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9
 10 Attorneys for Defendants
 Xcentric Ventures, LLC and
 Edward Magedson
 11

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

14
 15 **ASIA ECONOMIC INSTITUTE, LLC, et al.,**

16 **Plaintiffs,**

17
 18 **vs.**

19 **XCENTRIC VENTURES, LLC, et al.,**

20 **Defendants.**

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

**AFFIDAVIT OF
 DAVID GINGRAS**

Hearing Date: Nov. 29, 2010
 Time: 1:30 PM
 Courtroom: 6 (Hon. Stephen Wilson)

21
 22 I, David S. Gingras declare as follows:

23 1. My name is David Gingras. I am a United States citizen, a resident of the
 24 State of Arizona, am over the age of 18 years, and if called to testify in court or other
 25 proceeding I could and would give the following testimony which is based upon my own
 26 personal knowledge unless otherwise stated.

27 2. I am an attorney licensed to practice law in the States of Arizona and
 28 California, I am an active member in good standing with the State Bars of Arizona and

AFFIDAVIT OF DAVID GINGRAS

CV10-01360 SVW

GINGRAS LAW OFFICE, PLLC
 3941 E. CHANDLER BLVD., #106-243
 PHOENIX, ARIZONA 85048

1 California and I am admitted to practice and in good standing with the United States
2 District Court for the District of Arizona and the United States District Court for the
3 Northern, Central, and Eastern Districts of California.

4 3. Since July 2009 I have been employed as General Counsel for Plaintiff
5 Xcentric Ventures, LLC. In my capacity as counsel for Xcentric Ventures I have been
6 involved in the litigation of this action since its inception. I have possession of
7 Xcentric's files relating to this case, and I am personally familiar with the contents
8 thereof.

9 4. On the morning of October 22, 2010, I contacted Plaintiffs' counsel Lisa
10 Borodkin by phone to discuss the issue of scheduling a deposition of James Rogers whom
11 I am personally familiar with as the former assistant of Ed Magedson. I contacted Ms.
12 Borodkin to discuss the possibility of scheduling an immediate deposition of Mr. Rogers
13 because I recently became aware that Mr. Rogers was involved in discussions with Ms.
14 Borodkin and others, offering to supply them with information about the Ripoff Report
15 website in exchange for money and/or other consideration.

16 5. Based on my knowledge of Mr. Rogers and my familiarity with previous
17 statements he had made including a sworn statement given on October 20, 2010, it was
18 my belief that he had no information that was relevant to any part of this lawsuit. Of
19 course, I did not expect Ms. Borodkin to simply accept my word on this. For that reason,
20 I told Ms. Borodkin on the phone that I anticipated that she might attempt to file a last-
21 minute Rule 56(f) motion asking for leave to depose Mr. Rogers not because he had any
22 relevant information, but solely because Plaintiffs wanted to obtain a continuance of the
23 Nov. 1, 2010 hearing on Defendants' Motion for Summary Judgment. Ms. Borodkin
24 acknowledged her intent to bring a Rule 56(f) motion relating to Mr. Rogers.

25 6. In an effort to avoid any further delay of the disposition of this case, I told
26 Ms. Borodkin on the phone that although I did not believe she was entitled to relief under
27 Rule 56(f), I was willing to agree to the immediate deposition of Mr. Rogers at any time
28 and at any place. I am aware that Mr. Rogers resides in Mesa, Arizona and I would

1 normally have insisted that his deposition occur here in Phoenix for that reason.
2 However, at the time of my conversation with Ms. Borodkin on October 22, I was aware
3 that Plaintiffs had purchased an airline ticket for Mr. Rogers to travel to Los Angeles the
4 following day (Saturday, October 23) to meet privately with Plaintiffs. For that reason,
5 although I told Ms. Borodkin that I would prefer to have the deposition in Phoenix, I also
6 explained to her that the choice of location was entirely up to her and that I would travel
7 to Los Angeles the following day or any other day of her choosing during the next week
8 as necessary to complete the deposition.

9 7. I never told Ms. Borodkin that she should “fly to Phoenix the next day” to
10 take Mr. Rogers’s deposition. On the contrary, I specifically explained to Ms. Borodkin
11 on the phone (as I later confirmed in writing) that I was placing no restrictions
12 whatsoever on either the time or the place of the deposition because, frankly, I did not
13 want Ms. Borodkin to have any excuse for failing to complete the deposition before the
14 next hearing on Nov. 1, 2010.

15 8. Following my phone conversation with Ms. Borodkin, I sent her an email
16 summarizing our discussion about Mr. Rogers. Attached hereto as **Exhibit A** is a true
17 and correct copy of that email which I sent on October 22, 2010 at 12:26 PM. I am
18 certain that Ms. Borodkin received this email because I received a response from her
19 about 30 minutes later. A copy of Ms. Borodkin’s response is also included as part of
20 **Exhibit A**.

21 9. Attached hereto as **Exhibit B** is a true and correct copy of a sworn
22 statement given by James Rogers on October 20, 2010.

23 10. Attached hereto as **Exhibit C** is a true and correct copy of an email I
24 received from Ms. Borodkin on June 4, 2010 relating to the scheduling of the deposition
25 of Ben Smith. Prior to this email, Ms. Borodkin informed me that she wanted to take Mr.
26 Smith’s deposition. I had no objection to that request and I made efforts to determine
27 Ms. Smith’s availability until I received Ms. Borodkin’s email indicating that she no
28 intended to “hold off on deposing Ben Smith.”

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11. Since June 2010, Plaintiffs have never re-raised the issue of taking Mr. Smith's deposition until they filed their current (second) Rule 56(f) motion.

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

EXECUTED ON: November 8th 2010.



DAVID GINGRAS

GINGRAS LAW OFFICE, PLLC
3941 E. CHANDLER BLVD., #106-243
PHOENIX, ARIZONA 85048

Exhibit A

David Gingras

From: David Gingras [david@ripoffreport.com]
Sent: Friday, October 22, 2010 12:26 PM
To: 'lborodkin@gmail.com'; 'blackertesq@yahoo.com'
Cc: 'mcs@jaburgwilk.com'; 'Adam S. Kunz'
Subject: AEI v. Xcentric -- Phone call follow-up re: James Rogers

Lisa,

This email is to follow-up and document our phone conversation this morning.

As I told you on the phone, it has come to our attention that you have spoken with James Rogers who was previously employed as Ed Magedson's personal assistant and who, until recently, also was involved in a personal intimate relationship with Ed. I know that you talked with James on the phone and that you have made plans to fly him out to LA tomorrow morning (Saturday, Oct. 23rd) so that he can meet with you and share whatever information he may have.

As we discussed, obviously I cannot prevent you from conducting an informal *ex parte* interview of James even though discovery is stayed. At the same time, if you interview or depose James without me or Maria being present, then whatever information or testimony he provides to you will not be admissible in our case per Fed. R. Civ. P. 32(a)(1).

Based on this, I told you that it was my belief that you intend to interview James tomorrow and then on Nov. 1st (or some other date) ask the court for relief under Rule 56(f) so that you can formalize his testimony in a deposition, thereby delaying the ruling on our summary judgment motion. You basically confirmed that this was your intent, though you indicated that you intend to file an *ex parte* request under Rule 56(f) prior to Nov. 1st. With due respect, I note that you have made similar statements several times in the past without actually filing such a motion.

As I explained to you on the phone, Xcentric believes that James has no relevant or useful information that would affect the pending MSJ in our case. As such, we believe that your proposed Rule 56(f) motion is groundless and would do nothing but needlessly prolong the inevitable disposition of this action.

Having said this and although we believe that your proposed Rule 56(f) motion is untimely and otherwise improper, we are nevertheless willing to obviate your 56(f) motion by agreeing to immediately allow you to take James's deposition. We are willing to do this even though discovery is stayed and even though we believe the deposition will not reveal any relevant information.

We are willing to do this because we want to "cut to the chase" here. By allowing you to obtain James's testimony *now*, you can confirm for yourself that he has nothing relevant or helpful to offer you and in that case there will be no need for you to seek Rule 56(f) relief (at least as to James), nor will it be necessary to move the Nov. 1st hearing date which, as you know, is already a continuation of the last trip we made to LA. As such, my proposal would avoid any further prejudice that Xcentric will incur as a result of further prolonging the disposition of this case such as would occur if your untimely Rule 56(f) motion was granted. At the same time, my proposal would give you the exact same relief you would get under Rule 56(f) notwithstanding my position that you are not entitled to that relief.

Again – to be clear – my offer is to allow you to take the deposition of James Rogers immediately at any time prior to Nov. 1st and at any place (though I told you I felt that Arizona was the far more appropriate place for the deposition to occur).

In response, you indicated to me that you did NOT want to accept my offer at this time, but you also stated that you would speak to your client and let me know if the offer is acceptable.

I responded by explaining to you that if you are not willing to agree to this offer, then I intend to provide this email to the court as part of my opposition to any request you make under Rule 56(f) or any other request that would result in moving the existing Nov. 1st hearing date. If you do not accept this offer, then

it will be my position that your Rule 56(f) motion should be denied as simply unnecessary (in addition to several other substantive objections defendants have to such a motion).

Please note that my offer remains open as long as necessary, provided that you allow yourself enough time to complete the deposition and make any motions you want which relate to the testimony you obtain from James prior to Nov. 1st. In other words, if you believe that James will give you testimony that you need to provide to the court as part of the issues being discussed on Nov. 1st (which you should already know given your prior phone conversations with James which I understand began several weeks ago), then I expect you will take his deposition as soon as you possibly can and that you will not seek to move the Nov. 1st hearing based on the need for additional time. Of course if you do accept this offer, I would appreciate no less than 24 hours notice so that I can make sure that both James and I are available.

If any part of this email does not accurately reflect our discussion, please let me know immediately.

David Gingras, Esq.
General Counsel
Xcentric Ventures, LLC
<http://www.ripoffreport.com/>
David@RipoffReport.com

Ripoff Report

PO BOX 310, Tempe, AZ 85280
Tel.: (480) 668-3623
Fax: (480) 248-3196

David Gingras

From: Lisa Borodkin [lborodkin@gmail.com]
Sent: Friday, October 22, 2010 1:08 PM
To: david@ripoffreport.com
Cc: blackertesq@yahoo.com; mcs@jaburgwilk.com; Adam S. Kunz
Subject: Re: AEI v. Xcentric -- Phone call follow-up re: James Rogers

Hi David,

Thanks for the offer. I will run it by the clients.

I don't agree that I declined the offer out of hand, but I did seek to clarify how this procedure would operate given your pending anti-SLAPP motion, which stays discovery.

I will proceed on the assumption that you would stipulate to an exception to the automatic stay of discovery effected by your filing of the Anti-SLAPP motion should we take you up on this offer. If that is not correct, please let me know how you plan to address that issue.

One small correction to your email we will move for Rule 56(f) relief as soon as possible. I believe under the case law such a motion is generally timely any time before the hearing. I am not intending to wait until November 1 to file such a motion. However, if the interview identifies other discoverable evidence, including witnesses and documents, that may go into the motion.

You stated you will be in federal court in LA on November 22 on another matter. Therefore, we will notice the Rule 56(f) for November 22, and move to consolidate the hearing on your other motions with the November 22 hearing.

This also confirms that I gave you notice of the ex parte application to shorten time on hearing of a motion to consolidate hearings.

Lisa

On Fri, Oct 22, 2010 at 12:25 PM, David Gingras <david@ripoffreport.com> wrote:

Lisa,

This email is to follow-up and document our phone conversation this morning.

As I told you on the phone, it has come to our attention that you have spoken with James Rogers who was previously employed as Ed Magedson's personal assistant and who, until recently, also was involved in a personal intimate relationship with Ed. I know that you talked with James on the phone and that you have made plans to fly him out to LA tomorrow morning (Saturday, Oct. 23rd) so that he can meet with you and share whatever information he may have.

As we discussed, obviously I cannot prevent you from conducting an informal *ex parte* interview of

James even though discovery is stayed. At the same time, if you interview or depose James without me or Maria being present, then whatever information or testimony he provides to you will not be admissible in our case per Fed. R. Civ. P. 32(a)(1).

Based on this, I told you that it was my belief that you intend to interview James tomorrow and then on Nov. 1st (or some other date) ask the court for relief under Rule 56(f) so that you can formalize his testimony in a deposition, thereby delaying the ruling on our summary judgment motion. You basically confirmed that this was your intent, though you indicated that you intend to file an *ex parte* request under Rule 56(f) prior to Nov. 1st. With due respect, I note that you have made similar statements several times in the past without actually filing such a motion.

As I explained to you on the phone, Xcentric believes that James has no relevant or useful information that would affect the pending MSJ in our case. As such, we believe that your proposed Rule 56(f) motion is groundless and would do nothing but needlessly prolong the inevitable disposition of this action.

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We are willing to do this because we want to "cut to the chase" here. By allowing you to obtain James's testimony *now*, you can confirm for yourself that he has nothing relevant or helpful to offer you and in that case there will be no need for you to seek Rule 56(f) relief (at least as to James), nor will it be necessary to move the Nov. 1st hearing date which, as you know, is already a continuation of the last trip we made to LA. As such, my proposal would avoid any further prejudice that Xcentric will incur as a result of further prolonging the disposition of this case such as would occur if your untimely Rule 56(f) motion was granted. At the same time, my proposal would give you the exact same relief you would get under Rule 56(f) notwithstanding my position that you are not entitled to that relief.

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In response, you indicated to me that you did NOT want to accept my offer at this time, but you also stated that you would speak to your client and let me know if the offer is acceptable.

I responded by explaining to you that if you are not willing to agree to this offer, then I intend to provide this email to the court as part of my opposition to any request you make under Rule 56(f) or any other request that would result in moving the existing Nov. 1st hearing date. If you do not accept this offer, then it will be my position that your Rule 56(f) motion should be denied as simply unnecessary (in addition to several other substantive objections defendants have to such a motion).

Please note that my offer remains open as long as necessary, provided that you allow yourself enough time to complete the deposition and make any motions you want which relate to the testimony you obtain from James prior to Nov. 1st. In other words, if you believe that James will give you testimony that you need to provide to the court as part of the issues being discussed on Nov. 1st (which you should already know given your prior phone conversations with James which I understand began several weeks ago), then I expect you will take his deposition as soon as you possibly can and that you will not seek to move the Nov. 1st hearing based on the need for additional time. Of course if you do accept this offer, I would appreciate no less than 24 hours notice so that I can make sure that both James and I are available.

If any part of this email does not accurately reflect our discussion, please let me know immediately.

David Gingras, Esq.

General Counsel

Xcentric Ventures, LLC

<http://www.ripoffreport.com/>

David@RipoffReport.com

Ripoff Report

PO BOX 310, Tempe, AZ 85280

Tel.: (480) 668-3623

Fax: (480) 248-3196

--

Lisa J. Borodkin
lisa@lisaborodkin.com
323-337-7933

Exhibit B

SWORN STATEMENT OF JAMES P. ROGERS

Phoenix, Arizona
October 20, 2010

Prepared for: Adam S. Kunz, Esq. COPY
Reported by: Stacey Palmer, RPR, CSR
Certified Court Reporter, No. 50045

PALMER

■ ■ ■ ■ ■ ■ ■ ■ **REPORTING SERVICES, INC.**

*2108 E. Evans Drive
Phoenix, AZ 85022
(602) 867-DEPO*

1 APPEARANCES

2 JABURG WILK
3 BY: Adam S. Kunz, Esq.
4 3200 N. Central Avenue
5 Suite 2000
6 Phoenix, Arizona 85012

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1 THE SWORN STATEMENT OF JAMES P. ROGERS

2 was taken on October 20, 2010, commencing at 5:08 p.m.,
3 at the law offices of Jaburg Wilk, 3200 N. Central
4 Avenue, Suite 2000, Phoenix, Arizona, before Stacey
5 Palmer, a Certified Court Reporter in the State of
6 Arizona.

7 JAMES P. ROGERS,

8 a witness herein, having been first duly sworn by the
9 Certified Court Reporter, was examined and testified as
10 follows:
11

12 EXAMINATION

13 BY MR. KUNZ:

14 Q. This is Adam Kunz of Jaburg & Wilk on the
15 record. I have here James Rogers, who will identify
16 himself in a moment. We are here for the purpose of
17 taking Mr. Rogers' sworn statement about certain facts.

18 James, could you identify yourself for the
19 record, which means state your name.

20 A. My name is James Patrick Rogers,

21 R-o-g-e-r-s.

22 Q. Okay. What is your date of birth?

23 A. July 15th, 1979.

24 Q. All right. Have you ever given testimony

1 under oath before?

2 A. Yes.

3 Q. Have you ever done it in the context of a
4 conference room like the one we're in, a deposition?

5 A. I do not believe so.

6 Q. It was in a courtroom before, wasn't it?

7 A. Yes, before a judge, sentencing, stuff
8 like that.

9 Q. A couple of things to make life easy for
10 Stacey and the record clear. Because she is writing
11 down each word as we say them, we should be careful not
12 to talk over each other. I'll try to ask complete
13 questions and then pause so that you can give complete
14 answers to the questions.

15 MR. KUNZ: Stacey, if we get carried away and
16 speak conversationally, feel free to let us know, and
17 we'll try to make sure the record remains clear.

18 A. She probably types 120 words a minute.

19 Q. And I'm from California so I don't talk
20 too fast most of the time. Long vowels.

21 James, I would like to show you a document
22 which I'm going to ask Stacey to mark as Exhibit A to
23 your sworn statement.

24 My first question to you is whether you
25 recognize that document.

1 A. Yes, I do --

2 Q. Hold on because she's putting that sticker
3 on the document so I want her to be able to get your
4 answer.

5 (Exhibit A was marked.)

6 My question is: Do you recognize that
7 document?

8 A. Yes, I do.

9 Q. What is it?

10 A. It's a letter that I started writing a few
11 days ago, but finished yesterday evening.

12 Q. What did you do with that letter when you
13 finished writing it?

14 A. I took it to 15821 East Jericho Drive in
15 Fountain Hills to give it to Ed Magedson, but he wasn't
16 there so I rang the doorbell a few times and then
17 folded it up and put it in his mailbox.

18 Q. Now, how many pages are in the document
19 that I showed you?

20 A. Three pages.

21 Q. Is that a complete copy of the letter that
22 you wrote to Ed?

23 A. Yes.

24 I know I forgot to do something.

25 Q. What did you forget to do?

1 A. I forgot to put 1 of 1 -- I forgot to put
2 the 3 on.

3 Q. So you forgot to number the pages?

4 A. I numbered the pages 1, 2, 3. I just
5 forgot to put the last digit on there.

6 Q. I mean you verified how much is there.
7 Was there any more to the letter --

8 A. No. It was three pages and then I signed
9 it.

10 Q. We're already -- I need to be better at
11 question and answer in sequence.

12 Generally speaking, do you stand behind
13 what you wrote in that letter?

14 A. Yes, I do, one hundred percent.

15 Q. I would like you to read that letter into
16 our record so that we have a clear transcript of what
17 you wrote in your handwriting.

18 A. "Dear Ed, as I sit here in the aftermath
19 of my drug-induced stupidity, I am trying to figure out
20 what the fuck happened. I am sure that I have said and
21 done some very stupid shit. I have stretched the truth
22 and told some lies because that is what the people
23 wanted to hear. I needed money to fuel my drug habit
24 because my productivity had dropped below anything that
25 was conducive of being profitable or worth continuing a

1 business relation.

2 "Ed, I am sorry and apologize for my drug
3 use and lies that I have spread about you and myself
4 over the past whatever time frame. I know that my
5 actions, to some, seem unforgivable. I am asking for
6 another chance to regain what we used to have. Other
7 people have been using me and fueling what I thought
8 was hatred feelings of wanting to get high, really.

9 "Shawn Richeson, John F. Brewington, and
10 Lisa out of L.A. knew I was under the influence of some
11 drug and were using my hunger for the next hit to get
12 information from me. The recordings of whatever they
13 have being said is false. They turned them on and off
14 and always were asking or saying it would be great if
15 this or that could have happened. Leading me to lie
16 and they would be able to give me more money.
17 Brewington paid me \$2,600 to lie about reports and to
18 fabricate some other stories.

19 Page 2. "That lying piece of shit Shawn
20 Richeson from Texas still has not paid me, but wants
21 and continues to offer big money if I had some even
22 better information. \$10,000 for banking information.

23 "They all want Ed's passwords, user names,
24 bank accounts, and keep saying they'd pay big, but so
25 far no money is being given to me. Brewington is

1 persistent and still wants Ed's information on bank
2 accounts, passwords, and keeps saying if I remember
3 anything to call. Brewington is giving me a bike, a
4 computer, a scanner, a copier to keep me in his good
5 graces.

6 "Another thing on my mind, Brewington
7 keeps pressing me to file a claim for sexual harassment
8 and to get me to extort or blackmail you for money.
9 The last time you and me were together at your house in
10 Fountain Hills I met with -- or Brewington had someone
11 meet with me and give me money. The guy used my phone
12 and called your number and said that you were to give
13 me \$50,000. Ed, I did not know he was going to do
14 this. He said that he was doing me a favor and that I
15 was not to worry because you would probably come up
16 with the money to give to me and then he left.

17 Page 3. "Ed, you have always been there
18 for me in everything. My parents' house and the
19 air-conditioning, fixing my dad's truck and always
20 giving me more money than what I asked for. It is
21 stupid for these people to believe that you paid me for
22 sexual companionship. We had a relationship, nothing
23 else. I have feelings for you, Ed, and care about you,
24 and I am sorry. Please believe me.

25 "I realize that I did break the

1 confidentiality agreement I signed and everything and I
2 violated it. You have always been an honest person in
3 everything I have seen you do, always paying more and
4 helping people even when you did not have to.

5 "Ed, I am only writing this because I
6 still do care about you. Now that I am sober I realize
7 how stupid I have been. I am going to call Adam and
8 see if I can redeem myself and make right all the
9 ridiculous lies that I have told. If you can ever
10 forgive me. Your hopeless friend, James Patrick
11 Rogers. James P. Rogers. 10/19/2010."

12 Q. Did anyone help you write this?

13 A. No. No one helped me write it. I wrote
14 it directly for myself.

15 Q. How long have you been sober?

16 A. I've been sober for just over 30 hours.

17 Q. Did you say 30? Three zero hours?

18 A. Yes, three zero.

19 Q. Do you have a watch? Can you tell me what
20 time it is right now?

21 A. It is 5:18 p.m.

22 Q. And what's the date?

23 A. Today is the 10th -- or the 20th. 20th.
24 Sorry about that.

25 Q. That's okay.

1 Of the month of October?
 2 A. Yes, October 2010.
 3 Q. So recently you have not been sober?
 4 A. As recently as Saturday evening. I want
 5 to say before or around midnight, maybe 2:00 Saturday
 6 night -- it would be Sunday morning. Saturday going up
 7 to 2:00 a.m.
 8 Q. What do you use when you're not sober?
 9 A. What do I use when I'm not sober?
 10 Q. Yeah. I don't know how to ask that
 11 question.
 12 A. I don't use anything. I smoke cigarettes.
 13 Q. Right now while you're sober.
 14 A. Yeah, and I take Tylenol occasionally.
 15 Q. But when you're using, what will you use?
 16 A. Crystal methamphetamines.
 17 Q. Anything else?
 18 A. Occasionally a drink here or there, but
 19 not to excess because I'm already under the influence
 20 of something else so why bother.
 21 Q. Okay, I get that point.
 22 Your letter states that you have been
 23 speaking to Shawn Richeson, John Brewington, and Lisa
 24 out of L.A. I believe her name is -- hold on, let me
 25 finish my question -- Borodkin.

1 Is that what you state in your letter?
 2 A. That is correct, Lisa out of L.A. is Lisa
 3 Borodkin.
 4 There's also some other numbers that I
 5 keep getting calls from on, you know, unknowns or
 6 unavailables or blocked, but it's always like -- I
 7 answer "Hello? Hello? Who is this?" and it will go
 8 15, 20 seconds and then dead air, nothing.
 9 Q. But you have been speaking to Shawn
 10 Richeson, John F. Brewington, and Lisa Borodkin?
 11 B-o-r-o-d-k-i-n.
 12 A. That is correct.
 13 Q. And you state in your letter that they
 14 knew you were under the influence of something.
 15 A. Well, Brewington met me face to face, and
 16 if he couldn't tell as a private investigator, as
 17 someone who deals with it -- and I did tell him that I
 18 have been up for a day or so, I've been going at it,
 19 and, you know, I fell off the wagon.
 20 And Richeson, I flat out told him I was
 21 freaking out.
 22 Q. And what about Lisa?
 23 A. Lisa, I had mentioned that I had been up
 24 for, you know, a day or so again, no sleep, you know,
 25 I'm under -- I can't remember if I told her

1 specifically I was high on meth, but I told her I was
 2 not right in my mind. But I led her to believe I was
 3 under the influence of something, but I was still
 4 thinking clearly.
 5 Q. Now, when you said you led her to believe,
 6 were you actually high when you were speaking to her?
 7 A. Oh, absolutely. Way longer than one day.
 8 Q. Let's go back to the letter, the first
 9 page of the letter, and the very first paragraph that
 10 you wrote. You wrote a sentence that I believe you
 11 read to us, "I have stretched the truth and told some
 12 lies because that is what the people wanted to hear."
 13 When you said "the people," who did you
 14 mean?
 15 A. I meant John Brewington, Lisa, and Shawn
 16 Richeson.
 17 Q. And so you believe they wanted to hear you
 18 lie?
 19 A. I believe that they wanted to hear some
 20 form of, you know, what I could make them believe was
 21 the truth and still make it sound like it was what they
 22 wanted to hear.
 23 Q. What lies did they want you to tell?
 24 A. They wanted me to -- John Brewington is
 25 emphatically pursuing a sexual -- or getting me to file

1 a sexual harassment suit against Ed. He leads me to
 2 believe that he really wants to prove that Ed was with
 3 under-age boys in New York or Florida or wherever he
 4 was; that's what he's really trying to uncover with
 5 everything. John Brewington wants -- he doesn't want
 6 any harm, physical harm to come to Ed, but he does want
 7 to see Ripoff Report and him brought to justice.
 8 Shawn Richeson --
 9 Q. Hold on a second. Let me follow up on
 10 that.
 11 What is Brewington telling you about
 12 wanting to bring Ripoff Report, quote, "to justice,"
 13 end quote?
 14 A. He's telling me that -- I get the feeling
 15 that he just -- it's almost like he's jealous somewhat
 16 of what Ed has been able to accomplish with Ripoff
 17 Report, like he had the idea first and he just didn't
 18 get to it in time. That's sort of what it feels like,
 19 it's a vendetta.
 20 Q. Did he say anything --
 21 You say a vendetta?
 22 A. It feels like a vendetta from Brewington
 23 and both Shawn Richeson together.
 24 Q. Did you get the impression that Brewington
 25 wanted to harm the Ripoff Report business?

1 A. He wants it -- he says Ripoff Report and
 2 sites like Ripoff Report serve a valid purpose, but
 3 only if that purpose is -- if it can be gone away, and
 4 he doesn't like --
 5 I think, if I remember correctly, because
 6 I was rather high, and I have to hear the recording to
 7 be certain of what I remember, but he did say -- maybe
 8 he was just playing along with my own feelings of what
 9 I said about it, that Ripoff Report serves a valid
 10 purpose for the community, you know, consumers as a
 11 whole. It lets consumers know what's out there and
 12 lets them formulate their own opinions.
 13 Q. Let me interrupt you for a second.
 14 Did he say anything that made you think he
 15 wanted to harm Ripoff Report or hurt it as a business
 16 or shut it down?
 17 A. He said he wanted to bring Ed and
 18 ripoffreport.com to justice. He wanted to shut it
 19 down, hurt it, cripple it. He was always saying, "He's
 20 got to be running out of money. It's got to fall
 21 soon."
 22 Q. Oh, okay.
 23 A. He leads me to believe he wants to see it
 24 taken down, he wants to see it gone.
 25 Q. Let me ask you specifically about Shawn

1 Richeson.
 2 Did you have the impression that Shawn
 3 Richeson wanted you to tell any lies?
 4 A. Absolutely.
 5 Q. What did he want you to lie about?
 6 A. He wanted me -- Shawn Richeson wanted me
 7 to basically lie about everything under the sun -- sex
 8 with Ed, Ed paying for sex, not paying for things, did
 9 he ever alter reports, where is this money coming from,
 10 did I ever see money change hands, kept asking about
 11 bag loads or boat loads of money. He has -- it's not a
 12 vendetta with Shawn Richeson; it's an obsession of his.
 13 Just as recently as a couple days ago he
 14 admitted the fact that he's obsessed with Ed, with
 15 doing everything he can to basically shut Ed down and
 16 everything to do with Ripoff Report -- not just Ripoff
 17 Report. He wants Ed.
 18 Q. What lies did he want --
 19 A. He wanted me to fabricate having anal
 20 sex -- having Ed having anal sex with me so that he
 21 could have an FBI agent come down here and do
 22 whatever -- my understanding or interpretation of what
 23 he's basically saying is that he wants to see Ed behind
 24 bars. He wants to see him -- he doesn't want to
 25 physically assault him himself is what he said to me,

1 but he doesn't care if someone else does.
 2 Q. He actually said that he doesn't care if
 3 violent harm comes to Ed Magedson?
 4 A. He said, "I wouldn't want to see any harm
 5 come to him, but I wouldn't be sorry if it did, or I
 6 wouldn't be surprised if it did."
 7 On the very first phone conversation I had
 8 with Richeson, I implored him, I said, "You know, if I
 9 give you this address and you give it out there to
 10 these Russian guys or whoever else is looking for him,
 11 you know, he does have threats against him, you know,
 12 he could be killed." I hung up on him.
 13 About 15, 20 minutes later he calls me --
 14 he calls me, and he says, "Hey man, how much would
 15 you -- would you be willing to take \$500 for that
 16 address? I have four or five other guys online right
 17 now each giving me 500 bucks apiece, and one of them is
 18 a Russian guy."
 19 And I strung him along for another 10, 15,
 20 20 minutes before I gave him the address that he
 21 already had or something, or that he led me to believe
 22 he had, or they were close or something.
 23 He said this Russian guy had been emailing
 24 him every 30 seconds or every minute that he had been
 25 talking to me, you know, saying he had this money,

1 like "Hey man, I'll wire you the money. Can I get the
 2 address first?" And this Russian guy, he wants to go
 3 up there and do something to him. He sounded excited
 4 and like thrilled. He couldn't wait to get the address
 5 from me so he could send it off to whoever this Russian
 6 guy was.
 7 Q. Let me return to one follow-up question.
 8 I believe you said that you thought
 9 Richeson wanted you to lie about the Ripoff Report or
 10 postings.
 11 A. He wanted me to lie about postings saying
 12 Ed altered reports, changed reports, I had changed
 13 reports, altered reports, or anybody had done it.
 14 Q. He wanted you to tell him that that had
 15 happened; is that correct?
 16 A. Yes.
 17 He also wanted and offered to pay me
 18 \$10,000 for Ed's personal banking information, his
 19 account numbers, routing numbers to his bank, user name
 20 to a Paypal account, account numbers. And as recently
 21 as the last phone call, he said he would pay for
 22 anything juicy in an email directly from him.
 23 Q. Why did Richeson want bank account
 24 information and Paypal passwords?
 25 A. Well, it's my understanding that he's a

1 frickin' some kind of computer guy or maybe he knows a
2 lot of people who was. He wanted to gain access to it,
3 it was my understanding.

4 Q. Did he tell you exactly what he wanted to
5 do?

6 A. No. I wasn't too interested in what he
7 was going to do. I was just interested in the payday
8 that was coming afterwards at the time.

9 Q. Why were you so interested in the payday?

10 A. Basically, I was thinking about just
11 getting \$2,000 worth of dope, getting a frickin' motel
12 room in Laughlin with a bunch of escorts, if you want
13 to know the truth.

14 Q. Well, that's what you were thinking and
15 that's what I wanted to know.

16 A. I might have told one or two lies to these
17 people, but really all I've done is just stretch their
18 own frickin' truth and leave everything open-ended.

19 Q. Did you have the impression that Lisa
20 Borodkin wanted you to tell lies about anything?

21 A. Actually, at first, no. The first phone
22 call I had she emphatically or, you know, very
23 persistently said, "I don't want you to lie. I just
24 want to know the truth."

25 And that was a long phone call that we had

1 that first time. She was feeling me out. I was
2 feeling -- I was poking, I guess you could say -- I was
3 just -- I was fishing for what she would want.

4 Q. When you were fishing, did you figure out
5 what she wanted?

6 A. She wants pretty much what everybody else
7 wants, to say Ripoff Report is -- that Ed Magedson
8 changes reports, hires other people to post reports,
9 writes his own reports, lied about who works physically
10 on Ripoff Report, who designs it. She just wants
11 everything that will bring him down.

12 Q. How did you know that's what she wanted?

13 A. Before she even called me or I called her,
14 John Brewington actually called me and asked me if it
15 would be okay if he gave her my number. And I said,
16 "Well, why?"

17 And he said, "Well, she's an attorney in a
18 lawsuit, as well, and wants information against Ed.
19 You know, pretty much the same stuff you told me she
20 wants to talk about."

21 And I said, "Oh, okay." I was sort of
22 trying to get more information. Brewington wasn't
23 going to tell me that much.

24 But about two minutes after he hung up,
25 she called. And I said, "Hello Lisa," and I think I

1 put her off for a little bit after about 15 minutes,
2 because I was feeling her out, and I basically had told
3 her I was selling the information, not giving it away.
4 I basically said to her, I said, "I know you're in a
5 lawsuit. You don't have my interest or anything to do
6 with me, and I've got to have something."

7 And she told me on that first phone call
8 that she couldn't pay me for anything, and it would
9 taint whatever testimony or whatever I said.

10 But on the second phone call it was like
11 she totally bypassed that whole thing, and she was
12 trying to get me to tell her more. She said, "I can't
13 pay you. But if you wanted to come down here, we can
14 pay you for expenses."

15 And I said, "What do you mean by pay me
16 for expenses?"

17 She said, "Well, we can pay for a rental
18 or pay for your plane ticket for you and your friend.
19 We'll make sure you're taken care of comfortably."

20 And I said -- I think I tried to get her
21 to frickin' claim me as an expert witness or something
22 like that. And I said, "If I was an expert witness,
23 you could pay me then, right?"

24 And she's like, "Yeah, I guess I could."
25 I said, "What makes an expert witness?"

1 And she was like, "Well, you have to be an
2 expert in a field." And she goes, "What did you go to
3 school for?" Because I had told her I had just
4 graduated, you know, passed that certificate course.

5 She's like "Oh, project management. And
6 what did you do for Ed?"

7 I said, "Well, I was developing a dog
8 shelter. I was writing a sales script for
9 legaldirectory.com. I might have helped write a few
10 things for selling the Corporate Advocacy Program,
11 edited that, wrote something there. I might have
12 helped Ed with the arbitration script after, you know,
13 he wrote it and then I added some stuff into it before
14 it got sent to his attorneys to lock it in or something
15 like that. And I told her about Edit Weapon I had
16 written or Online Reputation Management."

17 (Reporter requested clarification.)

18 Q. Can you spell Edit Weapon for us?

19 A. E-d-i-t dash -- I don't know if I put a
20 dash in there -- W-e-a-p-o-n. I never saw the
21 finished...

22 Q. Thanks. That's enough to give Stacey an
23 idea of what you said.

24 A. I never saw the finished product.

25 Q. Were you telling Lisa all the things you

1 were an expert about?

2 A. No. I was telling her that I have known
3 Ed Magedson for over a decade.

4 Q. Did she think she could pay you as an
5 expert based on that?

6 A. No. It ultimately ended up she was going
7 to bring me out there -- me and a friend or me and --
8 you know, because I was trying to get this girl to go
9 with me at the time; I was trying to mend what was
10 there. And I figured, hey, all expenses paid.

11 But ultimately I manned up, I guess, and
12 stopped being afraid, and I called her back and said,
13 "You know what, I can't get a friend to come with me so
14 I'll have to come out there myself."

15 And she said, "Oh, we'll make sure you are
16 very well taken care of. You will be comfortable and
17 happy," is what she said.

18 Q. Do you have an appointment to go out to
19 California and talk to her?

20 A. I have an appointment this coming Saturday
21 on the 23rd, actually. I'm supposed to fly out at
22 10:30 in the morning on Southwest Airlines.

23 Q. Do you have a plane ticket?

24 A. Yes, I do. It's online reserved in my
25 name at the Southwest desk.

1 Q. Who paid for it?

2 A. I am not sure, but the email came from
3 Lisa.

4 Q. Let me ask you -- let's go back to the
5 letter that you wrote. I want to ask you a few more
6 questions.

7 In your second paragraph you said, towards
8 the end of the second paragraph, that "Other people
9 have been using me and fueling what I thought was
10 hatred."

11 Is that correct, the way I read it?

12 A. Yes.

13 Q. Who were you talking about when you said
14 "other people"?

15 A. I was talking about Lisa, John Brewington,
16 and Shawn Richeson.

17 Q. The next paragraph you wrote a sentence
18 that I think says, "They turned them on and off and
19 always were asking or saying it would be great if this
20 or that happened."

21 What were you referring to "turned them on
22 and off"?

23 A. I was referring to recording devices of
24 any sort or kind when they said, and they -- I believe
25 only -- I don't believe that Lisa is recording me, but

1 that could be or could not be true.

2 Q. Have you met with her in person?

3 A. No, I have not yet. I do not know enough
4 about her yet.

5 Q. How did you communicate with her?

6 A. It's always been by phone or email.

7 Q. What about Shawn Richeson, have you met
8 with him in person?

9 A. Not yet.

10 Q. Have you met with John Brewington in
11 person?

12 A. Yes, I have.

13 Q. Did he have a recorder when you met with
14 him?

15 A. Yes, he did.

16 Q. Did he turn it on and off?

17 A. I am very certain that he did because the
18 thing beeped a couple times when he picked it up. He
19 was always picking it up, moving it around, looking at
20 it, throwing it around, moving it from one position on
21 the table to the next. You know, the thing is only
22 about three inches long --

23 Q. You mean the recorder?

24 A. Yeah, it's about three inches long and
25 about an inch in width and maybe like an eighth of an

1 inch thick.

2 Q. Did you record the conversation that you
3 had with Mr. Brewington?

4 A. Yes, I did.

5 Q. Who's got that recorder now?

6 A. I believe --

7 Q. You might not know that.

8 A. I do not know.

9 Q. Did you give it to somebody?

10 A. Yes, I did.

11 Q. Who?

12 A. I gave it to you.

13 Q. Do you remember what type of recorder that
14 was?

15 A. It was a Sony digital recorder, maybe held
16 like maybe two hours.

17 (Reporter requested clarification.)

18 Q. Let me ask a follow-up question to make
19 that clear. A moment ago you said on the record,
20 "I gave it to you." And who did you mean when you
21 said, "I gave it to you"?

22 A. I meant yourself, Adam Kunz of Jaburg &
23 Wilk.

24 Q. So you, in fact, gave me that Sony
25 recorder with which you recorded your interview with

1 John Brewington?

2 A. Yes. I gave it to you in the lobby of
3 this very building, Jaburg & Wilk.

4 Q. Was there anyone else there?

5 A. The security guard of the building was
6 there.

7 Q. Anyone else?

8 A. My father.

9 Q. Anyone else?

10 A. No.

11 Q. I'm going to use that as a segue to the
12 second exhibit. I'm going to hand you a copy of the
13 document called "Settlement Agreement." And I'm going
14 to give a copy to Stacey, and we'll pause for a moment
15 while she marks it as Exhibit B.

16 (Exhibit B was marked.)

17 We'll go back on the record because that's
18 been marked now.

19 In fact, before I ask you about this
20 document, when you were recording the interview with
21 John Brewington, did you turn your machine on and off?

22 A. I did not touch it until he left.

23 Q. So am I correct to say you believe you had
24 a complete recording from start to finish?

25 A. I believe that I did. Whether or not I

1 do, I do not know. I never listened to the whole
2 thing.

3 Q. And we'll talk about that in a moment, I
4 promise.

5 Showing you the document that's been
6 marked as Exhibit B to this sworn statement. Do you
7 recognize that document?

8 A. Yes, I do.

9 Q. Can you tell me, in your own words, what
10 it is?

11 A. It basically says that I did not buy drugs
12 for Ed Magedson or Dave Bedore or anyone else, for that
13 matter, pretty much.

14 It says that me and Ed had a mutual
15 beneficial, you know, relationship of an intimate
16 nature; that I was basically paid for all work that I
17 did for Xcentric Ventures; that I was giving up any
18 claims to laptop, software, other personal belongings.

19 Basically I was signing away everything;
20 that I didn't have any claim to anything that may have
21 been left at his house, in his office, in his
22 automobile, or anywhere; and that I would not bring a
23 claim against him for any wrongdoing or sexual
24 harassment or anything up to the date it was signed.

25 Q. Okay. Did I pay you for signing that

1 settlement agreement, release of claim?

2 A. I was given \$300 to buy peace, according
3 to the document.

4 Q. And does the document in front of you
5 actually say that?

6 A. It says Xcentric will pay \$300 to Rogers.
7 Yes, that's pretty much what it says.

8 Q. Did I, in fact, pay you \$300?

9 A. Yes, you did.

10 Q. You can see on that document that
11 something has been crossed out. Can you tell me about
12 that?

13 A. 2.1.

14 Q. Let me ask some more specific questions to
15 make it easy. What has been crossed out?

16 A. "Xcentric will pay \$500 cash." The 500.

17 Q. And then what does it say after it was
18 modified in handwriting?

19 A. It was 300.

20 Q. Do you know why we changed the number?

21 A. I'll ask you to --

22 Q. Let me ask you some questions.

23 When you came to me -- was that the same
24 night that you came to me with the recording of your
25 interview with Brewington?

1 A. Yes, it was.

2 Q. Did I ask you to show me whether you had
3 information recorded on that recorder that was not part
4 of the recording that I believe Richeson put on the
5 Internet?

6 A. You asked me if I had a copy of that
7 recording from the Brewington -- whatever you want to
8 call it -- interview, I guess you could call it, of me
9 and Brewington talking at that restaurant. And I said
10 that I did have a recording and that I believe that it
11 was the whole one.

12 Because he had picked up his recorder and
13 said, you know -- he said the time on it, I think, and
14 he said, "I am now ending the recording" and then he
15 turned it off, you know, supposedly, you know, made
16 actions like he turned it off and then he put it in his
17 shirt pocket. But he did fidget with his pocket a few
18 times, and he did sit there for another 10, maybe 15
19 minutes.

20 Q. Let me clarify my question.

21 Did I tell you when we met that I wanted
22 you to show me something on your recording that I
23 didn't already have from Brewington's recording?

24 A. I do believe so, yes.

25 Q. At the time were you able to do that?

1 A. No, I was not.
 2 Q. And at the time did I say, "Then we won't
 3 pay you 500, but we will pay you 300 for the settlement
 4 and release?"
 5 A. Yes, you did.
 6 Q. Did you accept the 300?
 7 A. Yes, I did.
 8 Q. Why?
 9 A. I was coming down, to tell you the truth,
 10 and I was high, but not high. I was stressed out. I
 11 had -- my phone was on the verge of being turned off.
 12 My parents were asking me for money to help pay bills.
 13 But really I was thinking about the hundred I was going
 14 to get to keep out of it so I could go get high.
 15 Q. So you wanted that money really bad; is
 16 that correct?
 17 A. Yes, I did, actually. Kind of sad now.
 18 Q. Now, did you tell any one of the three --
 19 Brewington, Richeson, or Lisa Borodkin -- that you were
 20 under duress when you signed that agreement?
 21 A. I said that I got paid or something like
 22 that, but I -- I played up -- I acted a role, basically
 23 making it sound worse than it really was because I
 24 wanted to get paid from them still.
 25 And I said, "I got shafted. I got fucked."

1 He only gave me \$300 for the frickin' computer and my
 2 last week of work, and he made me sign this settlement
 3 agreement that said I wouldn't press charges." And all
 4 three of them want to see this thing.
 5 Q. I bet they do.
 6 A. Richeson tried to get me to fax it to him
 7 two days ago and I wouldn't.
 8 Q. Let me ask you this: At the time that I
 9 gave you money and you signed the settlement agreement,
 10 did I physically threaten you?
 11 A. No, you did not.
 12 Q. Did I menace you? Meaning without saying
 13 anything, did I physically threaten you?
 14 A. Absolutely not. You just said that if
 15 nothing new was on the recording all I would get would
 16 be -- we would have to renegotiate the price and the
 17 agreement or I would get nothing.
 18 Q. And you weren't very happy about that,
 19 were you?
 20 A. No. I was pissed off because I saw my
 21 dope or my high walking away and that's -- after that
 22 point, that's all I would think about.
 23 Q. Now I'm going to ask you some questions
 24 that are a little bit strange for this kind of record,
 25 but they're important.

1 Do you think that if you and I got into a
 2 physical fight I could beat you?
 3 A. No, absolutely not.
 4 Q. You've spent some time in prison, haven't
 5 you?
 6 A. Yes, I have.
 7 Q. How long?
 8 A. Altogether as an adult seven years.
 9 Q. And this is a little bit subjective, but
 10 have you beat tougher guys than me?
 11 A. I have had to defend myself against much
 12 nastier, meaner, bigger guys than you, yes.
 13 Q. Were you successful in doing so?
 14 A. I was successful at those times, yes.
 15 Q. Do I scare you physically?
 16 A. No.
 17 Q. Do I intimidate you in some other way,
 18 other than physically?
 19 A. Maybe intelligently, but not so much.
 20 Q. Okay. Well, thank you. I'll take that
 21 maybe as a compliment.
 22 A. It is a compliment. Not many people amaze
 23 me with their mental prowess -- or prowess or however
 24 you want to say it.
 25 Q. Well, thanks. Thank you very much.

1 We're going to pause for a moment so that
 2 Stacey can mark another document as Exhibit C.
 3 (Exhibit C was marked.)
 4 James, I'm going to hand you what has been
 5 marked as Exhibit C. Do you recognize that document?
 6 A. It's a Confidentiality/Non-Disclosure
 7 Agreement. I signed it the 22nd day of June 2010. I
 8 believe this was from a meeting with -- all I can
 9 remember is the guy's name, Marcus.
 10 Q. Let me ask you this: When you signed
 11 that, generally speaking, were you promising to keep
 12 information about Xcentric Ventures and Ed Magedson
 13 confidential?
 14 A. I was indeed.
 15 Q. And have you broken that agreement?
 16 A. I believe I've shattered it into thousands
 17 of pieces.
 18 Q. Did you break it by speaking to
 19 Brewington?
 20 A. I broke it by speaking to Brewington,
 21 Lisa, and Richeson.
 22 Q. Did you tell them information about
 23 Xcentric Ventures and Ed's business that was
 24 confidential?
 25 A. Anything that I would have said from that

1 day would have been confidential, so, yes, I did.
 2 Q. Why did you do that?
 3 A. Because they wanted information on how Ed
 4 was -- why Ed was doing so good. So I basically took,
 5 you know, conversation that I had overheard at that
 6 meeting and meetings prior and previous and just
 7 fabricated this whole frickin' ghoul SEO frickin' thing
 8 and they believed it.
 9 Q. Okay. And hang on just a second.
 10 Now, I'm going to repeat my question so
 11 that you can finish the answer. Why were you willing
 12 to do that, to break that confidentiality agreement?
 13 A. I was hurt or angry -- I was basically
 14 being coerced again by them to come up with something
 15 that they haven't heard or haven't been told.
 16 Q. Who were you hurt by?
 17 A. Ed Magedson.
 18 Q. Did you have some kind of an argument with
 19 him or a disappointment? Explain that to me.
 20 A. Basically what happened is Ed realized
 21 from previous years past, old behaviors that I had had
 22 while I was using, and he had, you know, accused -- not
 23 accused me at that time, but he had been asking me
 24 continuously for a while or just -- just, you know,
 25 hindsight is always a pain in the ass.

1 Q. Let me cut to the chase. Did he refuse to
 2 support your drug habits?
 3 A. He refused to support my drug habit any
 4 further, correct.
 5 Q. And you were angry about that?
 6 A. I guess I was angry about that. But
 7 like -- I don't know -- my mind made it something else.
 8 Q. So you would say you felt hurt by that?
 9 A. I felt hurt, but not that he wouldn't fuel
 10 my drug habit. Like I said, my mind made it something
 11 else.
 12 I had already been contacted by
 13 Brewington, like I said, two months prior to him
 14 calling me on the phone or me looking -- you know,
 15 looking for an avenue to, you know, as a back-up plan.
 16 Q. Did you think you could get money from
 17 Brewington for selling the information?
 18 A. I believe that I could.
 19 Q. Did you, in fact, get money from John
 20 Brewington for giving him information?
 21 A. Yes, I did.
 22 Q. How much?
 23 A. An undisclosed amount.
 24 Q. Well, I would like you to disclose that.
 25 A. \$2,600.

1 Q. Is that total, or is that on one occasion?
 2 A. That's on that one occasion because he
 3 did, in fact, send somebody out to meet with me the
 4 very last night that I was at Ed's house. I haven't
 5 been there since.
 6 The very last night that I was inside Ed's
 7 house I told him I was taking a walk, and I grabbed the
 8 leash and took the dog out for a walk, and I met up
 9 with a gentleman that Brewington had sent out there.
 10 Q. How did you know Brewington sent him out
 11 there?
 12 A. Because he called and said, "Meet with
 13 him. He's going to give you some money."
 14 Q. Did he give you some money?
 15 A. It was like 150 or maybe 200 bucks at the
 16 most. I don't really remember.
 17 Q. What happened when you met with the man
 18 that Brewington sent?
 19 A. After I met with him, he gave me -- not
 20 really a lot of words were spoken. He just said, "You
 21 James?"
 22 And I said, "Yeah."
 23 And he shook my hand, and he said, "Here
 24 you go." Handed me an envelope with some cash in it.
 25 And I said -- I think I might have said,

1 "Do I need to count it?" You know, just one tough guy
 2 to the next, I guess, because that's what the guy came
 3 off as, as a muscle dude and maybe not a lot of brains,
 4 but could have a lot of brains and just played dumb. I
 5 don't underestimate them.
 6 He said, "Hey, can I use your phone? I
 7 need to make a phone call. I left mine in the car,"
 8 something like that, and he grabbed my phone.
 9 And I said, "Who you calling?"
 10 And he said, "Don't worry about it."
 11 But I specifically heard him say "Ed" into
 12 the phone.
 13 And I said, "Did you just call" --
 14 And the next thing I know, he's demanding
 15 that Ed give me, James Rogers, \$50,000, and he hung up
 16 the phone call, maybe there was a swear word. I can't
 17 remember. It was kind of garbled after that. I
 18 distinctly heard him saying, "Give James \$50,000" --
 19 maybe "or else."
 20 But after that, he handed me my phone,
 21 turned around and started to walk away.
 22 And I said, "What the hell are you doing?
 23 Why did you do that?"
 24 And he said, "Don't worry about it. He'll
 25 probably give it to you or come up with a way to give

1 it to you. I did you a favor." And he left.
 2 Q. And this is the guy that Brewington told
 3 you to meet with?
 4 A. Yes.
 5 Q. Do you know this man's name?
 6 A. No, I do not.
 7 Q. Did you ever see him again?
 8 A. I have not seen him again.
 9 Q. Did you see what he was driving?
 10 A. It was a truck.
 11 Q. What kind?
 12 A. A white Dodge or Ford, maybe a Chevy. I
 13 don't know. It's pretty dark in Fountain Hills.
 14 Q. But it was white?
 15 A. Yes, it was white -- maybe gold or silver,
 16 I don't know.
 17 Q. Do you know about what year or even what
 18 decade?
 19 A. Well, it's a '90s or a 2000, at least,
 20 because it doesn't have the '80s square build.
 21 Q. Did you happen to get a license plate
 22 number?
 23 A. No. I -- I can't be -- I can't say for
 24 certain. I would have to think about that.
 25 Q. Do you know what state the plate came

1 from?
 2 A. I believe it was an Arizona plate, maybe
 3 California. I don't know.
 4 Q. Did he have anyone else with him?
 5 A. The windows were tinted very well. Way
 6 past what's legal in Arizona, I'll tell you that much.
 7 Q. Were you able to tell if anyone else was
 8 in the truck?
 9 A. No, I was not.
 10 Q. On the second page of your letter you say,
 11 "They all want Ed's passwords, user names, bank
 12 accounts, and keep saying they'll pay big."
 13 Who is each person that has offered to pay
 14 you for Ed's passwords?
 15 A. Each person so far is Brewington and
 16 Richeson. It goes so far as --
 17 Before Richeson had called, or whatever,
 18 you know, this last time -- because I had told
 19 Brewington that Richeson still hasn't sent me that
 20 money, the \$500, and that he was going to pay me or
 21 send me for, you know, services rendered, I guess you
 22 could call it.
 23 Q. What was Richeson going to pay you \$500
 24 for?
 25 A. He was going to pay me \$500 for Ed's

1 address.
 2 Q. Did you give him Ed's address?
 3 A. Yes, I did.
 4 Q. Has he paid you?
 5 A. No, he has not.
 6 In fact, in the last phone call he said
 7 something about, "Hey man, I'm sorry I still haven't
 8 paid you. I'm not a rip-off person. I don't scam
 9 people. I don't not pay people when I say I'm going to
 10 pay them."
 11 And he mentioned something about, you
 12 know, a reason why it happened. It didn't go through
 13 because he clicked the wrong button or the woman
 14 clicked the wrong button, his secretary, who he told me
 15 was his secretary, but then I was told it wasn't his
 16 secretary, he doesn't even have one. He tells me it's
 17 a lady that lives in the house next door that sometimes
 18 comes over and does his filing and answers phones and
 19 cleans his house, and he occasionally dabbles in some
 20 extracurricular activities with her is what he was
 21 leading me to believe on the phone.
 22 Q. Like he plays volleyball with her after
 23 school?
 24 A. No. Basically he's banging her.
 25 Q. Oh.

1 A. Basically he has a little sex here and
 2 there with no strings attached.
 3 Q. Richeson told you that?
 4 A. Yes, on the phone. Pretty much he led me
 5 to believe that, yes.
 6 Q. Wow.
 7 A. Which is kind of funny since I just found
 8 out he's married today and he's got some kids.
 9 Q. Let me ask you another series of
 10 questions. Other than the \$2,600 and the envelope of
 11 cash that the man in the white truck gave you, has
 12 Brewington paid you anything else?
 13 A. Not yet. But as I said, he was supposed
 14 to -- today, in fact, this morning, he wanted me -- he
 15 wanted to meet with me and give me -- he said it was a
 16 pretty nice mountain bike, very nice, expensive
 17 mountain bike; that if it didn't fit me, I could take
 18 it down and trade it in for a nicer one or sell it for
 19 a nice sum of money and buy me a bike that will work.
 20 He was going to buy me a month bus pass or
 21 something like that.
 22 He was going to go to his office and get a
 23 copier/scanner and a monitor and give it to me. As
 24 well as he was going to ask a couple of people that he
 25 knew about an old CPU or an old PC -- basically, he was

1 going to give me a computer.

2 And he said he didn't want anything, no
3 strings attached. Just want to see you get a leg up so
4 you can go to school. He basically asked me what I was
5 trying to do with my life now.

6 You know, he is playing the friend role,
7 but I believe he is just stringing me along because he
8 did tell me that unless I came up with something juicy
9 or I gave Shawn some sexual frickin' thing, you know,
10 that he didn't have or -- if I didn't give him account
11 names or passwords, that I wasn't going to get paid
12 very much.

13 John Brewington, I believe, is the glue
14 between whoever might be going after Ed because it
15 seems like he's in contact with everybody.

16 Richeson -- he said Richeson sends him
17 emails every day, calls him every day, and he gets
18 tired of talking to the man.

19 Lisa, you know, is obviously in contact
20 with him. He's obviously in contact with Lisa, John
21 Brewington is. And from both of them, they both said
22 to me personally that they do not see eye to eye with
23 each other and argue --

24 Q. Both who?

25 A. Lisa and John Brewington.

1 They both argue back and forth about their
2 beliefs, whatever. They argue back and forth about Ed.

3 Q. They've each told you that they argue with
4 each other; is that correct?

5 A. Yes. They argue with each other about how
6 to proceed, how to move, or what to do. And he said
7 but just because two people or two adults argue doesn't
8 mean they still can't be friends and like each other.

9 Q. Did Lisa offer you anything of value to
10 give information about Xcentric Ventures or Ed
11 Magedson?

12 A. Anything of value? What's your definition
13 of "value"?

14 Q. Did she offer to give you anything?

15 A. She's offered to accommodate me in any
16 style that I find comfortable, pretty much.

17 Q. On what occasion would she accommodate you
18 in style?

19 A. I guess it would be this Saturday. And
20 then -- she basically said she was going to fly me out
21 there Saturday. We'd spend some time at her office.
22 She'd ask me some questions and put a video camera up
23 or whatever. She wanted me to sign a declaration
24 saying that I had signed reports -- I had written
25 reports, Ed had written reports. She wanted me to sign

1 a declaration stating that when you type something into
2 Google and then you click on it repeatedly that it
3 brings it up in the search engines because she somehow
4 believes, from me, that that works.

5 Q. Have you ever posted reports on the Ripoff
6 Report?

7 A. Absolutely not. I have never posted a
8 report on Ripoff Report.

9 Q. Have you ever posted a Rippo?

10 A. No, I have not.

11 Q. Have you ever changed a report that had
12 already been posted?

13 A. No, I have not.

14 The only thing that I may have done was in
15 2002, maybe 2004, is I may have -- no, I never even
16 touched a report.

17 Q. Really.

18 A. I don't believe so.

19 The only thing I've done is, he might have
20 asked me to read this. Because the only thing that Ed
21 does do to a report, if it's in real, real -- if it's
22 not in any paragraph form, if it's just like a long
23 frickin' report, he'll go through and he'll read it,
24 which is kind of weird because he doesn't read anything
25 fully, he skims the first three sentences and that's

1 it.

2 But back in the early days he would read
3 the report all the way through if it was just blocked
4 all the way down, and he would give it paragraph
5 breaks. He wouldn't change text or anything.

6 Q. Have you ever seen Ed post Ripoff Reports
7 in somebody else's name?

8 A. Absolutely not. Especially since I've
9 been back, never. He doesn't even have access to the
10 back end anymore. From what I've heard from everybody,
11 he hasn't had it for years.

12 Q. Have you ever seen him ask anyone to post
13 Ripoff Reports?

14 A. No. The only time I've ever witnessed him
15 asking anybody to file a Ripoff Report is in an email
16 when they're asking about what they should do, you
17 know --

18 I mean I got emails like that all the
19 time, and I've sent out the same standard email
20 response: Now or in the future if you ever feel like
21 you've been ripped off, file a report, let others know.
22 But he doesn't tell them to file it or what to say.

23 MR. KUNZ: I'm going to take a little break, go
24 through some notes. I may have a couple more questions
25 for you, but we also may be done.

1 (Break taken.)
 2 Q. BY MR. KUNZ: James, I'm aware that you
 3 have been using two gmail accounts. One of them I
 4 think is jrhappygolucky20@gmail.com. Is that about
 5 right?
 6 A. Yes.
 7 Q. And the other one is -- I think it's
 8 legaldirectory@ripoffreport@gmail. Can you correct
 9 me --
 10 A. ROR -- I mean ROR@legaldirectory -- or
 11 @legaldirectory -- RORlegaldirectory@gmail.com.
 12 Clarification, RORlegaldirectory@gmail.com.
 13 Q. And for this record, could you also give
 14 me the exact user name for the jrhappygolucky, how do
 15 you spell that?
 16 A. User name is Justin Rogers.
 17 Q. Yes. And what is the actual email
 18 address?
 19 A. Oh, the actual email address is
 20 jrhappygolucky20@gmail.com. I thought you were asking
 21 for the name on the account. Sorry.
 22 Q. No, you're fine. It's lucky I can ask any
 23 intelligent question.
 24 You gave me the passwords to those
 25 accounts a little earlier today, didn't you?

1 A. Mrjprogers. mrjprogers@email.phoenix.edu.
 2 It's my student email through University of Phoenix.
 3 Q. And that's your personal email account?
 4 A. That's pretty much my personal email. I
 5 mean occasionally I would have an email sent to
 6 jrhappygolucky, but that was a paper that me and my
 7 team were working on for school.
 8 Q. Now, with this personal email account,
 9 I'll call it the phoenix.edu account, have you ever
 10 used that account to send information about Ripoff
 11 Report to Brewington, Richeson, or Borodkin?
 12 A. I don't believe I ever sent anything to
 13 Brewington.
 14 I did send an email to Richeson, but I did
 15 not disclose any information in it. I was just
 16 basically saying, "Hey, when are you going to frickin'
 17 pay me?"
 18 But to Lisa, she had asked over the phone
 19 about CAP, you know, the Corporate Advocacy Program
 20 that Ripoff Report has and about, you know, Verified,
 21 and she asked if I had had any information or if I
 22 could prove that I actually worked on or assisted in
 23 any way -- basically prove that I was, you know, his
 24 assistant or prove I was doing something other than,
 25 you know, cleaning his house or watering plants. And I

1 A. Yes, I did.
 2 Q. And I have caused those passwords to be
 3 changed, so effectively I have control of those
 4 accounts now, or at least our law firm does. Is that
 5 all right with you?
 6 A. They weren't my accounts. They were
 7 Ripoff Report's.
 8 Q. Okay. And it's okay with you if I keep
 9 control of those accounts now through the use of those
 10 passwords?
 11 A. The only thing I would ask is that you
 12 allow me to have the University of Phoenix emails, team
 13 emails.
 14 Q. Let me ask you about those.
 15 First the question I'm asking you is the
 16 two email accounts that we just discussed, would you
 17 like me to return control to you, or is it okay with
 18 you that I keep the control with the law firm?
 19 A. It's okay that you keep control with the
 20 law firm or with Ripoff Report. It was set up as their
 21 emails, pretty much.
 22 Q. Now, there's an additional email account
 23 that we discussed earlier today; is that correct?
 24 A. Yes, that's my personal email.
 25 Q. What is that?

1 said, "You know what, I think I might be able to have a
 2 copy."
 3 This was like three, four, five, six days
 4 went by because I could not, for the life of me -- I
 5 was too frickin' high to remember the password to
 6 RORlegaldirectory.com. But I did have -- I couldn't
 7 remember if I had a copy of it in the jrhappygolucky.
 8 But ultimately I remembered the password.
 9 And so I went in and I sent myself copies
 10 of mails that I had sent Ed and mail -- I mean without
 11 even reading it, if it said editor to Justin Rogers or
 12 Justin Rogers to editor or from -- if it said editor to
 13 me or if I was bcc'd, I forwarded it to mrjprogers so
 14 that I would have access or proof if I needed it down
 15 the road that I was an actual physical -- I was paid
 16 for this and this alone.
 17 Q. Those emails that you just told me that
 18 you forwarded to the mrjprogers account, did that
 19 contain Ripoff Report business information?
 20 A. I do believe it did, yes.
 21 Q. And would that information be confidential
 22 information?
 23 A. Yes, it would.
 24 I sent her a Power Point presentation of
 25 CAP Verified in the early stages of the sales

1 development or whatever.

2 Q. Okay. When you sent it to her, did you
3 believe that it was confidential information?

4 A. I knew it was confidential, yes.

5 Q. How did you know that?

6 A. Pretty much because only myself, Ed
7 Magedson, you guys at Jaburg & Wilk, and Les from
8 Bidder Buyer and his sales staff knew about it, and we
9 had all signed it -- or they had all signed an
10 agreement at one time or another. And I signed one
11 years and years and years ago for the same -- not
12 through you guys, but through another attorney; he had
13 me sign one for him.

14 Q. So question: Did you believe that the
15 confidentiality agreement you signed recently applied
16 to that plan that you sent to Borodkin?

17 A. It applied to anything -- it applied to
18 anything having to do with Xcentric Ventures,
19 ripoffreport.com, legaldirectory.com, or anything
20 associated with Ed's business.

21 Q. So you knew you were breaking the
22 agreement when you sent that to Lisa?

23 A. I knew I was breaking it. I knew that she
24 knew I was breaking it because she knew about the
25 non-disclosure agreement. I had taken a picture of the

1 whereabouts of the owner of Ripoff Report. If you are
2 interested or would like to pay for this, let me know
3 what it's worth to you. Give me a call." And I gave
4 him some dummy phone number that didn't go back to my
5 phone, to tell you the truth.

6 Q. How long have you been getting high? How
7 long has it been since you fell off the wagon?

8 A. Let's go back to -- let's see, when did I
9 graduate? July something, June.

10 Q. Is that this year?

11 A. Yes.

12 June -- I want to say -- this is going to
13 frickin' fuel Ed.

14 Q. I don't need an exact date.

15 A. I'm sorry. It was around May or June when
16 I got high the first time, but then I went for two,
17 three weeks without doing it again.

18 But I started really, really using that
19 third week of July -- or second week, really -- second
20 or third week of July.

21 Q. Before you started using in 2010, how long
22 had you been clean and sober?

23 A. I had been clean and sober since July
24 15th, 2009.

25 Q. Are you taking any steps to get help to

1 front of the copy to prove that I was an employee to
2 her when this all came out. She said, "They're saying
3 you're not even an employee."

4 I said, "Why are they going to have me
5 sign a non-disclosure agreement if I'm not an employee?
6 If I don't know something, why would they have me sign
7 it?"

8 Q. Let me ask you this: Brewington, did you
9 reach out to him first?

10 A. He reached out to me, like I said, two
11 months earlier when I was starting to get high, and I
12 basically told him he was full of it, and I didn't
13 know --

14 Q. But did he become aware of you from you
15 reaching out to him?

16 A. I do believe so.

17 Q. And how did you reach out to him?

18 A. I looked up -- I typed in "John F.
19 Brewington" into Google and clicked on it. And instead
20 of clicking on the first few pages, I looked for his
21 personal Web site and clicked onto the John F.
22 Brewington, P.I., Paladin, whatever, Investigations,
23 clicked on the "Contact us," and dialed star 67 on my
24 phone, and basically left a message saying, "This is
25 nobody, but I may or may not have information on the

1 stay clean and sober?

2 A. I called in an -- I was going to call in
3 my RX number to the Fry's to get my prescription for my
4 bipolar disorder, Carbamazepine, I take that. It's
5 prescribed by a doctor. Other than that, no.

6 I'm just -- I'm staying away from -- I've
7 totally broken it off with the person that, you know,
8 got me -- she didn't get me back into it. I got myself
9 back into it, but she opened -- she helped open the
10 door by having it around. And I said, "No." And I
11 said, "No." And I said, "No."

12 And finally I was just -- I was tired of
13 people saying certain things about how I may look like
14 it. Because, honestly, when I'm around the stuff, old
15 memories bring back old feelings. So I probably may
16 have looked like I was doing it when I wasn't at that
17 time, and I was being asked if I was doing it. And I
18 finally just got tired of the accusations and said, you
19 know what, if you want to keep saying it, let's make it
20 real, but that was my rationalization.

21 Q. Have you ever been involved in groups like
22 Narcotics Anonymous or 12-step programs?

23 A. I actually asked a lady friend -- not a
24 lady friend, a friend of my parents who they go to
25 church with. She's got six years clean. She goes

1 to -- what is the name of that? It's through the LDS
2 church. And she goes Mondays and Tuesdays, or is it
3 Tuesdays and Thursdays? I don't know.

4 I had asked her -- I asked her basically
5 the night that Richeson called when the next, you know,
6 NA meeting was, but they don't call it NA. It's like
7 they have one for alcohol and they have one for other
8 substances. She said it was Tuesday at 7:00.

9 Q. So do you intend to go?

10 A. I'm already too late this time.

11 But I do intend to pursue some sort of --
12 some sort of something. Whether I need to go
13 through -- I'll probably go down to DES and go through
14 MesaCAN.

15 I was raised Mormon. Nothing against
16 them, but they put too much emphasis onto something
17 that I don't fully believe in. And maybe one day I
18 will again, but right now I don't and I can't. You
19 know what I mean?

20 Q. You might be saying this because you know
21 that I'm LDS.

22 A. No, I'm saying that because it's the
23 truth. If you don't believe in something, you
24 shouldn't do it.

25 Q. James, all of us, we've known you, and

1 I've seen you when you were clean and sober.

2 A. I'm 130 pounds of nothing right now.

3 Q. We want you to be able to stay clean and
4 sober so do what you need to do. If you need help to
5 stay clean and sober --

6 A. I think I might have to go into -- rehab
7 isn't going to help me, I'm already clean, or at least
8 I will be again tomorrow and I will be again the next
9 day. I mean, I have money in my pocket, I haven't
10 spent it on drugs yet.

11 MR. KUNZ: Good. All right. Thank you. I
12 appreciate you being willing to give this statement and
13 we'll go off the record. We're done.

14 (Concluded at 6:25 p.m.)
15
16
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25

1 STATE OF ARIZONA)
) ss.

2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing sworn
4 statement was taken by me, Stacey Palmer, Certified
5 Court Reporter No. 50045 for the State of Arizona, and
6 by virtue thereof authorized to administer an oath;
7 that the witness, before testifying, was duly sworn by
8 me to testify to the whole truth; that the questions
9 propounded by counsel and the answers of the witness
10 thereto were taken down by me in shorthand and
11 thereafter transcribed under my direction; that the
12 foregoing pages are a full, true and accurate
13 transcript of all proceedings and testimony had and
14 adduced upon the taking of said sworn statement, all to
15 the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to
17 any of the parties hereto and have no interest in the
18 outcome.

19 DATED at Phoenix, Arizona, this 22nd day
20 of October, 2010.

21 

22 STACEY PALMER
23 Certified Court Reporter
24
25

Exhibit C

David Gingras

From: Lisa Borodkin [lborodkin@gmail.com]
Sent: Friday, June 04, 2010 5:02 PM
To: david@ripoffreport.com; Maria Crimi Speth
Cc: Daniel Blackert
Subject: Re: AEI v. Xcentric - ED's Depo
Attachments: Magedson Depo Subpoena.pdf

Hi David and Maria,

We'd like to schedule the deposition of Edward Magedson for Tuesday, June 8 at 9:30 a.m. Please find attached a subpoena for a few documents for Mr. Magedson to bring with him.

At this time we're going to hold off on deposing Ben Smith. Thanks very much for offering to make him available.

Lisa

On Thu, Jun 3, 2010 at 3:06 PM, David Gingras <david@ripoffreport.com> wrote:

Lisa,

Per our phone conversation a few minutes ago, I spoke to Ed and he can be available for his individual depo either Tuesday, June 8 or Wednesday, June 9. However, I have not yet been able to reach Ben Smith to see what his schedule is like, and my impression from yesterday was that you wanted to take Ben and Ed on the same day, if possible.

Anyway, I left a voicemail for Ben and will let you know when I hear back from him. Right now, I am hoping that he's free and that we can get this done on Tuesday which I think you said was your preferred date.

David Gingras, Esq.
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-----Original Message-----

From: Lisa Borodkin [mailto:lborodkin@gmail.com]
Sent: Thursday, June 03, 2010 9:49 AM
To: david@ripoffreport.com; Maria Crimi Speth
Cc: Daniel Blackert; alexandra@asiaecon.org; kristi@asiaecon.org
Subject: AEI v. Xcentric