

ORIGINAL

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

OCT 21 2010

ALAN CARLSON, Clerk of the Court

N. Dorfman
BY N. DORFMAN

6 Attorneys for Defendants PROFESSIONAL
7 COMMUNITY MANAGEMENT, INC. and JANET
8 PRICE

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

BY FAX

11
12 THIRD LAGUNA HILLS MUTUAL, a
California non profit corporation,

13 Plaintiff,

14 vs.

15 PROFESSIONAL COMMUNITY
16 MANAGEMENT, INC., a California
corporation, also known as PCM; MILT
17 JOHNS, an individual; JANET PRICE, an
individual; and DOES 1 to 20, inclusive,

18 Defendants.

CASE NO. 30-2010-00380231

[Assigned for all purposes to the Honorable
Kirk H. Nakamura, Department C-8]

**DECLARATION OF JEFF J.
ASTARABADI IN SUPPORT OF
DEFENDANTS PROFESSIONAL
COMMUNITY MANAGEMENT, INC.'S
AND JANET PRICE'S REPLY BRIEF IN
SUPPORT OF THEIR MOTION FOR
MONETARY SANCTIONS IN THE
AMOUNT OF \$18,630 AGAINST
PLAINTIFF THIRD LAGUNA HILLS
MUTUAL AND ITS COUNSEL OF
RECORD, JOINTLY AND SEVERALLY,
AND FOR NON-MONETARY
SANCTIONS AS WELL**

[Cal. Code Civ. Proc., § 128.7]

Date: October 28, 2010
Time: 2:00 p.m.
Dept.: C-8

Complaint Filed: June 10, 2010
Trial Date: Not set.

MUCH SHELIST DENENBERG AMENT & RUBENSTEIN, P.C.
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DECLARATION OF JEFF J. ASTARABADI

I, Jeff J. Astarabadi, declare:

1. I am a member of the State Bar of California and Special Counsel with the law firm of Much Shelist Denenberg Ament & Rubenstein, attorneys of record for defendants PROFESSIONAL COMMUNITY MANAGEMENT, INC. and JANET PRICE in the above-captioned action. The following facts are of my own personal knowledge and, except as stated otherwise, if called as a witness, I could and would testify competently thereto.

2. A true and correct copy of the Notice of Ruling re Professional Community Management, Inc.'s and Janet Price's Demurrer to Third Laguna Hills Mutual's Complaint is attached hereto as Exhibit "A."

3. True and correct copies of excerpts from the Response of Plaintiff Third Laguna Hills Mutual to Defendant Professional Community Management, Inc.'s Special Interrogatories, Set One, in this action, including the verification thereof, is attached hereto as Exhibit "B."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 21st day of October 2010.



Jeff J. Astarabadi

EXHIBIT

A

EXHIBIT A

MUCH SHELIST DENENBERG AMENT & RUBENSTEIN, P.C.
8001 IRVINE CENTER DRIVE, SUITE 400
IRVINE, CALIFORNIA 92618

1 Paul E. Van Hoomissen, Bar No. 177925
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4 8001 Irvine Center Drive, Suite 400
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7 Attorneys for Defendants PROFESSIONAL COMMUNITY
MANAGEMENT, INC. and JANET PRICE

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER
10

11 THIRD LAGUNA HILLS MUTUAL, a
California non profit corporation,

12 Plaintiff,

13 vs.

14 PROFESSIONAL COMMUNITY
15 MANAGEMENT, INC., a California
corporation, also known as PCM; MILT
16 JOHNS, an individual; JANET PRICE, an
individual; and DOES 1 to 20, inclusive,

17 Defendants.
18

CASE NO. 30-2010-00380231

[Assigned for all purposes to the Honorable
Kirk H. Nakamura, Department C-8]

**NOTICE OF RULING RE
PROFESSIONAL COMMUNITY
MANAGEMENT, INC.'S AND JANET
PRICE'S DEMURRER TO THIRD
LAGUNA HILLS MUTUAL'S
COMPLAINT**

Date: September 23, 2010
Time: 2:00 p.m.
Dept.: C-8

Complaint Filed: June 10, 2010
Trial Date: Not set.

19 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:
20

21 PLEASE TAKE NOTICE that Professional Community Management, Inc.'s and
22 Janet Price's Demurrer was scheduled for hearing on September 23, 2010 at 2:00 p.m. in
23 department C-8 of the above-captioned Court. On September 22, 2010, Honorable Kirk H.
24 Nakamura ruled as follows.
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1. Demurrer to the 3rd c/a for Fraud by Concealment is OVERRULED. The means by which defendants concealed the information is within their exclusive knowledge.
2. Demurrer by defendant Price to the 2-6th c/a based on "agent immunity" is OVERRULED. "An agent or employee is always liable for his or her own torts, whether the principal is liable or not, and in spite of the fact that the agent acts in accordance with the principal's directions." Witkin, Summary of California Law, 3 Agency and Employment §199.
3. Finally, demurrer to the 5th c/a for Elder Abuse is sustained with leave to amend (for individuals to make a claim) for lack of standing. Nothing about the financial elder abuse claim seeks enforcement of governing documents, or damage to the property which are the types of actions where HOAs typically have standing. Nothing about the W&I Code sections definition of "elder" would include the plaintiff. See Cal. Welf. & Inst. Code § 15610.27. Finally, The Estate of Lowrie case discusses who has standing under Ca Welf & Inst. Code §15657.3, which is entirely inapplicable here because that statute and case involves standing once the decedent holding the Elder Abuse claim dies. That is not the case here. Here, we have a plaintiff HOA apparently representing the interests of living elders who could bring their own Elder Abuse claims. RJN granted.

Moving party was ordered to give notice of ruling.

DATED: September 23, 2010

MUCH SHELIST DENENBERG
AMENT & RUBENSTEIN, P.C.

By: 

Paul E. Van Hoomissen

Jeff J. Astarabadi

Attorneys for Defendants PROFESSIONAL
COMMUNITY MANAGEMENT, INC. and
JANET PRICE

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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I declare that I am over the age of eighteen (18) and not a party to the within action. My business address is 8001 Irvine Center Drive, Suite 400, Irvine, California 92618.

On September 23, 2010, I served the foregoing document described as **NOTICE OF RULING RE PROFESSIONAL COMMUNITY MANAGEMENT, INC.'S AND JANET PRICE'S DEMURRER TO THIRD LAGUNA HILLS MUTUAL'S COMPLAINT**, on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as stated on the attached service list.

BY MAIL - I deposited such envelope in the mail at Irvine, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing. Under that practice it would be deposited with the United Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

BY ELECTRONIC TRANSMISSION - I transmitted a .pdf version of this document by electronic mail to the interested parties at the email addresses identified on the attached service list .

BY PERSONAL SERVICE - I caused such envelope to be delivered by hand to the addressee(s) identified on the attached service list.

BY OVERNIGHT DELIVERY - I deposited such envelope for collection and delivery by a well-known overnight delivery service, i.e., Federal Express or Overnite Express with delivery fees paid or provided for in accordance with ordinary business practices. I am "readily familiar" with the firm's practice of collection and processing packages for overnight delivery by Federal Express and Overnite Express for receipt on the same day in the ordinary course of business.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 23, 2010, at Irvine, California.



Lisa Romines

MUCH SHELIST DENENBERG AMENT & RUBENSTEIN, P.C.
8001 IRVINE CENTER DRIVE, SUITE 400
IRVINE, CALIFORNIA 92618

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SERVICE LIST

Jeffrey M. Cohon, Esq.
Kristin S. Keller, Esq.
COHON & POLLAK, LLP
1999 Avenue of the Stars
Suite 1100
Los Angeles, CA 90067
Telephone 310.231.4470
Facsimile 310.231.4610
Attorneys for Plaintiff, Third Laguna Hills Mutual

EXHIBIT

B

EXHIBIT B

1 JEFFREY M. COHON, ESQ. (CSBN 131431)
HENRY NICHOLLS, ESQ. (CSBN 126129)
2 JOHN T. McDOWELL, ESQ. (CSBN 130372)
COHON & POLLAK, LLP
3 1999 Avenue of the Stars, Suite 1100
Los Angeles, California 90067
4 Tel: 310/231-4470
Fax: 310/231-4610
5

6 Attorneys for Plaintiff
THIRD LAGUNA HILLS MUTUAL
7
8

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF ORANGE - CENTRAL JUSTICE CENTER

11 THIRD LAGUNA HILLS MUTUAL, a) CASE NO. 30-2010-00380231
12 California non profit corporation,)
13 Plaintiff,) *Assigned to the Honorable*
14 vs.) *Kirk H. Nakamura, Department C-8*
15 PROFESSIONAL COMMUNITY) **RESPONSE OF PLAINTIFF THIRD**
MANAGEMENT, INC., a California) **LAGUNA HILLS MUTUAL TO**
16 Corporation, also known as PCM; MILT) **DEFENDANT PROFESSIONAL**
JOHNS, an individual; JANET PRICE, an) **COMMUNITY MANAGEMENT, INC.'S**
17 individual; and DOES 1 to 20, inclusive,) **SPECIAL INTERROGATORIES, SET ONE**
18 Defendants.)
19)
20)

Complaint Filed: June 10, 2010
Trial Date: None Set

21
22 PROPOUNDING PARTY: Defendant, PROFESSIONAL COMMUNITY MANAGEMENT,
23 INC.

24 RESPONDING PARTY: Plaintiff, THIRD LAGUNA HILLS MUTUAL

25 SET NO.: One

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1 subparts, or a compound, conjunctive, or disjunctive question and which states that each interrogatory
2 shall be full and complete in and of itself. No preface or instruction shall be included with a set of
3 interrogatories unless it has been approved under Chapter 17 (commencing with Section 2033.710).

4 Plaintiff Third Mutual further objects to this interrogatory on the grounds that it is overbroad,
5 vague, ambiguous and unintelligible, particularly with respect to the terms "IDENTIFY,"
6 "relationship," YOU and YOUR (which includes principals, employees, agents, assigns and
7 representatives) and seeks information that violates the right to privacy of the individual(s) whose
8 private residence addresses and telephone numbers is/are being sought.

9 Subject to and without waiving the foregoing objections, Bertram Black, Jacqueline Carey,
10 Seymour Coblens, Kenneth Dooley, Phyllis Fish, Eloise Kight, Maurice Kravitz, Leo Minkin, George
11 Portlock, George Ratner, Marvin Taves, Richard Seymour and Leroy Wolever. Plaintiff Third Mutual
12 has not completed its investigation of the facts related to this case, has not completed discovery in this
13 action, and has not completed its preparation for any trial that might be held herein. Therefore, the
14 response to this Interrogatory is based upon information currently known to Plaintiff Third Mutual and
15 is given without prejudice to Plaintiff Third Mutual's right to supplement, add to, amend, or modify its
16 response to this Interrogatory.

17 **SPECIAL INTERROGATORY NO. 197:**

18 IDENTIFY each "board member" YOU contend is "suffering from fading memories" in YOUR
19 allegation in paragraph 9 of YOUR COMPLAINT, in which YOU state "Some of the board members
20 who might serve as witnesses in this case... suffer from fading memories."

21 **RESPONSE TO SPECIAL INTERROGATORY NO. 197:**

22 Plaintiff Third Mutual objects to this interrogatory on the grounds that it violates California Code
23 of Civil Procedure Section 2030.060, which states that no specially prepared interrogatory shall contain
24 subparts, or a compound, conjunctive, or disjunctive question and which states that each interrogatory
25 shall be full and complete in and of itself. No preface or instruction shall be included with a set of
26 interrogatories unless it has been approved under Chapter 17 (commencing with Section 2033.710).

27 Plaintiff Third Mutual further objects to this interrogatory on the grounds that it is overbroad,
28 vague, ambiguous and unintelligible, particularly with respect to the terms "IDENTIFY,"

1 "relationship," YOU and YOUR (which includes principals, employees, agents, assigns and
2 representatives) and seeks information that violates the right to privacy of the individual(s) whose
3 private residence addresses and telephone numbers is/are being sought.

4 Subject to and without waiving the foregoing objections, Plaintiff is currently unable to respond
5 to this interrogatory. Plaintiff Third Mutual has not completed its investigation of the facts related to
6 this case, has not completed discovery in this action, and has not completed its preparation for any trial
7 that might be held herein. Therefore, the response to this Interrogatory is based upon information
8 currently known to Plaintiff Third Mutual and is given without prejudice to Plaintiff Third Mutual's right
9 to supplement, add to, amend, or modify its response to this Interrogatory.

10 **SPECIAL INTERROGATORY NO. 198:**

11 IDENTIFY each "board member" YOU contend is "actively associated with the current board" in
12 YOUR allegation in paragraph 9 of YOUR COMPLAINT, in which YOU state "Some of the board
13 members who might serve as witnesses in this case are actively associated with the current board."

14 **RESPONSE TO SPECIAL INTERROGATORY NO. 198:**

15 Plaintiff Third Mutual objects to this interrogatory on the grounds that it violates California Code
16 of Civil Procedure Section 2030.060, which states that no specially prepared interrogatory shall contain
17 subparts, or a compound, conjunctive, or disjunctive question and which states that each interrogatory
18 shall be full and complete in and of itself. No preface or instruction shall be included with a set of
19 interrogatories unless it has been approved under Chapter 17 (commencing with Section 2033.710).

20 Plaintiff Third Mutual further objects to this interrogatory on the grounds that it is overbroad,
21 vague, ambiguous and unintelligible, particularly with respect to the terms "IDENTIFY,"
22 "relationship," YOU and YOUR (which includes principals, employees, agents, assigns and
23 representatives) and seeks information that violates the right to privacy of the individual(s) whose
24 private residence addresses and telephone numbers is/are being sought.

25 Subject to and without waiving the foregoing objections, Plaintiff is currently unable to respond
26 to this interrogatory. Plaintiff Third Mutual has not completed its investigation of the facts related to
27 this case, has not completed discovery in this action, and has not completed its preparation for any trial
28 that might be held herein. Therefore, the response to this Interrogatory is based upon information

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currently known to Plaintiff Third Mutual and is given without prejudice to Plaintiff Third Mutual's right to supplement, add to, amend, or modify its response to this Interrogatory.

DATED: October 4, 2010

COHON & POLLAK, LLP

BY:


HENRY NICHOLLS
Attorneys for Plaintiff
THIRD LAGUNA HILLS MUTUAL

VERIFICATION


STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I have read the foregoing **RESPONSE OF PLAINTIFF THIRD LAGUNA HILLS MUTUAL TO DEFENDANT PROFESSIONAL COMMUNITY MANAGEMENT, INC.'S SPECIAL INTERROGATORIES, SET ONE** and know its contents.

I am an Officer of Third Laguna Hills Mutual, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on October 4, 2010, at Laguna Woods, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Carol Moore

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the county of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action; my business address is: 1999 Avenue of the Stars, Suite 1100,
Los Angeles, California 90067.

5 On October 4, 2010, I served the foregoing document described as: **RESPONSE OF**
6 **PLAINTIFF THIRD LAGUNA HILLS MUTUAL TO DEFENDANT PROFESSIONAL**
7 **COMMUNITY MANAGEMENT, INC.'S SPECIAL INTERROGATORIES, SET ONE** on the
interested parties in this action:

8 by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the
attached mailing list:

9 by placing the original a true copy thereof enclosed in sealed envelopes addressed
10 as follows:

11 Paul E. Van Hoomissen, Esq. *Attorneys for Defendant Professional*
12 MUCH SHELIST DENENBERG AMENT & Community Management
13 RUBENSTEIN, P.C.
14 8001 Irvine Center Drive, Suite 400
Irvine, CA 92618
Tel: (949) 754-4400
Fax: (312) 521-2464

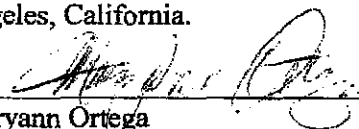
15 **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing
16 correspondence for mailing. Under that practice it would be deposited with U.S. postal service on
that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of
17 business. I am aware that on motion of the party served, service is presumed invalid if postal
cancellation date or postage meter date is more than one day after date of deposit for mailing in
affidavit.

18 **BY FACSIMILE:** I declare that the above-entitled document was transmitted by facsimile
19 transmission to the facsimile telephone numbers last given and maintained by each person as
20 indicated above, and that each transmission was reported as complete and without error pursuant to
the transmission report, which I declare was properly issued by the transmitting facsimile machine.

21 **BY FEDERAL EXPRESS:** I am "readily familiar" with the firm's practice of collection and
22 processing correspondence for sending documents by Federal Express for overnight delivery. Under
23 that practice, I personally deposited the such envelope with Federal Express on that same day with
postage thereon fully prepaid at Century City, California in the ordinary course of business.

24 (State) I declare under penalty of perjury under the laws of the State of California that the
25 above is true and correct.

26 Executed on October 4, 2010, at Los Angeles, California.

27 
28 Maryann Ortega

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PROOF OF SERVICE

I am employed in the County of Orange, State of California. I declare that I am over the age of eighteen (18) and not a party to the within action. My business address is 8001 Irvine Center Drive, Suite 400, Irvine, California 92618.

On **October 21, 2010**, I served the foregoing document described as **DECLARATION OF JEFF J. ASTARABADI IN SUPPORT OF DEFENDANTS PROFESSIONAL COMMUNITY MANAGEMENT, INC.'S AND JANET PRICE'S REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR MONETARY SANCTIONS IN THE AMOUNT OF \$18,630 AGAINST PLAINTIFF THIRD LAGUNA HILLS MUTUAL AND ITS COUNSEL OF RECORD, JOINTLY AND SEVERALLY, AND FOR NON-MONETARY SANCTIONS AS WELL**, on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as stated on the attached service list.

BY MAIL - I deposited such envelope in the mail at Irvine, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing. Under that practice it would be deposited with the United Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

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(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on **October 21, 2010**, at Irvine, California.



Lisa Romines

SERVICE LIST

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Kristin S. Keller, Esq.
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Attorneys for Plaintiff, Third Laguna Hills Mutual

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