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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WYNDHAM RESORT DEVELOPMENT )  
CORPORATION and WYNDHAM VACATION )  
RESORTS, INC., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
ROBERT BINGHAM, )  
 )  
Defendant. )  
\_\_\_\_\_ )

2:10-cv-01556-GEB-KJM

**TENTATIVE RULING GRANTING  
PLAINTIFFS' MOTION FOR A  
PRELIMINARY INJUNCTION**

The following is a tentative ruling on Plaintiffs' motion for a preliminary injunction prepared in anticipation of the hearing scheduled to commence at 1:30 p.m. on July 8, 2010.

Plaintiffs Wyndham Resort Development Corporation ("WRDC") and Wyndham Vacation Resorts, Inc. ("WVR") (collectively, "Wyndham") filed a motion for a temporary restraining order ("TRO") on June 22, 2010, seeking to enjoin Defendant Robert Bingham from "disclosing or using any and all trade secret, proprietary or confidential information belonging to Wyndham[,] . . . including but not limited to all lists, of, and information pertaining to, Wyndham's customers, owners or members." (Not. of Mot. for TRO 1:25-2:2.) On June 22, 2010, a briefing schedule issued and a hearing was set for June 28, 2010 at 1:30 p.m. However, after Bingham failed to file any response, the hearing was vacated, Plaintiffs' motion for a TRO was granted, and

1 a hearing and briefing schedule on Plaintiffs' request for a  
2 preliminary injunction issued.<sup>1</sup> Defendant was required to file an  
3 opposition no later than June 30, 2010 at 4:30 p.m. However,  
4 Defendant again did not file any response. Nonetheless, a hearing was  
5 held on July 8, 2010. For the reasons stated below, Plaintiffs'  
6 motion for a preliminary injunction is GRANTED.

#### 7 I. LEGAL STANDARD

8 The purpose of a preliminary injunction is to preserve the  
9 relative positions of the parties - the status quo - until a trial on  
10 the merits can be conducted. LGS Architects, Inc. v. Concordia Homes  
11 of Nev., 434 F.3d 1150, 1158 (9th Cir. 2006) (quoting Univ. of Tex. v.  
12 Camenisch, 451 U.S. 390, 395 (1981)). A plaintiff seeking a  
13 preliminary injunction must establish that he is (1) "likely to  
14 succeed on the merits"; (2) "likely to suffer irreparable harm in the  
15 absence of preliminary relief"; (3) "the balance of equities tips in  
16 his favor"; and (4) "a preliminary injunction is in the public  
17 interest." Sierra Forest Legacy v. Rey, 577 F.3d 1015, 1021 (9th Cir.  
18 2009) (citing Winter v. Natural Res. Def. Council, Inc., --- U.S. ----  
19 , ----, 129 S. Ct. 365, 374, 172 L.Ed 2.d 249 (2008)); see also Am.  
20 Trucking Ass'ns, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th  
21 Cir. 2009) (adopting the preliminary injunction standard articulated  
22 in Winter). A preliminary injunction is "an extraordinary remedy that  
23 may only be awarded upon a clear showing that the plaintiff is  
24 entitled to such relief." Winter, 129 S. Ct. at 376. "If a plaintiff

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25  
26 <sup>1</sup> Plaintiffs' motion appears to seek only a TRO. However, the  
27 proposed order filed by Plaintiffs requested that a hearing be set to  
28 hear their motion for a preliminary injunction yet did not provide that  
Plaintiffs would file an additional brief. Accordingly, Plaintiffs'  
motion for a TRO is construed as also seeking preliminary injunctive  
relief.

1 fails to meet its burden on any of the four requirements for  
2 injunctive relief, its request must be denied.” Sierra Forest Legacy  
3 v. Rey, --- F. Supp. 2d ----, 2010 WL 715846, at \*1 (E.D. Cal. 2010)  
4 (citing Winter, 129 S. Ct. at 376). “In each case, courts must  
5 balance the competing claims of injury and must consider the effect on  
6 each party of the granting or withholding of the requested relief.”  
7 Indep. Living Ctr. of S. Cal. Inc. v. Maxwell-Jolly, 572 F.3d 644, 651  
8 (9th Cir. 2009) (quoting Winter 129 S. Ct. at 376).

## 9 **II. BACKGROUND**

### 10 **A. Factual Background**

11 Plaintiff WVR develops, finances, manages and sells  
12 timeshare properties. (Compl. ¶ 7.) WVR’s sister company, Plaintiff  
13 WRDC, is the exclusive developer, marketer and management company of  
14 WorldMark The Club (“WorldMark”). (Fry Decl. ¶ 3.) Peggy Fry, the  
15 Vice President of Owner Services for WRDC, describes WorldMark as  
16 follows:

17 WorldMark is a credit-based timeshare product that  
18 allows the owner to vacation within the WorldMark  
19 system of resorts. WRDC does not sell deeded  
20 interests in property at a specific resort.  
21 Instead, WorldMark owners own points called  
22 “vacation credits” that they can use at 70  
23 WorldMark resorts in the United States, Hawaii,  
24 Canada, Mexico and Fiji. The timeshare owners  
25 purchase an initial quantity of credits and in  
26 return they obtain a WorldMark The Club membership.  
27 Each year the WorldMark owners receive their annual  
28 allotment of credits. WorldMark owners have the  
29 opportunity to upgrade their memberships by  
30 purchasing additional credits. By upgrading their  
31 memberships, WorldMark owners increase their annual  
32 allotment of credits which provides them with more  
33 access to the WorldMark resorts.

34 (Fry Decl. ¶ 3.)

35 WRDC has two sales forces. (Peterson Decl. ¶ 3.) “The  
36 ‘frontline’ sales force sells WorldMark memberships to prospects that

1 are not current WorldMark members. The 'upgrade' sales force sells  
2 upgrades to existing WorldMark members." (Id.) "The upgrades sales  
3 force directly competes with third-party brokers for upgrade sales.  
4 Third-party brokers seek to sell discounted upgrades to current  
5 WorldMark members." (Id. ¶ 5.) The majority of WRDC's sales revenue  
6 is generated from upgrade sales. (Id. ¶ 4.) In 2009, WorldMark  
7 members purchased 13,257 upgrades from WRDC, accounting for  
8 approximately 61 percent of WRDC's total sales for that year. (Id. ¶  
9 9.)

10 Bingham was employed by WRDC on four occasions from 1994 to  
11 2009 and held various positions including sales representative, sales  
12 manager, and director of site sales. (Haskew Decl. ¶ 3.) Most  
13 recently, Bingham was employed from February 2009 until August 14,  
14 2009 as a sales representative. (Id.) In this capacity, Bingham was  
15 responsible for selling upgrades to existing WorldMark members. (Id.  
16 ¶ 4.) Bingham's employment with Wyndham, however, was terminated on  
17 August 16, 2009. (Id. ¶ 9.)

18 On April 15, 2010, Peggy Fry received an email from Dan  
19 Murphy, the President of Timeshare Liquidation Service, LLC, in which  
20 he wrote that "'a past Wyndham sales executive' tried to sell him  
21 40,000 names of WorldMark owners." (Fry Decl. ¶ 6.) Fry requested  
22 that Murphy tell her the name of the former sales executive;  
23 initially, Murphy declined to reveal the former sales executive's  
24 identity. (Id. ¶ 7.) Fry contacted Murphy on June 1, 2010, again  
25 requesting that he disclose the name of the former sales executive.  
26 (Id. ¶ 8.) Murphy responded in an email, writing that he:

27 was offered 40,000 [WorldMark] owners['] names,  
28 prequalified for Travel Share, from the N. CA  
office, by [WorldMark] Owner Robert Bingham,

1           formerly owner of WM 00023005104. He claimed to  
2           have worked for Trendwest/Wyndham for 17 years. I  
3           declined, stating that [those] names belonged to  
4           Wyndham, not Bingham. He concurred, and didn't  
5           press me. I have no idea if he was successful  
6           selling them elsewhere, or if he even has them to  
7           begin with.

8           (Fry Decl. ¶ 6, Ex. A.)

9           Prior to commencing his employment with Wyndham, Bingham  
10          agreed in writing to abide by the Business Principles of WRDC's parent  
11          Company, Wyndham Worldwide Corporation. (Haskew Decl. ¶ 8.) Wyndham  
12          Worldwide Corporation's Business Principles identify "client lists,  
13          (including phone numbers and postal and e-mail addresses) and/or  
14          client or customer contact information" as "confidential and  
15          proprietary information" that is the "sole property of Wyndham  
16          Worldwide." (Haskew Decl. ¶ 8, Ex. C at 12.) The Business Principles  
17          further provide that "[i]nformation relating to the company and its  
18          subsidiaries and affiliates must be kept secure, used solely as  
19          authorized by the Company and must not be given to unauthorized  
20          outsiders or used for personal interest or profit." (Id. at 13.)

21          Prior to beginning his employment with WRDC, Plaintiff also  
22          signed a Salesperson Agreement on February 11, 2009 which states the  
23          following:

24                DISCLOSURE OF INFORMATION. Salesperson agrees and  
25                acknowledges that, as an employee of WRDC,  
26                Salesperson may be given or be privy to certain  
27                valuable, proprietary or confidential information,  
28                including but not limited to . . . prospect or  
                  purchaser lists. Except in the normal course of  
                  Salesperson's duties hereunder, Salesperson shall  
                  not, while employed by WRDC or at anytime  
                  thereafter, copy or disclose any such information  
                  to any person or entity for any reason or purpose,  
                  nor shall Salesperson utilize such information.  
                  Salesperson agrees that all such information,  
                  including any copies thereof, is the property of  
                  WRDC and that immediately upon termination of

1 Salesperson's employment with WRDC all such  
2 property and data, including any copies,  
3 recordations (whether in written or electronic  
4 form) or abstracts thereof, shall be returned to  
5 WRDC. Because WRDC's damages from any violation of  
6 this paragraph would be impracticable and extremely  
7 difficult to determine, the liquidated amount of  
8 damages presumed to be sustained from any such  
9 breach will be \$15,000. That sum is agreed on as  
10 compensation for the injury suffered by WRDC, and  
11 not as a penalty. In addition, WRDC shall be  
12 entitled to injunctive relief as well as any remedy  
13 available at law, including reasonable attorney's  
14 fees incurred in obtaining such relief.

15 (Haskew Decl. ¶¶ 7-8, Ex. A. ¶ 6.)

16 Further, upon his termination, Bingham was provided with a  
17 severance agreement entitled "Agreement and General Release." (Id. ¶  
18 11.) Paragraph 13 of the Agreement and General Release states:

19 BINGHAM acknowledges that in connection with  
20 his/her employment, BINGHAM has had access to  
21 information of a nature not generally disclosed to  
22 the public. BINGHAM agrees to keep confidential  
23 and not disclose to anyone, unless legally  
24 compelled to do so, Confidential and Proprietary  
25 Information. "Confidential and Proprietary  
26 Information" includes but is not limited to all  
27 Company or any Released Party's . . . current and  
28 prospective client and supplier lists . . . . Such  
confidential information may or may not be  
designated as confidential or proprietary and may  
be oral, written or electronic media. BINGHAM  
understands that such information is owned and  
shall continue to be owned by the Released Parties.  
BINGHAM agrees that he/she has not and will not  
disclose, directly or indirectly, in whole or in  
part, any of the Confidential and Proprietary  
information. BINGHAM acknowledges that he/she has  
complied and will continue to comply with this  
commitment, both as an employee and after the  
termination of his/her employment. BINGHAM also  
acknowledges his/her continuing obligations under  
the Company Business Principles.

29 (Haskew Decl. ¶ 12, Ex. D.) Plaintiff executed the Agreement and  
30 General Release on April 16, 2010, approximately eight months after  
31 his termination.

1 Dana Peterson, the Vice President of Upgrade Sales for  
2 Wyndham Vacation Ownership, Inc. declares that "[t]he names and  
3 contact information of WorldMark members is not publicly-available  
4 because a WorldMark membership is not a deeded interest in a  
5 timeshare." (Peterson Decl. ¶ 5.) Peterson further avers that "WRDC  
6 spends a significant amount of time and resources developing and  
7 maintaining its membership base" and that "WRDC's member lists are  
8 trade secret and confidential and proprietary information [since they]  
9 . . . provide WRDC with competitive advantages, or the opportunity to  
10 gain competitive advantages, over those who do not have access to this  
11 information." (Id. ¶¶ 6-7.)

## 12 **B. Procedural History**

13 Plaintiffs filed a complaint against Bingham in this federal  
14 court on June 21, 2010, alleging claims of trade secret  
15 misappropriation, unfair competition under California Business and  
16 Professions Code section 17200, breach of contract and intentional  
17 interference with prospective economic advantage. Plaintiffs moved  
18 for a TRO on June 22, 2010.

## 19 **III. DISCUSSION**

### 20 **A. Likelihood of Success on the Merits**

21 Plaintiffs argue they are likely to succeed on the merits of  
22 each of their four claims alleged against Bingham.

#### 23 **i) Trade Secret Misappropriation Claim**

24 Plaintiffs argue "Bingham's actions . . . constitute  
25 misappropriation of Wyndham's trade secrets, specifically its list of  
26 40,000 WorldMark owners." Plaintiffs further argue that "[d]espite  
27 having agreed on three separate occasions to maintain the  
28 confidentiality of Wyndham's member information, Bingham offered to

1 provide the list to a competitor, Timeshare Liquidation Service, LLC,  
2 which could have used that information to directly compete against  
3 Wyndham in marketing upgrades to Wyndham's members." (Mem. in P. & A.  
4 in Supp. of Mot. for TRO 7:25-8:4.)

5 California has adopted the Uniform Trade Secrets Act  
6 ("UTSA"). MAI Sys. Corp. v. Peak Computer, Inc., 991 F.2d 511, 520  
7 (9th Cir. 1993) cert. denied, 510 U.S. 1033 (1993). To prevail on  
8 their trade secret misappropriation claim, Plaintiffs must satisfy  
9 "two primary elements": "(1) the existence of a trade secret, and (2)  
10 misappropriation of the trade secret." AccuImage Diagnostics Corp. v.  
11 Terarecon, Inc., 260 F. Supp. 2d 941, 950 (N.D. Cal. 2003) (citing  
12 Cal. Civ. Code § 3426.1(b)).

13 **a. Trade Secret**

14 The UTSA defines a "trade secret" as "information, including  
15 a formula, pattern, compilation, program, device, method, technique,  
16 or process, that . . . [d]erives independent economic value, actual or  
17 potential, from not being generally known to the public or to other  
18 persons who can obtain economic value from its disclosure or use; and  
19 . . . [i]s the subject of efforts that are reasonable under the  
20 circumstances to maintain its secrecy." Cal. Civ. Code § 3426.1(d).

21 "It is well-established that a customer list may constitute  
22 a protectable trade secret." Gable-Leigh, Inc. v. N. Am. Miss, No. CV  
23 01-01019 MMM (SHX), 2001 WL 521695, at \*15 (C.D. Cal. Apr. 13, 2001)  
24 (citations omitted); see also Robert Half Int'l, Inc. v. Murray, No.  
25 CV F 07-0799 LJO SMS, 2008 WL 2625857, at \*4 (E.D. Cal. June 25, 2008)  
26 (stating "[a] customer list acquired by lengthy and expensive efforts  
27 deserves protection as a trade secret") (citing MAI Systems, 991 F.2d  
28 at 521 & Courtesy Temporary Serv., Inc. v. Camacho, 222 Cal. App. 3d

1 1278, 1288 (1990)). In Morlife, Inc. v. Perry, 56 Cal. App. 4th 1514,  
2 1521-22 (1997), the California Appellate Court explained the  
3 circumstances under which a customer list is entitled to trade secret  
4 protection under the UTSA:

5 [C]ourts are reluctant to protect customer lists to  
6 the extent they embody information which is  
7 "readily available" through public sources, such as  
8 business directories. On the other hand, where the  
9 employer has expended time and effort identifying  
10 customers with particular needs or characteristics,  
11 courts will prohibit former employees from using  
12 this information to capture a share of the market.  
13 Such lists are to be distinguished from mere  
14 identities and locations of customers where anyone  
15 could easily identify th entities as potential  
16 customers. As a general principle, the more  
17 difficult information is to obtain, and the more  
18 time and resources expended by an employer in  
19 gathering it, the more likely a court will find  
20 such information constitutes a trade secret. The  
21 requirement that a customer list must have economic  
22 value to qualify as a trade secret has been  
23 interpreted to mean that the secrecy of this  
24 information provides a business with a "substantial  
25 business advantage." In this respect, a customer  
26 list can be found to have economic value because  
27 its disclosure would allow a competitor to direct  
28 its sales efforts to those customers who have  
already shown a willingness to use a unique type of  
service or product as opposed to a list of people  
who only might be interested. Its use enables the  
former employee to "solicit both more selectively  
and more effectively."

(internal citations omitted).

Plaintiffs have provided evidence that the identifies and  
contact information of WorldMark members is not publicly available and  
that their customer list has economic value "because its disclosure  
would allow a competitor to direct its sales efforts to those  
customers who have already shown a willingness" to purchase upgrades.  
Morlife, 56 Cal. App. 4th at 1522 (citation omitted); (Peterson Decl.  
¶¶ 5-7.) Further, Plaintiffs have shown that they took measures  
reasonable under the circumstances to maintain the secrecy of their

1 customer lists by requiring that sales staff undergo training as well  
2 as sign multiple agreements in which they acknowledge that WRDC's  
3 client lists and customer contact information are considered  
4 confidential and proprietary and the property of WRDC. (Id. ¶ 8.)  
5 Plaintiffs, therefore, have shown that they are likely to succeed in  
6 establishing that their customer list constitutes a protectable trade  
7 secret under the UTSA.

8 **b. Misappropriation**

9 The UTSA defines "misappropriation" as:

10 Disclosure or use of a trade secret of another  
11 without express or implied consent by a person who:

- 12 (A) Used improper means to acquire knowledge  
13 of the trade secret; or  
14 (B) At the time of disclosure or use, knew or  
15 had reason to know that his or her  
16 knowledge of the trade secret was:  
17 (i) Derived from or through a person who  
18 had utilized improper means to  
19 acquire it;  
20 (ii) Acquired under circumstances giving  
21 rise to a duty to maintain its  
22 secrecy or limits its use; or  
23 (iii) Derived from or through a person who  
24 owed a duty to the person seeking  
25 relief to maintain its secrecy or  
26 limit its use; or  
27 (C) Before a material change of his or her  
28 position knew or had reason to know that  
it was a trade secret and that knowledge  
of it had been acquired by accident or  
mistake.

22 Cal. Civ. Code § 3426.1(b). "Actual or threatened misappropriation may  
23 be enjoined." Cal. Civ. Code § 3426.2(a); see also Cent. Valley Gen.  
24 Hosp. v. Smith, 162 Cal. App. 4th 501, 524 (2008) (interpreting  
25 California Civil Code section 3426.2(a) as providing "that an  
26 injunction may be based either on actual misappropriation or on  
27 threatened misappropriation").

1           Undoubtedly, Bingham's alleged attempt to sell Plaintiffs'  
2 customer list to one of Plaintiffs' competitors constitutes threatened  
3 misappropriation under the UTSA. Plaintiffs, therefore, have shown  
4 that they are likely to prevail on their claim that Bingham threatened  
5 to misappropriate their trade secret.

6           Since Plaintiffs have shown a likelihood of success on their  
7 trade secret misappropriation claim, their likelihood of success on  
8 their other three claims need not be analyzed.

9                           **B. Likelihood of Irreparable Harm**

10           Plaintiffs also argue they will suffer irreparable harm if  
11 Bingham is not restrained from disclosing their customer list.  
12 Specifically, Plaintiffs argue that "Bingham's actions directly  
13 threaten Wyndham with the loss of upgrade sales" as well as the  
14 "ero[sion] [of] the good will between WRDC and its members." (Mem. of  
15 P. & A in Supp. of Mot. for TRO 10:13-14, 22-25.)

16           Peggy Fry declares that "[a] large percentage of WRDC's  
17 business is repeat business from WorldMark owners, including existing  
18 owners' purchase of updgrade and owner referrals [and,] [t]herefore[,]  
19 owner relations and goodwill are vital to WRDC's success." (Fry Decl.  
20 ¶ 5.) Fry further declares that WorldMark members "expect WRDC to  
21 keep [their WorldMark membership] . . . confidential" and "[a]ny  
22 disclosure of the names and contact information of WorldMark owners to  
23 third-party brokers adversely affects the good will and trust of  
24 WorldMark owners and consequently hurts WRDC's sales." (Id.) Lastly,  
25 Fry declares that "[i]n recent months, the Owner Care department has  
26 received an increasing number of complaints from WorldMark owners  
27 regarding the owners being solicited by third-party timeshare  
28 brokers." (Id.)

1 Plaintiffs, therefore, have shown that they are likely to  
2 suffer irreparable harm in the absence of injunctive relief. See  
3 Stuhlbarq Int'l Sales Co. v. John D. Brush and Co., Inc., 240 F.3d  
4 832, 841 (9th Cir. 2001) ("Evidence of threatened loss of prospective  
5 customers or goodwill . . . supports a finding of the possibility of  
6 irreparable harm."); see also Gallagher Benefit Servs., Inc. v. De La  
7 Torre, 283 Fed. Appx. 543, 546 (9th Cir. Jun. 24, 2008) (affirming  
8 district court's conclusion that injury to goodwill and customers due  
9 to trade secret misappropriation constitutes irreparable harm); TMX  
10 Funding, Inc. v. Impero Techs., Inc., No. C. 10-00202 JF (PVT), 2010  
11 WL 1028254, at \*8 (N.D. Cal. Mar. 18, 2010) (stating that "California  
12 courts have presumed irreparable harm when proprietary information is  
13 misappropriated"); Lillge v. Verity, No. C 07-2748, 2007 WL 2900568,  
14 at \*7 (N.D. Cal. Oct. 2, 2007) (finding that the "risk of losing  
15 established customers to defendants' . . . due to defendants' improper  
16 use of plaintiff's proprietary information would obviously create a  
17 lasting, irreparable harm").

### 18 **C. Balance of Hardships**

19 Plaintiffs also argue that the balance of equities tips in  
20 their favor since they have "a vital interest in protecting [their]  
21 trade secret information and preventing competitors from using that  
22 information" and "Bingham has no right to use [Plaintiffs']  
23 proprietary information to his own benefit." (Mem. of P. & A. in  
24 Supp. of Mot. for TRO 10:27-11:3.)

25 The injunctive relief sought by Plaintiffs would prohibit  
26 "Robert Bingham, his agents, servants, employees and attorneys, and  
27 all those in active concert or participating with him . . . from  
28 disclosing or using any and all trade secret, proprietary or

1 confidential information belonging to [Plaintiffs] . . . or known to  
2 [Bingham] by virtue of [his] employment with [Plaintiffs], including  
3 but not limited to all lists of, and information pertaining to,  
4 [Plaintiffs'] customers, owners or members." (Proposed Order Granting  
5 Pls.' Mot. for TRO ¶ 1.) Therefore, "[t]he injunctive relief sought  
6 by [Plaintiffs] is specific to the use of proprietary information  
7 belonging to [Plaintiffs] . . . . Accordingly, the balance of  
8 hardships weighs in favor of [Plaintiffs]." TMX, 2010 WL 1028254, at  
9 \*8; see also Merrill Lynch, Pierce Fenner & Smith Inc v. Chung, No. CV  
10 01-00659 CBM RCX, 2001 WL 283083, at \*6 (C.D. Cal. Feb. 2, 2001)  
11 (stating that "the balance of hardships tips heavily in favor of  
12 granting injunctive relief because an injunction merely prohibits  
13 Defendants from misappropriating the trade secrets of [Plaintiff]").

#### 14 **D. The Public Interest**

15 Plaintiffs also argue that injunctive relief "will not  
16 adversely affect the public interest" since "[t]here is no legitimate  
17 public interest in the unauthorized disclosure of a party's  
18 proprietary business information." (Mem. of P. & A. in Supp. of Mot.  
19 for TRO 11:5-11.) Since "it is in the public interest that trade  
20 secret customer lists be protected," Plaintiffs have shown that the  
21 public interest favors injunctive relief in this case. Gable-Leigh,  
22 2001 WL 521695, at \*20 (citing Kewanee Oil Co. v. Bicron Corp., 416  
23 U.S. 470 (1974), which states "[i]t is hard to see how the public  
24 would be benefitted by disclosure of customer lists"); see also Chung,  
25 2001 WL 283083, at \*6 (holding that injunction that protects "trade  
26 secret client lists and other confidential and trade secret  
27 information" promotes the public interest).

#### 28 **E. Bond**

1 Federal Rule of Civil Procedure 65(c) ("Rule 65(c)")  
2 provides that "[t]he court may issue a preliminary injunction or  
3 temporary restraining order only if the movant gives security in an  
4 amount that the court considers proper to pay the costs and damages  
5 sustained by any party found to have been wrongfully enjoined or  
6 restrained." Fed. R. Civ. P. 65(c). The Court's order granting  
7 Plaintiffs' motion for a TRO required that Plaintiffs file a bond in  
8 the amount of \$10,000; the TRO was not effective until this bond was  
9 filed. Plaintiffs filed notice on July 1, 2010 that they had secured  
10 a bond in the amount of \$10,000. Therefore, the requirements of Rule  
11 65(c) are satisfied.

12 **IV. CONCLUSION**

13 For the reasons stated above, Plaintiffs' motion for a  
14 preliminary injunction is GRANTED. Robert Bingham, his agents,  
15 servants, employees and attorneys, and all those in active concert or  
16 participating with him, is hereby prohibited from disclosing or using  
17 any and all trade secret, proprietary or confidential information  
18 belonging to plaintiffs Wyndham Resort Development Corporation dba  
19 WorldMark by Wyndham and Wyndham Vacation Resorts, Inc. or known to  
20 him by virtue of his employment with Wyndham, including by not limited  
21 to all lists of, and information pertaining to, Wyndham's customers,  
22 owners or members.

23 Dated: July 8, 2010

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25   
26 \_\_\_\_\_  
26 GARLAND E. BURRELL, JR.  
26 United States District Judge  
27  
28