

One Riv. Run Acquisition, LLC v Milde

2025 NY Slip Op 31132(U)

March 31, 2025

Supreme Court, New York County

Docket Number: Index No. 653389/2022

Judge: Andrew Borrok

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 53

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ONE RIVER RUN ACQUISITION, LLC, A COLORADO
COMPANY, SHERVIN RASHIDI, RYAN GELLER, SCOTT
RUSSELL, ORRA KEYSTONE INVESTMENTS, LLC,

Plaintiff,

- v -

SIMON MILDE, STEVE LORENZ, JAMES FLOOD, LARRY
BAUCOM, PETER WITHAM, THE GREENWICH GROUP
INTERNATIONAL, LLC, A NEW YORK COMPANY,
ENHANCED IMPACT REAL ESTATE, LLC, ENHANCED
PACE FINANCE, LLC

Defendant.

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INDEX NO. 653389/2022
MOTION DATE 01/21/2025,
01/21/2025
MOTION SEQ. NO. 008 009

**DECISION + ORDER ON
MOTION**

HON. ANDREW BORROK:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 156, 157, 158, 159, 160, 161, 162, 164, 178, 179, 180, 181, 182, 183, 184, 187, 188, 189, 190, 191
were read on this motion to/for DISCOVERY.

The following e-filed documents, listed by NYSCEF document number (Motion 009) 149, 150, 151, 152, 153, 154, 155, 165, 167, 169, 170, 171, 172, 173, 174, 175, 176, 177
were read on this motion to/for MISCELLANEOUS.

Upon the foregoing documents, ORRA Parties’ motion (Mtn. Seq. No. 009) for an award of the costs incurred in relation to Mtn. Seq. Nos. 007 and 009 is DENIED and the Greenwich Group International, LLC (**GGI**)’s motion (Mtn. Seq. No. 008) to compel One River Run Acquisition, LLC (**ORRA**) and ORRA Keystone Investments, LLC (**ORRA Keystone**, and together with ORRA, collectively, the **ORRA Parties**) to produce certain documents relating to GGI’s damages is GRANTED.

DISCUSSION

I. The ORRA Parties’ Motion for Sanctions is Denied (Mtn. Seq. No. 009)

A court in a civil action is authorized to award the reasonable attorneys' fees and expenses incurred by a party as a result of the opposing party's frivolous conduct (22 NYCRR § 130-1.1

[a]). Conduct is frivolous for the purposes of a motion for sanctions if

- I. it is completely meritless,
- II. it is done to delay or prolong the litigation or to harass or injure another party, or
- III. asserts false material statements of fact

(*id.* § 130-1.1 [c]). In addition, "a court has inherent power to address actions which are meant to undermine the truth-seeking function of the judicial system and place in question the integrity of the courts and our system of justice" (*CDR Creances S.A.S. v Cohen*, 23 NY3d 307, 318 [2014]).

The ORRA Parties move for an award of (i) \$50,000 for costs incurred in connection with Mtn. Seq. No. 007 (the **January 4 OSC**; NYSCEF Doc. No. 132) and (ii) \$100,000 for costs incurred in connection with the instant motion (the **January 20 OSC**; NYCSEF Doc. No. 149). The ORRA Parties filed the January 4 OSC on the basis that GGI improperly refused to collect and produce documents from custodians Simon Milde, Larry Baucom, and Boaz Shattan. The ORRA Parties contend that GGI's position was meritless because GGI subsequently acquiesced to providing the requested documents after a status conference with the Court on January 6, 2025.

In its opposition papers, GGI argues that it objected to the ORRA Parties' discovery requests on the good-faith basis that the custodians have no unique relevant information and that the request was burdensome and disproportionate. GGI contends that it made a reasonable effort to resolve

the dispute with the ORRA Parties by agreeing to a compromise whereby the parties would collect documents from the disputed custodians on both sides. In addition, GGI explains that it immediately withdrew its objection to the discovery demands in the January 4 OSC, in order to spare the Court's time and the parties' expense, after the Court indicated in the January 6, 2025 conference that it was likely to grant the motion.

Although true that the record before the Court demonstrates that GGI previously failed to make a complete production of all responsive documents and inappropriately tried to limit discovery sought from custodians involved in GGI's performance under the Partnership Agreement (the **Agreement**; NYSCEF Doc. No. 55), dated December 7, 2020, by and between GGI and ORRA, the ORRA Parties are no more entitled to sanctions here than GGI would be based on ORRA's frivolous position described below. Thus, the Court declines to impose sanctions at this time. In the event of any further gamesmanship by either party, leave is granted to both to bring a motion seeking sanctions.

II. GGI's Motion to Compel is Granted (Mtn. Seq. No. 008)

CPLR § 3101 requires "full disclosure of all matter material and necessary in the prosecution or defense of an action, regardless of the burden of proof." As a guiding principle, the words "material and necessary" are to be "interpreted liberally to require disclosure of . . . any facts bearing on the controversy" (*Rivera v NYP Holdings Inc.*, 63 AD3d 469, 469 [1st Dept 2009] [quoting *Allen v Crowell-Collier Publ. Co.*, 21 NY2d 403, 406 (1968)]). A party seeking to avoid disclosure bears the burden of showing that the disclosure sought is improper (*Roman Catholic Church of the Good Shepherd v Tempco Systems*, 202 AD2d 257, 258 [1st Dept 1994]).

GGI moves to compel the ORRA Parties to produce financial documents related to the current value of the luxury condominium and hotel development at the center of the joint venture contemplated in the Agreement. Specifically, GGI seeks information regarding cash flow and development models, construction timeline and costs, condo sale and availability lists, and hotel revenue projections.

In their opposition papers, the ORRA Parties argue that, because the joint venture contemplated by the Agreement never was consummated such that GGI's breach claims fails, GGI is not entitled to this quantum of information. The position is entirely meritless. GGI's first counterclaim (breach of contract) remains viable in this lawsuit at this time and, as such, GGI is entitled to all necessary and material information related to developing its theory of damages related to that claim. This necessarily includes the Project's quantum of revenue, financial condition, economic interests, and asset distribution. As such, GGI's motion to compel is GRANTED.

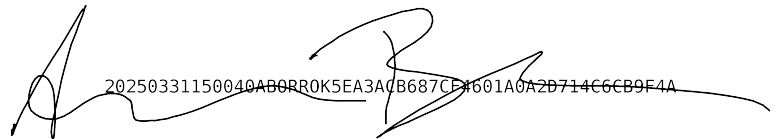
The Court has considered the parties' remaining arguments and finds them unavailing.

Accordingly, it is hereby

ORDERED that the ORRA Parties' motion (Mtn. Seq. No. 009) for an award of the costs incurred in relation to Mtn. Seq. Nos. 007 and 009 is DENIED; and it is further

ORDERED that GGI’s motion (Mtn. Seq. No. 008) to compel the ORRA Parties to produce certain financial documents is GRANTED; and it is further

ORDERED that the ORRA Parties shall collect and produce all relevant documents responsive to GGI’s discovery requests set forth in its demand emails (NYSCEF Doc. No. 162) within 30 days of this Decision and Order.


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3/31/2025
DATE

ANDREW BORROK, J.S.C.

CHECK ONE:

CASE DISPOSED

GRANTED

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

OTHER

REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: