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 10 Attorneys for Defendants  
 Xcentric Ventures, LLC and  
 Edward Magedson  
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12 **UNITED STATES DISTRICT COURT**  
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14  
 15 **ASIA ECONOMIC INSTITUTE, LLC, et al.,**  
 16  
 17 **Plaintiffs,**  
 18 **vs.**  
 19 **XCENTRIC VENTURES, LLC, et al.,**  
 20 **Defendants.**  
 21

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

**AFFIDAVIT OF MARIA SPETH**

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

22  
 23 I, MARIA SPETH, declare as follows:

24 1. My name is Maria Speth. I am a resident of the State of Arizona, am over  
 25 the age of 18 years, and if called to testify in court I could and would truthfully testify to  
 26 the following information based upon my own personal knowledge.  
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1           2.       I am currently employed as a partner with the law firm of Jaburg & Wilk,  
2 P.C. in Phoenix, Arizona. For more than twenty years, I have been licensed to practice  
3 law in the States of Arizona and New York, and I am a member in good standing with the  
4 state bars of those states. I am currently admitted to practice before this court *pro hac*  
5 *vice* on behalf of Defendants Ed Magedson and Xcentric Ventures, LLC.

6           3.       I have represented Mr. Magedson and Xcentric Ventures for the past ten  
7 years, and I have been actively involved in the current litigation since its inception.

8           4.       I am aware that Plaintiffs' counsel Lisa Borodkin has submitted a  
9 declaration to this court in which she describes a telephone conversation with me that  
10 took place on October 7, 2010 which concerned various issues including James Rogers,  
11 who she told me was Mr. Magedson's personal assistant.

12           5.       Ms. Borodkin began the October 7, 2010 telephone call by telling me she  
13 had been talking to Mr. Magedson's personal assistant. It is unethical to directly  
14 communicate with a represented party, and when the represented party is a corporation,  
15 that prohibition extends to employees.

16           6.       In her declaration, Ms. Borodkin claims that I said to her: "so we sell meta  
17 tags – so what?" Ms. Borodkin's declaration is totally and completely false; I did not  
18 make any such statement to her either on October 7, 2010 or on any other date, nor would  
19 I make such a statement because that statement is not true. Xcentric does not now nor  
20 has it ever "sold meta tags".

21           7.       This is not the first time that Ms. Borodkin has blatantly misrepresented our  
22 telephone conversation.

23           8.       One of the previous times that Ms. Borodkin misrepresented what I said, I  
24 raised the issue as part of a Rule 11 motion. Ms. Borodkin had filed a Motion for a TRO  
25 to preserve electronically stored information, claiming that I had told her in a telephone  
26 conversation that my client did not preserve electronically stored information. Pursuant  
27  
28

1 to the 21-day waiting period for Rule 11 motions, we sent the motion to Plaintiff before  
2 filing it.

3 9. In attempting to support that I had made that statement, Ms. Borodkin  
4 claimed to have her law clerk's notes from the telephone call to support her position. I  
5 asked her to send me the notes.

6 10. Upon receipt of the notes, I wrote back to Ms. Borodkin, stating "I just  
7 read the notes from your law clerks from our meet and confer. Most of the notes are  
8 bullet point, outline type format. The part that you are referring to, however, is a block  
9 quote that is preceded by the name Kristi (no other part of the memo has a clerk's name  
10 associated with it) and states by its very terms that it was not contemporaneous: 'from  
11 what I recall of that conversation.'"

12 11. Ms. Borodkin eventually admitted that while the rest of the notes were  
13 written during the telephone conference, the portion that misrepresented my statement  
14 "was added last week." (See attached email from Ms. Borodkin).

15 12. After claiming to have contemporaneous notes that proved the statement  
16 that I never made, Ms. Borodkin admitted that she had her law clerk revise the  
17 contemporaneous notes months after the fact to reflect what she wanted.

18 13. Ms. Borodkin's misrepresentations to this Court have been so blatant that I  
19 recently told her that I would not confer with her unless I can record the conversation.

20 14. One of the reasons that I am sure that I did not tell Lisa Borodkin that  
21 Xcentric sells meta tags is that the statement is inaccurate.

22 15. As Xcentric has always explained, when a company joins the CAP  
23 program, Xcentric and the company will work together to prepare a short mutually  
24 acceptable statement (usually limited to approximately 250 words) which announces to  
25 visitors to the Ripoff Report website that the company has joined the CAP program and  
26 have agreed to take steps to ensure that any unhappy customers are satisfied. With the  
27 written consent of the company, this short statement is added to the top of each report  
28

1 page about that company on the Ripoff Report website so that anyone viewing the page  
2 will see that the company has joined the CAP program. Although this short statement is  
3 added to the report, the existing report is not removed; it appears in its original form  
4 immediately below the 250-word statement. Again, the exact manner in which this is  
5 done is plainly visible to anyone viewing any report involving a CAP member company  
6 on the Ripoff Report site.

7 16. Because all pages on the Ripoff Report website require HTML code in  
8 order to display, the addition of the 250-word statement can be said to “alter the HTML  
9 code” for each affected page because, by definition, adding or changing any text on any  
10 website necessarily requires changing the underlying HTML code. By the same token,  
11 when Xcentric adds the 250-word update to each report, the underlying “meta tags” (code  
12 used by search engines to index the contents of each page) are also necessarily updated to  
13 reflect the new content appearing on that page.

14 17. This does not, however, support Ms. Borodkin’s claim that Defendants “sell  
15 meta tags”. To my knowledge during the past ten years of representing Xcentric, I am  
16 unaware of any instance in which Xcentric agreed change meta tags in exchange for  
17 money. Of course, because CAP membership does involve Xcentric adding the 250-  
18 word statement to the top of each report (a fact which Xcentric has never concealed nor  
19 disputed), it is true that meta tags relating to pages containing reports about CAP  
20 members will be updated to reflect the 250-word statement, but it is simply not accurate  
21 to suggest that nothing else is required in order to participate in CAP.

22 18. The CAP program requires each member company to comply with  
23 numerous obligations including, but not limited to, making timely and good faith efforts  
24 to rectify any complaints received from unhappy customers posting on the Ripoff Report  
25 site. If a CAP member failed to comply with that requirement, it would not be allowed to  
26 continue participating in the program even if the company was otherwise current on  
27 payments required under the program.

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

3 EXECUTED ON: November 5 2010.

4 /s Maria Crimi Speth  
5 MARIA CRIMI SPETH

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1 **CERTIFICATE OF SERVICE**

2  
3 I hereby certify that on November 8, 2010 I electronically transmitted the attached  
4 document to the Clerk's Office using the CM/ECF System for filing, and for transmittal  
5 of a Notice of Electronic Filing to the following CM/ECF registrants:

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

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

16 /s/David S. Gingras

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## Maria Crimi Speth

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**From:** Lisa Borodkin [lborodkin@gmail.com]  
**Sent:** Wednesday, August 04, 2010 4:26 PM  
**To:** Maria Crimi Speth  
**Cc:** blackertesq@yahoo.com; david@ripoffreport.com; paul@berra.org; alexandra@asiaecon.org; Kristi Jahnke  
**Subject:** Re: Rule 11 Motion related to Application for TRO  
**Attachments:** Gmail - Meet and Confer 4-27 Notes.pdf



Gmail - Meet and  
Confer 4-27 N...

Maria,

Kristi's section was added last week. When we contemplated the TRO on the ESI, I asked her to memorialize what else she remembered of the call that Alex had not included. What you have in that section is what she wrote.

The rest was written by our other clerk, Alex, on April 28, 2010. I am also attaching a PDF of the April 28, 2010 covering email conveying the memo from Alex.

That portion of the memo includes:

Possible electronic evidence

- AEI wants Defendants to preserve what happens before and after source code is changed
  - o History of pages before CAP and after CAP
- Defendants agree to preserve the history and not overwrite
  - o BUT they maintain they can't preserve
  - o They maintain that the HTML is never changed ("whatever comes in, it is")

They are both copied on this email, and our offer for you to ask them about the notes, through Dan and me, still stands.

Lisa

On Wed, Aug 4, 2010 at 4:07 PM, Maria Crimi Speth <mcs@jaburgwilk.com> wrote:

> Lisa:

>

> Wow. David says that I should not be shocked, but I am. I understand that you have a fear of being sanctioned and that when people are in fear it causes them to go to great lengths to protect themselves. I also understand that you have been operating in that mode since your client was caught fabricating declarations and testimony in this case.

What I don't understand is how or why you would compound that fabrication by continuing to make frivolous claims.

>

> I just read the notes from your law clerks from our meet and confer. Most of the notes are bullet point, outline type format. The part that you are referring to, however, is a block quote that is preceded by the name Kristi (no other part of the memo has a clerk's name associated with it) and states by its very terms that it was not contemporaneous:

"from what I recall of that conversation." It seems you have taken a page from Raymond Mobrez's play book on creating notes after the fact and trying to pass them off as contemporaneous.

>

> With respect to the Suspicious Activities category, I have already sent you proof that category never existed. Regardless of emails that you received claiming that such a category existed, you could have easily checked archive.org which would have confirmed that it did not exist.