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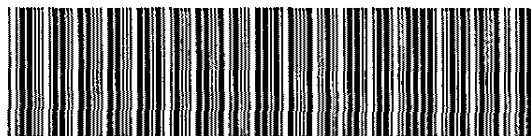
Leslie Lott GAVE

AUTHORIZATION BY PHONE TO

CORRECT the Disclaimer

DATE 2-8-07

DOC. EXAM ML



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11/21/06--01021--030 **87.50

"Capital Partners"

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

07 FEB -8 AM 7:57

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COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: WESTSHORE CAPITAL PARTNERS and Design

(Mark to be registered)

The enclosed Trademark/Service Mark Application, specimens and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

Leslie J. Lott, Esq.

(Name of Person)

Lott & Friedland, P.A.

(Firm/Company)

P.O. Drawer 141098

(Address)

Coral Gables, FL 33114-1098

(City/State and Zip Code)

For further information concerning this matter, please call:

Leslie J. Lott

(Name of Person)

at 305 448-7089

(Area Code & Daytime Telephone Number)

MAILING ADDRESS:

Registration Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

STREET/COURIER ADDRESS:

Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA



FLORIDA DEPARTMENT OF STATE
Division of Corporations

November 29, 2006

LESLIE J LOTT, ESQ
P.O DRAWER 141098
CORAL GABLES, FL 33114-1098

SUBJECT: WESTSHORE CAPITAL PARTNERS AND DESIGN
Ref. Number: W06000051734

We have received your document for WESTSHORE CAPITAL PARTNERS AND DESIGN and your check(s) totaling \$87.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

Your mark contains word(s)/design(s) that must have a disclaimer. All geographical terms, such as cities, states, countries, and designs of same, must be disclaimed. Some commonly used words and corporate suffixes must also be disclaimed. You must disclaim the following term(s) by completing the disclaimer statement found in #2 of Part III of the application: WESTSHORE

Please return your document, along with a copy of this letter, within 60 days your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6097.

Marsha Thomas
Document Specialist

Letter Number: 306A00068709

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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LOTT & FRIEDLAND

INTELLECTUAL PROPERTY

Reply to Miami office
ljlott@lfiplaw.com

January 26, 2006

Ms. Marsha Thomas, Document Specialist
Florida Department of State
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

Via Overnight Mail

Re: **WESTSHORE CAPITAL PARTNERS and Design**
Our File No. 23044-1-8400
Your Ref. No. W06000051734

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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Dear Ms. Thomas:

This is further to our telephone discussion of January 16, 2007 concerning the referenced trademark application. Your letter of November 29, 2006 requires the return of our documents no later than Sunday, January 28, 2007. Accordingly, we return them to you herein, along with a memorandum of law which was prepared by my office and which summarizes the points that we discussed by telephone.

In brief, the Florida trademark statute does not provide for a disclaimer of geographic matter. The Florida statute directs us to federal law when there is no provision under state law. We sincerely believe a disclaimer should not be required in this case because **WESTSHORE** is not a geographic indicator that is connected with or indicative of financial investment services, as required by federal law.

I greatly appreciate the courtesy you extended to me during our telephone discussion, and shall look forward to hearing from you with regard to the determination of your office on the enclosed application for trademark registration.

Please do not hesitate to let me know if there is anything further we might provide.

Very truly yours,

LOTT & FRIEDLAND

By: Leslie J. Lott

LJL/mas
Enclosures
cc: Westshore Capital Partners

MIAMI OFFICE:
355 ALHAMBRA CIRCLE
SUITE 1100
CORAL GABLES, FLORIDA 33134
305/448•7089 TELEPHONE
305/446•6191 FACSIMILE
HTTP: WWW.LFIPLAW.COM

FORT LAUDERDALE OFFICE:
ONE EAST BROWARD BOULEVARD
SUITE 1609
FORT LAUDERDALE, FLORIDA 33301
954/315•5044 TELEPHONE
954/315•5045 FACSIMILE
HTTP: WWW.LFIPLAW.COM

LOTT & FRIEDLAND, P.A.
INTRA-OFFICE MEMORANDUM

TO: LJJ
FROM: JSR
RE: WESTSHORE CAPITAL PARTNERS (FL)
Our File No. 23044-8-8400
DATE: January 26, 2007

- Issue posed by Ms. Marsha Thomas, Document Specialist – Florida Department of State, Division of Corporations:
 - Whether the term “WESTSHORE” requires a disclaimer
 - Unclear whether the requirement is based on a finding that “WESTSHORE” is a geographical term or a commonly used word
- **Brief answer:** No statutory basis for the disclaimer of a commonly used
 - “WESTSHORE” has no geographic significance as applied to investment and financial services.
 - There are two other Florida registrations containing the term “WESTSHORE” and neither owner was required to disclaim the term
 - There are four records on the USPTO website for the term “WESTSHORE” and no disclaimer was required for registration
 - WESTSHORE has multiple meanings, such as the western shore of any body of water

• **Florida Trademark Name List for “WESTSHORE”**

<i>Mark</i>	<i>Document No.</i>	<i>Date Filed</i>	<i>Disclaimer</i>	<i>Status</i>
WESTSHORE DEVELOPMENT ASSOCIATION WORKING & DESIGN (Tampa, Florida)	T00529	2/15/84	N/A	INACTIVE – Expired 2/15/94
WESTSHORE YACHT CLUB (Bonita Springs, FL)	T06000000477	4/17/06	“YACHT CLUB”	ACTIVE

- **Florida Trademark Statute does not support requirement for disclaimer of “WESTSHORE”**
 - *There is no statutory basis for the disclaimer of a commonly used word*

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DEPARTMENT OF STATE
PALM BEACH, FLORIDA

- Under the Florida Trademark statute, the Department of State may require the applicant for registration to disclaim an unregistrable component of a mark otherwise registrable. Fla. Stat. ch. 495.051 (2006)
- A mark shall not be registered if it consists of a mark which, when used on or in connection with the goods or services of the applicant, is primarily geographically descriptive of them. Fla. Stat. ch. 495.021 (2006)
- The intent of the Florida Trademark Statute "is to provide a system of state trademark registration and protection substantially consistent with the federal system of trademark registration and protection under the Trademark Act of 1946, as amended. *To that end, the construction given the federal act should be examined as persuasive authority for interpreting and construing this chapter.*" Fla. Stat. ch. 495.181 (2006).
- The 2007 Florida Trademark Statute does not modify this section to create any discrepancies in the foregoing. Fla. Stat. s. 495.021, (2007)

• **USPTO Records for "WESTSHORE"**

Mark	Reg. No.	Disclaimer	Status
W WESTSHORE MALL and Design	2,040,599	"MALL"	Cancelled – 11/2/03
WESTSHORE MALL	2,035,785	"MALL"	Cancelled – 11/8/03
WESTSHORE DATA, INC. A COMMUNICATIONS COMPANY and Design	1,847,874	"DATA, INC." and "A COMMUNICATIONS COMPANY"	Cancelled – 8/18/01
WESTSHORE (stylized)	0,395,783	N/A	Expired

• **Disclaimer of "WESTSHORE" for Federal Registrations**

- The following elements must be met for a finding that a mark is primarily geographically descriptive:
 - (1) The primary significance of the mark is geographic to reasonable purchasers of the relevant goods in the United States
 - (2) If so, purchasers would be likely to think that the goods originate in the geographic place identified in the mark
 - (3) The mark identifies the geographic origin of the goods. TMEP § 1210.
- Refusal for registration based on geographic descriptiveness requires that *there be a goods/place or services/place association such that the public is likely to believe that the goods or services originate in the place identified in the mark.* TMEP § 1210.04.
- Additionally, the name of a geographic location that has no significant relation to commercial activities or the production of the relevant

goods or services, such as ALASKA for bananas, is treated as an arbitrary mark because it is unlikely that consumers would believe that the mark identifies the place from which the goods originate.

- **WESTSHORE** has no geographic significance as applied to investment and financial services.
- Accordingly, none of the owners of the above federal registrations were required to disclaim the term “**WESTSHORE**” as a geographic or descriptive component of their marks

- **Multiple meanings of “WESTSHORE”**

- General Google search for “**WESTSHORE**” revealed the following references:
 - The western shore of any body of water
 - Principal business district of Tampa, Florida (i.e. West Shore Boulevard as a thoroughfare)
 - West Shore Community College in Scotville, Michigan
 - Westshore Terminals Limited Partnership in Vancouver, Canada

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK
PURSUANT TO CHAPTER 495, FLORIDA STATUTES

TO: Division of Corporations
Post Office Box 6327
Tallahassee, FL 32314

Name & address to whom acknowledgment should be sent:

Leslie J. Lott, Esq.

Lott & Friedland, P.A.

P.O. Drawer 141098, Coral Gables, FL 33114-1098

(305) 448-7089

Daytime Telephone number

PART I

1. (a) Applicant's name: Westshore Capital Management, L.P.

(b) Applicant's business address: 400 North Ashley Drive, Suite 2610

Tampa, FL 33602

City/State/Zip

If different, Applicant's mailing address:

City/State/Zip

(c) Applicant's telephone number: (813) 223-3600

☐ Individual

☐ Corporation

☐ Joint Venture

☐ Other:

☐ General Partnership

☒ Limited Partnership

☐ Union

If other than an individual,

(1) Florida registration/document number: B06000000299

(2) Domicile State: DE

(3) Federal Employer Identification Number: 20-5136174

2. (a) If the mark to be registered is a service mark, the services in connection with which the mark is used:
(i.e., furniture moving services, diaper services, house painting services, etc.)

Financial and investment management services; investment of funds for others and
management of capital investment funds; consultation services in the field of investment and
investment management; venture capital services

(b) If the mark to be registered is a trademark, the goods in connection with which the mark is used:
(i.e., ladies sportswear, cat food, barbecue grills, shoe laces, etc.)

(c) The mode or manner in which the mark is used: (i.e., labels, decals, newspaper advertisements, brochures, etc.)
Business cards, stationery, and advertising and promotional materials in print and on the internet

(Continued)

d) The class(es) in which goods or services fall:

36

PART II

1. Date first used by the applicant, predecessor, or a related company (must include month, day and year):

(a) Date first used anywhere: Sept. 25, 2006 (b) Date first used in Florida: Sept. 25, 2006

PART III

1. The mark to be registered is: (If logo/design is included, please give brief written description which must be 25 words or less.)

Solid rectangle diagonally bisected by white wavy line, positioned to the left of words

WESTSHORE CAPITAL PARTNERS, with horizontal line between WESTSHORE and CAPITAL PARTNERS

English Translation

2. DISCLAIMER (if applicable)

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM "Capital Partners" APART FROM THE MARK AS SHOWN.

I, David J. Malizia, being sworn, depose and say that I am the owner and the applicant herein, or that I am authorized to sign on behalf of the owner and applicant herein, and no other person except a related company has the right to use such mark in Florida either in the identical form or in such near resemblance as to be likely to deceive or cause confusion or be mistaken therefor. I make this affidavit and verification on my/the applicant's behalf. I further acknowledge that I have read the application and know the contents thereof and that the facts stated herein are true and correct

Westshore Capital Management, L.P.

Typed or printed name of applicant

By:

Applicant's signature
(List name and title)

David J. Malizia, President of
Applicant's General Partner:
Westshore Capital GPM, Inc.,
a Florida corporation

STATE OF Florida

COUNTY OF Hillsborough

On this 31st day of October, 2006, David J. Malizia personally appeared before me,

☒ who is personally known to me ☐ whose identity I proved on the basis of _____

(Seal)

[Signature]



JOHN L. MALIS W-CHAPARRO
MY COMMISSION # DD 483016
EXPIRES: February 17, 2010
Bonded Notary Public/Notary Services

Notary's Printed Name

My Commission Expires: _____

FEE: \$87.50 per class

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SECRETARY OF STATE
TALLAHASSEE FLORIDA



David J. Malizia | Managing Partner

DJM@WestshoreCapitalPartners.com

Rivergate Tower, Suite 2510 | 400 North Ashley Drive | Tampa, FL 33602
Ph: 813-223-3600 | Fax: 813-223-3699 | www.WestshoreCapitalPartners.com