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March 3, 2015

Delivery via email

Dennis Rose, Esq.
Hahn Loeser & Parks
200 Public Square, Suite 2800
Cleveland, OH 44114

RE: Arthur Dueck v. The Clifton Club Company
Cuyahoga County Probate Court No. 2012ADV179424
Our File No.: 1251-73512

Dear Dennis:

I am in receipt of two documents that have been circulated to the community in an effort to raise funds to convince the residents of the "value" of perpetuating the lawsuit against The Clifton Club, in contravention of the clear rights possessed by The Clifton Club under the four deeds purchased in 1912. It is one thing to raise funds from the community to perpetuate a lawsuit; it is quite another to use the community resources to provide false or misleading information in order to garner that support. I realize that you personally did not write the letter of February 20, 2015 in an effort to raise funds, but that letter, in conjunction with a Legal Update that was prepared by the Plaintiffs on February 18 (copies of both are enclosed) contain numerous misrepresentations that I feel the need to correct.

To suggest that the Club is not a property owner within the Clifton Park is a false representation of facts. The Club possesses four deeds, each of which grant The Clifton Club the right to use the property as a social club and each of which grants the Clifton Club use of the beach.

The Brief in Opposition to the Plaintiffs' Motion to Remove Trustees further demonstrates through precedent such as the United States Supreme Court and Bogart's on *The Law of Trusts and Estates*, that a corporation is a legal fiction and the property owned by the corporation is owned in equity for the benefit of its members. To suggest that the members do not have a legal right to use the beach and haven't been doing so since 1902 when the Club first leased space is a misrepresentation of the facts and the law. If the Plaintiffs want to be accurate in their reports to the community, then they would circulate all pleadings to the community, such as the Brief of Defendant, Clifton Park Trustees, in Opposition to Plaintiffs' Motion to Remove Trustees, which artfully explains the absurdity of Plaintiffs' position in both the removal and the general claims raised in Plaintiffs' Complaint. A copy of that Brief in Opposition is enclosed for your review.

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To suggest that the Club is engaged in legal tactics to delay proceedings is beyond the pale. I remind Plaintiffs that on July 20, 2013, August 12, 2013, October 6, 2014, and November 17, 2014, in each circumstance The Clifton Club has reached out to you to engage in mediation to see if this case and the issues raised by the Plaintiffs in terms of beach overcrowding could be resolved in an amicable fashion. The purpose of reaching out to you on behalf of the Plaintiffs to seek a mediated course was to preserve the cordiality and friendships that have long been established between the Clifton Park residents and the Club members. In each instance, I have been met with refusal, including a demand that all discovery be completed before mediation is even considered. To the same extent, even though I have requested a settlement demand from the Plaintiffs who have, in essence, demanded that the deeds to The Clifton Club be voided¹, no demand short of terminating the Club's rights have been suggested. Because I think the positions stated by the author of the Legal Update are so false in such a regard, I am enclosing herein for your review each of the letters we have sent to you seeking mediation and, in particular, our letter of October 6, 2014 where we detail again our demand for mediation and set forth the legal bases for why Plaintiffs cannot succeed in this litigation.

The Legal Update authored by Plaintiffs also clearly states, "The Plaintiffs are still awaiting the production of documents from both the Trustees and the Club and may need to turn to the Court for help as repeated requests appear to be ignored." The Clifton Club has turned over all documents responsive to your requests and we have not had a follow-up to any requests for additional documents related to the Interrogatories and Request for Production of Documents you have submitted. The Clifton Club, at great expense, made thousands upon thousands of pages of documents available for your clients' inspection and when requested, additional documentation was tracked down and provided. You have, on two occasions, asked for a privilege log even though we provided you a privilege log for the only documents that we have withheld. Another copy of that privilege log issued on January 6, 2014 is attached. I ask that your clients please retract the statement regarding the Club's failure to provide discovery. On the other hand, The Clifton Club has on multiple occasions asked the Plaintiffs to supply documents responsive to our Request for Production of Documents. While Ross Babbitt has recently responded that he would look further, we are concerned that the Plaintiffs are still withholding emails and other documents responsive to the Requests.

By copy of this letter to all attorneys of record with enclosures, I am asking for everyone who has an interest in this matter to respond as to whether now is the time to try to mediate a resolution.

¹ See the Wherefore clause of your Amended Complaint at P. 23 which states, "Wherefore, the Plaintiffs pray for judgment in their favor: Declaring that: c) that the provision of the Clifton Club Deed dated July 1, 1912 allowing use of Trust Property ... is null and void".

Very truly yours,

REMINGER CO., LPA

Adam M. Fried

cc:

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