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13 Donald Hansen, and Dennis Odiorne

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ORANGE – CENTRAL JUSTICE CENTER**

BALBOA CAPITAL CORPORATION,

Plaintiff,

v.

REGENTS CAPITAL CORPORATION;  
DONALD HANSEN; DENNIS ODIORNE;  
KIRSTEN MERZA; CHELSEA HAINES;  
JAVIER ENRIQUEZ; KEVIN KUTTER;  
TRAVIS POWER; DOES 1 through 25,  
inclusive,

Defendants.

Case No. 30-2014-00705733-CU-BT-CJC

Assigned to Hon. Kirk Nakamura

**DEFENDANTS' EVIDENTIARY  
OBJECTIONS TO THE  
DECLARATION OF PATRICK E.  
BYRNE**

Date: March 12, 2014  
Time: 1:30 a.m.  
Dept: C15

Date of Filing: February 19, 2014  
Trial Date: Not Set

Defendants Regents Capital Corporation, Donald Hansen and Dennis Odiorne  
(collectively, "Defendants") submit the following evidentiary objections to the Declaration of  
Patrick E. Byrne:

**1. Page 2, line 24 through page 3, line 2 (paragraph 6):**

Prior to their employment with BALBOA, each and every Defendant was advised by  
BALBOA of the importance, value, and confidential nature of its proprietary information,  
including its customer list, made available to Defendants during their employment with BALBOA  
via the "Comprehensive Agreement", attached hereto as ("Exhibit A"), that each employee,

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Orange

**03/12/2014 at 01:34:00 PM**  
Clerk of the Superior Court  
By Giovanni Galon, Deputy Clerk

1 including Defendants, was required to sign prior to employment.

2 **Objection:** Defendants object to this statement on the grounds that it is vague and  
3 ambiguous as to “customer list.”

4  
5 **2. Page 3, lines 10 through 18 (paragraph 8):**

6 Throughout their employment with BALBOA, Defendants were provided access to and  
7 acquired propriety and confidential information belonging to BALBOA. This proprietary and  
8 confidential information was essential to BALBOA’s business operations, and necessary for  
9 Defendants’ performance of their employment with BALBOA. The confidential and proprietary  
10 information includes, BALBOA’s confidential customer list and marketing strategies, which were  
11 compiled and developed through BALBOA’s extensive and time consuming research,  
12 development, investigation, and marketing efforts, intended solely for the benefit of BALBOA in  
13 its sales and marketing efforts directed to its customer base.

14 **Objection:** Defendants object to this statement on the grounds that it is vague and  
15 ambiguous as to “confidential and proprietary information,” “customer list,” and “marketing  
16 strategies.”

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18 **3. Page 3, lines 19 through 21 (paragraph 9):**

19 The information compiled by BALBOA and contained within its customer list is not  
20 generally available to the general public through business directories because it is developed  
21 through BALBOA’s many years of being in business, since 1988.

22 **Objection:** Defendants object to this statement on the grounds that it is vague and  
23 ambiguous as to “customer list.”

24  
25 **4. Page 3, line 22 through page 4, line 2 (paragraph 10):**

26 To compile the customer list, BALBOA has developed algorithms for identifying and  
27 thoroughly analyzing potential customer data (sometimes purchased from third party vendors) in  
28 order to ascertain business prospects that, based on BALBOA’s experience, are more likely to be

1 in need of BALBOA's services and are more likely to generate repeat or renewal business, and  
2 for scoring and ranking those prospects for use by BALBOA's sales employees in calling on  
3 those potential customers.

4 **Objection:** Defendants object to this statement on the grounds that it is vague and  
5 ambiguous to "customer list."

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7 **5. Page 4, lines 3 through 5 (paragraph 11):**

8 Such proprietary and confidential information comprising of BALBOA's customer list  
9 was made available to Defendants for performance of their employment with BALBOA.

10 **Objection:** Defendants object to this statement on the grounds that it is vague and  
11 ambiguous to "customer list."

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13 **6. Page 4, lines 6 through 10 (paragraph 12):**

14 Based on the proprietary and confidential information, including BALBOA's customer  
15 lists and customer files, obtained during employment, Defendants HANSEN and ODIORNE  
16 resigned from BALBOA in order to form their own competing business, REGENTS CAPITAL  
17 CORPORATION, hereinafter, ("RCC.")

18 **Objection:**

19 Defendants object to this statement on the grounds that it is vague and ambiguous and  
20 lacking foundation as to the declarant's personal knowledge.

21  
22 **7. Page 4, lines 11 through 12 (paragraph 13):**

23 Defendants HANSEN and ODIORNE formed RCC on 12/26/2013, less than two weeks  
24 following their resignation from BALBOA.

25 **Objection:** Defendants object to this statement on the grounds that it is vague and  
26 ambiguous and lacking foundation as to the declarant's personal knowledge.

1           **8. Page 4, lines 13 through 18 (paragraph 14):**

2           Since its inception, RCC has been doing and soliciting business in Orange County,  
3 California.

4           **Objection:** Defendants object to this statement on the grounds that it is vague and  
5 ambiguous and lacking foundation as to the declarant's personal knowledge.

6  
7           **9. Page 4, lines 19 through 23 (paragraph 15):**

8           While still employed by BALBOA and following their resignations, Defendants  
9 HANSEN and ODIORNE improperly solicited other BALBOA vital sales employees, including  
10 Defendants MERZA, HAINES, ENRIQUEZ, KUTTER, and POWER, all of whom subsequently  
11 resigned from BALBOA on the same date, January 10, 2014.

12           **Objection:** Defendants object to this statement on the grounds that it is vague and  
13 ambiguous, lacking foundation as to the declarant's personal knowledge, and it contains a legal  
14 conclusion.

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16           **10. Page 4, lines 24 through 26 (paragraph 16):**

17           As a result of Defendants actions, BALBOA filed a Complaint on February 19, 2014, a  
18 file-stamped copy is attached hereto as ("Exhibit C"), to enjoin Defendants wrongful and  
19 improper conduct.

20           **Objection:** Defendants object to this statement on the grounds that it contains a legal  
21 conclusion.

22  
23           **11. Page 5, lines 2 through 5 (paragraph 17):**

24           Said Temporary Restraining Order should issue because Defendants are engaging in  
25 improperly soliciting BALBOA's key employees, BALBOA's customers, and misappropriating  
26 BALBOA's trade secrets including its customer list and customer files.

27           **Objection:** Defendants object to this statement on the grounds that it is lacking  
28 foundation as to the declarant's personal knowledge and it contains a legal conclusion.

1           **12.    Page 5, lines 6 through 11 (paragraph 18):**

2           Thirty-four of BALBOA's existing customers notified BALBOA that some of Defendants  
3 personally contacted them and improperly, unfairly, and repeatedly solicited their business in  
4 efforts to divert that business away from BALBOA. Due to the proprietary and confidential  
5 nature of BALBOA's customer list, the names of said solicited customers will not be listed in this  
6 Declaration.

7           **Objection:** Defendants object to this statement on the grounds that it contains double  
8 hearsay and legal conclusions. It is also lacking foundation as to the declarant's personal  
9 knowledge and is vague and ambiguous.

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11           **13.    Page 5, lines 12 through 15 (paragraph 19):**

12           Some Defendants' unfair conduct went beyond repeated and improper solicitation of  
13 BALBOA's existing customers, but rather, some Defendants funded deals at RCC using  
14 applications previously submitted to BALBOA.

15           **Objection:** Defendants object to this statement on the grounds that it is lacking  
16 foundation as to the declarant's personal knowledge. It also contains legal conclusions and is  
17 vague and ambiguous.

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19           **14.    Page 5, lines 16 through 17 (paragraph 20):**

20           Some Defendants took customer files and other supporting documentation to RCC and are  
21 misappropriating the information contained in these files.

22           **Objection:** Defendants object to this statement on the grounds that it is lacking  
23 foundation as to the declarant's personal knowledge. It also contains legal conclusions and is  
24 vague and ambiguous.

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26           **15.    Page 5, lines 18 through 21 (paragraph 21):**

27           As a result of Defendants' breaches of their fiduciary duties and breaches of their  
28 employment Agreements and, specifically, their Comprehensive Agreements, and BALBOA's

1 confidential and proprietary information, BALBOA incurred and continues to incur a substantial  
2 loss of business, profits, and customers.

3 **Objection:** Defendants object to this statement on the grounds that it is lacking  
4 foundation as to the declarant's personal knowledge. It also contains legal conclusions and is  
5 vague and ambiguous.

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7 **16. Page 5, lines 22 through 24 (paragraph 22):**

8 For their own financial gains, Defendants misappropriated this confidential and  
9 proprietary information contained in BALBOA's customer list and customer files.

10 **Objection:** Defendants object to this statement on the grounds that it is lacking  
11 foundation as to the declarant's personal knowledge. It also contains legal conclusions and is  
12 vague and ambiguous.

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14 **17. Page 5, line 25 through page 6, line 2 (paragraph 23):**

15 The immediate harm BALBOA will continue to suffer absent such a restraining order is  
16 irreparable because Defendants will continue to improperly and unfairly use BALBOA's  
17 confidential and proprietary information, including but not limited to its customer list and  
18 customer files, for their own financial gain and to the detriment of BALBOA.

19 **Objection:** Defendants object to this statement on the grounds that it is lacking  
20 foundation as to the declarant's personal knowledge. It also contains legal conclusions and is  
21 vague and ambiguous.

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23 **18. Page 6, lines 3 through 7 (paragraph 24):**

24 There is a high likelihood that BALBOA will prevail at trial of the within action because  
25 BALBOA has stated a viable claim for unfair competition and misappropriation of trade secrets.  
26 This claim is based on BALBOA's knowledge of Defendants misappropriation of its proprietary  
27 and confidential information, specifically its customer list and customer files.

28 **Objection:** Defendants object to this statement on the grounds that it is lacking

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foundation as to the declarant's personal knowledge. It also contains legal conclusions and is vague and ambiguous.

**19. Page 6, lines 8 through 12 (paragraph 25):**

Defendants, on the other hand, will suffer negligible or no harm at all if the TRO is granted because Defendants would resume their business, yet, would have to expend their own monies and efforts to create their own customer list and cease misappropriating BALBOA's confidential and proprietary information, including but not limited to its customer list, obtained during their employment with BALBOA.

**Objection:** Defendants object to this statement on the grounds that it is lacking foundation as to the declarant's personal knowledge. It also contains legal conclusions and is vague and ambiguous.


**20. Page 6, line 22 through page 7, line 1 (paragraph 27):**

For the above reasons and in light of the facts presented, a Temporary Restraining Order should be immediately issued to prevent further harm to BALBOA.

**Objection:** Defendants object to this statement on the grounds that it contains a legal conclusion.

Dated: March 12, 2014

SNELL & WILMER L.L.P.

By:   
\_\_\_\_\_  
Tiffany Brosnan  
Erin D. Leach  
Jordan M. Lee  
Attorneys for Defendants Regents Capital Corporation, Donald Hansen and Dennis Odiorne

**PROOF OF SERVICE**

***Balboa Capital Corporation v. Regents Capital Corporation, et al.***  
**OCSC Case No. 30-2014-00705733**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, CA 92626-7689.

On March 12, 2014, I served, in the manner indicated below, the foregoing document described as **DEFENDANTS' EVIDENTIARY OBJECTIONS TO THE DECLARATION OF PATRICK E. BYRNE** on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

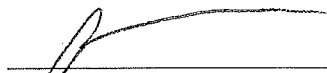
Marc S. Hines, Esq. Nicole M. Hampton, Esq. Natalie Mirzayan, Esq. Hines Carder, LLP 3090 Bristol Street, Ste. 300 Costa Mesa, CA 92626	<b>Attorneys for Plaintiff</b>  <b>Tel: 714-513-1122</b> <b>Fax: 714-513-1123</b> <u><a href="mailto:mhines@hinescarder.com">mhines@hinescarder.com</a></u> <u><a href="mailto:nhampton@hinescarder.com">nhampton@hinescarder.com</a></u> <u><a href="mailto:nmirzayan@hinescarder.com">nmirzayan@hinescarder.com</a></u>
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- BY REGULAR MAIL: I caused such envelopes to be deposited in the United States mail at Costa Mesa, California, with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service each day and that practice was followed in the ordinary course of business for the service herein attested (C.C.P. § 1013(a)). **Only as to those indicated below.**
- BY FACSIMILE: (C.C.P. § 1013(e)(f)).
- BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees **only as to those indicated below.** (C.C.P. § 1013(c)(d)).
- BY PERSONAL SERVICE: I caused such envelopes to be delivered by hand to the addressee(s). (C.C.P. § 1011(a)(b)).
- BY ELECTRONIC SERVICE: Only as to those indicated with email addresses on the service list (C.C.P. §1010.6 (a)(2)).

\*\*\*\*\*

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

Executed on March 12, 2014, at Costa Mesa, California.

  
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Arth Dufour