

UAH-Mayfair Mgt. Group LLC v Clark
2018 NY Slip Op 32660(U)
October 15, 2018
Supreme Court, New York County
Docket Number: 653590/2018
Judge: Jennifer G. Schechter
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 54

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UAH-MAYFAIR MANAGEMENT GROUP LLC and UAH
PROPERTY MANAGEMENT, L.P.,

Plaintiffs,

- v -

MICHAEL CLARK, LYNNE CLARK, and DISTINGUISHED
AFFORDABLE HOUSING MANAGEMENT CONSULTANTS,
LLC,

Defendants.
-----X

INDEX NO. 653590/2018

MOTION DATE N/A

MOTION SEQ. NO. 002

DECISION AND ORDER

HON. JENNIFER G. SCHECTER:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 61, 62, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118

were read on this motion to/for

PRELIMINARY INJUNCTION

Upon the foregoing documents and after a hearing on the record at which plaintiffs showed a likelihood of success on the merits, that they would suffer irreparable harm in the absence of an injunction and that the balance of the equities weighs in plaintiffs' favor, it is

ORDERED that defendants Michael Clark, Lynne Clark (collectively, the Clarks), and Distinguished Affordable Housing Management Consultants, LLC are enjoined from using or disclosing any "Confidential Information" as defined by § 7(a) of both the Amended and Restated Executive Employment Agreement (AREA [Exhibit B to the Complaint]) and the Executive Employment Agreement (EEA [Exhibit C to the Complaint]) and, if they have not already done so, within 10 days of entry of this Order, the Clarks must deliver to plaintiffs' counsel, David Ross of Meister Seelig & Fein, LLP, by email to DER@msf-law.com, all Confidential Information in

their possession, custody or control, disclose all parties with whom the Confidential Information was shared, and then destroy all copies of the Confidential Information within their possession, custody or control, except for one copy which shall be maintained by their counsel during the pendency of this action; and it is further

ORDERED that defendants are enjoined until the earlier of resolution of this action, modification of this Order or April 10, 2021, from without the prior written consent of UAH-Mayfair Management Group LLC (UAH), directly or indirectly, engaging in or assisting any activity which is the same as OR competitive with the business of UAH as defined in Exhibit A to both the AREA and EEA, including without limitation, whether such engagement or assistance is as a proprietor, partner, employee, investor (other than a holder of less than 5% of the outstanding capital stock of a publicly traded corporation), or other participant of any limited liability company, partnership, firm, corporation or other business organization in the United States. This includes engaging in or assisting any activity that UAH would perform as part of the property management services that it provides; and it is further

ORDERED that if defendants want to engage in or assist any activity which is the same as OR competitive with the business of UAH as defined in Exhibit A to the AREA and EEA, they must provide plaintiffs' counsel with at least 10-days advance notice, by email, of any proposed contract written or oral including the proposed contract's terms, and plaintiffs' counsel shall respond to defendants' counsel, Brett Myers, by email to Brett.Myers@wickphillips.com, within 10 days. If plaintiffs do not provide written consent authorizing defendants to enter into the proposed agreement, then defendants must apply to the court for a ruling on whether the proposed contract is permissible based on the parties' agreements; and it is further

ORDERED that defendants are enjoined from entering into an agreement to provide services for Good Harbor Management LLC and any of its subsidiaries or affiliates, including but not limited to, Alden Torch Financial, LLC; and it is further

ORDERED that defendants are enjoined until the earlier of resolution of this action, modification of this Order or April 10, 2021, from directly or indirectly on behalf of themselves or any competitor, anywhere in any area or territory where plaintiffs conduct operations of any kind or nature, soliciting or attempting to solicit any business from any of plaintiffs' customers, prospective customers, or vendors with whom defendants had material contact during the last three years of the Clarks' employment with the plaintiffs; and it is further

ORDERED that defendants are enjoined until the earlier of resolution of this action, modification of this Order or April 10, 2021, from directly or indirectly on behalf of themselves or in conjunction with any person or legal entity, recruiting, soliciting or inducing or attempting to recruit, solicit or induce, any customers, prospective customers or vendors to terminate their business or contractor relationship with plaintiffs; and it is further

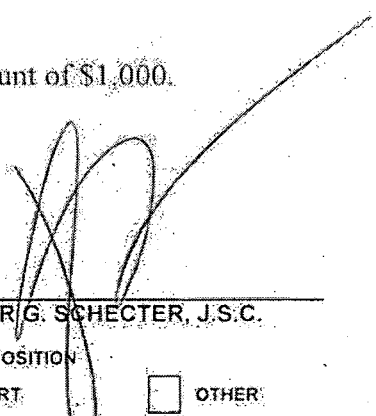
ORDERED that defendants are enjoined until the earlier of resolution of this action, modification of this Order or April 10, 2021, from directly or indirectly, on behalf of themselves or on behalf of or in conjunction with any person or legal entity, recruiting, soliciting or inducing, or attempting to recruit, solicit or induce, any clerical or non-clerical employee or independent contractor of the plaintiffs to terminate their employment or contractor relationship with plaintiffs; it is further

ORDERED that, within 10 days of entry of this order, defendants must produce to plaintiffs copies of all written contracts and summaries of all oral contracts (including the parties, scope and

consideration) that defendants have entered into that are in any way related to property management, and it is further

ORDERED that plaintiffs must give an undertaking in the amount of \$1,000.

This is the Order of the Court.

<u>10/15/2018</u>			
DATE		JENNIFER G. SCHECTER, J.S.C.	
CHECK ONE:	☐ CASE DISPOSED	☒ NON-FINAL DISPOSITION	
	☒ GRANTED	☐ GRANTED IN PART	☐ OTHER
APPLICATION:	☐ DENIED	☐ SUBMIT ORDER	
	☐ SETTLE ORDER	☐ FIDUCIARY APPOINTMENT	☐ REFERENCE
CHECK IF APPROPRIATE:	☐ INCLUDES TRANSFER/REASSIGN		