

MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

LTC No. 266-2023

LETTER TO COMMISSION

TO: Mayor Dan Gelber and Members of the City Commission

FROM: Rafael A. Paz, City Attorney



DATE: June 9, 2023

SUBJECT: ***City Obtains Injunction in Nuisance Case Against Illegal "Party House"***
City of Miami Beach, Florida v. Stephen Kraus, et. al.
Case No. 23-17889 CA 09

On February 1, 2023, the Mayor and City Commission adopted Resolution No. 2023-32475, sponsored by Commissioner Alex Fernandez, endorsing the efforts of the City Attorney's Office and Administration to take proactive steps to file lawsuits, wherever appropriate, to enforce the City's quality-of-life ordinances, including its short-term rental and noise regulations, and protect residents from repeat offenders who create nuisances.

Yesterday, the City Attorney's Office filed a lawsuit and Emergency Motion for Temporary Injunction against the owner, owner's agent and tenant of 1776 Bay Drive, asserting that the property has been used and advertised as an illegal short-term rental and has become a nuisance "party house," with an egregious record of repeated violations of the City Code – approximately 45 code violations since 2022 – violations which were all brazenly ignored by the defendants, accruing hundreds of thousands of dollars in unpaid fines.

While parties raged on at the property, including a birthday celebration with a cake featuring the City's cease and desist notice on decorative frosting, the City's Code Compliance Department and City Attorney's Office were quietly amassing the documentary record necessary to establish that the property is a "public nuisance" and that a Court order was appropriate to enjoin any further unlawful conduct on the property.

Circuit Judge Pedro Echarte immediately granted the City an emergency hearing, scheduled for June 9, 2023. Upon review of the complaint and injunction motion, each of the defendants agreed to stipulate to a consent injunction that protects the City from any further nuisance conduct and provides for the payment of fines, the total amount of which will approximate \$389,000. A copy of the Court's order is attached hereto.

This matter was handled entirely in-house by members of the City Attorney's Office, including Rob Rosenwald, Henry Hunnefeld, and Freddi Mack, in close collaboration with the Administration, including the Code Compliance team (Hernan Cardeno, Tom Curitore, and Silvia Escobar) and the Miami Beach Police Department.

Thanks to the Mayor and City Commission's advance authorization to file this lawsuit, the residents in the neighborhood will finally be able to enjoy the peace and quiet they deserve.

RAP/ag

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2023-017889-CA-01

SECTION: CA09

JUDGE: Pedro P Echarte Jr.

CITY OF MIAMI BEACH

Plaintiff(s)

vs.

STEPHEN KRAUS et al

Defendant(s)

ORDER ON STIPULATIONS TO ENTRY OF CONSENT DECREES

THIS CAUSE came before the Court on the parties' Stipulations to Entry of Consent Decrees (Filing # 174963752 and Filing # 174963324, e-filed 06/09/2023).

THE COURT hereby enters the attached Consent Decrees as an Order of the Court and reserves jurisdiction to enforce the same.

DONE and ORDERED in Chambers at Miami-Dade County, Florida on this 9th day of June, 2023.

2023-017889-CA-01 06-09-2023 9:16 AM

2023-017889-CA-01 06-09-2023 9:16 AM

Hon. Pedro P Echarte Jr.

CIRCUIT COURT JUDGE

Electronically Signed

Final Order as to All Parties SRS #: 12 (Other)

THE COURT DISMISSES THIS CASE AGAINST ANY PARTY NOT LISTED IN THIS FINAL ORDER OR PREVIOUS ORDER(S). THIS CASE IS CLOSED AS TO ALL PARTIES.

Electronically Served:

Freddi Rebecca Mack, freddimack@miamibeachfl.gov

Freddi Rebecca Mack, sandraperez@miamibeachfl.gov
Freddi Rebecca Mack, merarimotola@miamibeachfl.gov
Freddi Rebecca Mack, freddimack@miamibeachfl.gov
Freddi Rebecca Mack, merarimotola@miamibeachfl.gov
Freddi Rebecca Mack, sandraperez@miamibeachfl.gov
Gemma Torcivia, gemma@knightlawfl.com
Gemma Torcivia, gtorcivia@tgjustice.com
Henry J Hunnefeld, henryhunnefeld@miamibeachfl.gov
Henry J Hunnefeld, sandraperez@miamibeachfl.gov
Henry J Hunnefeld, merarimotola@miamibeachfl.gov
Jeremy Knight Knight, yirmi@knightlawfl.com
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Jeremy Knight Knight, yirmi@knightlawfl.com
Philippe Revah, phil@elrolaw.com
Philippe Revah, eservice@elrolaw.com
Robert F. Rosenwald Jr., robertrosenwald@miamibeachfl.gov
Robert F. Rosenwald Jr., miriammerino@miamibeachfl.gov
Robert F. Rosenwald Jr., robertrosenwald@aim.com
Steven H. Rothstein, stevenrothstein@miamibeachfl.gov

Physically Served:

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CITY OF MIAMI BEACH,
FLORIDA, a Florida municipal
corporation,

GENERAL JURISDICTION DIVISION

CASE NO. 2023-017889-CA-01

Plaintiff,

v.

STEPHEN KRAUS; THE NIGHTFALL GROUP,
LLC, a foreign limited liability company;
and SCOTT WEISSMAN,

Defendants.

STIPULATION TO ENTRY OF CONSENT DECREE

Plaintiff, the City of Miami Beach, Florida (the "City"), Defendant Stephen Kraus ("Landlord"), and Defendant Scott Weissman ("Tenant") (collectively, the "Parties") hereby notify the Court that they have mutually agreed to resolve this matter in its entirety through stipulation to entry of the attached Consent Decree. The Parties respectfully request that, pursuant to their stipulation, the Court enter the attached Consent Decree as an Order of the Court and reserve jurisdiction to enforce the same.

DATED this 9th day of June, 2023.

[remainder of page intentionally left blank]

Respectfully submitted,

<p>RAFAEL A. PAZ, CITY ATTORNEY City of Miami Beach Office of the City Attorney 1700 Convention Center Drive, 4th Floor Miami Beach, Florida 33139 Tel. (305) 673-7470 Fax (305) 673-7002</p> <p>BY: <u>Robert F. Rosenwald, Jr.</u> Robert F. Rosenwald, Jr. Chief Deputy City Attorney Florida Bar No. 0190039 robertrosenwald@miamibeachfl.gov Henry J. Hunnefeld First Assistant City Attorney Florida Bar No. 343811 henryhunnefeld@miamibeachfl.gov Freddi R. Mack Senior Assistant City Attorney Florida Bar No. 111623 freddimack@miamibeachfl.gov <i>Counsel for Plaintiff</i></p>	<p>KNIGHT LAW, P.A. 4624 Hollywood Blvd., Suite 203 Hollywood, FL 33020 Telephone: 786.480.0045</p> <p>BY: <u>Gemma Torcivia</u> Jeremy I. Knight Florida Bar No. 1009132 Yirmi@KnightLawFL.com Gemma Torcivia Florida Bar No. 1009366 Gemma@KnightLawFL.com <i>Counsel for Tenant</i></p>
<p>BERCOW RADELL FERNANDEZ LARKIN & TAPANES, PLLC 200 S. Biscayne Blvd., Ste. 300 Miami, Florida 33131 Phone: (305) 374-5300 Fax: (305) 377-6222</p> <p>BY: <u>Michael (Mickey) Marrero</u> Michael (Mickey) Marrero Florida Bar No. 561851 mmarrero@brzoninglaw.com <i>Counsel for Landlord</i></p>	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of June, 2023, I electronically filed the foregoing document with the Clerk of the Court using the E-Filing Portal. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties that have registered with the Florida Courts E-Filing Portal.

By: /s/Freddi R. Mack
Freddi R. Mack

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CITY OF MIAMI BEACH,
FLORIDA, a Florida municipal
corporation,

GENERAL JURISDICTION DIVISION

CASE NO. 2023-017889-CA-01

Plaintiff,

v.

STEPHEN KRAUS; THE NIGHTFALL GROUP,
LLC, a foreign limited liability company;
and SCOTT WEISSMAN,

Defendants.

CONSENT DECREE

THIS CONSENT DECREE resolves the above-captioned civil action (the "Lawsuit") brought by the Plaintiff, the City of Miami Beach, Florida (the "City"), against the Defendants, Stephen Kraus ("Landlord"), The Nightfall Group, LLC ("Agent"), and Scott Weissman ("Tenant") (collectively, "Defendants") (together with the City, the "Parties"), under Sections 823.05 and 60.05 of the Florida Statutes and Sections 46-160 and 142-905(b)(5)(a)(2) of the City of Miami Beach, Florida's Code of Ordinances¹ ("City Code"). This Consent Decree further resolves all outstanding City fines due and owing by, and liens against, the Defendants.

Factual Background

1. On June 8, 2023, the City filed its Verified Complaint to Abate Nuisance and for Temporary and Permanent Injunction ("Complaint"), together with a Verified Emergency Motion for Temporary Injunction (the "Motion") and a Notice of Supplemental Evidence, all seeking to enjoin to the Defendants, individually and collectively, from

¹ Available at: https://library.municode.com/fl/miami_beach.

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maintaining a public nuisance on the property located at 1776 Bay Drive, Miami Beach, Florida (the "Subject Property"). The following facts are established by the verified statements in the Complaint, the Motion and the accompanying exhibits, and the supplemental evidence.

2. Landlord is the record title owner of the Subject Property. He purchased the Subject Property on September 11, 2020 for \$6.5 million.

3. Agent is a foreign limited liability company authorized to conduct business in Florida. At times material to this Lawsuit, Agent has advertised the Subject Property for short-term rental use, in violation of the City Code.

4. Tenant has leased and resided on the Subject Property since approximately November 15, 2022, with a total rent of \$616,000.00. That averages to roughly \$84,000.00 per month.

5. The Subject Property is located in the single-family residential neighborhood, zoning district RS-4. Residents of this neighborhood are entitled to the quality-of-life protections afforded under the City Code.

6. Despite the single-family residential character of the RS-4 district, Tenant has been using the Subject Property as a "party house," causing frequent and reoccurring disturbances to neighbors. Landlord has not taken any material action to cease Tenant's disruptive parties.

7. Prior to the Tenant taking possession of the Subject Property, Landlord repeatedly rented or offered to rent the Subject Property (also referred to as "Villa Bay," "The Bay Villa," or "Villa Valena" in rental advertisements) for short-term rental use, in violation of the City Code. See City Code § 142-905(b)(5). While Tenant's current seven-

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month lease term narrowly escapes characterization as a “short-term rental”—which is a rental term of less than six months and one day, *see id.*—the City reasonably believes that Landlord (including by and through Agent) intends to continue leasing the Subject Property for short-term rental and/or to a tenant (whether Tenant or some other person(s)) who may use the Property for nuisance purposes.

8. Since February 8, 2022 alone, Landlord and/or Tenant have been cited with at least **forty-five (45) violations**, total, of the City Code based on activities at the Subject Property and have incurred substantial fines in connection with many of these violations. For example, on September 30, 2022, Special Magistrate Enrique Zamora imposed a fine totaling **\$235,000.00**, arising from multiple violations of the City Code's prohibition on using the Subject Property for short-term rentals. See City Code § 142-905(b)(5). Interest on this unpaid fine continues to accrue on a daily basis. In addition, there remains approximately **\$290,500.00** in City Invoices (i.e., fines imposed by Code Enforcement which were not subject to an adjudication by the Special Magistrate) due and owing on the Subject Property, for issues ranging from repeated noise violations to improper commercial use of the Subject Property, and more.

9. Despite there being **hundreds of thousands of dollars** due and owing to the City, and with interest accruing, the substantial fines imposed by Code Enforcement and the Special Magistrate have not been an adequate deterrent to stop violations of the City Code.

10. A breakdown of the recent history of City Code violations at the Subject Property, with reference to specific violation numbers, is detailed in the Complaint and the Motion and is incorporated by reference as if set forth fully herein.

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11. The Parties agree that it is in their best interest, and the City believes that it is in the public interest, to resolve this Lawsuit on mutually agreeable terms. Accordingly, the Parties agree to the entry of this Consent Decree without trial or further adjudication of any issues of fact or law raised in the City's Complaint in this Lawsuit.

Injunctive Relief

Based on the foregoing, the Parties stipulate, and the Court hereby **ORDERS AND ADJUDGES**, as follows:

1. Defendants Stephen Kraus and Scott Weissman ARE ENJOINED and shall IMMEDIATELY CEASE AND DESIST the conduct, operation or maintenance of the Subject Property whereby any person on the Property would make, continue or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise in violation of City Code § 46-152, including but not limited to unreasonably loud amplified music (whether or not associated with a party).
2. Defendants Stephen Kraus and Scott Weissman ARE ENJOINED and shall IMMEDIATELY CEASE AND DESIST the conduct, operation or maintenance of the Subject Property whereby any person on the Subject Property would use the Subject Property for commercial purposes in violation of City Code § 142-109, including but not limited to advertising or selling tickets for admission to any commercial parties, events, assemblies, or gatherings on the Subject Property.
3. Defendants Stephen Kraus, individually or by and through any and all agents, including but not limited to Defendant The Nightfall Group, LLC, IS ENJOINED and shall IMMEDIATELY CEASE AND DESIST the use or advertising for use of the

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Subject Property as a short-term rental in violation of the City Code § 142-905(b)(5).

4. Defendant Stephen Kraus SHALL REMOVE OR CAUSE TO BE REMOVED, from any and all webpages, media, or published materials over which he or anyone acting at his direction (e.g., agents) has control, any postings for the Subject Property for rental of the Subject Property for any period of less than six months and one day.
5. Defendant Scott Weissman SHALL VACATE the Subject Property on or before June 15, 2023, and SHALL NOT thereafter reside at or rent (at any time in the future) or visit (for a period of three years from entry of this Consent Decree) the Subject Property.
6. Defendant Stephen Kraus SHALL NOT permit Defendant Scott Weissman to reside at or rent the Subject Property at any time in the future.
7. Defendant Scott Weissman SHALL NOT host, advertise, or otherwise allow any parties on the Subject Property prior to vacating the same on or before June 15, 2023.
8. Defendant Scott Weissman SHALL NOT advertise for use or permit the use of the Subject Property as a short-term rental prior to vacating the same on or before June 15, 2023.
9. Defendant Stephen Kraus will vet, in a manner to be approved by the City, prospective tenants for the Subject Property to confirm that such tenants do not intend to use or advertise for use the Subject Property for short-term rental use or to hold or permit to occur other nuisance events.

10. Defendant Scott Weissman SHALL NOT hold any possessory or ownership interest in any property within the City's territorial jurisdiction for a period of one year from entry of this Consent Decree.
11. Defendant Scott Weissman SHALL NOT host any commercial parties or events at any residential property within the City's territorial jurisdiction for a period of three years from entry of this Consent Decree.
12. Defendant Stephen Kraus's fines due and owing to the City SHALL BE in the amount of \$387,650. Payment in full must be received by the City within 30 days of entry of this Consent Decree. Upon receipt, the City SHALL RELEASE all claims of lien against Stephen Kraus.
13. Defendant Scott Weissman's fines due and owing to the City SHALL BE in the amount of \$66,375. Payment in full must be received by the City within 30 days of entry of this Consent Decree. Upon receipt, the City SHALL RELEASE all claims of lien against Scott Weissman.
14. Defendant Scott Weissman SHALL accept service of any documents from the City of Miami Beach via email to scottweissman@gmail.com, copy to Yirmi Knight at yirmi@knightlawfl.com, in lieu of personal service, for a period of three years from entry of this Consent Decree.
15. The City may file a motion to enforce this Consent Decree if it believes that the Consent Decree, or any requirement thereof, has been violated, provided that it first gives notice of such a violation to the relevant Defendant(s). The Defendant(s) must respond to such notice as soon as practicable but no later than 14 calendar days thereafter. Unless otherwise specified in this Decree, the Defendant(s) shall

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produce any requested documents or make them available for inspection or copying within 30 days of a written request by the City. The Parties shall attempt in good faith to resolve any dispute relating thereto; if the Parties are unable to reach a mutually acceptable resolution, the City may seek court enforcement of compliance with this Consent Decree. Nothing in this procedure shall prevent the City or any Defendant from promptly bringing an issue before the Court when, in the moving Party's view, the facts and circumstances require immediate court attention.

16. Within 45 days after entry of the Consent Decree, the City will dismiss the Lawsuit with prejudice. The City hereby waives and releases the Defendants from any claims that were or could have been brought in the Lawsuit or that otherwise accrued prior to the entry of this Consent Decree. Nothing in this Consent Decree limits or restricts future Code enforcement efforts by the City in relation to the Subject Property or the Defendants.
17. Nothing in this Consent Decree discharges, limits, or restricts any causes of action any Defendant(s) may have against any other Defendant(s).
18. The City shall cause a certified copy of this Consent Decree to be recorded in the public records of Miami-Dade County, which shall constitute notice to and be binding upon any subsequent purchasers, lessees, successors in interest, or assigns of the Defendants or the Subject Property.
19. Each of the Parties to this Consent Decree will bear its own costs and attorney's fees associated with this Lawsuit and Consent Decree.

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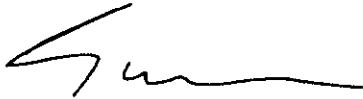
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The signatories represent that they have the authority to bind the respective Parties identified below to the terms of this Consent Decree.

Dated: 6/8/2023
_____, 2023

DocuSigned by:
Stephen Kraus
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STEPHEN KRAUS



SCOTT WEISSMAN

DocuSigned by:
ROBERT ROSENWALD
F0701C75C7004FE

FOR THE CITY OF MIAMI BEACH

Print Name: *Robert Rosenwald*

Title: *Chief Deputy City Attorney*

DONE AND ORDERED in Chambers in Miami-Dade, Florida, this ___ day of _____, 2023.

CIRCUIT COURT JUDGE

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CITY OF MIAMI BEACH,
FLORIDA, a Florida municipal
corporation,

GENERAL JURISDICTION DIVISION

CASE NO. 2023-017889-CA-01

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v.

STEPHEN KRAUS; THE NIGHTFALL GROUP,
LLC, a foreign limited liability company;
and SCOTT WEISSMAN,

Defendants.

STIPULATION TO ENTRY OF CONSENT DECREE

Plaintiff, the City of Miami Beach, Florida (the "City") and Defendant The Nightfall Group, LLC a/k/a Ultimate Host LLC (collectively, the "Parties") hereby notify the Court that they have mutually agreed to resolve this matter in its entirety through stipulation to entry of the attached Consent Decree. The Parties respectfully request that, pursuant to their stipulation, the Court enter the attached Consent Decree as an Order of the Court and reserve jurisdiction to enforce the same.

DATED this 9th day of June, 2023.

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Respectfully submitted,

<p>RAFAEL A. PAZ, CITY ATTORNEY City of Miami Beach Office of the City Attorney 1700 Convention Center Drive, 4th Floor Miami Beach, Florida 33139 Tel. (305) 673-7470 Fax (305) 673-7002</p> <p>BY: <u>Robert F. Rosenwald, Jr.</u> Robert F. Rosenwald, Jr. Chief Deputy City Attorney Florida Bar No. 0190039 robertrosenwald@miamibeachfl.gov Henry J. Hunnefeld First Assistant City Attorney Florida Bar No. 343811 henryhunnefeld@miamibeachfl.gov Freddi R. Mack Senior Assistant City Attorney Florida Bar No. 111623 freddimack@miamibeachfl.gov <i>Counsel for Plaintiff</i></p>	<p>EDELBOIM LIEBERMAN REVAH PLLC 3131 NE 188th St. #1-902 Miami, Florida 33180 Telephone: 305-768-9909 Fax: 305-928-1114</p> <p>BY: <u>Philippe Revah</u> Philippe Revah Florida Bar No. 118393 phil@elrolaw.com <i>Counsel for The Nightfall Group, LLC a/k/a Ultimate Host LLC</i></p>
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of June, 2023, I electronically filed the foregoing document with the Clerk of the Court using the E-Filing Portal. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties that have registered with the Florida Courts E-Filing Portal.

By: /s/Freddi R. Mack
Freddi R. Mack

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CITY OF MIAMI BEACH,
FLORIDA, a Florida municipal
corporation,

GENERAL JURISDICTION DIVISION

CASE NO. 2023-017889-CA-01

Plaintiff,

v.

STEPHEN KRAUS; THE NIGHTFALL GROUP,
LLC, a foreign limited liability company;
and SCOTT WEISSMAN,

Defendants.

**CONSENT DECREE BETWEEN CITY OF MIAMI BEACH AND
THE NIGHTFALL GROUP, LLC A/K/A ULTIMATE HOST LLC**

THIS CONSENT DECREE resolves the above-captioned civil action (the "Lawsuit") brought by the Plaintiff, the City of Miami Beach, Florida (the "City"), against Defendant, The Nightfall Group, LLC a/k/a Ultimate Host LLC ("Agent" or "The Nightfall Group") (together with the City, the "Parties"), under Sections 823.05 and 60.05 of the Florida Statutes and Sections 46-160 and 142-905(b)(5)(a)(2) of the City of Miami Beach, Florida's Code of Ordinances¹ ("City Code"). This Consent Decree further resolves all outstanding City fines due and owing by, and liens against, Agent.

Factual Background

1. On June 8, 2023, the City filed its Verified Complaint to Abate Nuisance and for Temporary and Permanent Injunction ("Complaint"), together with a Verified Emergency Motion for Temporary Injunction (the "Motion") and a Notice of Supplemental Evidence, all seeking to enjoin the Defendants (as defined in the Complaint), individually

¹ Available at: https://library.municode.com/fl/miami_beach.

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and collectively, from maintaining a public nuisance on the property located at 1776 Bay Drive, Miami Beach, Florida (the "Subject Property"). The following facts are established by the verified statements in the Complaint, the Motion and the accompanying exhibits, and the supplemental evidence.

2. Landlord is the record title owner of the Subject Property. He purchased the Subject Property on September 11, 2020 for \$6.5 million.

3. Agent is a foreign limited liability company authorized to conduct business in Florida. At certain times material to this Lawsuit, Agent has advertised the Subject Property for short-term rental use, in violation of the City Code.

4. Tenant has leased and resided on the Subject Property since approximately November 15, 2022, with a total rent of \$616,000.00. That averages to roughly \$84,000.00 per month.

5. The Subject Property is located in the single-family residential neighborhood, zoning district RS-4. Residents of this neighborhood are entitled to the quality-of-life protections afforded under the City Code.

6. Despite the single-family residential character of the RS-4 district, Tenant has been using the Subject Property as a "party house," causing frequent and reoccurring disturbances to neighbors. Landlord has not taken any material action to cease Tenant's disruptive parties.

7. Prior to the Tenant taking possession of the Subject Property, Landlord repeatedly rented or offered to rent the Subject Property (also referred to as "Villa Bay," "The Bay Villa," or "Villa Valena" in rental advertisements) for short-term rental use, in violation of the City Code. See City Code § 142-905(b)(5). While Tenant's current seven-

month lease term narrowly escapes characterization as a “short-term rental”—which is a rental term of less than six months and one day, see *id.*—the City reasonably believes that Landlord intends to continue leasing the Subject Property for short-term rental and/or to a tenant (whether Tenant or some other person(s)) who may use the Property for nuisance purposes.

8. Since February 8, 2022 alone, Landlord and/or Tenant have been cited with at least **forty-five (45) violations**, total, of the City Code based on activities at the Subject Property and have incurred substantial fines in connection with many of these violations. For example, on September 30, 2022, Special Magistrate Enrique Zamora imposed a fine totaling **\$235,000.00**, arising from multiple violations of the City Code’s prohibition on using the Subject Property for short-term rentals. See City Code § 142-905(b)(5). Interest on this unpaid fine continues to accrue on a daily basis. In addition, there remains approximately **\$290,500.00** in City Invoices (i.e., fines imposed by Code Enforcement which were not subject to an adjudication by the Special Magistrate) due and owing on the Subject Property, for issues ranging from repeated noise violations to improper commercial use of the Subject Property, and more.

9. Despite there being **hundreds of thousands of dollars** due and owing to the City, and with interest accruing, the substantial fines imposed by Code Enforcement and the Special Magistrate have not been an adequate deterrent to stop violations of the City Code.

10. A breakdown of the recent history of City Code violations at the Subject Property, with reference to specific violation numbers, is detailed in the Complaint and the Motion and is incorporated by reference as if set forth fully herein.

11. The Parties agree that it is in their best interest, and the City believes that it is in the public interest, to resolve this Lawsuit on mutually agreeable terms. Accordingly, the Parties agree to the entry of this Consent Decree without trial or further adjudication of any issues of fact or law raised in the City's Complaint in this Lawsuit.

12. The Parties agree that entering into this Consent Decree is not an admission of wrongdoing or fault and shall have no preclusive effect beyond what is set forth herein.

Injunctive Relief

Based on the foregoing, the Parties stipulate, and the Court hereby **ORDERS AND ADJUDGES**, as follows:

1. Defendant The Nightfall Group IS ENJOINED and shall NOT use or advertise for use of the Subject Property as a short-term rental in violation of the City Code § 142-905(b)(5). The Nightfall Group SHALL REMOVE OR CAUSE TO BE REMOVED, from any and all webpages, media, or published materials over which it or anyone acting at its direction has control, any postings for the Subject Property for rental of the Subject Property for any period of less than six months and one day, if any such postings presently exist.
2. Defendant The Nightfall Group's fines due and owing to the City SHALL BE in the amount of \$250. Payment in full must be received by the City within 30 days of entry of this Consent Decree. Upon receipt, the City SHALL RELEASE all claims of lien against The Nightfall Group.
3. The City may file a motion to enforce this Consent Decree if it believes that the Consent Decree, or any requirement thereof, has been violated, provided that it

first gives notice of such a violation to the relevant Defendant(s). The Defendant(s) must respond to such notice as soon as practicable but no later than 14 calendar days thereafter. Unless otherwise specified in this Decree, the Defendant(s) shall produce any requested documents or make them available for inspection or copying within 30 days of a written request by the City. The Parties shall attempt in good faith to resolve any dispute relating thereto; if the Parties are unable to reach a mutually acceptable resolution, the City may seek court enforcement of compliance with this Consent Decree. Nothing in this procedure shall prevent the City or any Defendant from promptly bringing an issue before the Court when, in the moving Party's view, the facts and circumstances require immediate court attention.


4. Within 45 days after entry of the Consent Decree, the City will dismiss the Lawsuit with prejudice as to Defendant The Nightfall Group. The City hereby waives and releases Defendant The Nightfall Group from any claims that were or could have been brought in the Lawsuit or that otherwise accrued prior to the entry of this Consent Decree. Nothing in this Consent Decree limits or restricts future Code enforcement efforts by the City in relation to the Subject Property or the Defendants.
5. Nothing in this Consent Decree discharges, limits, or restricts any causes of action any Defendant(s) may have against any other Defendant(s).
6. The City shall cause a certified copy of this Consent Decree to be recorded in the public records of Miami-Dade County, which shall constitute notice to and be

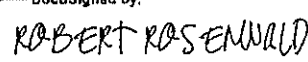
binding upon any subsequent purchasers, lessees, successors in interest, or assigns of the Defendants or the Subject Property.

- 7. Each of the Parties to this Consent Decree will bear its own costs and attorney's fees associated with this Lawsuit and Consent Decree.

The signatories represent that they have the authority to bind the respective Parties identified below to the terms of this Consent Decree.

Dated: 6/8/2023, 2023

DocuSigned by:

 F9791C75C70D4FE
 FOR THE NIGHTFALL GROUP, LLC
 Print Name: Mokhtar Jabli
 Title: CEO

DocuSigned by:

 F9791C75C70D4FE
 FOR THE CITY OF MIAMI BEACH
 Print Name: Robert Rosenwald
 Title: Chief Deputy City Attorney

DONE AND ORDERED in Chambers in Miami-Dade, Florida, this ___ day of _____, 2023.

CIRCUIT COURT JUDGE