

CITY OF CORAL GABLES

OFFICE OF THE CITY ATTORNEY

- MEMORANDUM -

TO: **CITY COMMISSION**

DATE: **September 2, 2008**

FROM:


Elizabeth M. Hernandez
City Attorney

SUBJECT: **Domain Name**

The City of Coral Gables claims ownership of all rights to the name "Venetian Pool." On November 4, 1998, Robert Burr, through his company, Quantum Leap Network Incorporated, registered the domain name venetianpool.com and set up a website at that address with information concerning the Venetian Pool. The Website included the City's Seal, without the City's authorization.

The City addressed this matter with Mr. Burr several years ago, and in December 2004, an agreement was reached between the City, Quantum Leap and Mr. Burr, under which Mr. Burr agreed to transfer the domain name to the City while the City agreed to license to Mr. Burr the use of the domain name. Mr. Burr further agreed to continue to maintain and service the Venetian Pool website in return for the right to hold one event each year at the Venetian Pool facility. A copy of the agreement is attached.

Despite repeated requests, Mr. Burr has failed and refused to satisfy his obligation under the terms of the agreement to transfer the domain name to the City. The agreement specifically provided that the license granted by the City is "in consideration of the transfer of the domain name by Quantum Leap to the City and of the continued maintenance of the website www.venetianpool.com by Quantum Leap." The provision continues, "As of the Effective Date, Quantum Leap will take all necessary action to transfer the domain name www.venetianpool.com from 'Coral Gables Venetian Pool' to the 'City of Coral Gables.'"

In response to our demands for transfer of the domain name to the City, Mr. Burr has stated that he did not intend to agree to transfer the domain name "for free" and has asked that the City make him an offer of payment for the domain name. This, of course, is contrary to the specific agreement Mr. Burr made in 2004.

Mr. Burr has also claimed that the City breached the agreement by duplicating some of his proprietary material. The agreement provides that "[a]ll photographs and graphics displayed on the website www.venetianpool.com shall remain the property of Quantum Leap Network." The agreement also provides, however, that "Quantum Leap Network hereby grants the City a license to use such photographs and graphics, during the course of this contract."

Finally, Mr. Burr claims that he never received a copy of the "final agreement." Without questioning whether Mr. Burr received a copy of the agreement when he signed it, we have provided him with a copy.

Because in impasse has been reached in our attempts to obtain Mr. Burr's compliance with his agreement, it is necessary to take legal action in order to secure for the City the ownership of the domain name www.venetianpool.com.

Although there are administrative procedures for the resolution of domain name disputes, because an existing agreement between the parties needs to be enforced, it may be necessary to file a court action to obtain a judgment enforcing the transfer provision of the agreement. The agreement contains an indemnification provision that may permit the City to recover attorneys fees, costs and expensed from Mr. Burr and his company.

Should you have any questions or concerns, please do not hesitate to contact our office.

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Encls.