

1 David S. Gingras, CSB #218793
Gingras Law Office, PLLC
 2 4072 E Mountain Vista Dr.
 Phoenix, AZ 85048
 3 Tel.: (480) 639-4996
 Fax: (480) 668-3623
 4 David.Gingras@webmail.azbar.org

5 Attorneys for Defendants
 Xcentric Ventures, LLC and
 6 Edward Magedson

7 **UNITED STATES DISTRICT COURT**
 8 **CENTRAL DISTRICT OF CALIFORNIA**

9 **ASIA ECONOMIC INSTITUTE, LLC, et al.,**

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

10 **Plaintiffs,**

AFFIDAVIT OF ED MAGEDSON

11 **vs.**

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

13 **Defendants.**

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

14
 15
 16 I, Edward Magedson, declare as follows:

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

21 **CORRECTION OF STATEMENTS**

22 **ABOUT THREATS FROM MR. MOBREZ**

23 2. On March 22, 2010, I filed an Affidavit in this matter entitled “Affidavit of
 24 Ed Magedson In Support of Defendants’ Special Motion to Strike” (the “March 22
 25 Affidavit”) which covered numerous topics. Among other things, one of the topics that I
 26 covered in the March 22 Affidavit was a series of telephone conversations I had with
 27 Raymond Mobrez which took place in April and May 2009. At the time, I did not know
 28 Mr. Mobrez, but I am now aware that he is one of the plaintiffs in this case.

AFFIDAVIT OF ED MAGEDSON

CV10-01360 SVW

1 3. In paragraph 31 of the March 22 Affidavit, I testified among other things:
2 “During my phone conversations with Mr. Mobrez, he became very threatening towards
3 me, stating that he ‘had people in Arizona’ who could ‘find me’ which I interpreted as a
4 threat.” I repeated this same statement in another short affidavit filed in this matter on
5 April 5, 2010. At the time I made the allegations regarding Mr. Mobrez threatening me,
6 I believed those statements to be true.

7 4. As I explained in ¶ 4 of my April 5, 2010 Affidavit, I have received many
8 threats in the past. Many of these past threats have included statements similar to those
9 which I attributed to Mr. Mobrez – people sometimes state that they are going to try to
10 find me or my home which is a very serious safety concern to me.

11 5. I believed that Mr. Mobrez was one of the people who threatened me
12 because my email to Mr. Mobrez on July 24, 2009 said that I lived in California (which
13 was not true). I concluded that I probably made that statement to Mr. Mobrez in
14 response to a statement from him which threatened to find me in Arizona, or to have
15 someone else do so. This is why I thought that Mr. Mobrez made such threats.

16 6. After these affidavits were filed, I recalled that I had recordings of all of
17 my telephone conversations with Mr. Mobrez which had taken place approximately
18 a year earlier. I had not yet retrieved or listened to any of these recordings before my
19 affidavits were filed with the court.

20 7. At the request of my attorneys following the Court’s denial of our anti-
21 SLAPP motion on April 19, 2010, on April 20, 2010 I spent several hours conducting a
22 search of my records. I was able to eventually locate six recordings of calls and/or
23 voicemails from Raymond Mobrez to the main number for the Ripoff Report site; (602)
24 359-4357. The first time I listened to any of these recordings was on April 20, 2010. I
25 also provided copies of these calls to my counsel for the first time on that same day.

26 8. After listening to each of these recordings, I was surprised to find that they
27 do not contain any threats from Mr. Mobrez as outlined in my March 22 or April 5
28 Affidavits.

1 automatically creates and routinely maintains as part of its business records. I did not
2 alter, edit, or modify these recordings in any way.

3 14. As clearly demonstrated in these recordings, none of Mr. Mobrez's
4 allegations are true. Although I did have four telephone conversations with Mr. Mobrez
5 in April and May 2009 (all of which were initiated by him; I never called him), I never
6 asked Mr. Mobrez for money, I never asked Mr. Mobrez whether his company was
7 profitable or how it made money, I never told him that payment of a fee to Xcentric
8 would result in negative information being changed into a positive, and I never bragged
9 about Ripoff Report being at the top of any search engines. Excluding general
10 comments which are found on the Ripoff Report website here:
11 <http://www.ripoffreport.com/ConsumersSayThankYou/WantToSueRipoffReport.aspx>, I
12 never personally told Mr. Mobrez that Ripoff Report was immune under the law, I never
13 told him that a lawsuit against us was likely to fail, I never bragged about having a team
14 of lawyers who would fight him, and I never told him that it was "best to just join the
15 [CAP] program." All of these allegations are blatant lies—they are pure fabrications
16 that Mr. Mobrez created in order to falsely malign me and the Ripoff Report site and to
17 gain unjustified sympathy for himself.

18 15. Rather, as the recordings of these phone calls clearly show, the topic of the
19 Corporate Advocacy Program was first brought up by Mr. Mobrez, not by me. In fact,
20 each time he called, Mr. Mobrez repeatedly tried to engage me in conversation about the
21 Corporate Advocacy Program and each time he did so, I refused to discuss the program
22 with him. Listening to these recordings now, I believe it is very clear that Mr. Mobrez
23 was attempting to lead me into asking for money from him, but I firmly refused to do so.

24 16. As a matter of general policy and in order to preempt exactly the type of
25 false and fabricated allegations present in this case, I do not discuss the Corporate
26 Advocacy Program by telephone with anyone unless and until they have contacted us in
27 writing to apply for the program. Because Mr. Mobrez never applied for the program, I
28 did not speak to him about it even though he repeatedly asked me to do so.

1 17. As I explained to Mr. Mobrez several times, I will not to speak to anyone
2 about the CAP program by telephone unless they first fill out a form about their
3 company. Only after a company fills out the form will I agree to discuss any specific
4 details of the CAP program by phone. Because Mr. Mobrez never did this, I did not and
5 would not discuss the program with him in any detail.

6 18. In the case of AEI and Mr. Mobrez and as clearly demonstrated by the
7 recordings of the phone conversations between us, I never discussed any aspect of the
8 program with Mr. Mobrez by telephone except for explaining that if Mr. Mobrez wanted
9 to receive more information, he would need to review the page about the program
10 contained on our website and then complete a short application form which is available
11 here: <http://www.ripoffreport.com/CorporateAdvocacy/Application.aspx>.

12 19. As shown on the recordings, Mr. Mobrez initially indicated or implied that
13 he would go to the site and complete this application, but he never did so. During my
14 subsequent conversations with Mr. Mobrez in which he attempted to engage me in
15 discussions about the Corporate Advocacy Program, I repeatedly told him that “there is
16 nothing we can discuss by phone until I receive your information via email”. This
17 statement (which was made to Mr. Mobrez numerous times) was a reference to my
18 policy against discussing the CAP program by phone, and the email I was referring to is
19 the email generated by our system each time a person completes the CAP application
20 form.

21 20. I am aware that in ¶ 13 of his May 3, 2010 declaration, Mr. Mobrez claims
22 that a discussion took place between us at around 1:05 PM on May 5, 2009 in which he
23 claims that I demanded a payment of at least “five grand” (\$5,000) plus a monthly
24 monitoring fee to enroll Mr. Mobrez in the Corporate Advocacy Program. I understand
25 that Mr. Mobrez’s wife, Iliana Llaneras, claims in her declaration that she was
26 eavesdropping on this call and that she confirms Mr. Mobrez’s version of what was said.

27 21. Both Mr. Mobrez and Ms. Llaneras are lying about the conversation that
28 took place on May 5, 2009. This call was automatically recorded by Xcentric and the

1 actual recording of the call (which has a total running time of 35 seconds) was played
2 during the deposition of Mr. Mobrez. As clearly shown in the recording of this call, my
3 actual conversation with Mr. Mobrez during this call lasted approximately 13 seconds.
4 After Mr. Mobrez began speaking and I recognized his voice, I immediately hung up the
5 phone. Mr. Mobrez continued speaking for a few seconds until he realized that the call
6 had been disconnected. The remainder of the recording shows Mr. Mobrez repeatedly
7 saying, "Hello? Hello? Hello?" As the recording clearly shows, I never demanded
8 \$5,000 (or any other amount) during this call, nor did I ever ask Mr. Mobrez for any
9 money at any time. In addition, I never made any of the other statements that Mr.
10 Mobrez attributed to me during this call such as informing him that the more money a
11 company made, the more I would charge that company for membership in the CAP
12 program. These statements are simply inflammatory, malicious and offensive lies that
13 Mr. Mobrez and Ms. Llaneras created in order to defame, discredit, and attack me.

14 22. I understand that according to the phone bills produced by Mr. Mobrez, his
15 bill reflects that the total duration of the call on May 5, 2009 at 1:05 PM was 2.2 minutes
16 which is obviously longer than the 35 seconds of audio recording that were actually
17 captured. The reason for this difference (which is present in each of the six recordings)
18 is that when a person calls the main phone number for the Ripoff Report site (602-359-
19 4357), they are not connected directly to me. Rather, callers are required to navigate
20 through a series of phone menus where they must listen to numerous choices and then
21 select which option they want.

22 23. In order to reach me directly, a caller is required to listen to two different
23 series of options and then push two different keys to indicate that they would like to
24 speak to the Ripoff Report's editor. Listening to only the main menu of options takes 40
25 seconds. If the caller chooses option 1, which relates to requests to remove reports, they
26 get a recorded message regarding our policy, including the policy to not speak by
27 telephone. It takes one minute and thirty seconds to listen to the main menu plus the
28 recorded message in option 1.

1 24. If the caller follows the phone tree to reach me, the phone system then asks
2 the caller to state their name which is recorded, and then they are placed on hold while
3 the system forwards the call to me. The automatic recording process does not begin
4 unless and until the caller is connected directly to me, and the audio recording only
5 captures what was said after the call is connected to me. So, for instance, if a person
6 spent 1 ½ minutes navigating through the phone menu system and waiting for the system
7 to connect the call and then spoke to me for a total of 30 seconds, Xcentric's system
8 would only record the actual length of the conversation (30 seconds), but the caller's
9 phone bill would likely indicate a total call duration of around 2.0 minutes.

10 25. Although a person could reach me in under a minute if they knew the exact
11 sequence of buttons to push and did not wait to hear each menu listing, normally
12 completing each step of the phone menu process takes anywhere from approximately
13 one minute to nearly two minutes. It is my belief that the time it takes to complete this
14 process is why Mr. Mobrez's phone bills show that each call was approximately 90
15 seconds longer than the audio recording that was captured for each call.

16 26. To be clear—I did not delete any audio from these recordings nor did I edit
17 them in any way whatsoever. The recordings that have been supplied to Mr. Mobrez's
18 attorneys are a complete and accurate reflection of the recordings made by Xcentric's
19 system.

20 27. The first call was made by Mr. Mobrez on April 27, 2009 at 3:21 PM and
21 his phone bill shows the total length of the call was 3.5 minutes. According to
22 Xcentric's recording of this call, the total amount of audio captured was 1:35 (one
23 minute, thirty-five seconds), but it is obvious from the recording itself that the entire
24 conversation was actually recorded. This implies that it took Mr. Mobrez about two
25 minutes to navigate through the menu system during this first call.

26 28. The second call from Mr. Mobrez was on April 27, 2009 at 3:27 PM. His
27 telephone bill shows the total length of this call was 1.0 minute. Xcentric's system did
28 not record any audio from this call which I believe is due to the fact that the call was

1 either dropped for some reason, or Mr. Mobrez hung up before he completed the phone
2 menu process. Because Mr. Mobrez never spoke to me during this call, no recording
3 was made.

4 29. The third call from Mr. Mobrez took place on April 27, 2009 at 3:28 PM.
5 His telephone bill shows that the total length of this call was 2.9 minutes. According to
6 ¶ 8 of Mr. Mobrez's May 3, 2010 declaration, he claims that this third call involved a
7 conversation between he and I in which I talked to him about the CAP program. That
8 statement is false. According to Xcentric's recordings, this third call was actually a
9 voicemail that Mr. Mobrez left on our phone system. The total duration of this
10 voicemail was 1:20 (one minute, twenty seconds) which again is consistent with the
11 amount of time that Mr. Mobrez would spent navigating through Xcentric's phone menu
12 system before he could leave a message for me.

13 30. During my final telephone conversation with Mr. Mobrez on May 12, 2009
14 and as clearly shown in the recording of that call, I told him as I had in previous
15 conversations that I needed to receive his email before I could engage in any further
16 discussions with him. At some point during that call, Mr. Mobrez became frustrated and
17 he told me that he had previously emailed me which I understood to mean that he had
18 previously completed the CAP application form.

19 31. As clearly shown in the recording of this call, Mr. Mobrez also continued
20 trying to "bait" me into asking him for money, which again I refused to do. In fact, at
21 one point during the call, Mr. Mobrez apparently became frustrated that I had not asked
22 him for money, and he said to me, "Look, if you want to fix this, we can take care of it
23 right away..." suggesting that if I would just request money from him, he was willing to
24 pay immediately. As was true of every other instance that Mr. Mobrez tried to make me
25 ask him for money, I refused to do so.

26 32. Instead, I responded by telling Mr. Mobrez that I would search for his
27 email to confirm that I had received his application form, but after several minutes of
28 searching I was not able to locate any such emails from him. I then repeated my

1 previous statements to the effect that I would not and could not discuss the program with
2 him until I could confirm receipt of his application.

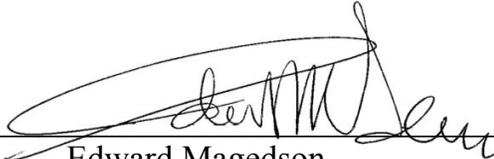
3 33. After our call ended on May 12, 2009, I continued looking for the CAP
4 application form which I thought Mr. Mobrez said he had sent. Eventually, I was able to
5 determine that Mr. Mobrez had never sent me any such form, and I therefore sent him an
6 email in which I expressed my frustration at having spent time looking for something
7 that did not exist.

8 34. When I told Mr. Mobrez that he “drove me crazy,” in my email to
9 following our discussion on May 12, 2009, I was not angry that he had not applied for
10 the CAP program. Rather, this statement was simply a reference to the fact that I was
11 frustrated that I had spent so much time looking for an email that Mr. Mobrez suggested
12 he had already sent when, in truth, the email had not been sent.

13 35. Based on my review of the declarations filed by Mr. Mobrez and his wife
14 Ms. Lllaneras, based on a review of the recordings of every telephone call described in
15 those declarations, based on my practice of refusing to have conversations about CAP
16 before an application is submitted, and based on my own personal memory and
17 recollection of these conversations, it is clear that Mr. Mobrez has lied about every
18 material aspect of our communications.

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

22 EXECUTED ON: May 11, 2010.

23
24 
Edward Magedson

1 **CERTIFICATE OF SERVICE**

2
3 I hereby certify that on May 11, 2010 I electronically transmitted the attached document
4 to the Clerk's Office using the CM/ECF System for filing, and for transmittal of a Notice
5 of Electronic Filing to the following CM/ECF registrants:

6
7 Mr. Daniel F. Blackert, 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