

1 David S. Gingras, CSB #218793
Gingras Law Office, PLLC
 2 4072 E Mountain Vista Dr.
 Phoenix, AZ 85048
 3 Tel.: (480) 668-3623
 Fax: (480) 248-3196
 4 David.Gingras@webmail.azbar.org

5 Maria Crimi Speth, (Admitted *Pro Hac Vice*)
Jaburg & Wilk, P.C.
 6 3200 N. Central Ave., Suite 2000
 Phoenix, AZ 85012
 7 Tel: (602) 248-1000
 Fax: (602) 248-0522
 8 mcs@jaburgwilk.com

9 Attorneys for Defendants
 Xcentric Ventures, LLC and
 10 Edward Magedson

11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA**

GINGRAS LAW OFFICE, PLLC
 4072 EAST MOUNTAIN VISTA DRIVE
 PHOENIX, ARIZONA 85048

15 **ASIA ECONOMIC INSTITUTE, LLC, et al.,**
 16 **Plaintiffs,**
 17 **vs.**
 18 **XCENTRIC VENTURES, LLC, et al.,**
 19 **Defendants.**

Case No: 2:10-cv-01360-SVW-PJW
AFFIDAVIT OF ED MAGEDSON
IN SUPPORT OF
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT
 Hearing Date: Nov. 1, 2010
 Time: 1:30 PM
 Courtroom: 6 (Hon. Stephen Wilson)

1 I, Edward Magedson, declare as follows:

2 1. My name is Ed Magedson. I am a resident of the State of Arizona, am over
3 the age of 18 years, and if called to testify in court or other proceeding I could and would
4 give the following testimony which is based upon my own personal knowledge unless
5 otherwise stated.

6 2. I am the manager of Xcentric Ventures, LLC (“Xcentric”) and the founder
7 and “ED”itor of the website www.RipoffReport.com which I started in 1998. The Ripoff
8 Report site is operated by Xcentric. Serving as a forum for speech concerning bad
9 business practices among other things, the Ripoff Report is the leading complaint
10 reporting website and is one of the most ardent supporters of free speech anywhere.

11 3. In my capacity as the Editor of the Ripoff Report I have worked closely
12 with all levels of federal, state, and local law enforcement, including, but not limited to,
13 various state attorneys general, county attorneys, Homeland Security, the United States
14 Justice Department, United States Secret Service, FBI, FTC, SEC, US Postal inspectors,
15 and local police, providing them with information used to locate victims, detect patterns
16 of deceptive business practices and to prosecute violations of consumer protection laws,
17 among other things.

18 4. I have reviewed the First Amended Complaint filed in this matter by
19 Plaintiffs Asia Economic Institute, LLC, Raymond Mobrez, and Iliana Llaneras, and the
20 exhibits thereto. I am aware that there six reports on the Ripoff Report website which
21 Plaintiffs allege contain various false statements about them.

22 5. These six reports (as is true of all new submissions to our site) were
23 automatically assigned “report numbers” by our servers which are sequential numbers
24 reflecting the order in which each report was received. In this case, I understand that the
25 six postings at issue are as follows: Report #417493, #423987, #457433, #502429,
26 #564331, and #571232. I understand screenshots of portions of the report as well as
27 copies of the text of each of each report are attached to the Declaration of David Gingras
28 submitted herewith as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit	Report #	Submission Date
1A/B	417493	January 28, 2009
2A/B	423987	February 13, 2009
3A/B	457433	June 1, 2009
4A/B	502429	September 30, 2009
5A/B	564331	February 3, 2010
6A/B	571232	February 19, 2010

6. All of these reports and rebuttals were created by third parties, not by me or Xcentric. I had nothing to do with the creation of the six reports at issue in this case, nor did I have anything to do with the comments/rebuttals to each report. I did not create these reports or rebuttals, nor did I alter them in any way. I did not “solicit” anyone else to write these reports or rebuttals.

7. In May 2009, I sent a lengthy email to Plaintiff Raymond Mobrez, a copy of which is attached as Exhibit 10 to the First Amended Complaint. I sent this email to Mr. Mobrez in response to an email from him asking for information about how he could deal with reports on our site.

8. The email I sent to Mr. Mobrez is a form response which I have used for many years whenever people contact me and ask for information about dealing with reports on the Ripoff Report site. Among other things, this email contains my honest belief and opinion that one of the best ways to respond to a complaint (on our site or any other site) is to simply post a response explaining your side of the story. Ripoff Report charges nothing to post responses, and it is my belief that failing to respond to a complaint is a mistake because regardless of the merits of the original complaint, when a company or individual fails to respond, this sends a message to readers that the company at issue does not care about resolving complaints. For this reason, I always recommend that people file a free rebuttal so that readers will have both sides to the story.

1 9. I understand that Plaintiffs allege that I have committed fraud by informing
2 them that “filing a rebuttal has only a positive effect” At no time did I ever make
3 such a statement to Plaintiffs. In my form email I did give Mr. Mobrez my opinion that it
4 was “best to respond to the report,” but this statement was clearly stated as my opinion,
5 not a factual representation about rebuttals only having a positive effect.

6 10. I also understand that Plaintiffs allege that I have committed fraud by
7 failing to inform Mr. Mobrez that posting a rebuttal to a Ripoff Report can be harmful
8 because it “refreshes” Google’s index and makes the report to which the rebuttal was
9 filed appear higher in Google’s results than it would without the rebuttal.

10 11. Although I am aware of people making this sort of claim in the past (that
11 filing rebuttals automatically causes reports to appear higher in Google), I do not believe
12 this to be a fact. Instead, I believe this sort of claim is pure speculation which is usually
13 spread by people selling SEO (search engine optimization) services who have a direct
14 financial interest in frightening anyone affected by a Ripoff Report. These individuals
15 attempt to scare people into thinking that filing a rebuttal is a bad idea in the hopes that
16 this will cause the victim to believe that they have no option other than paying for the
17 SEO services offered by that person.

18 12. There are also several specific reasons supporting my belief that filing a
19 rebuttal does not necessarily increase the ranking of a report on Google. Specifically, I
20 am aware of reports on our site which contain one or more rebuttals but which are *not*
21 ranked highly on Google. For instance, I am aware of a report (#423146;
22 [http://www.ripoffreport.com/lawyers/herman-and-russo-mel/herman-and-russo-mellissa-](http://www.ripoffreport.com/lawyers/herman-and-russo-mel/herman-and-russo-mellissa-a-w776a.htm)
23 [a-w776a.htm](http://www.ripoffreport.com/lawyers/herman-and-russo-mel/herman-and-russo-mellissa-a-w776a.htm)) about a Georgia law firm which contains a rebuttal but this report is not
24 located anywhere in the first five pages of Google results when searching for the name of
25 the firm involved. I do not know why this report is ranked so low on Google, nor have I
26 done anything to make this report rank so low.

27 13. I am also aware of reports on our site which do *not* contain any rebuttals
28 but which are ranked extremely highly on Google. For example, report #618235

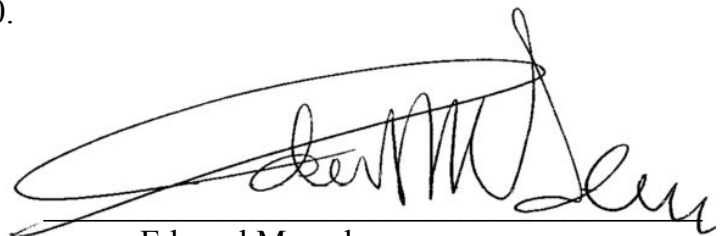
1 ([http://www.ripoffreport.com/adult-web-sites/jenrizol/jenrizol-glam-chicka-09-she-is-
3 ce25e.htm](http://www.ripoffreport.com/adult-web-sites/jenrizol/jenrizol-glam-chicka-09-she-is-
2 ce25e.htm)) is a complaint which does not contain any rebuttals but which currently
4 shows up on the first page of Google's search results. I do not know why this report is
5 ranked so highly on Google, nor have I done anything to make this report rank so highly.

6 14. As these two examples illustrate, sometimes reports without rebuttals can
7 show up on the first page of Google and sometimes reports with rebuttals receive a much
8 lower ranking. Decisions as to how such content is ranked are made solely and
9 exclusively by Google. I have no control over the decisions that Google makes, nor am I
10 personally aware of the exact rules that Google uses to rank content. On the contrary, I
11 believe that Google's algorithm for content ranking is a highly guarded trade secret
12 which has never been publicly disclosed by Google.

13 15. I had never heard of Mr. Mobrez or AEI prior to his emails to me in early
14 2009, and at no time during any of my limited conversations with Mr. Mobrez did he
15 mention anything about his employees, nor did he tell me that employees had quit
16 because of anything posted on the Ripoff Report site. At no time was I aware that AEI
17 had valuable contracts and business expectancies with its employees or anyone else.

18 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the
19 United States of America that the foregoing is true and correct.

20 EXECUTED ON: September 27, 2010.

21
22
23
24
25
26
27
28


Edward Magedson

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on September 27, 2010 I electronically transmitted the attached
3 document to the Clerk’s Office using the CM/ECF System for filing, and for transmittal
4 of a Notice of Electronic Filing to the following CM/ECF registrants:
5

6 Mr. Daniel F. Blackert, Esq.
7 Ms. Lisa J. Borodkin, Esq.
8 Asia Economic Institute
9 11766 Wilshire Blvd., Suite 260
10 Los Angeles, CA 90025
11 Attorneys for Plaintiffs

12 And a courtesy copy of the foregoing delivered to:
13 Honorable Stephen V. Wilson
14 U.S. District Judge

15 /s/David S. Gingras
16
17
18
19
20
21
22
23
24
25
26
27
28

GINGRAS LAW OFFICE, PLLC
4072 EAST MOUNTAIN VISTA DRIVE
PHOENIX, ARIZONA 85048