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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Charles Paul Varvayanis,

Complainant,

vs.

Odd Fellows Sierra Recreation Association,

Defendant.

Case 16-10-005
(Filed October 6, 2016)

RULING RECEIVING EVIDENCE

On January 12, 2017, the Assigned Administrative Law Judge issued a ruling identifying evidence and requiring the parties file additional evidence, objections and stipulations to evidence, and information concerning witnesses and testimony.

Defendant Odd Fellows Sierra Recreation Association (Odd Fellows) filed its responses on January 20, 2017 and January 25, 2017. Although Complainant Charles Paul Varvayanis (Varvayanis) filed his Opposition to Motion to Dismiss on January 20, 2017, he did not file any response to the January 12, 2017 ruling until January 27, 2017 and January 30, 2017.

Based on the filings and record herein and the motions and stipulations of the parties, the following is admitted into evidence:

Varvayanis Exhibits

- CV-1. Odd Fellows Invoice #379, dated June 6, 2012.
- CV-2. Odd Fellows Invoice #380, dated June 6, 2012.
- CV-3. Odd Fellows Invoice #381, dated June 6, 2012.
- CV-4. Odd Fellows Invoice #382, dated June 6, 2012.

- CV-5. Front and reverse of Check no. 0000008082, dated March 14, 2013, drawn on the account of Charles P. Varvayanis and Pat Jones, payable to Odd Fellows, for account: 24982 Jordan Way West-Varvayanis, in the amount of \$571.60.
- CV-6. Front and reverse of Check no. 0000008083, dated March 19, 2013, drawn on the account of Charles P. Varvayanis and Pat Jones, payable to Odd Fellows, for account: 25431 Wheeler Road-Varvayanis, in the amount of \$571.60.
- CV-7. Front and reverse of Check no. 0000008105, dated April 4, 2013, drawn on the account of Charles P. Varvayanis and Pat Jones, payable to Odd Fellows, for account: 25431 Wheeler Road-Varvayanis, in the amount of \$452.40.
- CV-8. Front and reverse of Check no. 0000008106, dated April 5, 2013, drawn on the account of Charles P. Varvayanis and Pat Jones, payable to Odd Fellows, for account: 24982 Jordan Way West-Varvayanis, in the amount of \$452.40.
- CV-9. Odd Fellows receipt dated 4/9/2014.
- CV-10. Transmittal note to Sierra Park Property Owners for 1st of 20 quarterly refunds in the amount of \$2.88.
- CV-11. Odd Fellows Newsletter, March 2016.
- CV-12. E-mail dated March 14, 2016, Varvayanis to "Odd Fellows Sierra Recreation Assoc. Clark Bookkeeping Svc."
- CV-13. E-mail dated March 22, 2016, Del Wallis to Ravi Kumra, cc: Varvayanis, et al.
- CV-14. Odd Fellows Check no. 3122, payable to Varvayanis, dated March 25, 2016, in the amount of \$2.88.
- CV-15. Odd Fellows Check no. 3123, payable to Varvayanis, dated March 25, 2016, in the amount of \$2.88.
- CV-16. Varvayanis letter dated March 31, 2016 regarding: CPUC Decision 16-01-047 and the Odd Fellows Sierra Recreation Association Refund.

CV-17. Commission letter dated June 1, 2016 re: Disposition of Sierra Park Water Company Advice Letter Number 1.

CV-18. Sierra Park Advice Letter 1 including Tariff sheets.

Odd Fellows Exhibits

OF-1. Odd Fellows Credit Memo #635, dated December 11, 2012.

OF-2. Odd Fellows Credit Memo #636, dated December 11, 2012.

OF-3. Odd Fellows Credit Memo #637, dated December 11, 2012.

OF-4. Odd Fellows Credit Memo #638, dated December 11, 2012.

OF-5. Odd Fellows Invoice #599, dated December 12, 2012.

OF-6. Odd Fellows Invoice #600, dated December 12, 2012.

OF-7. Odd Fellows Invoice #601, dated December 12, 2012.

OF-8. Odd Fellows Invoice #602, dated December 12, 2012.

The late filed objections of Varvayanis to OF-1 – OF-8 are overruled. The objections were made on the grounds Varvayanis did not know of the existence of these documents until January 5, 2017 and the numbers of these documents are not in sequence. These objections are understood to be objections to the authenticity of the documents. Varvayanis’ lack of knowledge concerning the existence of documents is not a valid basis for an objection. The authenticity of these credit memos and invoices is established moreover, by Varvayanis’ own proffered evidence: CV-1 – CV-4, the initial June 6, 2012 invoices; CV-5 and CV-6 reflecting two payments in the amount of \$571.60 each, which is the amount stated by each of the December 12, 2012 invoices, OF-5 – OF-8; CV-7 and CV-8 reflecting two payments in the amount of \$452.40 each, which was the amount remaining owing on each account after the application of the credit memos (OF-1 – OF-4) to the initial invoices (CV-1 – CV-4). Additionally, Varvayanis exhibit CV-12 states he paid \$571.60 for water service for 2012-2013 and

Varvayanis' Opposition to the Motion to Dismiss, filed January 20, 2017, states he was informed on behalf of Odd Fellows in early 2013, at the time he made the relevant payments, that he owed amounts consistent with these invoices and credit memos.¹ Therefore, the late filed objections of Varvayanis to OF-1 – OF-8 are overruled and the documents are admitted into evidence.

Judicial Notice

ALJ-1. *Report of the Odd Fellows Sierra Recreation Association*, filed on December 7, 2012 in C-12.03.017.

The late filed objections of Varvayanis to ALJ-1 are similarly without merit. Official notice of the foregoing report is proper pursuant to Evidence Code section 452(h). Official notice is taken to establish Odd Fellows stated a budgeted expense of \$571.60 per lot for water service for fiscal year 2012. It is noted, although Varvayanis objects to ALJ-1 being used to establish Odd Fellows stated a budgeted expense of \$571.60 per lot for water service for fiscal year 2012 his objection goes to the accuracy of the number (did water service cost \$571.60?) and is not an objection that Odd Fellows did not state in the December 7, 2012 report that the budgeted expense for water service for fiscal year 2012 was \$571.60 per lot. Furthermore, Varvayanis acknowledges the existence of this document in his Motion to Dismiss.²

Additional Varvayanis Exhibits

CV-19. Complaint 12-03-017, filed March 14, 2012.

CV-20. Decision 16-01-047, dated January 28, 2016.

CV-21. Advice Letter Suspension Notice, January 20, 2017.

¹ Varvayanis' Opposition to the Motion to Dismiss at 4, lines 1-11.

² Varvayanis' Opposition to the Motion to Dismiss at 3, lines 17-18.

- CV-22. Email message dated January 5, 2017 transmitting various exhibits from Trujillo to Kumra.
- CV-23. Draft Staff Report, dated September 30, 2014.
- CV-24. Disposition of Sierra Park Water Company Advice Letter Number 1, dated June 1, 2016.
- CV-25. Decision 16-08-006, issued August 19, 2016.

Odd Fellows Additional Exhibits and Request for Judicial Notice

- OF-9. Letter dated June 28, 2016, from Odd Fellows to Timothy J. Sullivan.
- OF-10. Letter dated June 29, 2016, from Timothy J. Sullivan to Odd Fellows.
- ALJ-2. Decision 16-01-047, dated January 28, 2016.
- ALJ-3. Odd Fellows Petition to Modify filed June 29, 2016.
- ALJ-4. Decision 16-08-006, issued August 19, 2016.

Official notice is taken pursuant to Evidence Code section 452(h) of: CV-19, Complaint 12-03-017, filed March 14, 2012; CV-20 (also identified above as ALJ-2), Decision 16-01-047, dated January 28, 2016; CV-24, Disposition of Sierra Park Water Company Advice Letter Number 1, dated June 1, 2016; CV-25(also identified above as ALJ-4), Decision 16-08-006, issued August 19, 2016; and ALJ-3, Odd Fellows Petition to Modify filed June 29, 2016.

CV-21, CV-22, and CV-23 and OF-9 and OF-10 are not entered into evidence. CV-21, Advice Letter Suspension Notice, January 20, 2017; CV-22, E-mail message dated January 5, 2017 transmitting various exhibits from Trujillo to Kumra; OF-9, Letter dated June 28, 2016, from Odd Fellows to Timothy J. Sullivan and OF-10, Letter dated June 29, 2016, from Timothy J. Sullivan to Odd Fellows are neither relevant nor probative pursuant

to Evidence Code sections 350 and 352. CV-23, Draft Staff Report, dated September 30, 2014 would be cumulative as the staff report is attached to ALJ-2.

Therefore, **IT IS RULED** that:

Exhibits CV-1 through CV-20, CV-24, CV-25, OF-1 through OF-8, and ALJ-1 and ALJ-3 are entered into evidence.

CV-21, CV-22, and CV-23 and OF-9 and OF-10 are not entered into evidence.

Dated February 9, 2017, at San Francisco, California.

 /s/ ERIC WILDGRUBE
Eric Wildgrube
Administrative Law Judge