

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: \_\_\_\_\_

VANTAGE HOSPITALITY  
GROUP, INC., a Florida corporation,

Plaintiff,

v.

RADHE HOTEL 294, INC., HITESH SHAH,  
PRAGNESHKUMAR B. SHAH and  
CHANDRA B. YADAV;

Defendants.

\_\_\_\_\_ /

**COMPLAINT FOR COMPENSATORY DAMAGES, TREBLE DAMAGES,  
INJUNCTIVE RELIEF, AND ATTORNEY FEES**

Plaintiff, VANTAGE HOSPITALITY GROUP, INC. (“Vantage”), through their attorneys file this Complaint against Defendants RADHE HOTEL 294, INC. (“Defendant RADHE HOTEL”), HITESH SHAH, PRAGNESHKUMAR B. SHAH, and CHANDRA B. YADAV (“the SHAH and YADAV Defendants”) (collectively, “Defendants”), and state:

**INTRODUCTION**

1. This action arises from Defendants’ infringement and counterfeiting of Plaintiff Vantage’s registered COUNTRY HEARTH INN service marks. In this action, Plaintiff seeks compensatory damages, treble damages, injunctive relief and attorneys’ fees against Defendants for violations of the federal Lanham Act (Counts I, II and III).

### **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction of this action pursuant to 15 U.S.C. §§ 1114, 1116, 1117, 1118, and 1121; 28 U.S.C. § 1331; and 28 U.S.C. §§ 1338(a) and 1367, because this case involves a federal question arising under the Lanham Act, 15 U.S.C. § 1051, et seq.

3. Personal jurisdiction and venue are proper in this Court because: (a) Defendant RADHE HOTEL was established as a Florida corporation and upon information and belief conducts business in this State and in this District; (b) upon information and belief, Defendants reside in this District, as that term is defined in 28 U.S.C. § 1391(c), because Defendants promote and market the services of Defendant RADHE HOTEL in this District in violation of the Lanham Act and thereby are subject to personal jurisdiction in this District, 28 U.S.C. § 1391(b)(1); and (c) Plaintiff is situated in this District, and is being harmed in this District by the infringing conduct of Defendants, 28 U.S.C. § 1391(b)(2).

### **PARTIES**

4. Plaintiff Vantage is a corporation organized under the laws of the State of Florida, having its principal place of business at 3300 N. University Drive, Suite 500, Coral Springs, Florida 33065.

5. Defendant RADHE HOTEL is a corporation that was organized and conducted business under the laws of the State of Florida, having its principal address at 1077 Airport Road, Jacksonville, FL 32218.

6. The SHAH and YADAV Defendants, individuals, are the managers of Defendant RADHE HOTEL, and are directly responsible for causing Defendant RADHE HOTEL to engage in the infringing activities set forth in Counts I, II and III.

**PLAINTIFF'S RIGHTS IN THE MARKS**

7. Plaintiff Vantage owns the following U.S. Service Mark Registrations:

| Registration Number | Mark                                                                                | Services                                                    |
|---------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 1,393,558           |    | Motel Services                                              |
| 2,724,061           | COUNTRY HEARTH SUITES                                                               | Temporary accommodations, namely, hotel and motel services. |
| 2,724,062           | COUNTRY HEARTH INN & SUITES                                                         | Temporary accommodations, namely, hotel and motel services. |
| 2,724,063           | COUNTRY HEARTH INN                                                                  | Temporary accommodations, namely, hotel and motel services. |
| 3,488,181           | COUNTRY HEARTH INNS                                                                 | Hotel and motel services.                                   |
| 3,488,182           | COUNTRY HEARTH INNS & SUITES                                                        | Hotel and motel services.                                   |
| 3,488,185           |  | Hotel and motel services.                                   |
| 3,488,187           |  | Hotel and motel services.                                   |
| 3,488,189           |  | Hotel and motel services.                                   |

Collectively, the above marks comprise the “Marks.” (See U.S. Registration Certificates for the Marks, Attached hereto as “Composite Exhibit A”).

8. Plaintiff Vantage is the owner of all rights in and to the Marks. Plaintiff Vantage, by itself and through its predecessor, has used the Marks continuously in interstate commerce since at least as early as May 30, 1984 in connection with various hospitality services, including, but not limited to, hotel and motel services, and the Marks continue in use today to identify such services.

9. Plaintiff Vantage advertises and sells its hospitality services under the Marks throughout the United States, including, but not limited to, Florida and this District. Because of the long and continuous use of the Marks in commerce, including advertising and provision of services under the Marks, consumers throughout the United States have come to recognize the Marks as symbols of the services offered by Plaintiff Vantage under the Marks.

#### **THE FRANCHISE PROGRAM OFFERED BY VANTAGE**

10. Plaintiff Vantage operates a franchise program under its “COUNTRY HEARTH INN” brand (the “Program”) under which providers of hospitality services receive from Plaintiff Vantage a license to use the Marks in connection with hospitality services, as well as other benefits, in exchange for payments and compliance with other covenants, such as maintaining a certain level of quality of the hospitality accommodations offered in connection with the Marks.

11. On or about March 1, 2005, Vantage’s predecessor, BAC FRANCHISING, INC., entered into a “Franchise Agreement” with a third party, SNK ENTERPRISES, INC., by which BAC FRANCHISING, INC. licensed the Marks to the third party for use in operating its hotel property at 14681 Duval Road, Jacksonville, Florida 32218 (the “Property”).

12. After the execution of the Franchise Agreement, the third party, SNK ENTERPRISES, INC., used the Marks, including displaying one or more of the Marks on signs in connection with offering and providing hospitality services at the Property.

13. Subsequently, Plaintiff Vantage Hospitality Group, Inc. acquired intellectual property rights from BAC FRANCHISING, INC., including the Marks, as well as the rights and obligations of BAC FRANCHISING, INC. in the Franchise Agreement.

14. Subsequently, the Franchise Agreement was terminated and SNK ENTERPRISES, INC., or any successor to its rights or interest in the Property, were required to remove any indicia of the Marks from the Property.

15. Subsequently, Defendant RADHE HOTEL acquired an interest in the Property, and upon information and belief, Defendants collectively operated the Property, including by continuing the unauthorized display of one or more of the Marks on signs in connection with offering and providing hospitality services at the Property.

16. Indeed, in May 2015, an investigator took the following photographs confirming that the Marks were still prominently displayed on the Property. These photographs evidence that signage on the Property clearly bears the Marks, and specifically U.S. Reg. No. 3,488,185, identified in Paragraph 7, above:



17. Defendants continue to use the Marks in connection with offering and providing hospitality services at the Property. In particular, Defendants continue to display one or more signs, furniture, or fixtures bearing the Marks at the Property without Plaintiff's authorization, and continue to answer the phone the phone identifying the Property as a Country Hearth Inn location.

18. Defendants' use of the Marks has caused or will likely cause confusion in the marketplace. Defendants' use of the Marks has caused or will likely cause confusion, mistake or deception with respect to the association of Defendants with Plaintiff, or as to the origin, sponsorship or approval of Defendants services by Plaintiff. Further, Defendants use of the Marks in commercial advertising and promotion misrepresents the nature, characteristics, qualities and origin of Defendants' services.

19. At all relevant times, the SHAH and YADAV Defendants have directly controlled the continued unauthorized use of the Marks by Defendant RADHE HOTEL, and have directed, participated in, ratified, or otherwise assisted the unauthorized, and hence infringing, use of the Marks. As the active moving force behind Defendant RADHE HOTEL's infringement, the

SHAH and YADAV Defendants, individually, is jointly and severally liable for Defendant RADHE HOTEL's infringement.

20. Plaintiff has been, and continues to be, injured by Defendants' unauthorized and unlawful use of the Marks. Defendants' use of the Marks has caused, and continues to cause, irreparable harm to Plaintiff and Plaintiff's goodwill and reputation under the Marks.

**COUNT I**

**INFRINGEMENT OF FEDERALLY REGISTERED SERVICE MARKS**  
**(15 U.S.C. § 1114)**

**(ALL DEFENDANTS)**

21. Plaintiff repeats and realleges each of the allegations contained in Paragraphs 1 through 20 of this Complaint as if fully set forth herein.

22. Defendants have infringed Plaintiff's rights in the Marks in violation of 15 U.S.C. § 1114.

23. Such activities are, and remain, with full knowledge of Plaintiff's rights, willful and intentional.

24. These willful and intentional acts of infringement have caused and are causing great and irreparable injury and damage to Plaintiff's business and goodwill and reputation in an amount that cannot be ascertained at this time and, unless restrained, will cause further irreparable injury and damage, leaving Plaintiff with no adequate remedy at law.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for the following:

(a) a temporary and permanent injunction enjoining Defendants, their officers, directors, servants, agents, employees, attorneys and representatives, and each of them, and those

parties acting in concert or participating with them, from using any more marks confusingly similar to the Marks in connection with the advertising or sale of their services;

(b) an accounting of profits Defendants have wrongfully obtained from their use of the Marks, 15 U.S.C. § 1117(a);

(c) compensatory damages, costs, and attorneys' fees, 15 U.S.C. § 1117(a); and

(d) such other relief as this Court deems proper.

## **COUNT II**

### **COUNTERFEITING OF FEDERALLY REGISTERED SERVICE MARKS**

#### **(15 U.S.C. § 1114(1))**

#### **(ALL DEFENDANTS)**

25. Plaintiff repeats and realleges each of the allegations contained in Paragraphs 1 through 20 of this Complaint as if fully set forth herein.

26. This is an action for counterfeiting of a federally registered marks under 15 U.S.C. § 1114(1). Defendants' continued unauthorized use of the identical Marks constitutes counterfeiting as defined by 15 U.S.C. § 1116(d)(1)(B).

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for the following:

(a) a temporary and permanent injunction enjoining Defendants, their officers, directors, servants, agents, employees, attorneys and representatives, and each of them, and those parties acting in concert or participating with them, from using any more marks confusingly similar to the Marks in connection with the advertising or sale of their services;

(b) an accounting of profits Defendants have wrongfully obtained from their use of the Marks, 15 U.S.C. § 1117(a);

(c) compensatory damages, treble damages, costs, and attorneys' fees, 15 U.S.C. § 1117(a) and (b);

(d) statutory damages between \$1,000 and \$200,000 per counterfeit mark, and up to \$2,000,000 per counterfeit mark for willful use, U.S.C. § 1117(a); and

(e) such other relief as this Court deems proper.

### **COUNT III**

#### **STATUTORY INFRINGEMENT OF SERVICE MARKS** **(15 U.S.C. § 1125)**

#### **(ALL DEFENDANTS)**

27. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1 through 20 of this Complaint as if fully set forth herein.

28. This is an action for false designation of origin in violation of 15 U.S.C. § 1125(a). Defendants' use of the Marks constitutes a false designation of origin and/or false description or representation, which is likely to deceive consumers and prospective customers into believing that the Defendants' services originate from, or are licensed by, sanctioned by, sponsored by, or in some way affiliated with Plaintiff in violation of 15 U.S.C. § 1125(a).

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for the following:

(a) a temporary and permanent injunction enjoining Defendants, their officers, servants, agents, employees, attorneys and representatives, and each of them, and those parties acting in concert or participating with them, from using any more marks confusingly similar to the Marks in connection with the advertising or sale of their services;

(b) an accounting of profits Defendants have wrongfully obtained from their use of the Marks, 15 U.S.C. § 1117(a);

- (c) compensatory damages, costs, and attorneys' fees, 15 U.S.C. § 1117(a); and
- (d) such other relief as this Court deems proper.

**JURY DEMAND**

Plaintiff hereby demands trial by jury on all issues so triable.

Dated: September 22, 2015

Respectfully submitted,

By: s/ Moish E. Peltz

Steven I. Peretz (Fla. Bar No. 329037)

Moish E. Peltz (Fla. Bar No. 99611)

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