

1 **COLT B. DODRILL, ESQ.**
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5 **Attorneys for Plaintiff**
 6 **DITECH FINANCIAL LLC**

7
 8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10
 11 DITECH FINANCIAL LLC,
 12 Plaintiff,
 13 v.
 14 T-SHACK, INC.; SUNDANCE
 HOMEOWNERS ASSOCIATION, INC.,
 15 Defendants.

Case No. 2:16-cv-02615-RFB-VCF

**STIPULATION AND ORDER TO
 DISMISS CLAIMS FOR ATTORNEYS'S
 FEES AND COSTS**

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 19 DITECH FINANCIAL LLP and T-SHACK INC. by and through their attorneys of record,
 20 hereby stipulate as follows:

- 21 1. On February 11, 2019, Ditech Holding Corporation and its debtor affiliates (including
 22 Defendant Ditech Financial LLC ("Ditech")) each commenced a voluntary case under
 23 chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the
 24 Southern District of New York (the "Bankruptcy Court"). Ditech's chapter 11 cases are
 25 indexed at case number 19-10412 (JLG).
- 26 2. On September 26, 2019, the Bankruptcy Court entered the Order Confirming the Third
 27 Amended Joint Chapter 11 Plan of Ditech Holding Corporation and Its Affiliated Debtors
 28



1 (ECF No. 1404). This order approved the terms of the Third Amended Joint Chapter 11 Plan
2 of Ditech Holding Corporation and Its Affiliated Debtors (ECF No. 1326) (the "Plan").

3 3. The Plan contains Section 10.5 which provides for a permanent injunction (the "Plan
4 Injunction") that specifically prohibits Parties from prosecuting against Ditech any claim that
5 arose prior to September 30, 2019 (the Effective Date of Ditech's Plan) seeking monetary
6 relief (including claims seeking attorneys' fees and costs).

7 4. The claims for monetary relief of Defendant T-Shack, Inc. ("T-Shack") as against Ditech, are
8 therefore barred by the Plan Injunction as they arose prior to the Effective Date of the Plan.

9 5. Ditech and T-Shack, pursuant to Fed. R. Civ. P. 41, hereby agree as follows:

10 Ditech and T-Shack agree that all claims and requests seeking monetary relief, including
11 those seeking attorneys' fees and costs contained in clause four on page 18 of T-Shack's March 22,
12 2017 *Answer to Complaint* (ECF No. 22) (the "**Answer**") are dismissed as against Ditech. To the
13 extent that this stipulation is not found to be sufficient to dismiss T-Shack's claims for

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1 monetary relief under Rule 41, T-Shack agrees to seek to amend the Answer solely with respect to
2 the matters set forth in this paragraph pursuant to Fed. R. Civ. P. 15.

3 **IT IS SO STIPULATED.**

4 DATED: January 12, 2021 WOLFE & WYMAN LLP

5
6 By: /s/Colt B. Dodrill
7 COLT B. DODRILL, ESQ.
8 Nevada Bar No. 9000
9 6757 Spencer Street
10 Las Vegas, NV 89119
11 cbdodrill@ww.law
12 Attorneys for Plaintiff
13 DITECH FINANCIAL LLC

14 DATED: January 12, 2021 BLACK & WADHAMS

15
16 By: /s/ Christopher V. Yergensen
17 CHRISTOPHER V. YERGENSEN, ESQ.
18 Nevada Bar No. 6183
19 10777 W. Twain Ave., Suite 300
20 Las Vegas, NV 89135
21 Attorneys for Defendant
22 T-SHACK, INC.
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ORDER

By stipulation of the parties and good cause appearing therefore, the Court orders as follows:

IT IS HEREBY ORDERED THAT Plaintiff T-SHACK, INC.'s claims for monetary relief, including those seeking attorneys' fees and costs, as set forth in its Answer to the underlying Complaint filed in this action be dismissed.

IT IS SO ORDERED.

Dated: January 12, 2021


RICHARD E. BOULWARE, II
United States District Court

Respectfully submitted by:

By: /s/ Colt B. Dodrill
COLT B. DODRILL, ESQ.
Nevada Bar No. 9000
WOLFE & WYMAN LLP
6757 Spencer Street
Las Vegas, NV 89119
Attorneys for Plaintiff
DITECH FINANCIAL LLC



1 **CERTIFICATE OF SERVICE**

2 On January 12, 2021, I served the **STIPULATION AND ORDER TO DISMISS CLAIMS**
3 **FOR ATTORNEYS’S FEES AND COSTS** by the following means to the persons as listed below:

4 X a. ECF System (you must attach the “Notice of Electronic Filing”, or list
5 all persons and addresses and attach additional paper if necessary):

6 Christopher V. Yergensen, Esq.
7 Nevada Bar No. 6183
8 BLACK & WADHAMS
9 10777 W. Twain Ave., Suite 300
10 Las Vegas, NV 89135
11 T: 702-869-8801
12 Attorneys for Defendant T-SHACK, INC.

13 _____ b. United States Mail, postage fully pre-paid (List persons and addresses.
14 Attach additional paper if necessary):

15 By: /s/Kathleen S. Gambill
16 Kathleen S. Gambill
17 An employee of Wolfe & Wyman LLP
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Kathy S. Gambill

From: Christopher Yergensen <cyergensen@blackwadhams.law>
Sent: Tuesday, January 12, 2021 11:10 AM
To: Colt B. Dodrill
Cc: david.hill@weil.com; cliff.sonkin@weil.com
Subject: RE: Ditech Financial, LLC v. T-Shack, Inc. (USDC Case Nos. 2:16-cv-02812 & 2:16-cv-02615) / W&W File Nos. 1556-267 and 1556-276

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These are acceptable. Feel free to use my esignature to file.

Chris Yergensen, Esq.

Attorney



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From: Kathy S. Gambill <ksgambill@ww.law> **On Behalf Of** Colt B. Dodrill

Sent: Tuesday, January 12, 2021 10:17 AM

To: Christopher Yergensen <cyergensen@blackwadhams.law>

Cc: david.hill@weil.com; cliff.sonkin@weil.com; Colt B. Dodrill <cbdodrill@ww.law>

Subject: Ditech Financial, LLC v. T-Shack, Inc. (USDC Case Nos. 2:16-cv-02812 & 2:16-cv-02615) / W&W File Nos. 1556-267 and 1556-276

Dear Mr. Yergensen:

On behalf of Colt B. Dodrill, attached please find two stipulations regarding the dismissing of Plaintiff's claims for monetary relief as set forth in its answer to the underlying Complaint in the above-referenced actions. Please advise if you approve and if we have authorization to file.

Thank you.

Kathy



Kathleen S. Gambill
Secretarial Services Manager
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