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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

ORDER GRANTING PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

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.

5 A tentative ruling granting Plaintiffs' motion for a  
6 preliminary injunction issued the morning of July 8, 2010, prior to  
7 the preliminary injunction hearing scheduled to commence at 1:30 p.m.  
8 on the same day. At the July 8 hearing, Margaret Toldeo appeared on  
9 behalf of Plaintiffs and Defendant Robert Bingham appeared *pro se*.  
10 Bingham stated at the hearing that he did not oppose the adoption of  
11 the Court's tentative ruling. For the following reasons, Plaintiffs'  
12 request for a preliminary injunction is GRANTED.

#### 13 I. LEGAL STANDARD

14 The purpose of a preliminary injunction is to preserve the  
15 relative positions of the parties - the status quo - until a trial on  
16 the merits can be conducted. LGS Architects, Inc. v. Concordia Homes  
17 of Nev., 434 F.3d 1150, 1158 (9th Cir. 2006) (quoting Univ. of Tex. v.  
18 Camenisch, 451 U.S. 390, 395 (1981)). A plaintiff seeking a  
19 preliminary injunction must establish that he is (1) "likely to  
20 succeed on the merits"; (2) "likely to suffer irreparable harm in the  
21 absence of preliminary relief"; (3) "the balance of equities tips in  
22 his favor"; and (4) "a preliminary injunction is in the public  
23 interest." Sierra Forest Legacy v. Rey, 577 F.3d 1015, 1021 (9th Cir.  
24 2009) (citing Winter v. Natural Res. Def. Council, Inc., --- U.S. ----

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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 , ----, 129 S. Ct. 365, 374, 172 L.Ed 2.d 249 (2008)); see also Am.  
2 Trucking Ass'ns, Inc. v. City of Los Angeles, 559 F.3d 1046, 1052 (9th  
3 Cir. 2009) (adopting the preliminary injunction standard articulated  
4 in Winter). A preliminary injunction is "an extraordinary remedy that  
5 may only be awarded upon a clear showing that the plaintiff is  
6 entitled to such relief." Winter, 129 S. Ct. at 376. "If a plaintiff  
7 fails to meet its burden on any of the four requirements for  
8 injunctive relief, its request must be denied." Sierra Forest Legacy  
9 v. Rey, --- F. Supp. 2d ----, 2010 WL 715846, at \*1 (E.D. Cal. 2010)  
10 (citing Winter, 129 S. Ct. at 376). "In each case, courts must  
11 balance the competing claims of injury and must consider the effect on  
12 each party of the granting or withholding of the requested relief."  
13 Indep. Living Ctr. of S. Cal. Inc. v. Maxwell-Jolly, 572 F.3d 644, 651  
14 (9th Cir. 2009) (quoting Winter 129 S. Ct. at 376).

## 15 **II. BACKGROUND**

### 16 **A. Factual Background**

17 Plaintiff WVR develops, finances, manages and sells  
18 timeshare properties. (Compl. ¶ 7.) WVR's sister company, Plaintiff  
19 WRDC, is the exclusive developer, marketer and management company of  
20 WorldMark The Club ("WorldMark"). (Fry Decl. ¶ 3.) Peggy Fry, the  
21 Vice President of Owner Services for WRDC, describes WorldMark as  
22 follows:

23 WorldMark is a credit-based timeshare product that  
24 allows the owner to vacation within the WorldMark  
25 system of resorts. WRDC does not sell deeded  
26 interests in property at a specific resort.  
27 Instead, WorldMark owners own points called  
28 "vacation credits" that they can use at 70  
WorldMark resorts in the United States, Hawaii,  
Canada, Mexico and Fiji. The timeshare owners  
purchase an initial quantity of credits and in  
return they obtain a WorldMark The Club membership.  
Each year the WorldMark owners receive their annual

1 allocation of credits. WorldMark owners have the  
2 opportunity to upgrade their memberships by  
3 purchasing additional credits. By upgrading their  
4 memberships, WorldMark owners increase their annual  
5 allotment of credits which provides them with more  
6 access to the WorldMark resorts.

7 (Fry Decl. ¶ 3.)

8 WRDC has two sales forces. (Peterson Decl. ¶ 3.) "The  
9 'frontline' sales force sells WorldMark memberships to prospects that  
10 are not current WorldMark members. The 'upgrade' sales force sells  
11 upgrades to existing WorldMark members." (Id.) "The upgrades sales  
12 force directly competes with third-party brokers for upgrade sales.  
13 Third-party brokers seek to sell discounted upgrades to current  
14 WorldMark members." (Id. ¶ 5.) The majority of WRDC's sales revenue  
15 is generated from upgrade sales. (Id. ¶ 4.) In 2009, WorldMark  
16 members purchased 13,257 upgrades from WRDC, accounting for  
17 approximately 61 percent of WRDC's total sales for that year. (Id. ¶  
18 9.)

19 Bingham was employed by WRDC on four occasions from 1994 to  
20 2009 and held various positions including sales representative, sales  
21 manager, and director of site sales. (Haskew Decl. ¶ 3.) Most  
22 recently, Bingham was employed from February 2009 until August 14,  
23 2009 as a sales representative. (Id.) In this capacity, Bingham was  
24 responsible for selling upgrades to existing WorldMark members. (Id.  
25 ¶ 4.) Bingham's employment with Wyndham, however, was terminated on  
26 August 16, 2009. (Id. ¶ 9.)

27 On April 15, 2010, Peggy Fry received an email from Dan  
28 Murphy, the President of Timeshare Liquidation Service, LLC, in which  
he wrote that "'a past Wyndham sales executive' tried to sell him  
40,000 names of WorldMark owners." (Fry Decl. ¶ 6.) Fry requested

1 that Murphy tell her the name of the former sales executive;  
2 initially, Murphy declined to reveal the former sales executive's  
3 identity. (Id. ¶ 7.) Fry contacted Murphy on June 1, 2010, again  
4 requesting that he disclose the name of the former sales executive.  
5 (Id. ¶ 8.) Murphy responded in an email, writing that he:

6 was offered 40,000 [WorldMark] owners['] names,  
7 prequalified for Travel Share, from the N. CA  
8 office, by [WorldMark] Owner Robert Bingham,  
9 formerly owner of WM 00023005104. He claimed to  
10 have worked for Trendwest/Wyndham for 17 years. I  
11 declined, stating that [those] names belonged to  
12 Wyndham, not Bingham. He concurred, and didn't  
13 press me. I have no idea if he was successful  
14 selling them elsewhere, or if he even has them to  
15 begin with.

16 (Fry Decl. ¶ 6, Ex. A.) At the July 8 hearing, Bingham admitted that  
17 he had taken Plaintiffs' documents and had attempted unsuccessfully to  
18 sell them on one occasion.

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

1 Before beginning his employment with WRDC, Plaintiff also  
2 signed a Salesperson Agreement on February 11, 2009, which states the  
3 following:

4 DISCLOSURE OF INFORMATION. Salesperson agrees and  
5 acknowledges that, as an employee of WRDC,  
6 Salesperson may be given or be privy to certain  
7 valuable, proprietary or confidential information,  
8 including but not limited to . . . prospect or  
9 purchaser lists. Except in the normal course of  
10 Salesperson's duties hereunder, Salesperson shall  
11 not, while employed by WRDC or at anytime  
12 thereafter, copy or disclose any such information  
13 to any person or entity for any reason or purpose,  
14 nor shall Salesperson utilize such information.  
15 Salesperson agrees that all such information,  
16 including any copies thereof, is the property of  
17 WRDC and that immediately upon termination of  
18 Salesperson's employment with WRDC all such  
19 property and data, including any copies,  
20 recordations (whether in written or electronic  
21 form) or abstracts thereof, shall be returned to  
22 WRDC. Because WRDC's damages from any violation of  
23 this paragraph would be impracticable and extremely  
24 difficult to determine, the liquidated amount of  
25 damages presumed to be sustained from any such  
26 breach will be \$15,000. That sum is agreed on as  
27 compensation for the injury suffered by WRDC, and  
28 not as a penalty. In addition, WRDC shall be  
entitled to injunctive relief as well as any remedy  
available at law, including reasonable attorney's  
fees incurred in obtaining such relief.

(Haskew Decl. ¶¶ 7-8, Ex. A. ¶ 6.)

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

BINGHAM acknowledges that in connection with  
his/her employment, BINGHAM has had access to  
information of a nature not generally disclosed to  
the public. BINGHAM agrees to keep confidential  
and not disclose to anyone, unless legally  
compelled to do so, Confidential and Proprietary  
Information. "Confidential and Proprietary  
Information" includes but is not limited to all  
Company or any Released Party's . . . current and  
prospective client and supplier lists . . . Such  
confidential information may or may not be

1 designated as confidential or proprietary and may  
2 be oral, written or electronic media. BINGHAM  
3 understands that such information is owned and  
4 shall continue to be owned by the Released Parties.  
5 BINGHAM agrees that he/she has not and will not  
6 disclose, directly or indirectly, in whole or in  
7 part, any of the Confidential and Proprietary  
8 information. BINGHAM acknowledges that he/she has  
9 complied and will continue to comply with this  
10 commitment, both as an employee and after the  
11 termination of his/her employment. BINGHAM also  
12 acknowledges his/her continuing obligations under  
13 the Company Business Principles.

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

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

## 28 **B. Procedural History**

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

1 for a TRO on June 22, 2010; their motion was granted in a minute order  
2 filed on June 25, 2010. In accordance with the Court's minute order,  
3 the TRO was effective on July 1, 2010 when Plaintiffs filed a notice  
4 stating that they had secured a bond in the amount of \$10,000.

### 5 III. DISCUSSION

#### 6 A. Likelihood of Success on the Merits

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

##### 9 i) Trade Secret Misappropriation Claim

10 Plaintiffs argue "Bingham's actions . . . constitute  
11 misappropriation of Wyndham's trade secrets, specifically its list of  
12 40,000 WorldMark owners." Plaintiffs further argue that "[d]espite  
13 having agreed on three separate occasions to maintain the  
14 confidentiality of Wyndham's member information, Bingham offered to  
15 provide the list to a competitor, Timeshare Liquidation Service, LLC,  
16 which could have used that information to directly compete against  
17 Wyndham in marketing upgrades to Wyndham's members." (Mem. in P. & A.  
18 in Supp. of Mot. for TRO 7:25-8:4.)

19 California has adopted the Uniform Trade Secrets Act  
20 ("UTSA"). MAI Sys. Corp. v. Peak Computer, Inc., 991 F.2d 511, 520  
21 (9th Cir. 1993) cert. denied, 510 U.S. 1033 (1993). To prevail on  
22 their trade secret misappropriation claim, Plaintiffs must satisfy  
23 "two primary elements": "(1) the existence of a trade secret, and (2)  
24 misappropriation of the trade secret." AccuImage Diagnostics Corp. v.  
25 Terarecon, Inc., 260 F. Supp. 2d 941, 950 (N.D. Cal. 2003) (citing  
26 Cal. Civ. Code § 3426.1(b)).

##### 27 a. Plaintiffs are Likely to Succeed in Establishing that 28 Their Customer List is a Protectable Trade Secret

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

8           "It is well-established that a customer list may constitute  
9 a protectable trade secret." Gable-Leigh, Inc. v. N. Am. Miss, No. CV  
10 01-01019 MMM (SHX), 2001 WL 521695, at \*15 (C.D. Cal. Apr. 13, 2001)  
11 (citations omitted); see also Robert Half Int'l, Inc. v. Murray, No.  
12 CV F 07-0799 LJO SMS, 2008 WL 2625857, at \*4 (E.D. Cal. June 25, 2008)  
13 (stating "[a] customer list acquired by lengthy and expensive efforts  
14 deserves protection as a trade secret") (citing MAI Systems, 991 F.2d  
15 at 521 & Courtesy Temporary Serv., Inc. v. Camacho, 222 Cal. App. 3d  
16 1278, 1288 (1990)). In Morlife, Inc. v. Perry, 56 Cal. App. 4th 1514,  
17 1521-22 (1997), the California Appellate Court explained the  
18 circumstances under which a customer list is entitled to trade secret  
19 protection:

20           [C]ourts are reluctant to protect customer lists to  
21 the extent they embody information which is  
22 "readily available" through public sources, such as  
23 business directories. On the other hand, where the  
24 employer has expended time and effort identifying  
25 customers with particular needs or characteristics,  
26 courts will prohibit former employees from using  
27 this information to capture a share of the market.  
28 Such lists are to be distinguished from mere  
identities and locations of customers where anyone  
could easily identify the entities as potential  
customers. As a general principle, the more  
difficult information is to obtain, and the more  
time and resources expended by an employer in  
gathering it, the more likely a court will find  
such information constitutes a trade secret. The  
requirement that a customer list must have economic

1 value to qualify as a trade secret has been  
2 interpreted to mean that the secrecy of this  
3 information provides a business with a "substantial  
4 business advantage." In this respect, a customer  
5 list can be found to have economic value because  
6 its disclosure would allow a competitor to direct  
7 its sales efforts to those customers who have  
8 already shown a willingness to use a unique type of  
9 service or product as opposed to a list of people  
10 who only might be interested. Its use enables the  
11 former employee to "solicit both more selectively  
12 and more effectively."

13 (internal citations omitted).

14 Plaintiffs have provided evidence that the identifies and  
15 contact information of WorldMark members is not publicly available and  
16 that their customer list has economic value "because its disclosure  
17 would allow a competitor to direct its sales efforts to those  
18 customers who have already shown a willingness" to purchase upgrades.  
19 Morlife, 56 Cal. App. 4th at 1522 (citation omitted); (Peterson Decl.  
20 ¶¶ 5-7.) Further, Plaintiffs have shown that they took measures  
21 reasonable under the circumstances to maintain the secrecy of their  
22 customer lists by requiring that sales staff undergo training as well  
23 as sign multiple agreements in which they acknowledge that WRDC's  
24 client lists and customer contact information are considered  
25 confidential and proprietary and the property of WRDC. (Peterson  
26 Decl. ¶ 8.) Plaintiffs, therefore, have shown that they are likely to  
27 succeed in establishing that their customer list constitutes a  
28 protectable trade secret under the UTSA.

29 **b. Plaintiffs Are Likely To Succeed In Demonstrating That**  
30 **Bingham's Attempt to Sell Their Customer List Constitutes**  
31 **Threatened Misappropriation**

32 The UTSA defines "misappropriation" as:

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

35 (A) Used improper means to acquire knowledge of  
36 the trade secret; or

- 1 (B) At the time of disclosure or use, knew or had  
2 reason to know that his or her knowledge of  
the trade secret was:  
3 (i) Derived from or through a person who had  
utilized improper means to acquire it;  
4 (ii) Acquired under circumstances giving rise  
to a duty to maintain its secrecy or  
limits its use; or  
5 (iii) Derived from or through a person who owed  
6 a duty to the person seeking relief to  
maintain its secrecy or limit its use; or  
7 (C) Before a material change of his or her  
8 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.

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

15 Bingham's attempt to sell Plaintiffs' customer list to one  
16 of Plaintiffs' competitors constitutes threatened misappropriation  
17 since Bingham attempted to disclose Plaintiffs' customer list when he  
18 was contractually obligated maintain the confidentiality of such  
19 information. Plaintiffs, therefore, have shown that they are likely  
20 to prevail on their claim that Bingham threatened to misappropriate  
21 their trade secrets.

22 Since Plaintiffs have shown a likelihood of success on their  
23 trade secret misappropriation claim, their likelihood of success on  
24 their other three claims need not be analyzed.

#### 25 **B. Likelihood of Irreparable Harm**

26 Plaintiffs also argue they will suffer irreparable harm if  
27 Bingham is not restrained from disclosing their customer list.  
28 Specifically, Plaintiffs argue that "Bingham's actions directly

1 threaten Wyndham with the loss of upgrade sales” as well as the  
2 “ero[sion] [of] the good will between WRDC and its members.” (Mem. of  
3 P. & A in Supp. of Mot. for TRO 10:13-14, 22-25.)

4 Peggy Fry declares that “[a] large percentage of WRDC’s  
5 business is repeat business from WorldMark owners, including existing  
6 owners’ purchase of updgrade and owner referrals [and,] [t]herefore[,]  
7 owner relations and goodwill are vital to WRDC’s success.” (Fry Decl.  
8 ¶ 5.) Fry further declares that WorldMark members “expect WRDC to  
9 keep [their WorldMark membership] . . . confidential” and “[a]ny  
10 disclosure of the names and contact information of WorldMark owners to  
11 third-party brokers adversely affects the good will and trust of  
12 WorldMark owners and consequently hurts WRDC’s sales.” (Id.) Lastly,  
13 Fry declares that “[i]n recent months, the Owner Care department has  
14 received an increasing number of complaints from WorldMark owners  
15 regarding the owners being solicited by third-party timeshare  
16 brokers.” (Id.)

17 Plaintiffs, therefore, have shown that they are likely to  
18 suffer irreparable harm in the absence of injunctive relief. See  
19 Stuhlbarg Int’l Sales Co. v. John D. Brush and Co., Inc., 240 F.3d  
20 832, 841 (9th Cir. 2001) (“Evidence of threatened loss of prospective  
21 customers or goodwill . . . supports a finding of the possibility of  
22 irreparable harm.”); see also Gallagher Benefit Servs., Inc. v. De La  
23 Torre, 283 Fed. Appx. 543, 546 (9th Cir. Jun. 24, 2008) (affirming  
24 district court’s conclusion that injury to goodwill and customers due  
25 to trade secret misappropriation constitutes irreparable harm); TMX  
26 Funding, Inc. v. Impero Techs., Inc., No. C. 10-00202 JF (PVT), 2010  
27 WL 1028254, at \*8 (N.D. Cal. Mar. 18, 2010) (stating that “California  
28 courts have presumed irreparable harm when proprietary information is

1 misappropriated"); Lillge v. Verity, No. C 07-2748, 2007 WL 2900568,  
2 at \*7 (N.D. Cal. Oct. 2, 2007) (finding that the "risk of losing  
3 established customers to defendants' . . . due to defendants' improper  
4 use of plaintiff's proprietary information would obviously create a  
5 lasting, irreparable harm").

6 //

### 7 **C. Balance of Equities**

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

14 The injunctive relief sought by Plaintiffs would prohibit  
15 "Robert Bingham, his agents, servants, employees and attorneys, and  
16 all those in active concert or participating with him . . . from  
17 disclosing or using any and all trade secret, proprietary or  
18 confidential information belonging to [Plaintiffs] . . . or known to  
19 [Bingham] by virtue of [his] employment with [Plaintiffs], including  
20 but not limited to all lists of, and information pertaining to,  
21 [Plaintiffs'] customers, owners or members." (Proposed Order Granting  
22 Pls.' Mot. for TRO ¶ 1.) Therefore, "[t]he injunctive relief sought  
23 by [Plaintiffs] is specific to the use of proprietary information  
24 belonging to [Plaintiffs] . . . . Accordingly, the balance of  
25 hardships weighs in favor of [Plaintiffs]." TMX, 2010 WL 1028254, at  
26 \*8; see also Merrill Lynch, Pierce Fenner & Smith Inc v. Chung, No. CV  
27 01-00659 CBM RCX, 2001 WL 283083, at \*6 (C.D. Cal. Feb. 2, 2001)  
28 (stating that "the balance of hardships tips heavily in favor of

1 granting injunctive relief because an injunction merely prohibits  
2 Defendants from misappropriating the trade secrets of [Plaintiff]”).

#### 3 **D. The Public Interest**

4 Plaintiffs also argue that injunctive relief “will not  
5 adversely affect the public interest” since “[t]here is no legitimate  
6 public interest in the unauthorized disclosure of a party’s  
7 proprietary business information.” (Mem. of P. & A. in Supp. of Mot.  
8 for TRO 11:5-11.) Since “it is in the public interest that trade  
9 secret customer lists be protected,” Plaintiffs have shown that the  
10 public interest favors injunctive relief in this case. Gable-Leigh,  
11 2001 WL 521695, at \*20 (citing Kewanee Oil Co. v. Bicron Corp., 416  
12 U.S. 470 (1974), which states “[i]t is hard to see how the public  
13 would be benefitted by disclosure of customer lists”); see also Chung,  
14 2001 WL 283083, at \*6 (holding that injunction that protects “trade  
15 secret client lists and other confidential and trade secret  
16 information” promotes the public interest).

#### 17 **E. Security**

18 Federal Rule of Civil Procedure 65(c) (“Rule 65(c)”) provides that “[t]he court may issue a preliminary injunction or  
19 temporary restraining order only if the movant gives security in an  
20 amount that the court considers proper to pay the costs and damages  
21 sustained by any party found to have been wrongfully enjoined or  
22 restrained.” Fed. R. Civ. P. 65(c). The Court’s order granting  
23 Plaintiffs’ motion for a TRO required that Plaintiffs file a bond in  
24 the amount of \$10,000; the TRO was not effective until this bond was  
25 filed. Plaintiffs filed notice on July 1, 2010 that they had secured  
26 a bond in the amount of \$10,000. Therefore, the requirements of Rule  
27 65(c) are satisfied.  
28

1 **IV. CONCLUSION**

2 For the reasons stated above, Plaintiffs' motion for a  
3 preliminary injunction is GRANTED. Robert Bingham, his agents,  
4 servants, employees and attorneys, and all those in active concert or  
5 participating with him, are hereby prohibited from disclosing or using  
6 any and all trade secret, proprietary or confidential information  
7 belonging to plaintiffs Wyndham Resort Development Corporation dba  
8 WorldMark by Wyndham and Wyndham Vacation Resorts, Inc. or known to  
9 Bingham by virtue of his employment with Wyndham, including by not  
10 limited to all lists of, and information pertaining to, Wyndham's  
11 customers, owners or members.

12 The Clerk of the Court shall mail a copy of this order to  
13 *pro se* Defendant Robert Bingham at 6836 Bender Court, Sacramento,  
14 California 95820, the address at which Plaintiffs have successfully  
15 served Bingham during the pendency of this action. If Plaintiffs  
16 opine that this order should be mailed to a different address to  
17 provide Bingham with notice, that address shall be filed as soon as  
18 feasible.

19 Dated: July 8, 2010

20  
21   
22 \_\_\_\_\_  
GARLAND E. BURRELL, JR.  
United States District Judge