

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WORLD TRIATHLON) CIVIL NO. 05-00351 JMS-KSC
CORPORATION, a Florida)
Corporation,) AMENDED REPORT OF SPECIAL
Plaintiff,) MASTER RECOMMENDING THAT
vs.) PLAINTIFF'S RENEWED MOTION
) FOR ATTORNEY'S FEES BE
) GRANTED IN PART AND DENIED
) IN PART
JOHN DUNBAR, IAN EMBERSON,)
HENRY FORREST, GORDON)
HALLER, ARCHIE HAPAI and)
RALPH YAWATA, individually)
collectively d/b/a HAWAIIAN)
IRONMAN TRIATHLON)
ORGANIZING COMMITTEE,)
)
Defendants.)
)

AMENDED REPORT OF SPECIAL MASTER RECOMMENDING THAT
PLAINTIFF'S RENEWED MOTION FOR ATTORNEY'S FEES BE
GRANTED IN PART AND DENIED IN PART

On January 29, 2008, the Court issued a Report of Special Master Recommending that Plaintiff's Renewed Motion for Attorney's Fees be Granted in Part and Denied in Part ("Report"). Because Plaintiff failed to include receipts with its renewed motion for attorneys' fees, the Court conditioned the recommended award of costs (\$14,086.87) upon the submission, no later than seven (7) days from the filing of the Report, of a

supplemental declaration with the relevant receipts attached. The Court now issues this Amended Report for the sole purpose of revising the recommended cost award.

On February 5, 2008, one of Plaintiff's counsel, Phillip Li, sent a letter to the Court requesting that Plaintiff be given a one week extension of time to submit the requisite receipts. Mr. Li explained that Torkildson, Katz, Fonseca, Moore & Hetherington, his former place of employment, is in possession of several of the receipts, and that the records are currently in off site storage. Mr. Li represents that he contacted servers and vendors to whom the costs were paid, but they, like Torkildson, maintained the records off site. Included with the letter were copies of receipts in Mr. Li's possession, as well as receipts to support the costs awarded to Mr. Li's co-counsel.

Although the Court sympathizes with Mr. Li's predicament, the Court declines to grant an extension of time to submit the missing receipts. The Court has

been patient and lenient with respect to Plaintiff's multiple requests for attorneys' fees. Plaintiff has had ample time and more than reasonable opportunity to gather and submit the receipts for the requested costs prior to and since filing its renewed motion for attorneys' fees in November of 2007. Indeed, Plaintiff's initial request for attorneys' fees and costs was filed on August 2, 2006. Plaintiff subsequently filed two motions for fees and costs. The Court denied without prejudice all three motions due to Plaintiff's failure to comply with the Local Rules and/or as premature. Accordingly, the Court finds that any further extension is inappropriate, and the Court consequently deducts the unsupported \$443.90 in costs from the total cost award.

Plaintiff failed to produce documentation for several of its requests for witness fees, which total \$164.00. Additionally, Plaintiff did not substantiate its request for DHL and Fed Ex costs, which totaled \$274.90. Although Plaintiff submitted air bills and other documentation to prove that certain shipping

occurred, said documentation did not evidence the cost of the shipping. Lastly, Plaintiff did not submit a receipt for the \$5.00 requested notary fee. In total, Plaintiff failed to verify \$443.90 of the \$14,086.87 recommended cost award. The Court therefore deducts \$443.90 from its recommended cost award, and amends its Report to recommend an award of \$13,642.97 in costs.

Based on the foregoing, this Court, acting as Special Master, hereby amends its Report as to the award of costs, and FINDS and RECOMMENDS that the district court award Plaintiff \$13,642.97 in costs. With the recommended award of \$147,504.08 in attorneys' fees unchanged, the total award recommended for fees and costs is \$161,147.05.

IT IS SO FOUND AND RECOMMENDED.

DATED: Honolulu, Hawaii, February 5, 2008.




Kevin S.C. Chang
United States Magistrate Judge

WORLD TRIATHLON V. DUNBAR, ET AL.; CIVIL NO. 05-00351 JMS-KSC; AMENDED REPORT OF SPECIAL MASTER RECOMMENDING THAT PLAINTIFF'S RENEWED MOTION FOR ATTORNEYS' FEES BE GRANTED IN PART AND DENIED IN PART