

1 Michael D. Adams (SBN 185835)
madams@rutan.com
2 Zack Broslavsky (SBN 241736)
zbroslavsky@rutan.com
3 RUTAN & TUCKER, LLP
611 Anton Boulevard, Fourteenth Floor
4 Costa Mesa, California 92626-1931
Telephone: 714-641-5100
5 Facsimile: 714-546-9035

6 Attorneys for Plaintiff
AMERICAN AUTOMOBILE ASSOCIATION,
7 INC.

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10 FRESNO DIVISION

11 AMERICAN AUTOMOBILE
ASSOCIATION, INC., a Connecticut
12 corporation,

13 Plaintiff,

14 vs.

15 K.C.M. BHAKTA MOTEL
CORPORATION, a Wisconsin
16 Corporation, THUNDERBIRD MOTEL,
an entity of unknown form, MAHESH
17 KUMAR R. BHAKTA, an individual
doing business as K.C.M. BHAKTA
18 MOTEL CORPORATION, and DOES 1
through 10, Inclusive

19 Defendants.
20
21
22

CASE NO. 1:11-CV-01356-LJO
HON. SANDRA M. SNYDER

**STIPULATED INJUNCTION AND
ORDER GRANTING STIPULATED
INJUNCTION**

23 COMPLAINT FILED: 8/12/2011
24 TRIAL DATE: N/A
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Stipulation is entered into by and between plaintiff AMERICAN AUTOMOBILE ASSOCIATION, INC. (“AAA”) and defendants K.C.M. BHAKTA MOTEL CORPORATION, a Nevada Corporation, THUNDERBIRD MOTEL, an entity of unknown form, and MAHESH KUMAR K. BHAKTA (sued herein as MAHESHKUMAR R. BHAKTA), an individual doing business as K.C.M. BHAKTA MOTEL CORPORATION (collectively “Defendants”) through their respective counsel. The parties agree to the following:

WHEREAS, on or about August 12, 2011, AAA filed a Complaint in the within action for 1) Federal Service Mark Infringement [15 U.S.C. § 1114(1)(a) and (b)]; 2) False Designation Of Origin [15 U.S.C. § 1125(a)]; 3) Trade Name Or Service Mark Dilution [15 U.S.C. § 1125(c)(1)]; 4) Injury To Business Reputation And Dilution [Cal. Bus. & Prof. Code § 14330]; 5) Unfair And Deceptive Trade Practices [Cal. Bus. & Prof. Code § 17000 et seq.]; 6) Common Law Unfair Competition And Trademark Infringement (the “Action”).

WHEREAS, defendant K.C.M. BHAKTA MOTEL CORPORATION is the current owner of defendant THUNDERBIRD MOTEL.

WHEREAS, defendant MAHESH KUMAR K. BHAKTA, is the President and Director of defendant K.C.M. BHAKTA MOTEL CORPORATION.

WHEREAS the Court entered default against the Defendants on November 13, 2011.

WHEREAS, the Parties wish to settle the Action and avoid the disruption, inconvenience, uncertainty, and costs associated with the Action.

NOW THEREFORE it is agreed and stipulated by Plaintiff and Defendants, through their respective counsel, that:

- 1. Defendants, and each of them, their officers, directors, partners, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through or under them, and any others within their control or supervision, and all

1 others in active concert or participation with the above, will be permanently
2 enjoined from using the designation “AAA” or any other name or mark
3 incorporating Plaintiff’s service marks, either alone or in combination with other
4 words or symbols, in the marketing, sales, distribution, promotion, advertising,
5 identification, or in any other manner in connection with any tourist
6 accommodations and other related services at any locality in the United States;

7 2. Defendants, and each of them, their officers, directors, partners, agents,
8 servants, employees, attorneys, confederates, and all persons acting for, with, by,
9 through or under them, and any others within their control or supervision, and all
10 others in active concert or participation with the above, will be permanently
11 enjoined from using the designation “AAA” or any other name or mark
12 incorporating Plaintiff’s service marks in any form or manner that would tend to
13 identify or associate defendants’ businesses or services with Plaintiff in the
14 marketing, sale, distribution, promotion, advertising, identification, or in any other
15 manner in connection with any business;

16 3. Defendants, and each of them, their officers, directors, partners, agents,
17 servants, employees, attorneys, confederates, and all persons acting for, with, by,
18 through or under them, and any others within their control or supervision, and all
19 others in active concert or participation with the above, will be permanently
20 enjoined from referring to their businesses as “triple A approved” (either orally or in
21 writing) in the marketing, sale, distribution, promotion, advertising, identification,
22 or in any other manner in connection with any business;

23 4. Defendants, and each of them, their officers, directors, partners, agents,
24 servants, employees, attorneys, confederates, and all persons acting for, with, by,
25 through or under them, and any others within their control or supervision, and all
26 others in active concert or participation with the above, will be permanently
27 enjoined from representing to anyone (either orally or in writing) that their
28 businesses are affiliated with Plaintiff in any way or is an AAA agent or contractor

1 unless their businesses are approved by Plaintiff to be an AAA agent or contractor;

2 5. Defendants will deliver to Plaintiff's attorney within thirty (30) days
3 after the entry this injunction, to be impounded or destroyed by Plaintiff, all
4 literature, signs, labels, prints, packages, wrappers, containers, advertising materials,
5 stationery, and any other items in their possession or control that contain the
6 infringing designation "AAA" or any other name or mark incorporating Plaintiff's
7 service marks, either alone or in combination with other words and symbols;

8 6. Defendants will remove from their business premises within thirty (30)
9 days after the entry of this injunction, all instances of the "AAA" designation, and to
10 destroy all molds, plates, masters, or means of creating the infringing items;

11 7. Defendants will instruct, within thirty (30) days after the entry of this
12 injunction, any print directory, Internet directory, or website that they have caused
13 to carry the AAA mark, including, without limitation, any reference to the "AAA"
14 designation or other infringing designation, to cease using such names at the earliest
15 possible date;

16 8. Defendants will file with the Clerk of this Court and serve Plaintiff,
17 within thirty (30) days after the entry of this injunction, a report in writing, under
18 oath, setting forth in detail the manner and form in which defendants have complied
19 with 1 through 7 above.

20 9. Nothing contained herein shall be construed to prevent or prohibit
21 Defendants from applying to Plaintiff at a future date for approval or listing by
22 Plaintiff pursuant to all of Plaintiff's rules, regulations, and requirements as they
23 may exist at the time of any such future application. If Plaintiff, in its sole
24 discretion approves any such application for approval or listing, then this Stipulated
25 Injunction shall be of no further force or effect.

26 10. AAA and Defendants will file a Stipulation for Dismissal within (5)
27 days of AAA receiving a satisfactory written report from Defendants pursuant to
28 paragraph 8. The Court shall retain jurisdiction over this matter subsequent to the

