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12 Attorney for Plaintiffs,
13 Asia Economic Institute, LLC,
14 Raymond Mobrez, and
15 Iliana Llaneras

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18 ASIA ECONOMIC INSTITUTE, LLC,)
19 a California LLC; RAYMOND)
20 MOBREZ an individual; and ILIANA)
21 LLANERAS, an individual,)

22 Plaintiffs,

23 vs.

24 XCENTRIC VENTURES, LLC, an)
25 Arizona LLC, d/b/a as BADBUSINESS)
26 BUREAU and/or)
27 BADBUSINESSBUREAU.COM)
28 and/or RIP OFF REPORT and/or)
RIPOFFREPORT.COM; BAD)
BUSINESS BUREAU, LLC, organized)
and existing under the laws of St.)
Kitts/Nevis, West Indies; EDWARD)
MAGEDSON an individual, and DOES)
1 through 100, inclusive,)

Defendants.

Case No.: 2:10-cv-01360-SVW-PJW

DECLARATION OF DANIEL F. BLACKERT IN SUPPORT OF PLAINTIFFS' FIRST AMENDED COMPLAINT

Asia Economic Institute et al, Xcentric Ventures, LLC et al

Doc. 122 Att. 15

1 I, Daniel F. Blackert, declare under penalty of perjury as follows:

2 1. My name is Daniel Blackert. I am a United States Citizen, a
3 resident of the State of California, am over 18 years of age, and if called to
4 testify in Court or other proceeding I could and would give the following
5 testimony which is based upon my own personal knowledge unless otherwise
6 stated.

7 2. I am an attorney, licensed to practice law in the State of California.
8 I am an active member and in good standing with the State of California. I am
9 also admitted to practice in the United States District Court for the Central
10 District of California.

11 3. I have been employed by Asia Economic Institute LLC as their
12 attorney for this matter since December 2009. My Co-Counsel in this case is
13 Lisa J. Borodkin. I have been involved in the litigation since its inception. I
14 have possession of Plaintiffs' files with respect to this case, and I am personally
15 familiar with the contents thereof.

16 4. On June 2, 2010, I took the 30(b)(6) Deposition of Xcentric
17 Ventures, LLC. Mr. Magedson was designated as the person most
18 knowledgeable.

19 5. I questioned Mr. Magedson about the investigative process that
20 Rip-Off Report ("ROR") conducts when a victim of a report(s) joins ROR's
21 Consumer Advocacy Program ("CAP"). Mr. Magedson explained to me that
22 ROR conducts CAP investigations strictly through the email and Mr. Magedson
23 is the only one involved in the process. True and correct copies of pages from
24 the June 2, 2010 30(b)(6) deposition of Xcentric Ventures, LLC are attached
25 hereto as **EXHIBIT A**.

26 6. On July 20, 2010, Lisa Borodkin, Plaintiff Raymond Mobrez, and I
27 traveled to Phoenix, Arizona to conduct the deposition of Edward Magedson,
28 and to discuss the possibility of settling the case.

1 7. While in discussion with Defendants' Attorneys, Plaintiffs
2 Attorneys introduced email communications between Attorney Kenneth
3 Hutcherson and Defendants Attorneys Maria C. Speth and David S. Gingras.
4 Plaintiffs' Attorneys showed Ms. Speth the emails to assess the viability of
5 Plaintiffs' wire fraud claim. True and correct copies of the emails are attached to
6 the Declaration of Kenton J. Hutcherson which are attached to Plaintiffs' FAC
7 as **EXHIBIT 12**.

8 8. The emails discussed violations of a settlement agreement entered
9 into on May 15, 2009 by and between Defendants and QED Media Group, LLC
10 and Robert Russo. A true and correct copy of the settlement agreement by and
11 between the above parties is attached to Plaintiffs' FAC as **EXHIBIT 8**.

12 9. Under the terms of the settlement agreement, Defendants agreed to
13 remove future reports on ROR regarding QED Media Group, LLC and Robert
14 Russo if an investigation proved them false.

15 10. In the months of October and December of 2009, false reports
16 appeared on ROR regarding QED Media Group, LLC and Robert Russo. Mr.
17 Magedson did not take down the reports. As a result, Mr. Magedson violated
18 the settlement agreement. However, Mr. Magedson eventually took the reports
19 at issue down after the emails from Attorney Hutcherson.

20 11. This is startling evidence as ROR emphatically states that it
21 "NEVER" removes reports. For example, a page from ROR's website reads:

22 **2. Our Policy: Why We NEVER Remove Reports**

23 Since the Ripoff Report was started in 1998, our policy has always remained the
24 same – we never remove reports. We will not remove reports even when they are
25 claimed to contain defamatory statements and even if the original author requests it.
26 Some people have criticized this policy as being unfair, but we strongly feel this
27 policy is essential, fair, and far better than the alternative – rampant censorship. A
28 true and accurate copy of a printout of this page from ROR's website is attached
hereto as **EXHIBIT A**. The quoted text is bracketed for the Court's convenience.

1 12. Likewise, In a July 24, 2009, email from Mr. Magedson to Plaintiff,
2 Mr. Mobrez, Mr. Magedson emphatically states “[...] we DO NOT REMOVE
3 REPORTS! [...] no amount of money can change this. Even if you were the
4 pope.. (sic.) it would not make a difference. The pope has access to a computer
5 im (sic.) sure.” A true and correct copy of Mr. Magedson’s July 24, 2009 email
6 is attached to Plaintiffs’ Original Complaint as **EXHIBIT B**.

7
8 13. According to the emails, Hutcherson requested the removal of these
9 reports pursuant to their settlement agreement. Defendants subsequently
10 **removed** reports concerning QED Media Group, LLC and Robert Russo on two
11 occasions, October 29, 2009 and December 28, 2009. For example, in an
12 October 29, 2009 email to Mr. Hutcherson from Ms. Speth, she states: “Ripoff
13 Report has decided to completely remove report number =10675. It was
14 deactivated yesterday.” In another email dated December 28, 2009 Ms. Speth
15 informs Mr. Hutcherson of the following: “The Report has been taken down.”

16 14. When Plaintiffs’ Counsel asked Defendants’ Counsel, Ms. Speth
17 about these emails, she confirmed that Ripoff Report had, in fact, removed two
18 (2) reports concerning QED Media Group, LLC and Robert Russo on October
19 29, 2009 and December 28, 2009 per the May 15, 2009 settlement agreement.
20 Her comments appeared to admit that the emails were genuine. She also
21 spontaneously volunteered that Mr. Russo had owed them a large five or six sum
22 figure of money per the settlement agreement and that he had defaulted on that
23 portion of the money.
24
25
26
27
28

1
2 **Pursuant to 28 U.S.C., Section 1746, I declare under penalty of perjury**
3 **under the Laws of the United States of America that the foregoing is true**
4 **and correct.**

5
6 EXECUTED ON: July 26, 2010

7
8 

9
10 Daniel F. Blackert, Esq.

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA

3
4 ASIA ECONOMIC INSTITUTE, LLC, a)
California LLC; RAYMOND MOBREZ,)
5 an individual; and ILIANA)
LLANERAS, an individual,)
6)
Plaintiffs,)

7 vs.)

Case No:
2:10-cv-01360-SVW-PJW

8 XCENTRIC VENTURES, LLC, an)
9 Arizona LLC, d/b/a as BADBUSINESS)
BUREAU and/or)
10 BADBUSINESSBUREAU.COM and/or)
RIP OFF REPORT and/or)
11 RIPOFFREPORT.COM; BAD BUSINESS)
BUREAU, LLC, organized and)
12 existing under the laws of)
St. Kitts/Nevis, West Indies;)
13 EDWARD MAGEDSON, an individual,)
and DOES 1 through 100,)
14 Inclusive,)
15 Defendants.)

16
17 THE 30(B)(6) VIDEOTAPED DEPOSITION OF
18 EDWARD MAGEDSON was taken on June 2, 2010 at the
19 offices of Jaburg & Wilk, P.C., 3200 North Central
20 Avenue, Suite 2000, Phoenix, Arizona, commencing at the
21 hour of 10:54 a.m. before Marcella Daughtry, a
22 Registered Professional Reporter and Arizona Certified
23 Reporter, in and for the State of Arizona.

24
25 Pages 1 - 201

1 Q When a party who has posted on
2 RipoffReport.com files a rebuttal, where does that
3 rebuttal appear?

4 MR. GINGRAS: Objection. Form.

5 THE WITNESS: It appears underneath the

14:54:05

6 negative report.

7 Q BY MR. BLACKERT: In every negative report?

8 A What do you mean by "in every negative
9 report"?

10 Q Hypothetically, if there is five negative

14:54:15

11 reports on a company, does the rebuttal appear under
12 every negative report or just the --

13 A The report that the consumer filed under --

14 Q Okay.

15 A -- along with their title. It goes at the

14:54:34

16 top.

17 Q It goes where, I'm sorry?

18 A Along with their title of their rebuttal.

19 Q Okay. Now, when a business or individual
20 enters the CAP program, is there -- take me through

14:54:45

21 that. Is there an investigation?

22 A We get a commitment from the business, a
23 written commitment from the business as to their change
24 that they are doing. We check on certain things that
25 they are telling us. There will be an investigation as

14:55:02

1 to -- we've won five years in a row JD Power &
2 Associates award. And we'll say, could you please send
3 us, you know, a copy of that. Well, actually, that's
4 wrong. They will be e-mailed and ask us, you know, to
5 send evidence of certain things.

14:55:20

6 Q So take me through Xcentric's investigation
7 when a company enrolls in the CAP.

8 A When a company enrolls in the CAP, just the
9 investigation part?

10 Q Just the investigation.

14:55:33

11 A Not all the things we had them do?

12 Q Just the investigation part.

13 A The investigation part --

14 Q What's the first step?

15 A We ask them -- we ask them and we want to put

14:55:40

16 what changes they've made that's in there, what the
17 company states. We like quotes from individuals from
18 the company. Like one executive said the following and
19 so on like that. We ask them to tell us the changes
20 that they've made. I'm not sure if I just said that,

14:55:58

21 but the changes that they've made to talk about why
22 they're companies to do business with, maybe why
23 they've had complaints, why complaints did happen.

24 And we put that into a report, into a
25 main report, and then we also inject stuff before other

14:56:18

1 reports.

2 Q Okay. So you said you -- these companies tell
3 you that they've changed -- they do changes, correct?

4 A Right.

5 Q How do you follow up? How does Xcentric

14:56:33

6 follow up that they actually implement these changes?

7 A Very simple. If somebody e-mails us and says,
8 hey, look, I read Ripoff Report, and look, I don't feel
9 I'm getting the attention, I didn't get what I paid for
10 and I'm dissatisfied -- I'm holding off, because I see

14:56:49

11 you are reading. I don't know if you are going to
12 listen to me.

13 Q Thank you. No, no, I'm listening. Go ahead.
14 Do you have any more to add?

15 A Well, I didn't finish.

14:57:03

16 Q Okay, go ahead. Finish.

17 A I forget what I just said.

18 MR. BLACKERT: Do you want to read back
19 his response.

20 THE WITNESS: Yeah, what was his
21 question and what was my response, if you don't mind.

22 (The requested portion of the record was
23 read by the court reporter.)

24 THE WITNESS: Okay. A consumer e-mails
25 us and says that they are not satisfied; they have to

14:57:35

1 make them satisfied. And so they will e-mail us -- and
2 I think I explained before, we send an e-mail out.
3 Well, there's that first e-mail before they even join.

4 But then when a new client, a new
5 customer is dissatisfied, we immediately e-mail them

14:57:52

6 back and -- just trying to -- stop interrupting. No.
7 We immediately e-mail them back to diffuse that
8 customer from going elsewhere and filing a complaint
9 and letting them know executives -- I think I explained
10 this before. We let them know executives at the

14:58:17

11 company want to -- will want to see what their
12 complaint is and get this resolved.

13 And they do. Because if the company
14 doesn't resolve it and they don't get a green flag from
15 us, which is what -- the green flag means they took

14:58:33

16 care of it and everything was good.

17 Q BY MR. BLACKERT: How else do you follow up?

18 A Well, the only way we can follow up is if the
19 customer tells us they didn't. Because in that e-mail
20 they are told, listen, you need to let us know how this

14:58:46

21 goes.

22 Q Do you ever visit the sites --

23 A What's that?

24 Q -- these business sites to see if they've
25 implemented these changes?

14:58:55

1 A No, no. You are misunderstanding something.
2 Now you are going to somewhere else. That's something
3 separate. I was talking about when somebody files --
4 makes a complaint and says, hey, I used this business.
5 I see what you wrote about them, and, you know, this

14:59:09

6 is -- what happened with me was a real disaster, and I
7 think I should get a refund.

8 Q Okay. Let me clarify my question. When a
9 business or entity enrolls in the CAP program, you told
10 me how you do certain investigations and certain

14:59:22

11 follow-ups?

12 A Right.

13 Q And you explained some portions of how you do
14 follow-ups to me. And my next question was, do you
15 ever actually -- does Xcentric ever physically go to

14:59:31

16 these companies and check and make sure these changes
17 are implemented?

18 A There's no way we go to physically anyplace.

19 Q So how do you verify that?

20 A We will know that by the complaints that we

14:59:44

21 would get or not get. They are committed to taking
22 care of any new customer that comes in, and there are
23 verifications. Like somebody says, our contracts are
24 very easy to read and simple, you know, to understand.

25 Well, I would request them. Could you do me a favor

15:00:04

1 and send me a copy of the -- that contract that you say
2 is so easy to read. Okay, we changed our policy. I'd
3 ask them to give us -- they changed their policy. It's
4 stated right in there what they are doing. If they are
5 not doing what's stated in there, we will know about it

15:00:26

6 real quick.

7 Q How do you know about it real quick if they
8 are not --

9 A Because a customer would tell us --

10 Q -- doing what they are doing?

15:00:32

11 A A customer will tell us -- you know, I could
12 go someplace and check on something. I'm not going to
13 know about it unless I sit there and watch every
14 dealing with every customer.

15 Q You are misunderstanding me.

15:00:45

16 A Okay. Probably then.

17 Q What -- what investigation, other than what
18 you've testified to, does Xcentric do to follow up and
19 make sure these companies are verified safe; they are
20 good for the CAP program and they are safe for the

15:00:56

21 consumer?

22 A Because they've made a commitment to the
23 program, and they made a commitment to satisfy
24 customers that -- that -- you know, that aren't
25 satisfied.

15:01:06

1 Q How do they prove that to you?

2 A By, one, when I told you about that initial
3 mailing that goes out, okay, anyone that contacts us
4 back or them back, if we get a thing that says, hey,
5 listen, we contact them back and they are full of --

15:01:18

6 they are full of it; they ain't taking care of me, da,
7 da, da, da, da.

8 Has it happened? Sure. And we would
9 say, listen, what's the deal here? You got to take
10 care of this. We make sure of that. And there are

15:01:31

11 things -- there are times when a customer is BS'ing and
12 not telling the truth.

13 Q So you are telling me you are just relying on
14 e-mails, then, to verify?

15 A Yeah. I don't physically go anywhere to go --

15:01:42

16 and go to a business to make sure they -- they made a
17 change. That wouldn't even do any good if I did.

18 Q So you're only -- Xcentric is only relying on
19 e-mail communications, then?

20 A Yes.

15:01:56

21 Q That's it?

22 A Pretty much.

23 Q Okay. Thanks.

24 A But it's not as simple as what you are putting
25 it out to.

15:02:02

EXHIBIT B

Subject: [Fwd: RE: Asia Economic Institute, AEI, WorldEcon - application about CAP]
From: Raymond <raymond@asiaecon.org>
Date: Wed, 20 Jan 2010 14:51:01 -0800
To: daniel@asiaecon.org, kristi@asiaecon.org

----- Original Message -----

Subject: RE: Asia Economic Institute, AEI, WorldEcon - application about CAP
Date: Fri, 24 Jul 2009 18:31:30 -0700
From: Editor@ripoffreport.com
To: raymond@asiaecon.org
References: <4A6A51B2.2000507@asiaecon.org>

I am in California. . . I live here now.

But, whatâ€™s the sense of meeting? I want to help you, but, there is nothing we can do.
We do not remove reports.
Weâ€™ve spent over 3.4 million in legal fees â€” never lost a case â€” people know, we DO NOT REMOVE REPORTS!

You can file a rebuttal!

No amount of money can change this.
Even if you were the pope.. It would not make a difference. The pope has access to a computer!â€™m sure.

Rip-off Report

PO Box 310, Tempe, Arizona 85280

From: Raymond [mailto:raymond@asiaecon.org]
Sent: Friday, July 24, 2009 5:29 PM
To: Editor@ripoffreport.com
Subject: Asia Economic Institute, AEI, WorldEcon - application about CAP

Dear Ed,

As I mentioned to you on the phone, our Institute is a free Online publication which publishes current news. It is Not involved in sales, service or marketing of any kind.

You may recall my mention that on your website my partner and I were accused of incredulous lies, posted by names unknown to our Institute, which included our being accused of "money laundering", running a "Scam," and calling into question my education.
We are strictly a non-political publication focused on economic news, so we don't know how we can be labeled a scam. The other points are easily disproved.

Once again, we have No idea who would post such flagrant lies about us, or our Institute. We pride ourselves on possessing a longstanding high reputation in everything we do. You mentioned that you are not international, but you are viewed in other parts of the world where the USA laws do not have jurisdiction. Therefore, how do you handle that matter?

Having just returned from being out of the country, and reviewing the forms you e-mailed to me, and you asked me to complete them per your instructions, I realize that we cannot fill in the blanks as you have created them. It would not be prudent to stipulate to anything we did not do, and further are flagrant untruths. The form you sent to me, appears to be a "one size fits all" which clearly does Not apply to us.