



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

JAMES RIVEST,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 2019-0848-JTL
)	
HAUPPAUGE DIGITAL, INC.,)	
)	
Defendant.)	

FINAL ORDER AND JUDGMENT

1. Judgment is entered in favor of plaintiff James Rivest.
2. For the reasons stated in this court’s opinion dated September 1, 2022, Hauppauge Digital, Inc. (the “Company”) shall produce to Rivest its quarterly and annual financial statements and reports, including cash flow statements, balance sheets, and income statements, for the years 2016 through 2020.
3. The reasoning in the opinion applies equally to Rivest’s request for quarterly and annual financial statements and reports, including cash flow statements, balance sheets, and income statements, for the years 2021 through 2022. That request and the Company’s rejection of it have been made part of the record by stipulation. Dkt. 104. For the reasons stated in the opinion the Company shall produce those books and records to Rivest.
4. For the reasons stated in the opinion, the Company failed to carry its burden under *Tiger v. Boast Apparel, Inc.*, 214 A.3d 933 (Del. 2019), to establish

the need for a confidentiality restriction. The production accordingly is not subject to any confidentiality restriction.

5. Company counsel shall produce the materials to Rivest's counsel on or before December 9, 2022.

6. As the prevailing party, Rivest is entitled to costs under Rule 54(b). Plaintiff is awarded costs of \$3,875, which the court finds to be reasonable.

- a. The Company shall pay this amount to Rivest's counsel on or before December 2, 2022.
- b. Interest will begin to run on December 3, 2022, on any amounts not paid by December 2. Interest will be calculated at the legal rate specified in 6 *Del. C.* § 2031(a), compounded quarterly, with the applicable rate fluctuating with changes in the underlying reference rate.
- c. The Company has suggested that Rivest is seeking inappropriate costs, citing references to transcripts. *See* Dkt. 106 at 4 n.6. The Montejo Affidavit plainly distinguishes between the expenses that the plaintiff seeks to recover as Rule 54(b) costs (paragraph five) and other expenses that the plaintiff seeks under the bad faith exception to the American Rule. The amounts that the plaintiff seeks as court costs are appropriate.

7. Rivest has sought attorneys' fees and costs under the bad faith exception to the American Rule. The court has noted that the Company's litigation tactics involved "ignoring the lawsuit, then raising unsupportable defenses and filing over-the-top motions . . . [as] part of a scorched-earth strategy that culminated in the Company's witnesses giving overblown testimony at trial." *Rivest v. Hauppauge Digit., Inc.*, 2022 WL 3973101, at *23 (Del. Ch. Sept. 1, 2022). The court considered those tactics in conducting its *de novo* review and when assessing the credibility of the Company's witnesses. *Id.* Notwithstanding those tactics, the Company presented a record on which the Master approved a two-year confidentiality restriction, while rejecting the Company's requests for an unlimited confidentiality restriction, a liquidated damages provision, and a confession of judgment clause. *See* Dkt. 61 at 236–37. Having succeeded to that limited degree before the Master, a full award of fees and costs is unwarranted. The court has considered the possibility of a partial award. Rivest did not seek a partial award tailored to particular acts, and in the exercise of its discretion, the court will not invite a further application. Rivest's request for an award of fees and expenses is denied.

8. The Company has sought attorneys' fees and costs under the bad faith exception to the American Rule. That request is unfounded and meritless. It is denied.

9. This ruling does not address the Company's repeated efforts to seek a stay pending appeal, all of which have been premature.

/s/ J. Travis Laster

Vice Chancellor Laster
November 21, 2022