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LAW OFFICES PHELPS & MOORE

PROFESSIONAL LIMITED LIABILITY COMPANY 4045 EAST UNION HILLS DRIVE

SUITE A-102

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Attorneys for Plaintiff Norman Zwicky

THE SUPERIOR COURT OF THE STATE OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA

NORMAN ZWICKY,

Plaintiff,

PREMIERE VACATION COLLECTION OWNERS ASSOCIATION, f.k.a. Premiere Vacation Club, an Arizona nonprofit

Defendant.

corporation,

Case No. CV2015-051911

FINAL JUDGMENT

(ASSIGNED TO THE HONORABLE ĴOHN HANNAH)

Based on this Court's orders granting Plaintiff's Motion for Summary Judgment (and subsequent orders clarifying that order) and the Plaintiff's Motion for Modification of Protective Order and Order to Disclose Owners List, pursuant to A.R.S. sections 10-11602 and 33-2209 and the common law right of inspection.

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED Defendant Premier Vacation Collection Owners Association ("the Association") shall produce copies of the following documents to Plaintiff through his counsel:

- 1. All Public Reports, timeshare plans, notifications of material change, or other documents filed with the Arizona Department of Real Estate relating to the Association.
- All property management agreements between the Association and Diamond Resorts International or affiliates (hereinafter, collectively, "DRI"), and any amendments or modifications, and
 - Documents showing the management fees paid or owed to DRI by the Association for the years 2012, 2013, 2014 and 2015.
 - b. Documents showing the precise nature, description and amount of any "reimbursement of resort management and general and administrative expenses" paid or owed to DRI by the Association for the years 2012, 2013, 2014 and 2015.
- 3. All property management agreements between DRI and each constituent Resort (the "Resorts") of the Association, and any amendments or modifications, and
 - a. Documents showing the management fees paid or owed to DRI by the Resorts for the years 2012, 2013, 2014 and 2015.
 - b. Documents showing the precise nature, description and amount of any "reimbursement of resort management and general and administrative expenses" paid or owed to DRI by the Resorts for the years 2012, 2013, 2014 and 2015.
- Profit and Loss statements (or similar) for the Resorts for the years 2012, 2013,
 2014 and 2015, showing the revenues and expenses of the Resorts (whether or not

- classified as common revenues or common expenses of the Resorts' owners association).
- 5. Profit and Loss statements (or similar) for the owners association ("HOA") of the Resorts for the years 2012, 2013, 2014 and 2015.
- 6. Annual budgets for the Association for the years 2012, 2013, 2014 and 2015.
- 7. Annual budgets for the HOA of the Resorts for the years 2012, 2013, 2014 and 2015.
- 8. All documents showing <u>room occupancy totals</u> (measured by room-days or any similar measurement used by the Association or DRI) in the Resorts for the years 2012, 2013, 2014 and 2015 for each of the following categories:
 - a. Room rentals to the general public;
 - b. Room rentals to members of a DRI collection other than the Association;
 - c. Room rentals to non-DRI owners utilizing an "exchange" program such as RCI;
 - d. Occupancy by Association members through the use of their "points."
 - e. Unoccupied/vacant units.
- 9. All documents showing <u>annual room rental revenues</u> of the Resorts for the years 2012, 2013, 2014 and 2015 for each of the following categories:
 - a. Room rentals to the general public;
 - b. Room rentals to members of a DRI collection other than the Association;
 - c. Room rentals to non-DRI owners utilizing an "exchange" program such as RCI;
 - d. Occupancy by Association members through the use of their "points."
- 10. All documents relating to any sharing or allocation of any category or type of room rental revenues between DRI and the Association, or between DRI and the Resorts

HOAs, and any agreements or other documents specifying the same.

- 11. All documents showing the <u>annual room rental costs or expenses</u> of the Resort for the years 2012, 2013, 2014 and 2015, for each of the following categories:
 - a. Room rentals to the general public;
 - b. Room rentals to members of a DRI collection other than the Association through the use of their "points";
 - c. Room rentals to non-DRI owners utilizing an "exchange" program such as RCI;
 - d. Occupancy by Association members through the use of their "points."
- 12. All documents relating to any sharing or allocation of room rental costs and expenses between DRI and the Association (or between DRI and the Resorts HOAs), and any agreements or other documents specifying the same.

IT IS FURTHER ORDERED that the documents provided to Plaintiff shall not be disclosed to any person other than Plaintiff's attorneys, accountants, or other consultants, or to persons similarly situated to Plaintiff that may in the future retain the services of Plaintiff's counsel, except that Plaintiff or his attorneys may quote or refer to the information produced in connection with this litigation in a complaint or other court filing in the proposed class action litigation.

IT IS FURTHER ORDERED the foregoing protective order shall remain in effect until 60 days after the proposed class action lawsuit is filed in the District Court, and it shall then expire.

Nothing in this order shall be construed as any attempt to limit the independent power of the District Court to enter its own protective order upon appropriate motion in that court. Further, either party may apply to the District Court for further modification of the protective order prior to its expiration.

IT IS FURTHER ORDERED that the Defendant Association shall be required, pursuant to A.R.S. § 33-2210, to send the following notice to the members of the Premier Vacation Collection Owners Association by mail or electronic transmission:

NOTICE OF COURT ORDER

PLEASE TAKE NOTICE that this Court has ordered the production, for the purpose of inspection, copying and investigation, of certain business records of Defendant Premier Vacation Collection Owners Association (the "Association") relating to the levying and apportionment of assessments, to Plaintiff Norman Zwicky, a member of the Association represented by Attorney Jon Phelps of the law firm of Phelps & Moore, PLC, 4045 East Union Hills Drive, Suite A-102, Phoenix, Arizona 85050; telephone (602) 788-2089; email jon@phelpsandmoore.com.

- This Order is for your information only and requires no action by you.
- Please do not contact the Court. The Court cannot answer any questions. You may, if you wish, contact the Plaintiff's attorney.
- The Court has made no ruling on any claim of improper conduct by the Defendant. The Court's role in this matter was strictly to enforce Mr. Zwicky's rights to inspect certain business records.
- This Notice of Court Order is being sent to you by the Association pursuant to a separate order of the Court. Your name and contact information has not been disclosed to the Court, and has not been disclosed to Mr. Zwicky or his attorneys.

IT IS FURTHER ORDERED that if reasonably practicable the notice may be directed only to those owners who have protested the amount of their annual assessments. If that is not practicable, it is to be mailed to all the owners.

IT IS FURTHER ORDERED that Plaintiff shall pay the reasonable costs of the notification.

IT IS FURTHER ORDERED that Defendant shall disclose the proposed costs of any mass mailing to Plaintiff before undertaking the mailing. Plaintiff may withdraw the request at that time.

IT IS FURTHER ORDERED awarding Plaintiff its taxable costs in the amount of \$349.00, with interest at the legal rate of four and a quarter percent (4.25%) per annum from the date of judgment.

No further matters remain pending. This judgment is entered pursuant to Rule 54(c).

DONE IN OPEN COURT this Whitay of September, 2016

John Hannah, Judge

Maricopa County Superior Court