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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 RIPOFF 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
The Honorable Stephen V. Wilson

DECLARATION OF DANIEL F. BLACKERT IN SUPPORT OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF ORDER OF JULY 19, 2010 GRANTING PARTIAL SUMMARY JUDGMENT ON PLAINTIFFS RICO CLAIMS PREDICATED ON EXTORTION AND FOR RECONSIDERATION OF ORDER DENYING RELIEF UNDER RULE 56(F)

Date: September 20, 2010
Time: 1:30 p.m.
Ctm: 6

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 July 20, 2010, my co-counsel Ms. Lisa Borodkin, Plaintiff Mr.
17 Mobrez and I traveled to Jaburg & Wilk in Phoenix, Arizona for the following
18 purposes: (a) to take the deposition of Defendant Edward Magedson and attempt
19 to resolve the case informally, pursuant to what we thought at the time was a
20 voluntary agreement between the parties, and also (b) give Defendants an
21 opportunity to provide their version of new evidence that seemed to lend further
22 support to Plaintiffs' RICO/wire fraud claim.

23 5. When we arrived at the Law Offices of Jaburg & Wilk we were
24 informed by Defendants' counsel that the deposition would not go forward. We
25 agreed to contact Magistrate Walsh by telephone in order to resolve this issue.
26 Magistrate Walsh Ordered that the deposition would not go forward.

27 6. Having already flown to Phoenix, we agreed with Defense Counsel
28 to engage in discussions regarding the theory of our RICO/wire fraud claim for a

1 potential amended complaint. We had previously provided Defendants with an
2 outline in laymen's terms of the theory of wire fraud in order to encourage
3 resolution. On July 20, 2010, we also showed Defendants a number of Rip-Off
4 Reports about parties that had previously been in litigation against Defendants,
5 showing that the Rip-Off Reports about these settling parties appeared to have
6 been altered significantly following settlement. They contained favorable text
7 about the subjects at the beginning of the Rip-off Reports or contained
8 disclaimers regarding the contents of the Rip-off Reports, which appeared to
9 have been added following dismissals of the actions. We sought to understand
10 from Defendants' counsel the circumstances under which such alterations would
11 be made.

12 7. Defense Counsel, David Gingras, Maria Crimi Speth and Adam
13 Kunz and their client, Ed Magedson, engaged in these discussions with us.
14 Defendants' counsel also stated that in every voluntary settlement, including in
15 cases involving the example Rip-off Reports that had been substantially altered
16 or disclaimed, the settling parties had paid money to Defendants in the form of
17 legal fees, even in cases where the Court Order of dismissal had ordered each
18 side to bear their own costs and fees.

19 8. While in discussion, Plaintiffs' attorneys also showed Defendants'
20 attorneys email communications between Kenton Hutcherson and Defendants'
21 attorneys Maria C. Speth and David S. Gingras. Plaintiffs' Attorneys showed
22 Ms. Speth the emails to give Defendants a full opportunity to explain their side
23 of the story, as the emails appeared on their faces to show that the assertion that
24 Rip-off Reports are *never* removed is not, in fact, true. True and correct copies
25 of the emails were subsequently attached to the Declaration of Kenton J.
26 Hutcherson as an exhibit to Plaintiffs' First Amended Complaint, and attached
27 hereto as **Exhibit "1."**

1 9. The emails discussed notice of breach and demand to cure a
2 provision of a settlement agreement entered into on May 15, 2009 by and
3 between Defendants and QED Media Group, LLC and Robert Russo. A copy of
4 what has been represented as the May 15, 2009 settlement agreement by and
5 between the above parties is attached to Plaintiffs' First Amended Complaint as
6 an exhibit and is attached hereto as **Exhibit "2."**

7 10. The May 15, 2009 settlement agreement provides that Defendants
8 will not permit future Rip-off Reports regarding QED Media Group, LLC and
9 Robert Russo to be posted if they could not be verified as coming from actual
10 customers.

11 11. According to the emails in Exhibit 1, in the months of October and
12 December of 2009, false Rip-off Reports regarding QED Media Group, LLC
13 and Robert Russo were posted without verification. Upon notification of the
14 breach, Defendants eventually deactivated or took down the Rip-off Reports at
15 issue.

16 12. According to the emails, Hutcherson requested a cure of this breach
17 of the May 15, 2009 settlement agreement. Defendants subsequently **removed**
18 reports concerning QED Media Group, LLC and Robert Russo on two
19 occasions, October 29, 2009 and December 28, 2009. For example, in an
20 October 29, 2009 email to Mr. Hutcherson from Ms. Speth, she states:

21 *"Ripoff Report has decided to completely remove report number 10675. It*
22 *was deactivated yesterday."*

23 Exhibit 1 at 8 (Hutcherson Dec., Ex. B) (emphasis added).

24 In another email dated December 28, 2009 Ms. Speth informs Mr.
25 Hutcherson of the following:

26 *"The Report has been taken down."*

27 Exhibit 1 at 12 (Hutcherson Dec., Ex. C) (emphasis added).

28

1 13. When Plaintiffs' Counsel asked Defendants' Counsel, Ms. Speth,
2 about these emails, she confirmed that Defendants had, in fact, removed two (2)
3 reports concerning QED Media Group, LLC and Robert Russo on October 29,
4 2009 and December 28, 2009 subsequent to notification by Mr. Hutcherson.
5 Her comments admitted that the emails were genuine. She also spontaneously
6 volunteered that Mr. Russo had owed them a large five or six figure sum of
7 money per the settlement agreement and that he had defaulted on that portion of
8 the money.

9 14. Again, during these July 20, 2010 discussions Plaintiffs' Counsel
10 was threatened with a future lawsuit(s) in the State of Arizona, even though this
11 action had not favorably terminated.

12 15. At the conclusion of this July 20, 2010, meeting Mr. Magedson had
13 a discussion with Mr. Mobrez outside of the presence of the attorneys. At the
14 end of the discussion, Mr. Magedson stormed out of the small conference room
15 in which they had been meeting a rage and pointed at Ms. Borodkin and yelled
16 at her, stating that she would be "on the cover of his next book." When Ms.
17 Borodkin questioned Mr. Magedson about his statement he replied that she
18 knew what he meant and that the subject of the book would focus on the world's
19 worst attorneys. Next, Mr. Magedson pointed his finger at me (uncomfortably
20 close to my face) and stormed out of the room.

21 16. I would also like to note that during the course of our discussions
22 with Mr. Magedson he made some very offensive, odd, and reprehensible
23 comments about me, which were not relevant to the case, and seemingly were
24 meant to demean my personal appearance. I found his comments to be odd and
25 hurtful. Out of respect for everyone present and this Court, I did not respond.

26 17. Defendants' counsel has previously threatened Plaintiffs' counsel
27 on several occasions, always coupled with a demand that Plaintiffs' counsel
28 cause Plaintiffs to settle this case and pay all of Defendants' purported

1 attorneys' fees. Defendants' General Counsel, David Gingras, has made several
2 types of threats to Plaintiffs' counsel personally in demanding attorneys' fees.
3 On May 10, 2010, Mr. Gingras stated to Ms. Borodkin and me, "I hope you've
4 enjoying practicing law in California," coupled with a demand that Plaintiffs'
5 pay Defendants \$25,000 in purported attorneys' fees to resolve this case.

6 18. On June 8, 2010, Mr. Gingras made a graphic, vivid threat to Ms.
7 Borodkin and myself, again coupled with a demand that we cause Plaintiffs to
8 settle this action and pay all of Defendants' attorneys fees in excess of \$25,000.
9 Following the deposition of Mr. Magedson on June 8, 2010, in a temporary
10 conference room at Jaburg & Wilk, while Mr. Magedson and the court reporter
11 and videographer had left the room, Mr. Gingras said to Ms. Borodkin and me:

12 *"Our business model is as follows: We want to have Ripoff Report like a*
13 *castle. And we want to have stakes outside the castle. And for anyone*
14 *who challenges Ripoff Report, we want to have their heads on those*
15 *stakes for everyone to see."*

16 I vividly remember the words spoken by Mr. Gingras because I found the
17 imagery of "heads on stakes" deeply disturbing.

18 19. On July 28, 2010, Mr. Hutcherson forwarded Plaintiffs' attorneys a
19 demand letter/takedown notice he had received from Defendants' attorneys. A
20 true and correct copy of the July 28, 2010 letter from Maria Speth to Mr.
21 Hutcherson is attached hereto as **Exhibit "3."** The letter, *inter alia*, falsely
22 claims that the effect of the Communications Decency Act cannot be challenged
23 in any court, and demands that Mr. Hutcherson file a declaration in this action
24 adding additional facts, and demands that Mr. Hutcherson refrain from taking
25 certain future employment adverse to Defendants.

26 20. On August 3, 2010, Attorney Hutcherson forwarded an email to
27 Plaintiffs' Counsel wherein Defendants accused Mr. Hutcherson of making false
28 statements regarding the aforementioned May 15, 2009 settlement agreement

1 and claiming that his factual declaration was an “abusive litigation practice,”
2 even though Mr. Hutcherson is only a fact witness in this case. A true and
3 correct copy of the August 3, 2010 email forwarded to Plaintiffs’ Counsel is
4 attached hereto as **Exhibit “4”**.

5 21. In Exhibit “4,” Defense Counsel also informed Mr. Hutcherson that
6 they were creating a new section on Defendants’ website entitled “The Hall of
7 Shame” and that Mr. Hutcherson would be featured in this section of ROR’s
8 website. The email more disturbingly stated the following: “Ripoff Report will
9 not agree to any settlement in any case in which Mr. Hutcherson is involved.”

10 22. On August 6, 2010, Defendants posted a Rip-Off Report about Mr.
11 Hutcherson that is substantially the same as the proposed text in the “Hall of
12 Shame” threatened against Mr. Hutcherson in Exhibit 4. A true and correct copy
13 of Rip-off Report Number 629379 is attached hereto as **Exhibit “5.”** The Rip-
14 off Report about Mr. Hutcherson states that it is submitted by “Ripoff Report”
15 itself, and claims full authorship by Defendants, as it is written with the
16 pronouns “us” and “we.”

17 23. Attached hereto as **Exhibits “6”** and **“7”** are true and correct copies
18 of a redacted declaration provided from Defendants’ attorney, Mr. Gingras and
19 one of the relevant attachments (redacted) thereto on July 14, 2010.

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

23 EXECUTED ON: August 23, 2010 at Los Angeles, California.

24 /s/Daniel F. Blackert

25 Daniel F. Blackert, Esq.
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