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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92065390
Party	Defendant Ascaya, Inc. C/O CTF Development, Inc.
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Date	05/22/2017
Attachments	Initial_Disclosures.pdf(80727 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

*In re Matter of Reg. Nos. 3,588,458 and
3,558,276 for the trademark ASCAYA in
Classes 36 and 37*

HomeFed Corporation,

Plaintiff,

v.

ASCAYA, INC.

Defendant.

Cancellation No. 92065390

Mark: ASCAYA

Reg. Nos. 3,588,854

3,558,376

DEFENDANT'S INITIAL DISCLOSURES

Defendant Ascaya, Inc. ("Ascaya" or "Defendant") by and through their attorneys, pursuant to 37 C.F.R. §2.120(a)(3) and Rule 26(a)(1) of the Federal Rules of Civil Procedure, provides its initial disclosures as follows:

PRELIMINARY STATEMENT

1. The following disclosures are based upon information reasonably available to, and currently in the possession, custody or control of Ascaya. Ascaya has not completed investigation of the facts relating to this case, has not completed discovery in this action, and has not completed preparation for trial in this matter.

The initial disclosure is based upon information known at this time and to the best of Ascaya's knowledge, information and belief.

2. Ascaya may obtain additional facts and identify additional witnesses and documents relevant to this action through research, investigation, analysis and through discovery of Plaintiff and any third parties who may have knowledge of relevant facts. Accordingly, Ascaya expressly reserve their right to: (A) make subsequent revisions, supplementation or amendments to these disclosures based upon any information, evidence, documents, facts and things which hereafter may be discovered, or the relevance of which may hereafter be determined; and (B) produce, introduce or rely upon additional or subsequently acquired or discovered writings, evidence and information at trial or in any pre-trial proceedings held herein.

3. Ascaya objects to any disclosure of information or documents beyond that required by the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Local Rules of the Court or other applicable law.

4. Ascaya does not provide herein, and will not provide, any information or documents protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, privacy rights, applicable regulatory privileges or any other privilege or immunity.

5. Any information and documents provided by Ascaya in connection with these disclosures are subject to all objections as to competence, relevance, materiality and admissibility, as well as to any other objections on any grounds that would require the exclusion thereof if such information were offered into evidence, and Ascaya expressly reserve all such objections and grounds.

Rule 26(a)(1)(i): Individuals likely to have discoverable information that Applicant may use to support its claims or defenses other than solely for impeachment:

Ascaya believes that the persons identified below possess knowledge that may be used to support its claims or defenses:

1. Deborah Schavey Ruff, Attorney, Mayer Brown – This individual can be contacted at:

Mayer Brown
71 S. Wacker Drive
Chicago, IL 60606
Phone: (312)-609-8601

The above individual may testify regarding the filing and prosecution of U.S. Trademark Application Nos. 77/976,428, and 77/241,120 for the mark ASCAYA. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses.

2. Brad Hornbacher, Senior Vice President & General Counsel, CTF Development, Inc. – This individual can be contacted only through Ascaya's counsel at:

Vedder Price P.C.
C/O Robert S. Rigg
222 N. LaSalle St.
Chicago, IL 60601
Phone: (312)-609-7766

The above individual may testify regarding the filing and prosecution of U.S. Trademark Application Nos. 77/976,428, and 77/241,120 for the mark ASCAYA; the operation of Ascaya's business including the development and construction of the Ascaya project, marketing, advertising and branding under the mark ASCAYA. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses.

3. Simon Eng, Vice President Information Technology, CTF Development, Inc. – This individual can be contacted only through Ascaya's counsel at:

Vedder Price P.C.
C/O Robert S. Rigg
222 N. LaSalle St.
Chicago, IL 60601
Phone: (312)-609-7766

The above individual may testify regarding the operation of Ascaya's business including the development of the Ascaya plan site, marketing, advertising and branding under the mark ASCAYA. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses.

- 4. Dan Heininger**, Executive Vice President, CTF Development, Inc. – This individual can be contacted only through Ascaya's counsel at:

Vedder Price P.C.
C/O Robert S. Rigg
222 N. LaSalle St.
Chicago, IL 60601
Phone: (312)-609-7766

The above individual may testify regarding the operation of Ascaya's business including the development and construction of the Ascaya site, marketing, advertising and branding under the mark ASCAYA. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses..

- 5. Pat Gaffney**, Executive Vice President, CTF Development, Inc. – This individual can be contacted only through Ascaya's counsel at:

Vedder Price P.C.
C/O Robert S. Rigg
222 N. LaSalle St.
Chicago, IL 60601
Phone: (312)-609-7766

The above individual may testify regarding the operation of Ascaya's business including the marketing, advertising and branding under the mark ASCAYA. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses.

6. Mike Kiggen, Senior Vice President – Design & Construction, CTF Development Inc. – This individual can be contacted only through Ascaya’s counsel at:

Vedder Price P.C.
C/O Robert S. Rigg
222 N. LaSalle St.
Chicago, IL 60601
Phone: (312)-609-7766

The above individual may testify regarding the operation of Ascaya’s business including the development and construction of the Ascaya site, the sales center and other improvements using the mark ASCAYA. The witness may have factual information about the underlying elements supporting Ascaya’s claims or defenses.

7. John Simmons, Project Director and Consultant of Ascaya Inc.’s affiliate, CTF Development, Inc. – This individual can be contacted only through Ascaya’s counsel at:

Vedder Price P.C.
C/O Robert S. Rigg
222 N. LaSalle St.
Chicago, IL 60601
Phone: (312)-609-7766

The above individual may testify regarding the development and construction of the Ascaya site in Henderson, Nevada. The witness may have factual information about the underlying elements supporting Ascaya’s claims or defenses.

8. Ivan Sher, Owner at Shapiro & Sher Group – This individual can be contacted at:

Shapiro & Sher Group
1215 S Fort Apache Rd
#210
Las Vegas, NV 89117

The above individual may testify regarding brokerage services provided in association with the sales and marketing of the

Ascaya project in Henderson, Nevada. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses.

9. Darin Marques, Shapiro & Sher Group – This individual can be contacted at:

Shapiro & Sher Group
1215 S Fort Apache Rd
#210
Las Vegas, NV 89117

The above individual may testify regarding brokerage services provided in association with the sales and marketing of the Ascaya project in Henderson, Nevada. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses.

10. Darren Bench, President at CVL Nevada, Inc. – This individual can be contacted at:

CVL Consultants Inc.
1409 Antienne Drive
Henderson, NV 89052

The above individual may testify regarding the development, design and construction of the Ascaya project. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses.

11. Raj Sinha, Chief Executive Officer, RedKite – This individual can be contacted at:

RedKite
Veluz Building
Aguinaldo Highway Dasmarinas Cavite
Philippines 4114

The above individual may testify regarding the process of designing and building the website for Ascaya. The witness may have factual information about the underlying elements supporting Ascaya's claims or defenses.

12. Current and Former Employees of Plaintiff– Current and former employees of Plaintiff may be called upon for testimony regarding Plaintiff’s use or non-use of its trademarks, Plaintiff’s business, marketing practices, the market for goods and services identified in Plaintiff’s trademark applications; Plaintiff’s corporate structure and related business information.

In addition, Defendant may utilize the services of one or more expert witnesses in support of its claims and defenses. Defendant will identify such experts at the time required by Fed. R. Civ. P. 26(a)(2) or at such other time as required under the Federal Rules of Civil Procedure. Investigation continues as to other individuals with knowledge of relevant facts. Discovery is ongoing and Ascaya reserves the right to supplement the foregoing response.

Rule 26(a)(1)(ii): a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment:

DOCUMENTS

Subject to, and without waiving, all appropriate objections, including based on the attorney-client privilege, attorney work-product doctrine and a third-party’s right of privacy, Ascaya identify the following categories of documents:

1. Documents associated Defendant’s federal trademark applications.
2. Documents reflecting Defendant’s services and goods.
3. Documents related to Defendant’s Marketing and Advertising Materials for Ascaya Site Plan.
4. Documents related to development and construction of the property for Ascaya.
5. Documents associated with Plaintiff’s federal trademark application.
6. Document reflecting Plaintiff’s services and goods.

Defendant reserves the right to amend this list upon identification of other documents and things through discovery or through development of issues.

Respectfully submitted,

ASCAYA, INC.

By: /Robert S. Rigg/

One of Its Attorneys

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T: +1 312 609 7500

Dated: March 22, 2017

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on May 22, 2017 the foregoing Initial Disclosure was caused to be served on the person(s) listed below via electronic mail and first class mail.

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/Robert S. Rigg/

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