3 11. Venue in this District is proper under 28 U.S.C. § 1391(b).

4 **THE ARBITRATION AND THE AWARD**

5 **I. The Arbitration Proceeding and Award**

6 12. As described in the Award, the underlying arbitration arose from a dispute relating to
7 Nicaragua’s termination of a concession contract with ION (the “**Concession Contract**”) for oil
8 exploration and exploitation in a block in Nicaragua’s onshore Pacific region. Ex. 1 ¶ 5.

9 13. Respondents filed their Request for Arbitration on November 30, 2017, and the ICSID
10 Secretary-General registered the request on December 19, 2017. Ex. 1 ¶¶ 20-21.

11 14. In accordance with Article 37(2)(a) of the ICSID Convention, and pursuant to the
12 Treaty, the arbitral tribunal comprised of three arbitrators and was deemed constituted on June 19,
13 2019, following the arbitrators’ acceptance of their appointments (the “**Tribunal**”). Ex. 1 ¶ 39.

14 15. In the arbitration, Respondents contended that Nicaragua’s conduct with respect to the
15 Concession Contract constituted an unlawful expropriation and a failure to accord fair and equitable
16 treatment under the Treaty. Ex. 1 ¶ 6. Nicaragua responded that Respondents (i) did not make an
17 investment in Nicaragua within the meaning of the ICSID Convention and Treaty, such that the
18 arbitral tribunal lacked jurisdiction, and further (ii) that Nicaragua’s termination of the Concession
19 Contract was lawful. Ex. 1 ¶ 7. Nicaragua further submitted a counterclaim seeking compensation
20 for ION’s alleged breach of the applicable environmental obligations. Ex. 1 ¶ 8.

21 16. After receiving extensive submissions from the parties, the Tribunal held a virtual
22 hearing from November 15 to 20, 2021 (the “**Hearing**”).

23 17. On March 1, 2023, the Tribunal issued the Award in favor of Nicaragua and against
24 Respondents.

25 18. As specified in the Award, the Tribunal asserted jurisdiction over Respondents’ claims
26 under the ICSID Convention and the Treaty but declined to assert jurisdiction over Nicaragua’s
27 counterclaim. Ex. 1 ¶ 618. The Tribunal then held that Nicaragua did not breach the Treaty, rejected
28

1 all the other claims and defenses, and awarded Nicaragua its costs and expenses in the amount of
2 US \$1,500,000.00. *Id.*

3 19. Each of the Respondents is jointly and severally liable for the amounts awarded in the
4 Award.

5 **II. The Award and Current Status**

6 20. On July 14, 2023, the ICSID Secretary-General registered an Application for
7 Annulment of the Award filed by Respondents and notified the parties of a provisional stay of
8 enforcement. *See* Molina Decl., Ex. 3 at 2.

9 21. However, on September 18, 2023, Respondents filed a Request for Discontinuance of
10 the Proceedings pursuant to Articles 44 and 53 of the ICSID Convention. *Id.*

11 22. On September 19, 2023, Nicaragua informed ICSID that it did not object to the
12 discontinuance. *Id.* And on September 20, 2023, the ICSID Secretary-General issued an order
13 taking note of the discontinuance. *Id.*

14 23. Pursuant to Article 53 of the ICSID Convention, Respondents’ obligation to abide by
15 and comply with the Award was limited only by a stay of enforcement. The stay is no longer in
16 effect because it was automatically terminated by virtue of the discontinuance.

17 24. Nicaragua has made good-faith efforts to have Respondents pay the amounts owed
18 under the Award, but those efforts have been unsuccessful. As of the date of this petition,
19 Respondents have not paid any amount toward the Award.

20 **COUNT ONE**
21 **FOR RECOGNITION AND ENFORCEMENT OF THE AWARD**
22 **PURSUANT TO 22 U.S.C. § 1650a**

23 25. Nicaragua restates and incorporates Paragraphs 1 through 23 as if fully set forth herein.

24 26. As stated, the United States and Nicaragua are contracting parties to the ICSID
25 Convention. 22 U.S.C. § 1650(a) provides that “[t]he pecuniary obligations imposed by [an award
26 issued pursuant to the ICSID Convention] shall be enforced and shall be given the same full faith
27 and credit as if the award were a final judgment of a court of general jurisdiction of one of the
28 several States.”

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1 27. Further, Article 54(1) of the ICSID Convention requires the Contracting States (like the
2 United States) to “recognize an award rendered pursuant to this Convention as binding and enforce
3 the pecuniary obligations imposed by that award within its territories as if it were a final judgment
4 of a court in that State.”

5 28. The Award was rendered by the Tribunal in Nicaragua’s favor and against Respondents
6 following the Tribunal’s consideration of the parties’ written submissions and presentation of
7 evidence and argument at the Hearing, in accordance with Chapter IV of the ICSID Convention.
8 The Award is final and binding against Respondents.

9 29. Pursuant to Article 53(1) of the ICSID Convention, parties to an ICSID arbitration can
10 seek revision of an award through the process described in Article 51 or challenge it via the
11 annulment process set out in Article 52. Respondents did not seek revision of the Award.

12 30. Additionally, the annulment proceeding commenced by Respondents was discontinued
13 on September 20, 2023, as set forth above. Respondents are obligated to pay the Award because
14 there is no stay of enforcement in place. *See* Art. 53(2) of the ICSID Convention (“Each party shall
15 abide by and comply with the terms of the award except to the extent that enforcement shall have
16 been stayed pursuant to the relevant provisions of [the] Convention.”).

17 31. Nicaragua is therefore entitled to recognition of the Award as a judgment pursuant to
18 the ICSID Convention and 22 U.S.C § 1650a. As explained above and under the terms of the
19 Award, Nicaragua is entitled to damages in the amount of US \$1,500,000.00, plus interest,
20 compounded annually.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner the Republic of Nicaragua respectfully requests that the Court
23 enter judgment in its favor and against Respondents as follows:

- 24 a) Confirming the Award and the pecuniary obligations imposed therein against
25 Respondents under 28 U.S.C. § 1650a and Article 54 of the ICSID Convention;
26 b) Entering judgment in favor of Petitioner and against Respondents in accordance with
27 the full value of the Award for US \$1,500,000.00, plus interest in accordance with
28 28 U.S.C. § 1961;

- c) Ordering Respondents to pay the costs of this proceeding; and
- d) Granting such other and further relief to Petitioner as the Court may deem just and proper.

Dated: May 22, 2024

BAKER & HOSTETLER LLP

By: /s/ Marco Molina

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