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**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

MICHAEL HARRISON,

Case No. 17-5067

Petitioner,

vs.

THE MG HERRING GROUP,
INC.,

Respondent.

MARK SMITHERS,

Case No. 17-5069

Petitioner,

vs.

THE MG HERRING GROUP,
INC.,

Respondent.

CODY LUCAS,

Case No. 17-5071

Petitioner,

vs.

THE MG HERRING GROUP,
INC.,

Respondent.

DAVID OKKER,

Case No. 17-5073

Petitioner,

vs.

THE MG HERRING GROUP,
INC.,

Respondent.

MARVIN RAGLAND,

Case No. 17-5075

Petitioner,
vs.
THE MG HERRING GROUP,
INC.,

Respondent.
_____ /

JACOB P. MILLER,

Case No. 17-5077

Petitioner,
vs.
THE MG HERRING GROUP,
INC.,

Respondent.
_____ /

KYLIE SMITHERS,

Case No. 17-5079

Petitioner,
vs.
THE MG HERRING GROUP,
INC.,

Respondent.
_____ /

FAITH TAPPAN,

Case No. 17-5081

Petitioner,
vs.
THE MG HERRING GROUP,
INC.,

Respondent.
_____ /

BERNARD BROOKS,

Case No. 17-5411

Petitioner,
vs.
THE MG HERRING GROUP,
INC.,

Respondent.

PETITIONERS' RESPONSE TO MOTION FOR PROTECTIVE ORDER

COMES NOW, Petitioners, Michael Harrison, Mark Smithers, Cody Lucas, David Okker, Marvin L. Ragland, Jacob P. Miller, Kylie Smithers, Faith Tappan, and Bernard Brooks, (hereinafter "Petitioners"), hereby file their Response to Motion for Protective Order and state as follows:

1. On or about October 24, 2017, Respondent filed a Motion for Protective Order.
2. The issues limited to be heard on December 1, 2017 are as follows:
 - A. Whether the Respondent, The MG Herring Group, Inc., was an employer of Petitioners.
 - B. Whether Respondent, Xencom Facility Management, LLC, terminated the employment of Petitioners solely because the contract under which they were working ended.
3. Petitioners filed their Amended Notice for Telephonic Deposition of Norine Bowen, the corporate representative for Respondent.
4. Said Notice states the following as topics for which Ms. Bowen should be prepared to testify as to:
 1. The process of hiring and firing contractors/subcontractors for services similar to the services provided by the petitioners. The renewing and/or negotiation of contracts regarding same.
 2. The individuals involved in the process of hiring and firing employees for services similar to the services provided by the petitioners. The renewing and/or negotiation of contracts regarding same.
 3. The individuals involved in the process of hiring and firing contractors/subcontractors for services similar to the services provided by the petitioners. The renewing and/or negotiation of contracts regarding same.
 4. The corporate, management, operational control and/or employee structure of the respondents.
 5. The operational, interactional, collaborative, cooperative and/or business relationship of the respondents with each other.
5. In its Motion for Protective Order, Respondents argue that the documents sought to be produced exceed the limitations imposed by the Court.
6. The entire issue for the first hearing in this matter relate to the employment of the

Petitioners, who were their employees, were they terminated because the contracts ended.

7. Therefore, the issue enumerated above directly relate to the limitations as set forth by the Court.

8. Respondent also states that the issue of the contracts is irrelevant to the first hearing which is incorrect. Please see attached Exhibit "A" which is an email from Respondent Company's President, Gar Herring, to Xencom President, Michael Ponds addressing the Petitioners' Contracts.

9. In fact, as evidenced in Exhibit "A," to address Respondent's next contention that Petitioners are aware Respondent has no employees and was not a party to the Xencom Contracts at issue in this action, Petitioners have no knowledge of such things. Statements have been made by opposing counsel, however, there are zero sworn statements nor documents proving Respondent's assertions. Therefore, Petitioners have sought the deposition of Respondent's corporate representative as to the issues presented above.

10. Respondent's Motion for Protective Order should be denied as the topics sought for the deposition of Respondent's corporate representative are relevant to the issues for the first hearing in this matter.

WHEREFORE, Petitioners, respectfully request for the Court to deny Respondent's Motion for Protective Order and grant such other Orders that the Court deems just and proper.

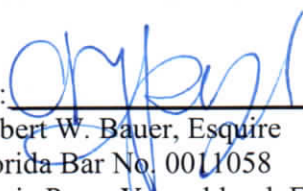
CERTIFICATE OF SERVICE

I CERTIFY that this document was filed via the eALJ and formally served, by the designated means, to Tammy S. Barton at tammy.barton@fchr.myflorida.com, and Carrie Robinson, Esq., 225 N.E. Mizner Blvd., Suite 510, Boca Raton, FL 33432, at csrobinson@tobinreyes.com on

OCT 26 2017

Respectfully submitted,

The Law Office of Robert W. Bauer, P.A.

By: 

Robert W. Bauer, Esquire

Florida Bar No. 0011058

Maria Perez Youngblood, Esquire

Florida Bar No. 0077567

2610 NW 43rd Street, Suite 1-B

Gainesville, FL 32606

(352) 375-5960 Telephone; (352) 337-2518 Facsimile

E-Mail: RWB.Pleadings@BauerLegal.com

Service is not accepted at any other email address

Wednesday, December 21, 2016

TRANSMISSION VIA FAX: 469.429.1112

Original Copy sent via Federal Express: _____

Mr. Michael Ponds, President
C/O Xencom Facility Management
1609 Precision, Suite 3000
Plano, TX 75274

RE: Market Street at Heath Brook
Contracts: MSHB 15-020, 15-021 & 15-022

Dear Mr. Ponds:

Effective immediately, please be advised that the above contracts for maintenance, landscaping and housekeeping, set to expire December 31, 2016 are cancelled.

This cancellation notice is in accordance with Section 8 (b) Term: Termination and Survival.

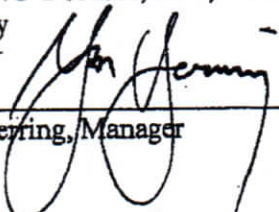
We appreciate everything that Xencom Facility Management has done and wish you all the best in the future.

Very truly yours,

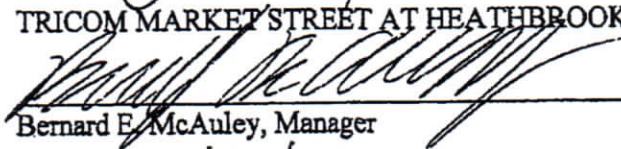
OWNER:

CREFII MARKET STREET HOLDINGS, LLC,
a Delaware limited liability company

By: HERRING OCALA, LLC, a Texas limited liability
Company

By: 
Gar Herring, Manager

By: TRICOM MARKET STREET AT HEATHBROOK, LLC.

By: 
Bernard E. McAuley, Manager

DATE: 12/21/16

EXHIBIT

A

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