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July 28, 2010

Via E-Mail kjh@hutchersonlaw.com

Kenton Hutcherson
Hutcherson Law
3102 Oak Lawn Avenue, Suite 777
Dallas, Texas 75219

> Re: *Takedown Demand re: Press Release About Declaration in Asia Economic Institute adv.*
> *Xcentric Ventures, LLC Litigation*

Dear Kenton:

I have been made aware that you created a press release touting your participation as a declarant in the pending litigation *Asia Economic Institute, LLC et al. v. Xcentric Ventures, LLC*, *et al*., Case No: 2:10-cv-01360-RSWL-PJW, United States District Court for the Central District of California. This press release can be found, among other places, at http://www.pr.com/press-release/252020. There are a number of problems with not only what you have published in your press release, but with your declaration in the *Asia Economic* lawsuit as well. The purpose of this letter is to (1) request that you withdraw your press release and cease any further dissemination of any similar materials, and (2) request that you submit to the court a corrected declaration remedying the inaccuracies in your previously-submitted declaration.

Taking first the content of your declaration, the misrepresentation arises out of what do <u>not</u> reference in your declaration, namely, the Settlement Agreement entered into between Xcentric and QED. First, you fail to disclose that the underlying lawsuit being settled was Xcentric's lawsuit against QED and Russo, and was not a lawsuit that you filed seeking removal of reports.

Your declaration infers that as a result of the settlement, you simply demanded that Ripoff Report remove reports and it complied. You know very well that such a statement omits material facts that are necessary to avoid the false implication. As is made clear in the Settlement Agreement, in exchange for certain consideration, Xcentric agreed to <u>monitor</u> reports which were submitted to the RipOff Report website for publication about QED. Pursuant to that settlement agreement, Xcentric would hold reports about QED pending confirmation from the author of the report that they were an actual customer of QED. If such confirmation could not be provided by the report's author, the report would not be published on the RipOff Report website. As you know and failed to disclose, the <u>only</u> reason the posting was removed was because it was inadvertently permitted without the requisite verification. Your declaration fails to disclose that the removal became necessary to cure a default.

10297-75/LAR/LAR/817760_v1

Even more misleading is the so-called "press release" which you today have circulated to numerous "free press release" websites. This statement, which was designed to tout the apparent power you believe you have over Xcentric to get Xcentric to remove reports from the RipOff Report website, is false, misleading, and intended to incite litigants to use your services to improvidently and illegally file baseless lawsuits against Xcentric. You state that your resolved a legal dispute between your client and Xcentric, without disclosing that your client was a defendant in that lawsuit.

You also trump up the significance of your declaration and make it seem like any individual can "negotiate" the removal of reports from the RipOff Report website simply by hiring you to file a frivolous lawsuit against Xcentric. Additionally, you misstate the terms of the Settlement Agreement, claiming that Xcentric "agreed to prevent future submissions related to" your clients "from appearing on the Ripoff Report website." As explained above, that is <u>not</u> what the Settlement Agreement says; instead, Xcentric agreed to <u>monitor</u> reports about your clients and, in the event that the author of the report was unable to establish that they were an actual customer of your clients, the report would not be published on the RipOff Report website.

You further state that the CDA does not provide absolute justice and our legal system allows business owners to challenge it. You follow that statement with rhetoric about the settlement agreement; thus implying that the settlement was because the CDA did not apply to Ripoff Report. As you know, every court that has considered the issue has held that Xcentric is covered by the CDA. Also, you imply that the CDA can be challenged in the courts. The CDA is a statute; therefore, any true challenge to its language and effect must be undertaken by Congress, and not by any court. *See Noah v. AOL Time Warner, Inc.*, 261 F. Supp.2d 532, 539 (E.D. Va. 2003), aff'd sub nom. *Noah v. AOL-Time Warner, Inc.*, 2004 WL 602711 (4th Cir. 2004) ("It is not the role of the federal courts to second-guess a clearly stated Congressional policy decision."). Your attempt to mislead the public into hiring you to file a frivolous lawsuit against Xcentric on the basis that Xcentric's immunity under the CDA can be "challenged" is based on a faulty legal presumption, which you know to be improper.

In view of the foregoing, I demand that you (1) provide the *Asia Economic* court with a corrected declaration to include an explanation of the terms of the Settlement Agreement and how the content and context of the Settlement Agreement led to the emails included in your declaration, and (2) immediately withdraw your "press release" and take affirmative steps to ensure that it is not further disseminated. Moreover, I demand that in the event that you obtain any client as a result of the "press release" who wishes to utilize your services for the purpose of initiating a lawsuit against Xcentric Ventures and/or Ed Magedson, you will <u>decline</u> to take that client, and will not assist in that party's pursuit of any claim against any entity related to the RipOff Report website.
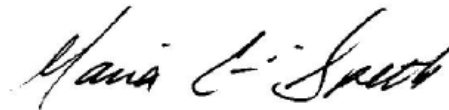
I expect to receive a response from you in writing within three days of this letter.

Sincerely,

JABURG & WILK, P.C.

Maria Crimi Speth

MCS:lar
cc: Client