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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

FEB 17 2011

ALAN CARLSON, Clerk of the Court
R. Lucey
BY R. LUCEY

5 Attorneys for Cross-Defendants, GOLDEN RAIN FOUNDATION
6 OF LAGUNA WOODS, ROBERT HATCH, JIM MATSON

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ORANGE

HART, KING & COLDREN
A PROFESSIONAL LAW CORPORATION
200 SANDPOINTE, FOURTH FLOOR
SANTA ANA, CALIFORNIA 92707

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

13 Plaintiff

14 v.

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
19 Defendants.

20 MILTON JOHNS, an individual,
21
22 Cross-Complainant
v.

23 PROFESSIONAL COMMUNITY
24 MANAGEMENT OF CALIFORNIA,
INC., a California corporation, also known
25 as PCM; RUSS DISBRO, an individual;
26 DONNY DISBRO, an individual; PAUL
VAN HOOMISSEN, an individual;
27 JACKSON, DEMARCO, TIDUS,
28 PECKENPAUGH, a California Law

Case No. 30-2010-00380231

Assigned for all purposes to:

Judge: Hon. Kirk H. Nakamura
Dept: C8

**ANSWER OF CROSS-DEFENDANTS
GOLDEN RAIN FOUNDATION OF
LAGUNA WOODS, ROBERT HATCH
AND JIM MATSON TO CROSS-
COMPLAINT OF MILTON JOHNS**

Complaint Filed: 06/10/2010

1 Corporation; MUCH, SHELIST, FREED,)
2 DENENBERG, AMENT &)
3 RUBENSTEIN, an Illinois Corporation)
4 doing business in California; LAGUNA)
5 HILLS MUTUAL, a California non-profit)
6 corporation; GOLDEN RAIN)
7 FOUNDATION OF LAGUNA WOODS, a)
8 California non-profit corporation;)
9 ROBERT HATCH, an individual; JIM)
10 MATSON, an individual; and ROES 1 to)
11 50, inclusive.)

12 Cross-Defendants.

13 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

14 Cross-Defendants Golden Rain Foundation of Laguna Woods, Robert Hatch and Jim
15 Matson (hereinafter collectively "Answering Cross-Defendants") for themselves alone and in
16 answer to the Cross-Complaint filed by Milton Johns on file herein, admit, deny, respond
17 and allege as follows:

18 **GENERAL DENIAL**

19 1. By virtue of the provisions of Section 431.30(d) of the California Code of Civil
20 Procedure, these Answering Cross-Defendants deny generally and specifically each and
21 every allegation contained in this unverified Cross-Complaint herein.

22 **AFFIRMATIVE DEFENSES**

23 **FIRST AFFIRMATIVE DEFENSE**

24 (Failure to State a Cause of Action)

25 2. As a separate and distinct affirmative defense, these Answering Cross-Defendants
26 allege that the Cross-Complaint in its entirety, and each and every cause of action therein,
27 fails to state facts sufficient to constitute a cause of action against these Answering Cross-
28 Defendants.

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

3. As a separate and distinct affirmative defense, these Answering Cross-Defendants
allege that the Cross-Complaint is barred by the applicable statute of limitations, including,

1 but not limited to, Code of Civil Procedure sections 337, 338, 339, 340 and 343.

2 **THIRD AFFIRMATIVE DEFENSE**

3 (Delay in Bringing Action – Laches)

4 4. As a separate and distinct affirmative defense, these Answering Cross-Defendants
5 are informed and believe and thereon allege that Cross-Complainant unreasonably delayed in
6 bringing this action against these Answering Cross-Defendants, that such delay prejudiced
7 these Answering Cross-Defendants, and therefore this action against these Answering Cross-
8 Defendants is barred by the doctrine of laches.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 (Failure to Mitigate)

11 5. As a separate and distinct affirmative defense, these Answering Cross-Defendants
12 are informed and believe and thereon allege that Cross-Complainant has failed, refused
13 and/or neglected to take all necessary, proper and reasonable efforts to mitigate his damages,
14 if any, in whole or in part, and such failure bars or diminishes any recovery to which Cross-
15 Complainant might otherwise be entitled to receive from these Answering Cross-Defendants.

16 **FIFTH AFFIRMATIVE DEFENSE**

17 (Fair Responsibility Act)

18 6. As a separate and distinct affirmative defense, these Answering Cross-Defendants
19 allege that the liability of these Answering Cross-Defendants, if any, for the amount of non-
20 economic damages, if any should be limited pursuant to the Fair Responsibility Act of 1986,
21 Section 1431.2 of the Civil Code, in direct proportion to these Answering Cross-Defendants'
22 percentage of negligence or fault, if any, and these Answering Cross-Defendants pray for
23 separate judgment in the amount of any such non-economic damages as determined by the
24 trier of fact.

25 **SIXTH AFFIRMATIVE DEFENSE**

26 (Superseding/Intervening Cause)

27 7. As a separate and distinct affirmative defense, these Answering Cross-Defendants
28 are informed and believe and thereon allege that the alleged injuries and damages of which

1 Cross-Complainant complains, if any, were proximately caused and contributed to by the
2 acts or omissions of other Defendants, Cross-Defendants, persons and/or entities, and that
3 said acts and omissions were an intervening and superseding cause of injuries and damages,
4 if any, thus barring or diminishing any recovery against these Answering Cross-Defendants
5 who pray for judgment and declaration of indemnity and/or contribution against all other
6 parties in accord with apportionment of fault.

7 **SEVENTH AFFIRMATIVE DEFENSE**

8 (Failure to Use Reasonable Care)

9 8. As a separate and distinct affirmative defense, these Answering Cross-Defendants
10 are informed and believe and thereon allege that Cross-Complainant, at all times mentioned
11 in the Cross-Complaint, failed and neglected to use reasonable care to protect Cross-
12 Complainant and to minimize the losses and damages complained of, if any.

13 **EIGHTH AFFIRMATIVE DEFENSE**

14 (Doctrine of Waiver)

15 9. As a separate and distinct affirmative defense, these Answering Cross-Defendants
16 are informed and believe and thereon allege that Cross-Complainant engaged in conduct and
17 activities sufficient to constitute a waiver of any alleged breach of duty, negligence, act,
18 omission, or any other conduct, if any, as set forth in the Cross-Complainant's Cross-
19 Complaint.

20 **NINTH AFFIRMATIVE DEFENSE**

21 (Estoppel)

22 10. As a separate and distinct affirmative defense, these Answering Cross-Defendants
23 are informed and believe and thereon allege that Cross-Complainant is estopped from
24 obtaining the relief sought in the Cross-Complaint by virtue of his own acts, conduct,
25 representations and/or omissions.

26 **TENTH AFFIRMATIVE DEFENSE**

27 (Privilege)

28 11. As a separate and distinct affirmative defense, these Answering Cross-Defendants

1 are informed and believe and thereon allege that all of their actions were privileged.

2 **ELEVENTH AFFIRMATIVE DEFENSE**

3 (Justification)

4 12. As a separate and distinct affirmative defense, these Answering Cross-Defendants
5 are informed and believe and thereon allege that all of the claims being asserted against these
6 Answering Cross-Defendants in the Cross-Complaint on file herein are barred by the
7 doctrine of "justification."

8 **TWELFTH AFFIRMATIVE DEFENSE**

9 (Business Judgment Rule)

10 13. As a separate and distinct affirmative defense, these Answering Cross-Defendants
11 allege that their actions did not violate the Business Judgment Rule set forth in Corporations
12 Code sections 309 and 7231. Accordingly, each and every cause of action of the Cross-
13 Complaint fails to state a cause of action upon which relief can be granted against these
14 Answering Cross-Defendants.

15 **THIRTEENTH AFFIRMATIVE DEFENSE**

16 (Labor Code Section 3200, et seq.)

17 14. As a separate and distinct affirmative defense, these Answering Cross-Defendants
18 allege that Cross-Complainant's Cross-Complaint is barred by the provisions of California
19 worker's compensation law, Labor Code sections 3200, et seq.

20 **FOURTEENTH AFFIRMATIVE DEFENSE**

21 (Additional Defenses)

22 15. As a separate and distinct affirmative defense to Cross-Complainant's Cross-
23 Complaint, and each cause of action therein, these Answering Cross-Defendants presently
24 have insufficient knowledge or information on which to form a belief as to whether it may
25 have additional, as yet unstated affirmative defenses available. These Answering Cross-
26 Defendants reserve the right to assert additional defenses in this action in the event that
27 discovery indicates that such additional defenses would be appropriate.

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1 **FIFTEENTH AFFIRMATIVE DEFENSE**

2 (Reliance on Advice of Counsel)

3 16. As a separate and distinct affirmative defense, these Answering Cross-Defendants
4 allege that at all times mentioned, these Answering Cross-Defendants acted in good faith
5 with reasonable and probable cause and in reliance on the advice of counsel after full
6 disclosure of the facts.

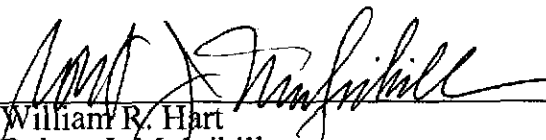
7 **PRAYER**

8 WHEREFORE, these Answering Cross-Defendants pray for judgment as follows:

- 9 1. That Cross-Complainant take nothing by reason of the Cross-Complaint on file
- 10 herein;
- 11 2. That these Answering Cross-Defendants be awarded their costs, expenses and
- 12 attorney fees incurred herein;
- 13 3. That these Answering Cross-Defendants be awarded such other and further relief as
- 14 the Court deems just and proper.

15
16 Dated: February 15, 2011

HART, KING & COLDREN

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19 By: 
20 William R. Hart
21 Robert J. Mulvihill
22 Attorneys for Cross-Defendants, Golden Rain
23 Foundation of Laguna Woods, Robert Hatch
24 and Jim Matson
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PROOF OF SERVICE

Third Laguna Hills Mutual v. Professional Community Management, et al.
Court Case No. 30-2010-00380231

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 200 Sandpointe, Fourth Floor, Santa Ana, California 92707-0507. On February 16, 2011, I caused the foregoing document(s) described as ANSWER OF CROSS-DEFENDANTS GOLDEN RAIN FOUNDATION OF LAGUNA WOODS, ROBERT HATCH AND JIM MATSON TO CROSS-COMPLAINT OF MILTON JOHNS to be served on the interested parties in this action as follows:

by placing the original a true copy thereof enclosed in sealed envelopes addressed as stated below or by sending a copy as stated and addressed below:

SEE ATTACHED SERVICE LIST

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

BY OVERNIGHT DELIVERY: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons identified herein. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

BY ELECTRONIC SERVICE. Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed herein on this date at [time]. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

BY FACSIMILE: Based on an agreement of the parties to accept service by fax transmission, I faxed the documents from a fax machine, at Santa Ana, California, with the telephone number, (714) 546-7457 to the parties and/or attorney for the parties at the facsimile transmission number(s) shown herein. The facsimile transmission was reported as complete without error by a transmission report, issued by the facsimile transmission machine upon which the transmission was made, a copy of which is attached hereto.

BY PERSONAL SERVICE: I personally delivered the documents to the persons at the addresses listed herein. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

BY MESSENGER SERVICE: I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed herein and providing them to a professional messenger service for service. A declaration by the messenger will be filed separately.

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

[Federal] I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 16, 2011, at Santa Ana, California.

Armeda Martinez
Armeda Martinez

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SERVICE LIST

Third Laguna Hills Mutual v. Professional Community Management, et al.
Court Case No. 30-2010-00380231

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