THE IMPORTANCE OF THE FONTAINEBLEAU® BRAND

We are reaching out to our FONTAINEBLEAU® owners today regarding an important message regarding the FONTAINEBLEAU® brand and misuse of our valuable trademarks. JS IP, LLC is the owner of all right title and interest in the FONTAINEBLEAU® trademark and other intellectual property relating to the operation, promotion, and marketing of the FONTAINEBLEAU® hotel and related goods/services (hereinafter the “FONTAINEBLEAU® Marks”). JS IP has taken steps to federally protect its FONTAINEBLEAU® Marks in the United States and abroad and attaches as list of its current marks as Schedule A. These guidelines are intended to protect the valuable FONTAINEBLEAU® property and apply to Fontainebleau II Condominium Association (“FB II Association”) and Fontainebleau III Ocean Club Condominium Association (“FB III Association”) and its respective owner members (individually and/or collectively, the “Unit Owners”).

Trademarks are unique terms, symbols, or combinations of terms and symbols that communicate a specific message to the public. The term "COKE", for example, is a trademark that identifies a specific soft drink produced by The Coca-Cola Company. A service mark is a type of trademark that identifies the source of a service and distinguishes that service provider from all others. For example, the term “FedEx” is a service mark that identifies a specific provider of parcel delivery. Many of the words we use in our everyday speech were once valuable trademarks that could have been maintained as such if they had been promoted and protected properly. The words “escalator” and “aspirin” were once valuable trademarks, but for lack of vigilance, care, and public promotion, they lost their distinctive protectable qualities and are now words of ordinary use.

The purpose of a brand, from a marketing standpoint, is to attract consumers to buy a good or service by associating that good or service in the mind of a consumer with an expectation that the good or service will satisfy the consumer's purpose. Over time, trademarks like those mentioned become associated with standards of quality or care and the public looks upon such marks as guarantees of repeated quality or care. If a trademark owner does not properly protect its mark, it may be lost forever, which would ultimately result in harm to the FONTAINEBLEAU® Hotel and FONTAINEBLEAU® Unit Owners.

Undoubtedly, what attracted so many of our Owners to purchase a condominium in FONTAINEBLEAU® Tower II or Tower III was the prestige and historical significance of the FONTAINEBLEAU® hotel and brand. The hotel first opened in 1954 and was designed by Morris Lapidus. Then and now, it remains one of the most lavish hotels in Miami Beach. In 2007, the FONTAINEBLEAU® hotel was ranked No. 93 in the American Institute of Architect's (“AIA”) list of “America’s Favorite Architecture.” In 2008, the FONTAINEBLEAU® hotel was added to the U.S. National Register of Historic Places. In 2012, the AIA’s Florida Chapter ranked the FONTAINEBLEAU® hotel No. 1 on its list of “Florida Architecture. 100 Years. 100 Places.” A complete list of awards received by the FONTAINEBLEAU® hotel are found by clicking here: https://spanish.fontainebleau.com/media/miami-resort-awards. Consequently, we take the protection of our intellectual property and especially, the FONTAINEBLEAU® Marks very seriously.

As you know, the FONTAINEBLEAU® Condominiums (Tresor and Sorrento) are allowed to use the FONTAINEBLEAU® Marks as part of their names, with the permission of the FONTAINEBLEAU® Hotel.
Owner (JS IP’s licensee) for the limited purpose of identifying, managing and operating the FONTAINEBLEAU® Towers. However, this limited license does not grant the owners, residents, visitors, or Condominium Associations the right to use the FONTAINEBLEAU® Marks for any other purpose. It has come to our recent attention that Unit Owners are incorporating business names, registering domain names, operating websites, securing social media handles, and making other uses of the FONTAINEBLEAU® Marks which were not authorized by JS IP, are not permitted by the Hotel Owner, are in violation of the condominium documents, and which harm the FONTAINEBLEAU® brand reputation and goodwill.

In order to protect the FONTAINEBLEAU® Marks, to preserve the goodwill, reputation, and investment (by us and its owners) in the FONTAINEBLEAU® brand, and to prevent any confusion among current and prospective owners, we hereby require, that pursuant to the Declaration of Fontainebleau II, A Condominium, (“FB II Declaration”), the Amended and Restated Declaration of Covenants Restrictions, and Reciprocal Easements (“FB II REA”), the Declaration of Fontainebleau III Ocean Club Condominium (“FB III Declaration”), and the Declaration of Restrictions and Reciprocal Easement Agreement (“FB III REA”), the Fontainebleau II Condominium Association and the Fontainebleau III Ocean Club Condominium Association (individually or collectively, the “Association”) and respective Unit Owners heed the following guidelines:

1. Unit Owners have no right to use the FONTAINEBLEAU® Marks except as a geographical reference:

   Permitted Use: “I am selling a condominium located at FONTAINEBLEAU Tower II.”
   Unauthorized Use: “FONTAINEBLEAU Condominiums for Sale.”

2. Unit Owners are not allowed to register with an federal, state, or other registry, any domain names, corporate names, social media handles (for example, Facebook, Instagram, Pinterest, Snapchat, or Youtube), fictitious names, or any other names consisting of, in whole or in part, the FONTAINEBLEAU® Marks, or any other mark that might be confusingly similar to the FONTAINEBLEAU® Marks;

3. If any Unit Owner has registered any domain names, corporate names, social media handles, fictitious names, or any other names, and/or is in possession, custody, or control of any name, consisting of, in whole or in part, the FONTAINEBLEAU® Marks, he/she/it must change the name to remove the FONTAINEBLEAU® Marks within thirty (30) days and provide evidence of same to the Hotel Owner;

4. Unit Owners are not allowed to incorporate the FONTAINEBLEAU® Marks in any manner to promote their own goods/services;

5. Unit Owners are not allowed to incorporate the FONTAINEBLEAU® Marks in any manner on their own websites, products, and/or packaging;

6. Unit Owners are not allowed to use the FONTAINEBLEAU® Marks as metatags or keywords in connection with their own websites; and
7. Hotel Owner may request at any time that any Unit Owner discontinue use of the FONTAINEBLEAU® Marks and Unit Owner shall take whatever steps are necessary to discontinue such use.

8. If any Unit Owner wishes to secure Hotel Owner’s consent to use the FONTAINEBLEAU® Marks, he/she/it must make such a request in writing to:

Joseph Lafluer, Director of Condo Hotel Operations & Quality Assurance
305-647-4711
jlafleur@fontainebleau.com

Any such use should be accompanied with an asterisk and a corresponding footnote or ownership acknowledgement which identifies us as the owner of the mark. For example:
“The FONTAINEBLEAU® Marks are the registered trademarks of JS IP, LLC”

In our mutual effort to protect the FONTAINEBLEAU® Marks, please report any suspected infringement or unauthorized use of the FONTAINEBLEAU® Marks to the Legal Department by contacting:

Krissy Fassbinder, Intellectual Property Paralegal
Kfassbinder@turnberry.com
305-674-4747

Although these guidelines provide general information and guidance regarding trademark matters, questions often arise during specific situations. If you have any questions regarding the FONTAINEBLEAU® Marks, please contact:

Joseph Lafluer, Director of Condo Hotel Operations & Quality Assurance
305-647-4711
jlafleur@fontainebleau.com

Over the course of the last 60+ years, the FONTAINEBLEAU® Marks have developed a reputation as an industry leader in the luxury hotel and lifestyle industry. Our trademarks embody the goodwill that consumers, owners, and prospective owners associate with the FONTAINEBLEAU® Marks. We must all continuously take steps to ensure the proper use and protection of our marks in order to support and strengthen our advertising, marketing and promotional efforts. By following these guidelines, we can work together to maximize the value of our trademarks and enhance the image of the FONTAINEBLEAU® brand in the marketplace.