THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
CARMEN T. MULLEN, JUDGE

RECEIVED
AUG 05 2013
SC Court of Appeals

CASE NO. 2010-CP-07-04328

APPELLATE CASE NO. 2013-000920

Coral Resorts, LLC and Coral Holdings, LLC.....Respondents

vs.

Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC d/b/a Coastal Visitors Center and Coastal Activities, Morr Marketing Enterprises, Inc., Tom Page and Scott McCoy.....Appellants

---

MEMORANDUM
OF THE APPELLANTS
IN SUPPORT OF
THEIR APPEAL

TO THE HONORABLE JUDGES OF THE COURT OF APPEALS FOR THE STATE OF SOUTH CAROLINA:

THE APPELLANTS, TED MORRIS, LORRAINE MORRIS, COASTAL TIMESHARE CREATIONS, LLC, D/B/A COASTAL VISITORS CENTER AND COASTAL ACTIVITIES, MORR MARKETING ENTERPRISES, INC., TOM PAGE, AND SCOTT MCCOY, DO HEREBY RESPECTFULLY FILE THIS MEMORANDUM IN SUPPORT OF THEIR APPEAL IN THIS CASE, AND, AS A BASIS THEREFORE, RESPECTFULLY REPRESENT UNTO THE COURT AS FOLLOWS, TO WIT:

I.

On a former day, the Appellants and the Respondents entered into a Consent Order for Permanent Injunction. A copy of the Consent Order for Permanent Injunction is attached hereto, made a part hereof, and marked for identification purposes as Exhibit No. 1. Reference to which Exhibit is hereby made for all pertinent purposes.

II.

Subsequently, the Respondents filed a Rule to Show Cause, relative to the alleged violation by the Appellants of the Consent Order for Permanent Injunction. The Court, Carmen T. Mullen, presiding Judge, entered an Order of Contempt, which is the subject of this Appeal, which Order was signed by Judge Mullen on January 28, 2013. A copy of the Order of Contempt, which is the subject of this Appeal, is attached hereto, made a part hereof, and marked for identification purposes as Exhibit No. 2. Reference to which Exhibit is hereby made for all pertinent purposes.

II.

Subsequent to the entry of the subject Order of Contempt, pursuant to the South Carolina Rules of Civil Procedure, Rule 59, Subdivision (e), the Appellants filed a Motion to Stay / Reconsider the subject Order of Contempt. A copy of the Motion to Stay / Reconsider the subject Order of Contempt is attached hereto, made a part hereof, and marked for identification purposes as Exhibit No. 3. Reference to which Exhibit is hereby made for all pertinent purposes.

IV.

Judge Mullen denied the Appellant's Motion to Stay / Reconsider the subject Order of Contempt. The Judge's Order, in that regard, was a Form 4 Order, which Order, was signed on February 20, 2013; however, the Appellants did not receive written notice of the entry of the Order, until March 28, 2013. A copy of the Order, which was entered in that regard, the Form 4 Order, is attached hereto, made a part hereof, and marked for identification purposes as Exhibit No. 4. Reference to which Exhibit is hereby made for all pertinent purposes.

V.

At the time of the Hearing, relative to the Motion to Stay / Reconsider the subject Order of Contempt, the Appellants presented to the Court, a Memorandum in Support of their Motion to Stay / Reconsider the subject Order of Contempt. A copy of the Memorandum in that regard is attached hereto, made a part hereof, and marked for identification purposes as Exhibit No. 5. Reference to which Exhibit is hereby made for all pertinent purposes.

VI.

As the Court will note, upon review of the Memorandum in Support of the Appellant's Motion to Stay / Reconsider the subject Order of Contempt, the Appellants explained to the Court the reasons that they believed the subject Order of Contempt was erroneous. They addressed the issue, relative to an Office, which the Appellants had opened, and which the Court found was a violation of the Order of Injunction. The Appellants respectfully submitted that the Order of Injunction, for which the Court held them in Contempt, did not prohibit them from opening an Office and, as such, that finding was erroneous, and that the Court should reconsider its ruling. As indicated, the Court refused to reconsider or amend the Order and, as such, the subject Order of Contempt remains in full force and effect.

VII.

The reason that the Appellants challenged the subject Order of Contempt is because they believe, based upon the Law, and the Facts appertaining thereto, that the Court's ruling was erroneous. As indicated, the Court refused to reconsider the Order. Therefore, the subject Order of Contempt is now a Final Order of the Court, and the Appellants respectfully submit that they are entitled to Appeal the subject Order of Contempt, whereas it is considered to be a Final Order of the Court, relative to the subject matter, in regard to the issue of Contempt. It is also important to note that the Order, that is the subject of this Appeal, is a Final Order of the Court.

VIII.

The South Carolina Code of Laws, Section 14-3-330, specifically provides for the concept of Appellate Jurisdiction in Law Cases. Subdivision 3, of Section 14-3-330, provides, in essence, that an Appeal may be taken from a Final Order, affecting a substantial right made in any special proceeding. Further, the South Carolina Code of Laws, Section 18-9-10, provides that an Appeal may be taken to the Supreme Court, or to the Court of Appeals, in the Cases set forth in 14-3-330.

IX.

As the Court well knows, an Order, "involves the Merits," as that term is used in the Statute, outlining Appellate Jurisdiction in Law Cases, and is immediately appealable, when it finally determines some substantial matter forming the whole or part of the Cause of Action. Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E. 2d 464. The Appellants respectfully submit that the Order of Contempt, which is the subject of the Appellant's Appeal, "involves the Merits," as that term is used in the Statute, outlining Appellate Jurisdiction in Law Cases and, as such, is immediately Appealable, whereas it finally determines some substantial matter, which in this Case, is the right of the Appellants to open an Office. Therefore, the Appellants respectfully submit that they are entitled to perfect their Appeal, whereas the Order which is the subject of this Appeal, is a Final Order, on the Merits, and it substantially affects their rights. In addition, as the South Carolina Appellate Courts have ruled, an Order of Contempt is immediately Appealable. Grosshuesch v. Cramer, 377 S.C. 12, 659 S.E. 2d 112.

WHEREFORE, the Appellants respectfully submit that they are entitled to perfect their Appeal in this Case. Thank you.

Respectfully submitted,

Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC, d/b/a, Coastal Visitors Center and Coastal Activities, Morr Marketing Enterprises, Inc., Tom Paige and Scott McCoy

APPELLANTS /
BY COUNSEL

By: John V. Esposito

John V. Esposito, J.D.
South Carolina Bar No. 1920
Esposito Law Offices
Post Office Drawer 5705
Hilton Head Island, SC 29938
843-785-6959
COUNSEL FOR THE APPELLANTS

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY

COURT OF COMMON PLEAS

CARMEN T. MULLEN, JUDGE

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SC Court of Appeals

CASE NO. 2010-CP-07-4328

APPELLATE CASE NO. 2013-000920

Coral Resorts, LLC and Coral Holdings, LLC,..... Respondents

vs.

Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC d/b/a Coastal Visitors Center and Coastal Activities, Morr Marketing Enterprises, Inc., Tom Page and Scott McCoy,..... Appellants

---

CERTIFICATE OF SERVICE

I certify that I have filed the original copy of the Memorandum of the Appellants in Support of Their Appeal, with the Clerk of the South Carolina Court of Appeals, by depositing a copy of the Memorandum, in the United States Priority Mail, postage prepaid, on August 2nd, 2013, and addressed to the Clerk of the South Carolina Court of Appeals, Ms. Jenny A. Kitchings, Post Office Box 11629, Columbia, SC 29211.

John V. Esposito, J.D.
Esposito Law Offices
Post Office Drawer 5705
Hilton Head Island, SC
843-785-6959
COUNSEL FOR THE APPELLANTS

RECEIVED
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THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY

COURT OF COMMON PLEAS

CARMEN T. MULLEN, JUDGE

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CASE NO. 2010-CP-07-4328

APPELLATE CASE NO. 2013-000920

Coral Resorts, LLC and Coral Holdings, LLC,..... Respondents

vs.

Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC d/b/a Coastal Visitors Center and Coastal Activities, Morr Marketing Enterprises, Inc., Tom Page and Scott McCoy,..... Appellants

---

PROOF OF SERVICE

I certify that I have served a copy of the Memorandum of the Appellants in Support of Their Appeal, upon the Respondents, Coral Resorts, LLC and Coral holdings, LLC, by depositing a copy of the Memorandum, in the United States Mail, postage prepaid, on August 2nd, 2013, and addressed to their Attorney of Record, Nekki Shutt, Esq., c/o Callison Tigue & Robinson, LLC, Post Office Box 1390, Columbia, SC 29202.

John V. Esposito

John V. Esposito, J.D.
Esposito Law Offices
Post Office Drawer 5705
Hilton Head Island, SC
843-785-6959
COUNSEL FOR THE APPELLANT

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THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY

COURT OF COMMON PLEAS

CARMEN T. MULLEN, JUDGE

CASE NO. 2010-CP-07-4328

APPELLATE CASE NO. 2013-000920

Coral Resorts, LLC and Coral Holdings, LLC,..... Respondents

vs.

Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC d/b/a Coastal Visitors Center and Coastal Activities, Morr Marketing Enterprises, Inc., Tom Page and Scott McCoy,..... Appellants

---

PROOF OF SERVICE

I certify that I have served a copy of the Memorandum of the Appellants in Support of Their Appeal, upon the Respondents, Coral Resorts, LLC and Coral holdings, LLC, by depositing a copy of the Memorandum, in the United States Mail, postage prepaid, on August 2nd, 2013, and addressed to their Attorney of Record, Drew Laughlin, Esq., c/o Laughlin & Bowen, Post Office Drawer 21119, Hilton Head Island, SC 29925.

John V. Esposito, J.D.
Esposito Law Offices
Post Office Drawer 5705
Hilton Head Island, SC
843-785-6959
COUNSEL FOR THE APPELLANTS

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THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY

COURT OF COMMON PLEAS

CARMEN T. MULLEN, JUDGE

CASE NO. 2010-CP-07-4328

APPELLATE CASE No. 2013-000920

Coral Resorts, LLC and Coral Holdings, LLC,..... Respondents

vs.

Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC d/b/a Coastal Visitors Center and Coastal Activities, Morr Marketing Enterprises, Inc., Tom Page and Scott McCoy,..... Appellants.

PROOF OF SERVICE

I certify that I have served a copy of the Memorandum of the Appellants in Support of Their Appeal, upon the other Counsel for the Appellants, Joseph DuBois, Esq., by depositing a copy of the Memorandum, in the United States Mail, postage prepaid, on August 2nd, 2013, and addressed to, Joseph DuBois, Esq., c/o Naret & DuBois, Post Office Box 7228, Hilton Head Island, SC 29938.

John V. Esposito, J.D.
Esposito Law Offices
Post Office Drawer 5705
Hilton Head Island, SC
843-785-6959
COUNSEL FOR THE APPELLANTS

RECEIVED
AUG 0 5 2013
SC Court of Appeals

EXHIBIT NO. 1

CONSENT ORDER

FOR

PERMANENT INJUNCTION

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF BEAUFORT) FOR THE FOURTEENTH JUDICIAL CIRCUIT

2010 SEP 28 PM 2:38
JERRI ANN SHEALY
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Coral Resorts, LLC, and)
Coral Holdings, LLC,) C/A Action No. 2010-CP-074328
)
Plaintiffs,)
)
vs.) **CONSENT ORDER**
) **FOR A PERMANENT INJUNCTION**
)
Ted Morris; Lorraine Morris; Coastal)
Timeshare Creations, LLC d/b/a Coastal)
Visitors Center and Coastal Activities;)
Morr Marketing Enterprises, Inc.;)
Tom Page; and Scott McCoy,)
)
Defendants.)

This matter comes before the Court on the joint request of all parties to attempt to resolve the dispute which is the subject of this lawsuit. On September 2, 2010, the Plaintiffs filed a Summons, Complaint and Motion for a Preliminary Injunction alleging, among other things, that the Defendants were engaged in unfair trade practices, misappropriation of trade secrets, and trespass. On September 14, 2010, this Court held a hearing on Plaintiffs' Notice of Motion and Motion for a Preliminary Injunction. All parties were represented at the hearing. This Court granted the Plaintiffs' motion from the bench and subsequently reduced that Order to writing on September 17, 2010. In order to avoid the expense and uncertainty of prolonged litigation, the Plaintiffs and Defendants inform the Court now that they seek to enter into an agreement whereby the rights and responsibilities of all parties are clearly set out, allowing each of the parties the ability to pursue their interests in accordance with such provisions. Accordingly, Defendants have agreed to submit to a permanent injunction without further hearing in exchange for the Plaintiffs stipulating to dismiss without prejudice their lawsuit pursuant to Rule 41, SCRCP.

Therefore, upon the request and with the consent of all parties, it appearing that good cause

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has been shown,

IT IS HEREBY ORDERED that the Defendants shall henceforth adhere to the following permanent injunctive order pursuant to the South Carolina Rules of Civil Procedure:

1. Defendants are precluded from obtaining, attempting to obtain, using, disclosing, or transmitting for any purpose any confidential or proprietary business or customer information belonging to or concerning Plaintiffs, their customers, prospective customers, independent contractors, employees, or agents including, but not limited to, the names, addresses, telephone numbers, identities, locations, descriptions, contact information, social security numbers and financial information of Plaintiffs' customers and prospective customers, and all other confidential and proprietary information, trade secrets and commercially-sensitive materials belonging to Plaintiffs except to the extent Defendants obtain it from a then-existing public source. This prohibition includes but is not limited to barring Defendants from contacting current and former staff of the following entities for the information described herein above: (1) independent contractors of Plaintiffs; (2) employees of Reba Management, Inc.; (3) employees and independent contractors of Hilton Head Hospitality, LLC d/b/a Hilton Head Guest Services; (4) employees and independent contractors of Hilton Head lodgings where Plaintiffs have contracts to house customers and prospective customers including but not limited to Park Lane Hotel & Suites, Comfort Inn Hotel, Beachwalk Hotel & Condominiums, Crown Plaza Resort, Holiday Inn Oceanfront; and, (5) vendors of all of the aforementioned (i.e., tour operators, restaurants, recreational activity providers, etc.);

2. Within 72 hours of the execution of this Consent Order by this Court, Defendants must return to Plaintiffs' counsel, identified herein below, all original records and documents, and all copies and computerized transcriptions thereof, containing the names, addresses, telephone numbers, social security numbers, and financial information of Plaintiffs' customers and prospective customers, and to purge such information from the possession, custody or control of Defendants

and any person or entity to whom Defendants have given control of, or access to, such information. Alternatively, if Defendants maintain that no such information exist, then they must each separately state that affirmatively in writing, under oath to Plaintiffs' counsel;

3. Within 72 hours of the execution of this Consent Order by this Court, Defendants shall provide a written list to Plaintiffs' counsel, identified hereinbelow, of all sources (past and present) of documents and information concerning Plaintiffs' customers and prospective customers – identifying all such sources to the extent possible by first and last name, address, telephone number, and email address. Alternatively, if Defendants maintain that no such sources exist, then they must each separately state that affirmatively in writing, under oath to Plaintiffs' counsel;

4. Defendants are barred from approaching and/or soliciting those individuals reasonably identifiable as Plaintiffs' customers in a manner which seeks to induce them to cancel or rescind their contracts with Plaintiffs;

5. Defendants may not follow those individuals reasonably identifiable as Plaintiffs' customers and prospective customers;

6. Defendants are enjoined from entering the resorts known as Island Links, Coral Reef, Coral Sands, Coral Sands North, and Port O'Call and property owned or controlled by Plaintiffs – including but not limited to hotels contracted for on Plaintiff's behalf such as Park Lane Hotel & Suites, Comfort Inn Hotel, Beachwalk Hotel & Condominiums, Holiday Inn Oceanfront-- with the following exceptions:

a. If any family member of Ted or Lorraine Morris or Scott McCoy intends to vacation at any of said properties, then Ted Morris or Scott McCoy must give written notice at least one week in advance to Shane Lancaster via email at slancaster@thecoralresorts.com.

b. If Ted or Lorraine Morris or Scott McCoy intends to visit a vacationing family member at any of said properties, then Ted Morris or Scott McCoy must give

written notice at least 72 hours in advance to Shane Lancaster via email at slancaster@thecoralresorts.com. Such notice must include the number of the unit/room, location, the guests' names, the date and time of the visit, and the length of the visit. The Defendants acknowledge that the intent of this Order is that any such property/timeshare interest owned personally by the Morris' be used only for personal and recreational use and that they will not use said to solicit, market, or otherwise transact business with Plaintiffs' customers and prospective customers. More specifically, if Ted or Lorraine Morris, or Scott McCoy visit vacationing family members at said properties/timeshare interests, they agree refrain from visiting any of the common areas, including but not limited to the club house and swimming pool, and to refrain from using the internal telephone systems.

7. Defendants may not come within 5 yards of kiosks a/k/a OPC booths rented, owned, staffed, or otherwise controlled by the Plaintiffs or Hilton Head Hospitality, LLC d/b/a Hilton Head Guest Services;

8. Defendants are precluded from entering the premises and parking lot at Plaintiffs' sales office at 33 Office Park Road, Suite 218, Hilton Head Island, SC 29928, and from loitering at or within 75 yards of the entrance and exit thereto, except that they may enter the parking lot in order to patronize another business in the shopping center but only between the hours of 7 p.m. and 7 a.m.;

9. Defendants are precluded from entering the premises and parking lot of Reba Management, Inc. at 1012 William Hilton Parkway, Hilton Head, SC 29928, and from loitering at or within 50 yards of the entrance and exit thereto;

10. Defendants are precluded from initiating unsolicited contact with or harassing

individuals reasonably identifiable as Plaintiffs' customers and prospective customers in person, by telephone, by email, by text, and/or by mail;

11. Defendants are barred from initiating contact with owners, guests, and visitors via the telephone in their Island Links, Coral Reef, Coral Sands, Coral Sands North, and/or Port O'Call units;

12. Effective September 14, 2010, Defendants will not print, post, distribute or otherwise cause to be published advertisements – including the Big Fat Coupon Book – and signage which mention the rescission period in any form including but not limited to verbiage such as "purchased timeshare within the last 5 days," "new owners," "new inventory from developer" within a 50 mile radius of Hilton Head Island as the crow flies;

13. Effective September 14, 2010, Defendants will not print, post, distribute or otherwise cause to be published advertisements and signage which name Plaintiffs or which name, reference or describe generically the resorts known as Island Links, Coral Reef, Coral Sands, Coral Sands North, or Port O'Call or any unit therein;

14. As to the publication known as the "Big Fat Coupon Book," Defendants agree to have their existing advertisement in it altered so that the phrase "New Owners who just purchased developer inventory within the last 5 days," is removed from undistributed copies in the publisher's possession or control. According to defense counsel, there are between 50,000 and 75,000 such publications, and Defendants intend to remove the offensive language manually by blacking out with permanent marker said publications; and,

15. Definitions: as used herein, the following terms are defined as follows:

A. "Readily identifiable" includes but is not limited to meaning (1) anyone staying at or coming to or from any of any of the resorts and properties identified by name or location herein above as well as offices, kiosks a/k/a OPCs, and hotels contracted for or on behalf of any Plaintiff, and vendor

locales; (2) anyone in possession of one of Plaintiffs' owners' kits or some other visible indicia of Plaintiffs' name, logo, or color scheme; or, (3) anyone who discloses that he/she is a customer or prospective customer of Plaintiffs.

B. "Plaintiffs" means the named Plaintiffs and their officers, managers, members, shareholders, agents, servants, employees, contractors (including but not limited to Hilton Head Hospitality, LLC d/b/a Hilton Head Guest Services and Reba Management, Inc.), independent contractors, attorneys, successors and assigns (including but not limited to Hilton Head Island Developer Company, LLC), affiliates, and those persons in active concert or participation with them and shall include but not be limited to.

C. "Defendants" means the named Defendants, their officers, managers, members, shareholders, agents, servants, employees, contractors, independent contractors, attorneys, successors and assigns, affiliates, and those persons in active concert or participation with them, whether or not they have notice of this Consent Order.

IT IS FURTHER ORDERED that the parties understand and acknowledge that a breach of the provisions of this Consent Order by them or by any other person bound by such provisions, would cause irreparable damage and injury and that such provisions provide a material element of consideration for and inducement to enter into this agreement, on the one hand, and to dismiss the Complaint without prejudice, on the other hand.

IT IS ALSO ORDERED that should any party fail to comply with the provisions of this Consent Order, then they are subject to contempt of court proceedings and a subsequent preliminary injunction *ex parte* without further notice. Any finding of contempt by the court shall

simultaneously be deemed an adjudication of such parties' liability on the merits. Thereafter, this Court would determine damages in a separate damages hearing.

IT IS FURTHER ORDERED if a party fails to comply with the provisions of this Consent Order and an action to enforce is initiated, then the prevailing party in this action may be entitled to an award of attorneys' fees and costs at the court's discretion.

IT IS FURTHER ORDERED that this action is dismissed without prejudice by stipulation of the parties and the outstanding bond is canceled and/or terminated.

AND IT IS SO ORDERED.

Presiding Judge
Fourteenth Judicial Circuit

September 28, 2010
Beaufort, South Carolina

I STIPULATE PURSUANT TO RULE 41(a)(1)(B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE THAT THIS ACTION IS DISMISSED WITHOUT PREJUDICE, I CONSENT IN THE PRESENCE OF, AND I STATE AFFIRMATIVELY AS FOLLOWS:

1. I have read this Consent Order for a Permanent Injunction and fully understand all of its provisions;

2. I enter into this Consent Order for a Permanent Injunction freely, voluntarily, and without any coercion or duress whatsoever; and,

3. I had adequate time to review this Consent Order for a Permanent Injunction with a lawyer of my choosing.

Witness

Witness

Ted Morris

Date: 9/23/2010 2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared the above named Ted Morris, who made oath that the execution of this document is his own free act and deed this 23 day of Sept, 2010.

Notary Public for the State of South Carolina
My Commission Expires: 7-13-20

I STIPULATE PURSUANT TO RULE 41(a)(1)(B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE THAT THIS ACTION IS DISMISSED WITHOUT PREJUDICE, I CONSENT IN THE PRESENCE OF, AND I STATE AFFIRMATIVELY AS FOLLOWS:

1. I have read this Consent Order for a Permanent Injunction and fully understand all of its provisions;

2. I enter into this Consent Order for a Permanent Injunction freely, voluntarily, and without any coercion or duress whatsoever; and,

3. I had adequate time to review this Consent Order for a Permanent Injunction with a lawyer of my choosing.

Witness

Lorraine Morris

Witness

Date: 9/23/10 2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared the above named Lorraine Morris, who made oath that the execution of this document is her own free act and deed this 23 day of Sept., 2010.

Notary Public for the State of South Carolina
My Commission Expires: 7-13-20

I STIPULATE PURSUANT TO RULE 41(a)(1)(B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE THAT THIS ACTION IS DISMISSED WITHOUT PREJUDICE, I CONSENT IN THE PRESENCE OF, AND I STATE AFFIRMATIVELY AS FOLLOWS:

1. I have read this Consent Order for a Permanent Injunction and fully understand all of its provisions;

2. I enter into this Consent Order for a Permanent Injunction freely, voluntarily, and without any coercion or duress whatsoever; and,

3. I had adequate time to review this Consent Order for a Permanent Injunction with a lawyer of my choosing.

Witness

Witness

Tom Page

Date: 9/23/10 2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared the above named Tom Page, who made oath that the execution of this document is his own free act and deed this 23 day of Sept., 2010.

Notary Public for the State of South Carolina
My Commission Expires: 7-13-20

I STIPULATE PURSUANT TO RULE 41(a)(1)(B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE THAT THIS ACTION IS DISMISSED WITHOUT PREJUDICE, I CONSENT IN THE PRESENCE OF, AND I STATE AFFIRMATIVELY AS FOLLOWS:

1. I have read this Consent Order for a Permanent Injunction and fully understand all of its provisions;

2. I enter into this Consent Order for a Permanent Injunction freely, voluntarily, and without any coercion or duress whatsoever; and,

3. I had adequate time to review this Consent Order for a Permanent Injunction with a lawyer of my choosing.

Witness

Witness

Scott McCoy

Date: 9/23/10 2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared the above named Scott McCoy, who made oath that the execution of this document is his own free act and deed this 23 day of Sept, 2010.

Notary Public for the State of S.C.
My Commission Expires: 7-13-20

I STIPULATE PURSUANT TO RULE 41(a)(1)(B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE THAT THIS ACTION IS DISMISSED WITHOUT PREJUDICE, I CONSENT IN THE PRESENCE OF, AND I STATE AFFIRMATIVELY AS FOLLOWS:

1. I have read this Consent Order for a Permanent Injunction and fully understand all of its provisions;

2. I enter into this Consent Order for a Permanent Injunction freely, voluntarily, and without any coercion or duress whatsoever; and,

3. I had adequate time to review this Consent Order for a Permanent Injunction with a lawyer of my choosing.

COASTAL TIMESHARE CREATIONS, LLC

Witness

Witness

By: Lorraine A. Morris (print name)
Its: Principal (job title)
Date: 9/23 2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared the above named Lorraine Morris, who made oath that the execution of this document is his/her own free act and deed in his/her capacity as Principal (insert job title) of Coastal Timeshare Creations, LLC and the free act and deed of Coastal Timeshare Creations, LLC this 23 day of Sept., 2010.

Notary Public for the State of South Carolina
My Commission Expires: 7-13-20

I STIPULATE PURSUANT TO RULE 41(a)(1)(B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE THAT THIS ACTION IS DISMISSED WITHOUT PREJUDICE, I CONSENT IN THE PRESENCE OF, AND I STATE AFFIRMATIVELY AS FOLLOWS:

1. I have read this Consent Order for a Permanent Injunction and fully understand all of its provisions;

2. I enter into this Consent Order for a Permanent Injunction freely, voluntarily, and without any coercion or duress whatsoever; and,

3. I had adequate time to review this Consent Order for a Permanent Injunction with a lawyer of my choosing.

MORR MARKETING ENTERPRISES, INC.

Witness

Witness

By: Ted J. Morris (print name)
Its: Principal (job title)
Date: 9/23/10 2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared the above named Ted J. Morris, who made oath that the execution of this document is his/her own free act and deed in his/her capacity as Principal (insert job title) of Morr Marketing Enterprises, Inc. and the free act and deed of Morr Marketing Enterprises, Inc. this 23 day of Sept., 2010.

Notary Public for the State of South Carolina
My Commission Expires: 7-13-20

I STIPULATE PURSUANT TO RULE 41(a)(1)(B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE THAT THIS ACTION IS DISMISSED WITHOUT PREJUDICE, I CONSENT IN THE PRESENCE OF, AND I STATE AFFIRMATIVELY AS FOLLOWS:

1. I have read this Consent Order for a Permanent Injunction and fully understand all of its provisions;

2. I enter into this Consent Order for a Permanent Injunction freely, voluntarily, and without any coercion or duress whatsoever; and,

3. I had adequate time to review this Consent Order for a Permanent Injunction with a lawyer of my choosing.

COASTAL VISITORS CENTER

Witness

Witness

By: Lorraine A. Morris (print name)
Its: Principal (job title)
Date: 9/23/10 2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared the above named Lorraine Morris, who made oath that the execution of this document is his/her own free act and deed in his/her capacity as Principal (insert job title) of Coastal Visitors Center and the free act and deed of Coastal Visitors Center this 23 day of Sept., 2010.

Notary Public for the State of South Carolina
My Commission Expires: 7-13-20

I STIPULATE PURSUANT TO RULE 41(a)(1)(B) OF THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE THAT THIS ACTION IS DISMISSED WITHOUT PREJUDICE, I CONSENT IN THE PRESENCE OF, AND I STATE AFFIRMATIVELY AS FOLLOWS:

1. I have read this Consent Order for a Permanent Injunction and fully understand all of its provisions;

2. I enter into this Consent Order for a Permanent Injunction freely, voluntarily, and without any coercion or duress whatsoever; and,

3. I had adequate time to review this Consent Order for a Permanent Injunction with a lawyer of my choosing.

COASTAL ACTIVITIES

Witness

Witness

By: Lorraine A. Morris (print name)
Its: Principal (job title)
Date: 9/23/10 2010

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PERSONALLY appeared the above named Lorraine Morris, who made oath that the execution of this document is his/her own free act and deed in his/her capacity as Principal (insert job title) of Coastal Activities and the free act and deed of Coastal Visitors Activities this 23 day of Sept., 2010.

Notary Public for the State of South Carolina
My Commission Expires: 7-13-20

EXHIBIT NO. 2

ORDER

OF

CONTEMPT

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT Coral Resorts, LLC, and Coral Holdings, LLC, Plaintiffs, vs. Ted Morris; Lorraine Morris; Coastal Timeshare Creations, LLC d/b/a Coastal Visitors Center and Coastal Activities; Morr Marketing Enterprises, Inc.; Tom Page; and Scott McCoy, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE FOURTEENTH JUDICIAL CIRCUIT **Civil Action No. 2010-CP-07-4328** **SECOND ORDER OF CONTEMPT**

2013 JAN 29 AM 8:58
JERRI ANN ROSEMEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

This matter came before the Court on the Petition for Rule to Show Cause ("Petition") filed by Plaintiffs Coral Resorts, LLC ("Coral Resorts") and Coral Holdings, LLC ("Coral Holdings") on October 26, 2012. On December 17, 2012, this Court held a hearing on the Petition. All parties were represented at the hearing. Present for the Plaintiffs were Nekki Shutt, Esq., Drew A. Laughlin, Esq., Kathleen M. McDaniel, Esq., and Brian Lysell, Esq. Present for the Defendants was Joseph DuBois, Esq. Also present at the hearing were Defendants Ted Morris, Lorraine Morris, and Scott McCoy.

Based on the memoranda, affidavits, and evidence submitted by the parties, this Court finds by clear and convincing evidence that the Defendants are in contempt of the Consent Order for Permanent Injunction ("Permanent Injunction") dated September 28, 2010, and this Court imposes meaningful and appropriate sanctions. This is the second time this Court has found the Defendants in contempt of the Permanent Injunction.

All courts have the inherent power to punish for contempt, and the existence of this power is essential to the preservation of order in judicial proceedings. *State v. Havelka*, 285 S.C. 388, 390, 330 S.E.2d 288, 289 (1985); *Benedict v. Benedict*, 280 S.C. 508, 510, 313

S.E.2d 56, 57 (Ct. App. 1984). This power is necessary to the preservation of order in judicial proceedings and to the court's ability to enforce its judgments, writs, and orders. *Curlee v. Howle*, 277 S.C. 377, 382, 287 S.E.2d 915, 917 (1982).

Upon a finding of contempt, a court may imprison and fine a contemnor until such a time as the contemnor comes into compliance with the court's order. *Poston v. Poston*, 331 S.C. 106, 112, 502 S.E.2d 86, 89 (1998); *State ex rel. Love v. Howell*, 285 S.C. 53, 57, 328 S.E.2d 77, 80 (1985). If a contemnor's violation of the court's order causes damage to a plaintiff, the court may also order the contemnor to make the injured plaintiff whole for those damages and for the cost of enforcing the order. *Curlee*, 277 S.C. at 387, 287 S.E.2d at 920. In addition to the foregoing remedies, courts have the power to direct a contemnor to take such other action as they deem necessary to assure full compliance with their orders, including the power to direct the contemnor to shut down his business operations pending such compliance. *Howell*, 285 S.C. at 57, 328 S.E.2d at 80.

FINDINGS OF FACT

The Plaintiffs develop resort properties on Hilton Head Island and sell vacation time-share interests at these resorts. Pursuant to S.C. Code Ann. § 27-32-40 (2007), an individual who purchases a timeshare interest from a timeshare developer, including the Plaintiffs, has a statutory right to rescind the purchase contract within five days. The Defendants are in the business of purchasing and re-selling timeshare interests.

During the Summer of 2010, it came to the Plaintiffs' attention that the Defendants were utilizing certain methods to induce the Plaintiffs' customers to rescind their contracts with the Plaintiffs and purchase a used timeshare from the Defendants. Believing the Defendants' methods to be unlawful, the Plaintiffs filed a Complaint against the Defendants and simultaneously requested a preliminary injunction to stop the Defendants' activities. On September 17, 2010, this Court issued a Temporary Restraining Order against the Defendants. Prior to a hearing on a permanent injunction, the Defendants voluntarily entered into a Consent

Order for Permanent Injunction ("Permanent Injunction"), which Order was approved by this Court and filed on September 28, 2012.

Through the Permanent Injunction, this Court ordered the Defendants to redact particular advertisements in the *Big Fat Coupon Book*. On February 15, 2011, this Court found the Defendants in contempt of the Permanent Injunction for failing to redact the advertisements as required by this Court. Pursuant to the Permanent Injunction, the finding of contempt was an adjudication of the Defendants' liability on the merits of the underlying lawsuit and was to be followed by a separate damages hearing.

The ultimate purpose of the Permanent Injunction is to prohibit the Defendants from targeting, approaching, and soliciting the Plaintiffs' customers and prospective customers. Through the Permanent Injunction, this Court ordered the Defendants to adhere to the following pertinent terms:

> Section 8. Defendants are precluded from entering the premises and parking lot at Coral's sales office at 33 Office Park Road, Suite 218, Hilton Head, South Carolina 29928, and from loitering at or within 75 yards of the entrance and exit thereto.
>
> Section 10. Defendants are precluded from initiating unsolicited contact with or harassing individuals reasonably identifiable as Coral's customers and prospective customers in person, by telephone, by email, by text, and/or by mail.

Section 15(A) of the Permanent Injunction defines "reasonably identifiable" to include anyone staying at or coming to or from any of the Plaintiffs' resorts, offices, kiosks, properties, and associated hotels or anyone who discloses that he or she is a customer or prospective customer of the Plaintiffs.

The evidence presented to this Court demonstrates that the Defendants have opened a second office within 75 yards of the parking lot of the Coral sales office and engaged in other activities targeted at soliciting individuals that are reasonably identifiable as the Plaintiffs' customers and potential customers.

The Defendants have an office at 2 North Forest Beach Drive, which is the main public beach access on Hilton Head Island and a prime tourist location. In March 2012, the Defendants opened an office at 32 Office Park Road, Hilton Head Island, South Carolina. Defendant Lorraine Morris is the broker-in-charge for Defendant Coastal Timeshare Creations, LLC. She along with Defendant Ted Morris applied for a business license for the 32 Office Park Road location on March 2, 2012. A plat prepared for the Plaintiffs shows that the Defendants' second office is within 75 yards of the entrance to the parking lot of the Coral sales office, is directly across the street from the Coral sales office, and is oriented to provide a view to the parking lot of the Coral sales office.

The Defendants have also placed visible signage on the exterior of this second office. Because of the location of the Defendants' second office, the Plaintiffs' customers and potential customers must pass by the Defendants' second office whenever they are coming to or going from the Coral sales office. The Plaintiffs submitted an affidavit of a local realtor who explains that timeshare resellers generally locate offices in areas of high tourist traffic, such as the Defendants' office at 2 North Forest Beach Drive. The affidavit goes on to state that the Office Park Road area is not generally frequented by tourists other than the Plaintiffs' customers and potential customers.

In addition to the visible signage, the Defendants have utilized another advertising method that the Plaintiffs assert violates the Permanent Injunction. Recent receipts from the BI-LO grocery store located on Pope Avenue have an advertisement from the Defendants on the reverse. The BI-LO on Pope Avenue is in a shopping center directly adjacent to Coral Sands, one of the Plaintiffs' resort properties. The Plaintiffs investigated receipts from the only other BI-LO on Hilton Head Island and found no advertising from the Defendants on the reverse of receipts from this grocery, which is more distant from Coral Sands.

In addition to using their location to target and solicit the Plaintiffs' customers and potential customers, the evidence before this Court demonstrates that the Defendants also have

solicited individual customers of the Plaintiffs directly. The Plaintiffs submitted affidavits or written statements from four sets of customers whom Defendant Tom Page or another agent of the Defendants solicited in person. The affidavits and written statements allege that Defendant Tom Page or another agent of the Defendants solicited these individuals even after discovering that they were customers of the Plaintiffs. The Plaintiffs also submitted excerpts of Defendant Lorraine Morris's recent telephone records showing that the Defendants made telephone calls directly to at least three of the Plaintiffs' customers after those customers had executed contracts to purchase timeshare interests from the Plaintiffs but before they rescinded those contracts.

To rebut these facts, the Defendants produced only two affidavits. The first is the Affidavit of Ted Morris wherein he asserts that the location and signage at the 32 Office Park Road office are not intended to target the Plaintiffs' customers and potential customers. In the face of the evidence presented by the Plaintiffs, I find the Affidavit of Ted Morris to be of little credibility.

The second is an Affidavit of Scott McCoy wherein he asserts that he required Defendant Tom Page to sign an independent contractor agreement that prohibited the same activities as in the Permanent Injunction.

CONCLUSIONS OF LAW

By opening an office directly across the street from the Coral sales office and within 75 yards of the parking lot at the Coral sales office, the Defendants have violated the prohibitions of Sections 8 and 10 of the Permanent Injunction. The Defendants' second office violates not only the specific distance requirement, but its location enables the Defendants to monitor the comings and goings of individuals who are reasonably identifiable as the Plaintiffs' customers and potential customers. The Defendants' second office location is even more offensive to the purpose of the Permanent Injunction than mere loitering. There is clear and convincing evidence that the Defendants' purpose for opening an office directly across the street from the

Coral sales office was to target and solicit the Plaintiffs' customers and potential customers. The Defendants, therefore, are in violation of Sections 8 and 10 of the Permanent Injunction.

So long as the Defendants occupy the office at 32 Office Park Road, they are in continued violation of the Permanent Injunction. The only way to halt such ongoing violation is for the Defendants to vacate the office at 32 Office Park Road. The Defendants were aware at the time they entered into the lease that its duration could be less than a year. In a letter to the Defendants' Landlord, dated February 24, 2012, Defendant Scott McCoy stated that he understood and consented to the condition that the lease might be temporary based upon an early termination provision permitting termination of the lease upon 60 days' notice and that there would be no extensions. The lease term, in fact, ends on February 28, 2013. For these reasons, requiring the Defendants to vacate the office at 32 Office Park Road will not work an undue hardship upon the Defendants.

There is also clear and convincing evidence that on at least four occasions, Defendant Tom Page or another agent of the Defendants solicited individuals reasonably identifiable as the Plaintiffs' customers for the sole purpose of inducing those people to rescind their contracts with the Plaintiffs. Such solicitation violates Section 8 of the Permanent Injunction.

As Coastal Timeshare Creation's registered broker-in-charge, its site contact, and one of its principal owners, Defendant Lorraine Morris is subject to a higher statutory standard of care pursuant to S.C. Code Ann. § 40-57-135. The evidence presented to this Court demonstrates that Defendant Lorraine Morris made calls or allowed calls to be made to the Plaintiffs' customers from a cellular telephone registered in her name. Defendant Lorraine Morris also was a co-applicant for a business license for the Defendants' office at 32 Office Park Road. Accordingly, this Court additionally finds that there is clear and convincing evidence that Defendant Lorraine Morris violated the Permanent Injunction willfully and with conscious disregard for its prohibitions.

IT IS HEREBY ORDERED that the Defendants are in civil contempt of this Court's Consent Order for Permanent Injunction. Pursuant to the terms of the Consent Order for Permanent Injunction, this finding of contempt is an adjudication on the merits of the Defendants' liability for the underlying causes of actions set forth in the Plaintiffs' Complaint.

This is the second time this Court has found these Defendants in contempt of the Permanent Injunction, which was issued with the consent of the Defendants after much negotiation. The Defendants' violations of the Permanent Injunction described herein, even in the face of a prior Order of contempt, indicate to this Court that the mere threat of monetary damages is insufficient to compel the Defendants to comply with the Permanent Injunction. The Defendants' continued, willful violations of the Permanent Injunction must be redressed in a manner that forces the Defendants to come into immediate compliance and to remain in compliance in the future.

ACCORDINGLY, IT IS FURTHER ORDERED that the Defendants, by 5 p.m. on January 31, 2013, shall vacate the office at 32 Office Park Road, remove all visible signage from the exterior office and must provide written notice to their Landlord and copy the Court that they intend to terminate their lease for that office.

IT IS FURTHER ORDERED that the Defendants shall pay such attorney's fees and costs incurred by the Plaintiffs in bringing this Petition for Rule to Show Cause as this Court deems reasonable based upon such affidavits of attorneys' fees and costs as shall be submitted to the Court within ten business days following receipt of notice of entry of the Court's order.

IT IS FURTHER ORDERED that should the Defendants fail to timely vacate the office at 32 Office Park Road or to comply with any of the notice requirements or the payment of attorneys' fees and costs ordered, the Defendants shall be required to pay a fine of $500.00 per day to the Court.

IT IS FURTHER ORDERED that the Beaufort County Clerk of Court shall schedule a hearing for damages on the underlying causes of action set forth in the Plaintiffs' Complaint.

IT IS FURTHER ORDERED that the Defendants – which shall include their employees, contractors, and agents collectively – henceforth shall adhere strictly to the Consent Order for Permanent Injunction dated September 28, 2010. In particular, this Court further reiterates that the Defendants are prohibited from targeting, harassing, or soliciting any individuals that are reasonably identifiable as customers or potential customers of the Plaintiffs, including without limitation individuals who disclose that they are customers or potential customers of the Plaintiffs. If this Court finds that any of the Defendants have committed any further violations of the Permanent Injunction, this Court shall consider additional sanctions for civil and criminal contempt.

AND IT IS SO ORDERED.

Carmen T. Mullen
Beaufort County

1/29, 2013
Beaufort, South Carolina

LAW OFFICES
OF
John V. Esposito, J.D.
843-785-6959
Facsimile 843-785-8458

Office Address:
Suite 303 WatersEdge
At Shelter Cove Harbour
19 Shelter Cove Lane
Hilton Head Is., SC 29928

Mailing Address:
Post Office Drawer 5705
Hilton Head Is., SC 29938

April 25, 2013

Ms. Jerri Ann Roseneau
Clerk of the Court of Common Pleas
Post Office Drawer 1128
Beaufort, SC 29901

In Re: Filing of Notice of Appeal
In the Case of
Coral Resorts, LLC and Coral Holdings, LLC, as Plaintiffs
Versus
Ted Morris, Lorraine Morris, et al, etc., as Defendants
Civil Action Case No. 2010-CP-07-4328
Court of Common Pleas
Beaufort County, South Carolina

Dear Ms. Roseneau,

Greetings!

Please find enclosed, with this correspondence, a copy of the Notice of Appeal, which I have filed with the South Carolina Court of Appeals, relative to the above captioned Case. Please note the filing of this Notice of Appeal accordingly.

In the event that you have any questions, please advise. Thank you.

Sincerely,

John V. Esposito, J.D.

JVE/kmm
enclosure
c: Nekki Shutt, Esq. w/ enclosure
c: Katleen McDaniel, Esq. w/ enclosure
c: Drew Laughlin, Esq. w/ enclosure
c: Joseph DuBois, Esq. w/ enclosure

"... in the quest for justice ...."

LAW OFFICES
OF
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Post Office Drawer 5705
Hilton Head Is., SC 29938

April 25, 2013

Ms. Jenny Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

In Re: Appeal
Coral Resorts, LLC and Coral Holdings, LLC, Respondents
Versus
Ted Morris, Lorraine Morris, et al, etc., Appellants
Civil Action Case No. 2010-CP-07-4328
Court of Common Pleas
Beaufort County, South Carolina

Dear Ms. Kitchings,

Greetings!

Please find enclosed, for filing, with this correspondence, a Notice of Appeal in the above referenced Case. Also enclosed are the following, to wit:

(1) A copy of the Order of Judgment, which is the subject of this Appeal, and

(1) Proof of Service of the Notice of Appeal upon Counsel for the Respondents, and

(3) A Check, in the amount of One hundred ($100.00) Dollars, for the filing Fee for the Appeal.

Please file the Notice of Appeal accordingly. In the event that you have any questions, please advise. Thank you.

Sincerely,

John V. Esposito, J.D.

JVE/kmm
enclosures
c: Nekki Shutt, Esq. w/ enclosure
c: Katleen McDaniel, Esq. w/ enclosure
c: Drew Laughlin, Esq. w/ enclosure
c: Joseph DuBois, Esq. w/ enclosure

"... in the quest for justice ...."

EXHIBIT NO. 3

MOTION TO STAY / RECONSIDER THE SUBJECT ORDER OF CONTEMPT

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT Coral, Resorts, LLC, and Coral Holdings, LLC, Plaintiffs, v. Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC d/b/a Coastal Visitors Center and Coastal Activities, Morr Marketing Enterprises, Inc., Tom Page, and Scott McCoy, Defendants.	IN THE COURT OF COMMON PLEAS FOR THE 14TH JUDICIAL CIRCUIT CASE NO.: 2010-CP-07-04328 **MOTION TO STAY / RECONSIDER**

13 JAN 30 PM 1:34

TO: COUNSEL FOR THE PLAINTIFFS:

YOU WILL PLEASE TAKE NOTICE that as soon after the service hereof as counsel may be heard, the Defendants, above named, by and through their undersigned counsel, will move this Honorable Court for a stay and for reconsideration of that Second Order of Contempt, dated January 28, 2013, attached hereto as Exhibit A. The grounds for this Motion are that the relief set forth in the subject Order is overly burdensome, overly punitive, and not supported by the record in the case.

Respectfully submitted,

NAERT AND DUBOIS, LLC

Joseph DuBois
22 New Orleans Rd., Ste. 3
Post Office Box 7228 (29938)
Hilton Head Island, SC 29928
Tel: (843) 686-5500/ Fax: (843) 686-5501
Attorneys for Defendants

January 30, 2013
Hilton Head Island, SC

EXHIBIT NO. 4

FORM 4 ORDER
OF
THE COURT
DENYING THE
MOTION TO STAY / RECONSIDER

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

2013 FEB 20 PM 4:44

CASE NO. 2010 CP-07-04328

JOANNA ROUSSEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Coral Resorts	Ted Morris
PLAINTIFF(S)	DEFENDANT(S)

Submitted by:	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court: The Defendant's Motions to reconsider heard on February 19, 2013 is respectfully denied.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		$
		$
		$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge

2142
Judge Code

2-20-13
Date

For Clerk of Court Office Use Only

This judgment was entered on 26 March, 2013, and a copy mailed first class or placed in the appropriate attorney's box on 26 March, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Nekki Shutt PO Box 1390 Columbia, SC 292021390
Drew A. Laughlin PO Drawer 21119 Hilton Head Island, SC 2992511

ATTORNEY(S) FOR THE PLAINTIFF(S)

Joseph DuBois 22 New Orleans Rd. Suite 3 Hilton Head Island, SC 29928
John V. Esposito PO Drawer 5705 Hilton Head Island, SC 29938

ATTORNEY(S) FOR THE DEFENDANT(S)

Jamie Thompson

Jerri Anu Roseneau - Clerk of Court

Court Reporter-N/A

EXHIBIT NO. 5

MEMORANDUM
IN SUPPORT OF
APPELLANTS MOTION TO
STAY / RECONSIDER THE
SUBJECT ORDER OF CONTEMPT

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	) IN THE COURT OF COMMON PLEAS) IN THE FOURTEENTH JUDICIAL CIRCUIT) Civil Action No. 2010-CP-07-4328
Coral Resorts, LLC, and Coral Holdings, LLC, Plaintiffs, vs. Ted Morris, Lorraine Morris; Coastal Timeshare Creations, LLC d/b/a Coastal Visitors Center and Coastal Activities; Morr Marketing Enterprises, Inc.; Tom Page; and Scott McCoy, Defendants.	)

MEMORANDUM

IN SUPPORT OF

DEFENDANTS' MOTION TO STAY / RECONSIDER

THE SECOND ORDER OF CONTEMPT

TO THE HONORABLE JUDGE OF THE COURT OF COMMON PLEAS IN AND FOR THE FOURTEENTH JUDICIAL CIRCUIT, THE COUNTY OF BEAUFORT, STATE OF SOUTH CAROLINA:

THE DEFENDANTS, TED MORRIS, LORRAINE MORRIS, COASTAL TIMESHARE CREATIONS, LLC, D/B/A COASTAL VISITORS CENTER AND COASTAL ACTIVITIES, MORR MARKETING ENTERPRISES, INC., TOM PAGE, AND SCOTT MCCOY, DO HEREBY RESPECTFULLY FILE THIS MEMORANDIUM IN SUPPORT OF THEIR MOTION TO STAY / RECONSIDER THE SECOND ORDER OF CONTEMPT IN THIS CASE AND, AS A BASIS THEREFORE, RESPECTFULLY REPRESENT UNTO THE COURT AS FOLLOWS, TO WIT:

I.

On a former day, January 29, 2013, the Court entered an Order, captioned, Second Order of Contempt, in this Case, which Second Order of Contempt was issued in favor of

the Plaintiffs against the various Defendants. Reference to which Second Order of Contempt is hereby made for all pertinent purposes.

Subsequently, almost instantaneously, the Defendants filed a Motion to Stay / Reconsider the subject Second Order of Contempt and, as a basis therefore, indicated that, based upon the Facts, and the law appertaining, relative to the subject matter of the Second Order of Contempt, the subject Order of Contempt is overly burdensome, overly punitive, and not supported by the Facts and the Record in this Case. The Defendants respectfully submit that, for those reasons, and based upon the law appertaining in that regard, the Court should Stay the enforcement of the Second Order of Contempt, as is currently written and, further, to amend the Order, to conform to the Facts and the Law in this Case.

II.

The Defendants respectfully submit that the South Carolina Rules of Civil Procedure, Rule 59, Subsection (e), allows the Defendants to file a Motion to Stay / Reconsider the Second Order of Contempt. The Motion to alter and/or amend the subject Order serves the traditional role of requesting that the Court reconsider any previously raised and decided issue, encompassed in the Order. This type of Rule 59(e) Motion calls into question the correctness of the Order, relative to a material legal or factual issue.

III.

The Second Order of Contempt references the First Order of Contempt, relative to the issue in regard to advertisements in the *Big Fat Coupon Book*. The Court found, in February of 2011, that the Defendants were in Contempt of the Consent Order of Injunction, in this Case, for failing to redact the advertisements, as required by the Court. However, as the Defendants attempted to explain to the Court and, as more particularly set

forth in the Affidavits of Lorraine Morris, Ted Morris, and Scott McCoy, which Affidavits are attached to this Memorandum, they were attempting to comply with the Court's Order, and that they did not intend to violate the letter and spirit of the Court's Order, but they were frustrated in their attempt to comply with the Court's Order. The Defendants respectfully submit, as the Court well knows, often time, Parties are excused for their inability to comply with provisions of Orders or Judgments, when they are frustrated in their attempt to fully comply or when it is impossible to comply with the Order. As the Court will note, upon review of the Facts in this regard, the Defendants made every attempt, to comply with the Order and Injunction, relative to the *Big Fat Coupon Book*, and they did, to the best of their ability. They did not intend to violate the Injunction, and that particular Order of Contempt should not have been issued. The Defendants respectfully submit that, through no fault of their own, they were unable to obey the Court Order, relative to the *Big Fat Coupon Book* issue, and they cannot be held in Contempt. *Ex-parte Cannon*, 385 S.C. 643, 685 S.E. 2d. 814. Also, whereas, through no fault of their own, they cannot obey the Order of the Court, they cannot be held in Contempt. *Miller v. Miller, 375 S.C. 443, 652 S.E.2d. 754.*

IV.

The salient parts of the Second Order of Contempt deal with the issue of an Office, which the Defendants had opened at 32 Office Park Road, in the Town of Hilton Head Island, in Beaufort County, South Carolina. The Defendants respectfully submit that the Consent Order of Injunction does not prohibit them from opening that Office. The Defendants respectfully submit that the cannon of construction, and the maxim of "expressio unius est exclusio alterius" or "inclusio unius est exclusion alterius" holds that

to "to express or to include one thing, implies the exclusion of another, or in the alternative." This is a rule, a maxim of construction, that has been used by the Courts, over the years in various situations. This Doctrine of "exclusio non inclusio" is recognized in this Jurisdiction. Please see the Cases of *Hodges v. Rainey 341 S.C. 79, 533 S.E. 2d* 578. *Scholtec v. Estate of Reeves, 327 S.C. 551, 409 S.E.2d.* 603. *Cowan v. Allstate Ins. Co., 351 S.C. 626, 571 S.E.2d.* 715.

The Defendants respectfully submit that, whereas the Consent Order of Injunction included certain prohibitions and activities, the exclusion of any other prohibition or activity, would not be a part of the Consent Order of Injunction. As such, whereas the Injunction does not specifically state that the Defendants cannot open an Office, within Seventy-Five (75) yards of the parking lot of the Coral Sands Sales office, therefore, it would not be included in the Consent Order of Injunction and, therefore, they would not have been prohibited from opening the Office at 32 Office Park Road.

V.

Also, it is interesting to note that, apparently, the Plaintiffs are attempting to imply that there was a "Covenant Not to Compete" and/or other type of Restrictive Covenant by and between the Plaintiffs and the Defendants. However, it is important for the Court to note that, although the Defendants, Lorraine Morris and Ted Morris, worked for Coral Resorts for a time; nevertheless, they did not, at any time, enter into any type of formal Employment Agreement and/or any other type of Agreement, containing any type of Restrictive Covenant and/or Covenant Not to Compete. It appears that the Plaintiffs are attempting to imply that there was such a Covenant Not to Compete and, therefore, they are attempting to imply that the Defendants, cannot be engaged in a competitive Business

with the Plaintiffs. The Plaintiffs should not be allowed to interfere, in any way, with the rights of the Defendants, to be lawfully engaged in their Business, although their Business is in competition with the Plaintiffs. Nevertheless, the fact that the Defendants are engaged in a competitive Business does not, in and of itself, ipso facto, allow the Plaintiffs to unduly constrain the Defendants of their right to be engaged in Business. After all, Capitalism and the Principles of Free Enterprise are viable in the United States of America.

VI.

As the Court will note, upon review of the Consent Order for a Permanent Injunction, there is no prohibition against the Defendants from opening an Office, at or near the locations of the Plaintiff's Business operations. The Defendants respectfully submit that it is a general rule of Law, that a Consent Order, such as the Consent Order for Permanent Injunction in this Case, is analyzed, based upon the application of Contract Interpretation Principles. *Young-Henderson v. Spartanburg Area Mental Health Center, 945 F.2d. 770.* The Court has also noted, in previous Cases, that a Consent Order has many of the attributes of an ordinary contract, and it should be construed, for enforcement purposes, basically, as a contract. Accordingly, the Consent Order of Injunction in this Case must be construed as written. In Re: *Blanton 78 B.R. 442.*

In that regard, the Defendants respectfully submit that, relative to the construction and interpretation of the Consent Order, Contract Principles of Law would be applicable to the Consent Order for Injunction in this Case, and the Court is duty bound, when the Contract is clear and unequivocal, that its meaning must be determined by its contents alone. The Contract must be construed, according to the terms the Parties have used. *Auto-*

Owners Ins. v. Carl Brazell Builders, Inc. 356 S.C. 156, 558 S.E.2d. 112. Also, the Court has recognized that it is the Court's duty to enforce a Contract, such as the Consent Order in this Case, made by the Parties, regardless of the Parties failure to guard their rights carefully, *Ellis v. Taylor, 316 S.C. 245, 449 S.E.2d 487.*

Also, the Law in South Carolina is to the effect that the Court is confined to enforce a Contract, such as the Consent Order of Injunction in this Case, as it is written. *Laidlaw Environmental Services, Inc. v. Honeywell, Inc.*, 966 F.Supp. 401. In addition, as a point of Law, a Contract must be construed, according to the terms that the Parties have used. *Auto-Owners Ins. Co. v. Carl Brazwell Builders, Inc.*, 356 S.C. 156, 588 S.E.2d. 112. The language alone determines the Contract's force and effect. *Lawis v. Premium Inv. Corp.*, 357 S.C. 167, 568 S.E.2d 361.

As such, based upon the previous Doctrine and Maxim, relative to the cannon of construction, being, "Exclusio Non Inclusio," the fact that the Plaintiffs did not include a provision in the Consent Order of Injunction, relative to the operation of an Office by the Defendants, the Court, irrespective of the Plaintiff's position, cannot rewrite the Consent Order for Permanent Injunction and, likewise, the Plaintiffs cannot insert terms or provisions that were not in the Consent Order for Permanent Injunction, as previously entered into by the Parties. Also, the Plaintiffs do not mention the Office issue in their Complaint in this Case. As such, they cannot amend their Complaint, without following the proper procedure in this regard.

VII.

In addition, there is another concept, upon which the Defendants rely in this Case, the concept of Estoppel. The concept of "Estoppel by Record" is the preclusion to deny the truth of matters set forth in a record, such as at a Judicial hearing and/or an Order entered by the Court, such as the Consent Order of Injunction in this Case. *Watson v. Goldsmith*, *205 S.C. 215, 31 S.E.2d 317.* Also, the concept of "Judicial Estoppel," providing that once the Court has approved a Consent Order, it cannot be changed by the Parties. The concept of "Judicial Estoppel" is designed to prevent the Parties from playing fast and loose with the Court, and to protect the essential integrity of the Judicial Process. *Johnson v. Ashcraft*, *329 F.Supp 2d 715.* The essential element of the concept of Estoppel is to prevent injustice to a Party invoking the Doctrine. The Principle of Estoppel stands upon the very foundation of right and fair dealing, and it considers and weighs the conduct of the Parties in their dealings with each other, and it gives that effect and meaning to their action which Justice dictates. *General Motors Acceptance Corp. v. Herlong*, *248 S.C. 577, 149 S.E.2d. 51.*

VIII.

Also, it is important to note that the Plaintiffs are attempting to imply that the term, "loiter," implies the notion that having an Office is, tantamount, to "loitering." There is absolutely no basis for such an interpretation, and this Court should not allow the Plaintiffs to play "fast and loose" with the Court and have the Court adopt an interpretation of words that is beyond the pale. As such, their argument that the Office, was a type of "loitering" or that the Parties ingressing and egressing to that Office would be, in any way, a type or form of "loitering," is absurd. The Defendants have every right to be engaged in

the operation of their Business, at such a place as they deem to be most effective for them. There comes a point in this Litigation, when the Plaintiffs must be constrained from trying to stretch beyond their legal rights and, therefore, infringe upon the legal rights of the Defendants. This same principle is true, relative to the notion that the Plaintiffs are trying to imply that the mere fact that the Defendants have an Office at 32 Office Park Road is a form of "solicitation" of the Plaintiffs' potential customers. This assentation is, likewise, absurd, and beyond the scope of rational, logical, legal application.

IX.

Also, the allegations, relative to the Defendant, Lorraine Morris, and the use of mobile phones, to contact individuals, are contrary to the Facts and the Record in this Case. The Defendants, at the Hearing, relative to the Second Order of Contempt, attempted to proffer some generic reference to these alleged phone calls; however, they did not produce, or introduce, into the Record, the names and telephone numbers that would be the subject of this alleged violation of the Consent Order of Injunction. The Defendant, Lorraine Morris, has explained the phone call issue in her Affidavit, in support of this Motion to Stay / Reconsider the Second Order of Contempt. Reference to which Exhibit is hereby made for all pertinent purposes.

X.

Also, the Defendants respectfully submit that, as the Court will note, upon review of the Petition for the Rule to Show Cause and Order of Contempt, which was filed, which gave rise to the Second Order of Contempt, the Petition does not reference any allegations, relative to the use of the telephone by Lorraine Morris, which allegation is an integral part

of the Second Order of Contempt. As such, the Defendant respectfully submit that she was not entitled to Procedural Due Process of Law and, therefore, the Court erroneously included, as an element of the Second Order of Contempt, the reference to the alleged telephone calls, allegedly made in violation of the Consent Order for Injunction. However, an important and salient point is that the Defendant was not apprised of that allegation, prior to the Hearing. As such, the Defendant respectfully submits that, whereas the Court allowed the Plaintiffs to include that allegation in the Second Order of Contempt, in this action, would be violative of the concept of "Due Process Of Law." The concept of "Due Process of Law" is provided for in the United States Constitution, the 5th Amendment, and in the South Carolina Constitution, Article 1, Section 3.

In that regard, as the Court well knows, the United States Constitution and the South Carolina Constitution provide that "No person shall be deprived of life, liberty, or property, without Due Process Of Law." The concept of Due Process Of Law is very important, in this Case, relative to the Defendants. There are two (2) types of "Due Process of Law," "Procedural Due Process Of Law" and "Substantive Due Process Of Law," and both types of "Due Process Of Law" are equally as important, relative to the administration of Justice.

The concept of "Procedural Due process" requires adequate notice, adequate opportunity for a hearing, the right to introduce evidence, and the right to confront and cross-examine witnesses. *Moore v. Moore*, *376 S.C. 467, 657 S.E.2d. 773.* Further, the Defendants respectfully submit that, irrespective of the fact that the Court may have already ruled, on a particular issue, that fact does not prohibit the litigant, who was

adversely affected, from relief, if their rights to Due Process of Law were violated. *Roberts v. Recovery Bureau, Inc.*, *316 S.C. 492, 450 S.E.2d. 616.*

In the Case of *State v. Earle*, *66 S.C. 194, 41, S.E. 781*, the Court enunciated, very clearly, the concept of Due Process Of Law. In that regard, the Court stated as follows, to wit:

> By a "Due Process Of Law" is meant a process which, following the forms of law, is appropriate to the Case and just to the parties to be affected. It must be pursued in the ordinary mode prescribed by the law; it must be adapted to the end to be attained and, whenever it is necessary for the protection of the parties, it must give them an opportunity to be heard respecting the justice of judgment sought. The clause in question means, therefore, that there can be no proceeding against life, liberty, or property, which may result in the deprivation of either, without the observances of these general rules established in our system of jurisprudence for the security of private rights.

XI.

Also, as it relates to the issue of the advisements with Bi-Lo Supermarkets, upon review of the Consent Order of Injunction, the only prohibition, relative to advertising, was that it would not contain any reference to "rescission of timeshare contracts" or the use of any of the Plaintiffs' names. As the Court will note, upon review of the Bi-Lo advertisements, those advertisements to do not mention the word "rescission" or "rescission of timeshare contracts" or any of the Plaintiffs' names. Therefore, the advertisements by the Defendants are not in contravention of the Consent Order of Injunction.

XII.

Relative to the issue, involving the activities of Tom Page, a named Defendant, the Defendants, Ted Morris, Lorraine Morris, and Scott McCoy, respectfully submit that Tom Page is an Independent Contractor, with Coastal Timeshare Creations, LLC, D/B/A Coastal Visitors Center and Coastal Activities, Inc. These Defendants did not know of, approve, or condone, his activities. Therefore, his activities cannot be imputed to the Defendants, Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC, Morr Marketing Enterprises and/or Scott McCoy.

Please see the Affidavits of Lorraine Morris, Ted Morris, and Scott McCoy, which Affidavits are attached hereto, made a part hereof, and incorporated into this Memorandum in Support Of the Defendant's Motion to Stay / Reconsider the Second Order of Contempt, which Exhibits are marked as Exhibit Nos. 1, 2, and 3. Reference to which Exhibits are hereby made for all pertinent purposes.

WHEREFORE, the Defendants, Ted Morris, Lorraine Morris, Coastal Timeshare Creations, LLC, Morr Marketing Enterprises, and Scott McCoy, respectfully submit that, based upon the facts, and the Law appertaining to the issues, the Second Order of Contempt should be rescinded and/or modified accordingly.

Respectfully submitted,

TED MORRIS,
LORRAINE MORRIS,
COASTAL TIMESHARE CREATIONS, LLC,
MORR MARKETING ENTERPRISES, INC.,
and
SCOTT MCCOY
BY COUNSEL

By: _____

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THE SECOND ORDER OF CONTEMPT
THE DEFENDANTS BEING:
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LORRAINE MORRIS,
COASTAL TIMESHARECREATIONS, LLC,
MORR MARKETING ENTERPRISES, INC.,
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August 2, 2013
VIA U.S. PRIORITY MAIL

Ms. Jenny A. Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

In Re: Filing of the
Memorandum of the Appellants
In Support of their Appeal
In the Case of
Coral Resorts, LLC, et al. etc., Respondents
Versus
Ted Morris, et al, etc., Appellants
Civil Action Case No. 2010-CP-07-4328
Court of Common Pleas
Beaufort County, South Carolina
Appellate Case No. 2013-000920

Dear Ms. Kitchings,

Greetings!

Please find enclosed, with this correspondence, the original copy of that certain Document captioned, Memorandum of the Appellants in Support of Their Appeal, which I am filing with you, relative to the above captioned Case. Reference to which subject matter is hereby made for all pertinent purposes.

As you will recall, on a former day, you requested that I provide a Memorandum, relative to the issue of the Appeal. As such, this filing will comport with your request.

In the event that you have any questions, or desire further clarification of any of the points addressed in the Memorandum, please advise. Once again, thank you for your continued cooperation. It is a pleasure to interact with your Office.

Sincerely,

John V. Esposito, J.D

JVE/kmm
C: Nekki Shutt, Esq.
C: Drew Laughlin, Esq.
C: Joseph DuBois, Esq.

"... in the quest for justice ...."

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