

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-005642

03/17/2014

HONORABLE MICHAEL J. HERROD

CLERK OF THE COURT
L. Stogsdill
Deputy

ULTRA HEALTH L L C

JOHN G RYAN

v.

SCAN 4 HEALTH L L C, et al.

CHAD A HESTER

NORM C KEYT

UNDER ADVISEMENT RULING

The Court has before it, following a return hearing, Plaintiff's Application for Temporary Restraining Order With Notice.

Plaintiff seeks injunctive relief to protect confidential information under a Joint Venture Agreement. The Joint Venture Agreement was made on September 15, 2013 by and between Ultra Health Care, LLC and Scan 4 Health, LLC. Scan 4 Health, LLC acted on behalf of Healing Healthcare 3, Inc. The purpose of the Joint Venture Agreement is to contribute capital and create a medical marijuana cultivation facility and dispensary.

The Joint Venture Agreement provides for injunctive relief to enforce the confidentiality provisions of the Agreement. Plaintiff alleges that Scan 4 Health has violated the confidentiality provisions by denying access to Plaintiff and causing Plaintiff's agent cards to enter the facility to be revoked.

It is unclear to the Court how the dispute over control of the facility merits injunctive relief under the confidentiality provisions of the Joint Venture Agreement. The Joint Venture Agreement also includes a buyout provision in the event of deadlock.

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Finally, neither joint venturer is the licensee of the facility. The licensee, according to the Department of Health Services, is non-party, Holistic Patient Wellness Group, LLC. A copy of the correspondence from DHS dated March 14, 2014 was attached as Exhibit A to Defendants Scan 4 Health, LLC and Healing Healthcare 3, Inc.'s Notice of Filing electronically filed March 14, 2014. Neither joint venturer may enter the facility unless accompanied by a cardholder from the licensee.

It appears that the licensee is allowing access to Scan 4 Health, LLC but not to Ultra Health, LLC.

The Court finds that both joint venturers should have access to the property, pending exercise of the buyout provision, or other resolution of the relationship between the parties.

The Court further finds that Scan 4 Health, LLC has access to and control of the financial information for the joint venture.

The Court further finds that Ultra Health, LLC should be allowed reasonable access for inspection of the property, and access to financial information.

Therefore,

IT IS ORDERED as follows:

1. The temporary restraining order previously entered by the Court on March 5, 2014 is vacated.
2. Ultra Health, LLC, by its representatives, and its counsel, shall be provided regular access to the property upon which the cultivation facility is located, and to any dispensary associated therewith, upon at least 24 hours notice, but not more frequently than weekly.
3. All access by Ultra Health, LLC shall be with the accompaniment of a card-holding agent of the licensee, and shall not be made independently by any representative of Ultra Health, LLC without accompaniment.
4. Scan 4 Health, LLC shall provide detailed weekly reports to Ultra Health, LLC concerning the cultivation, disposition, and condition of all of the plants contained in the facility. Each weekly report shall be provided by 5:00 pm on the Wednesday following each Friday.

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5. Scan 4 Health, LLC shall provide financial accountings to Ultra Health, LLC on a monthly basis commencing on March 31, 2014, and each month thereafter. The month-end report for each month shall be provided on or before 5:00 pm on the 15th of each month.

6. Scan 4 Health, LLC shall also provide consolidated financial summaries to Ultra Health, LLC for each quarter starting on March 31, 2014, until the joint venture is resolved. Each quarterly report shall be provided on or before 5:00 pm on or before the 15th of the month following the end of the quarter.

7. Scan 4 Health, LLC shall also provide a year-end financial report to Ultra Health, LLC at the end of each calendar year, until the joint venture is resolved. Each year-end financial report shall be provided on or before January 31 of each year.

IT IS FURTHER ORDERED setting a telephonic Status Conference for **April 4, 2014 at 8:30 a.m.** (time allotted: 15 minutes) in order to determine whether a preliminary injunction hearing is necessary, and if so, to set a date and time for a preliminary injunction hearing, with **Plaintiff to initiate** call to this Division, telephone number 602-372-0359.

Suggestions to conference call attendees calling from outside the court system:

- Do not use a speaker phone.
- Do not use a cell phone. If possible, use a desk phone.
- Avoid noisy areas.
- Mute phone when not speaking.
- State your name every time you address the Court.

The proceeding will take place in the Superior Court's "e-courtroom." A record of the proceedings will be made by audio and CD in lieu of a court reporter. Should you want an unofficial copy of the proceedings, the parties or counsel may request a CD of the proceedings for a \$20.00 charge. If a CD is requested, please obtain a form from the courtroom clerk or from the Self Service Center to request a daily copy of a court hearing or trial proceeding being conducted. Pay the applicable fee **at the Self Service Center**. Attach the receipt showing payment of the fee and present both the receipt and the form to the bailiff. **For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.** Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it. To request a transcript, call 602-506-7100 and provide the date of the proceeding, the case number, the case caption, if the transcript is for an appeal, and your name, address, and telephone number.

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With this new technology, a court reporter is likely not required and the parties are encouraged to experience the court's video recording system before requesting a court reporter. If a court reporter is required, the Court must receive a written request at least 3 court days before the commencement of the proceeding. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter.

NOTE: The parties are advised that failure to appear at a hearing may result in sanctions, including a Default Judgment.

Effective April 15, 2014 new civil rules and forms are in effect for managing cases moving to trial. Be sure to review the new Civil Rules 16, 26, 37, 38, 72 through 74 and 77.

NOTE: Effective June 27, 2014, this Division's calendar will be assigned to the Honorable James T. Blomo (telephone number: 602-372-4537), located in the East Court Building, 101 West Jefferson, Suite 411, Phoenix, Arizona 85003.