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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re: NORTHWEST SENIOR HOUSING CORPORATION, *et al*.[1] Debtors.	Chapter 11 Case No. 22-30659 (MVL)
Leif M. Clark, Trustee of the Edgemere Litigation Trust Plaintiff, v Intercity Investment Properties, Inc., and Kong Capital LLC, Defendants.	Adv. Pro. No. 22-03040 (MVL)

DEFENDANTS' MOTION TO COMPEL PLAINTIFF TO RESPOND TO SECOND SET OF DISCOVERY REQUESTS

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

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Come now Defendants Intercity Investment Properties, Inc. ("ICI") and Kong Capital LLC ("Kong" and, with ICI, the "Defendants") and respectfully state as follows as and for their *Motion to Compel Plaintiff to Respond to Second Set of Discovery Requests*, pursuant to Fed. R. Civ. P. 45.

1. The Defendants bring this Motion for entry of an order compelling the Plaintiff to comply with his discovery obligations with respect to the Defendants' Second Set of Written Discovery (the "Requests"), served on the Plaintiff on December 22, 2023. The Plaintiff served responses to the Requests (the "Responses") that are incomplete or otherwise deficient, and the Defendants request that the Plaintiff be compelled to amend or otherwise supplement the Responses as follows:

a. **Interrogatory Responses**. The Responses fail to provide any responses to the interrogatory requests (the "Interrogatories") served on the Plaintiff as part of the Discovery Requests. The Plaintiff's objection that the Defendants have exceeded the 25-request limit under Rule 33 of the Federal Rules of Civil Procedure is false, and the Defendants request that the Plaintiff be compelled to actually respond to these requests. Additionally, the Plaintiff's unfounded objection to each Interrogatory that he lacks personal knowledge relating to the substance of the Interrogatories should be overruled, and the Plaintiff should be compelled to conduct a reasonable inquiry into the information and documentation responsive to the Interrogatories.

b. **Requests for Admission Responses**. The Responses also fail to provide compliant answers in response to the Defendants' requests for admission (each an "RFA") served as part of the Discovery Requests. The Defendants request that the Plaintiff be compelled to amend or otherwise supplement the RFAs to (a) provide actual responses to RFA Nos. 3, 10, 13, 17, 18, 20, 24, 25, 28, 29, 40, 41, 46, 48, 50, 52, 53, 58, 59, and 60, where the Plaintiff has failed to conduct a reasonable inquiry into the information and documentation responsive to those RFAs; and (b) provide actual responses to RFA Nos. 4, 5, 6, 7, 8, 9, 12, 14, 16, 17, 18, 19, 21, 22, 23, 26, 29, 31, 33, 36, 37, 38, 40, 41, 42, 45, 46, 47, 48, 49, 50, 54, 55, and 56, where the Plaintiff has failed to respond to the substance of these RFAs, objecting on the illegitimate basis that the documents referenced in these RFAs "speak for themselves."

2. The Defendants also seek reimbursement of their attorneys' fees and costs incurred in connection with this Motion under Federal Rule of Civil Procedure 37(a)(5)(A).

3. The bases for the relief requested in this Motion are more fully explained in the accompanying supporting memorandum, which is incorporated here by reference.

4. Defendants reserve their rights to seek further relief.

WHEREFORE, Defendants Intercity Investments, Inc. and Kong Capital LLC request that the Court enter an order compelling the Plaintiff to comply with his discovery obligations as set forth above and in the accompanying memorandum in support of this Motion, and that the Court enter any other, further relief it deems just and appropriate under the circumstances.

Dallas, Texas
February 16, 2024

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Counsel for Defendants

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that counsel for Defendants conferred with the non-moving party as follows:

Plaintiff – by telephone call between Ryan Hardy (for Defendants) and Greg Taylor, Drew Jones, and Mark Sales (for Plaintiff) on February 16, 2024.

The parties reached an impasse following a diligent effort to reach a solution.

/s/ Ryan C. Hardy

CERTIFICATE OF SERVICE

I certify that on this 16th day of February, 2024, a copy of the foregoing was filed electronically with the Clerk of Court via ECF, which caused a copy of same to be transmitted to all counsel of record. In addition, on that same date, I caused a copy of the foregoing to be sent by U.S. Mail, first-class postage pre-paid as follows:

/s/ Ryan C. Hardy

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re: NORTHWEST SENIOR HOUSING CORPORATION, *et al*.[2] Debtors.	Chapter 11 Case No. 22-30659 (MVL)
Leif M. Clark, Trustee of the Edgemere Litigation Trust Plaintiff, v Intercity Investment Properties, Inc., and Kong Capital LLC, Defendants.	Adv. Pro. No. 22-03040 (MVL)

ORDER GRANTING DEFENDANTS' MOTION TO COMPEL PLAINTIFF TO RESPOND TO SECOND SET OF DISCOVERY REQUESTS

CAME ON FOR CONSIDERATION Defendants Intercity Investment Properties, Inc. and Kong Capital LLC's (collectively, "Defendants") Motion to Compel Plaintiff to Respond to

[2] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

Second Set of Discovery Requests (the "Motion"). The Court, having reviewed the pleadings on file and having considered the Motion, any related response, and any related reply, is of the opinion that the Motion should be granted.

IT IS THEREFORE ORDERED that the Motion is granted as follows:

Within ten (10) days of the date of this Order, the Plaintiff must conduct a reasonable investigation and inquiry regarding the information and documents responsive to the Discovery Requests, and produce amended, substantive responses to (a) each and every Interrogatory served by the Defendants in their Second Set of Written Discovery; (b) RFA Nos. 3, 10, 13, 17, 18, 20, 24, 25, 28, 29, 40, 41, 46, 48, 50, 52, 53, 58, 59, and 60; and (c) RFA Nos. 4, 5, 6, 7, 8, 9, 12, 14, 16, 17, 18, 19, 21, 22, 23, 26, 29, 31, 33, 36, 37, 38, 40, 41, 42, 45, 46, 47, 48, 49, 50, 54, 55, and 56.

Any and all objections to the Interrogatories based on the number of requests served by the Defendants are overruled.

Any and all objections made by the Plaintiff asserting that he lacks personal knowledge regarding the matters covered by such Discovery Request are overruled, and the Plaintiff is directed to undertake a reasonable investigation and inquiry regarding the information and documents responsive to the Discovery Requests.

Any and all objections or responses made by the Plaintiff that a document or communication "speaks for itself," are overruled, and the Plaintiff is directed to undertake a reasonable investigation and inquiry regarding the information and documents responsive to the Discovery Requests.

The Defendants are entitled to an award of their reasonable costs and attorneys' fees incurred in connection with bringing the Motion. The Defendants are instructed to submit supporting documentation of same within fourteen (14) days of the date of this Order.

END OF ORDER # #