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Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

CERTAIN APPROVAL PROGRAMS, L.L.C.; and JACK STERNBERG,

Plaintiffs,

v.

XCENTRIC VENTURES, L.L.C.; EDWARD MAGEDSON; and JOHN or JANE DOE,

Defendants.

Case No: CV08-1608-PHX-MHB

ANSWER

JABURG & WILK, P.C.
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Defendants Xcentric Ventures, L.L.C. and Ed Magedson hereby Answer Plaintiffs' Complaint as follows:

I. Preliminary Statement

Defendants object to all allegations stated under the heading "PRELIMINARY STATEMENT" on the basis that such allegations, in addition to being improper argument, fail to comply with the requirements of Fed. R. Civ. P. 10(b). To the extent such allegations require any response, they are denied.

1. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 1 and therefore such allegations are denied.

2. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 2 and therefore such allegations are denied.

3. Defendants admit ¶ 3 of Plaintiffs' Complaint.

4. Admit that Magedson is the Manager of Xcentric Ventures, L.L.C. Deny all remaining allegations of ¶ 4.

5. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 5 and therefore such allegations are denied.

6. Admit this Court has subject matter jurisdiction over this matter. Deny all remaining allegations of ¶ 6.

7. Admit this Court has personal jurisdiction over Defendants. Deny all remaining allegations of ¶ 7.

8. Admit this Court has personal jurisdiction over Magedson. Deny all remaining allegations of ¶ 8.

9. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 9 and therefore such allegations are denied.

10. Admit that venue is proper in this District. Deny all remaining allegations of ¶ 10.

11. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 11 and therefore such allegations are denied.

12. Admit that Jack Sternberg is a nationally recognized expert on real estate investment. Deny all remaining allegations of ¶ 12.

13. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 13 and therefore such allegations are denied.

14. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 14 and therefore such allegations are denied.

15. Defendants admit ¶ 15 of Plaintiffs' Complaint.

16. Defendants deny ¶ 16 of Plaintiffs' Complaint

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17. Defendants admit ¶ 17 of Plaintiffs' Complaint that XCentric publishes reports on the website without evaluating the validity of any information contained therein. Defendants deny the remainder of the allegations contained in ¶ 17 of Plaintiffs' Complaint

18. Defendants deny ¶ 18 of Plaintiffs' Complaint.

19. Defendants deny ¶ 19 of Plaintiffs' Complaint.

20. Defendants deny ¶ 20 of Plaintiffs' Complaint.

21. Defendants deny ¶ 21 of Plaintiffs' Complaint.

22. Defendants deny ¶ 22 of Plaintiffs' Complaint.

23. Defendants deny ¶ 23 of Plaintiffs' Complaint.

24. Defendants deny ¶ 24 of Plaintiffs' Complaint.

25. Defendants admit ¶ 25 of Plaintiffs' Complaint.

26. Defendants admit ¶ 26 of Plaintiffs' Complaint.

27. Defendants admit ¶ 27 of Plaintiffs' Complaint.

28. Defendants deny ¶ 28 of Plaintiffs' Complaint.

29. Defendants deny ¶ 29 of Plaintiffs' Complaint.

30. Admit that Xcentric's servers automatically create extensive HTML code in order to display pages on www.RipoffReport.com. Deny all remaining allegations of ¶ 30.

31. Defendants admit ¶ 31 of Plaintiffs' Complaint

32. Admit the first and second sentences of ¶ 32. Deny all remaining allegations of ¶ 32.

33. Admit that Xcentric's servers automatically create certain HTML code for each page on www.RipoffReport.com. Admit that every webpage on the Website containing a "report" has a title meta tag that contains "Rip-off Report:". Deny all remaining allegations of ¶ 33.

34. Admit that Xcentric's servers automatically use information supplied by third party users of the website to create a page which displays the report

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and that certain portions of third party created statements are used in various ways to format, index, and display the report. Deny all remaining allegations of ¶ 34.

35. Admit that Xcentric's servers automatically create certain tags which contain information about the contents of each web page for indexing and searching purposes. Admit that keyword meta tags are not displayed on internet search engines and admit that such tags are used by search engines in order to index the content of a particular page. Admit that Xcentric's servers automatically include the words "rip-off," "ripoff" and "rip off" in certain tags to accurately reflect that a page is available on www.RipoffReport.com. Deny all remaining allegations of ¶ 35.

36. Admit that Xcentric publishes a logo for www.RipoffReport.com which contains the statements, "...for consumers, by consumers", "Ripoff Report", and "Don't let them get away with it ... let the truth be known!" Deny that any of the above are defamatory and deny all remaining allegations of ¶ 36.

37. Defendants deny ¶ 37 of Plaintiffs' Complaint.

38. Defendants admit ¶ 38 of Plaintiffs' Complaint.

39. Defendants admit ¶ 39 of Plaintiffs' Complaint.

40. Defendants admit ¶ 40 of Plaintiffs' Complaint.

41. Deny and Defendants reserve the right to move to strike pursuant to Fed. R. Civ. P. 12(f).

42. Admit that Xcentric's servers automatically included "Rip-off Report:" in the title tag in order to truthfully and accurately identify that the subject report is, in fact, located on www.RipoffReport.com. Admit that Exhibit is a printout of certain HTML code which speaks for itself. Deny all remaining allegations of ¶ 42.

43. Admit that Xcentric's servers automatically created a description tag which contains certain content provided solely by the author of the report. Admit

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that Exhibit A is a printout of certain HTML code which speaks for itself. Deny all remaining allegations of ¶ 43.

44. Admit that Xcentric's servers automatically created a keyword tag which contains certain content provided solely by the author of the report. Admit that Exhibit A is a printout of certain HTML code which speaks for itself. Deny all remaining allegations of ¶ 43.

45. Admit that Xcentric created the category "Con Artists" and that a third party selected that category among hundreds of other categories to describe the author's report. Admit the category selected by the third party appears on the webpage itself in conjunction with the author's report. Deny all remaining allegations of ¶ 45.

46. Admit that Xcentric created certain content as quoted in ¶ 46 which are slogan for the website, not statements of and concerning Plaintiff.

47. Defendants deny ¶ 47 of Plaintiffs' Complaint

48. Deny and affirmatively allege that any original content created by Xcentric are not statements of and concerning Plaintiff.

49. Defendants deny ¶ 49 of Plaintiffs' Complaint.

50. Defendants deny ¶ 50 of Plaintiffs' Complaint.

51. Defendants deny ¶ 51 of Plaintiffs' Complaint.

52. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 52 and therefore such allegations are denied.

53. Defendants deny ¶ 53 of Plaintiffs' Complaint.

54. Defendants deny ¶ 54 of Plaintiffs' Complaint.

55. Defendants deny ¶ 55 of Plaintiffs' Complaint.

56. Defendants deny ¶ 56 of Plaintiffs' Complaint.

57. Defendants deny ¶ 57 of Plaintiffs' Complaint.

58. Defendants deny ¶ 58 of Plaintiffs' Complaint.

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59. Defendants lack sufficient information upon which to form a belief as to the veracity of ¶ 59 and therefore such allegations are denied.

60. Defendants deny ¶ 60 of Plaintiffs' Complaint.

61. Defendants repeat and reallege all paragraphs of this Answer as if fully set forth herein.

62. Defendants deny ¶ 62 of Plaintiffs' Complaint.

63. Defendants deny ¶ 63 of Plaintiffs' Complaint.

64. Defendants deny ¶ 64 of Plaintiffs' Complaint.

65. Defendants deny ¶ 65 of Plaintiffs' Complaint.

66. Defendants deny ¶ 66 of Plaintiffs' Complaint.

67. Defendants deny ¶ 67 of Plaintiffs' Complaint.

68. Defendants deny ¶ 68 of Plaintiffs' Complaint.

69. Defendants deny ¶ 69 of Plaintiffs' Complaint.

70. Defendants deny ¶ 70 of Plaintiffs' Complaint.

71. Defendants deny ¶ 71 of Plaintiffs' Complaint.

72. Defendants deny ¶ 72 of Plaintiffs' Complaint.

73. Defendants deny ¶ 73 of Plaintiffs' Complaint.

74. Defendants repeat and reallege all paragraphs of this Answer as if fully set forth herein.

75. Deny and affirmatively allege that to the extent any statements accuse Jack Sternberg of being a criminal, such statements are, in fact, true.

76. Defendants deny ¶ 76 of Plaintiffs' Complaint.

77. Defendants deny ¶ 77 of Plaintiffs' Complaint.

78. Defendants deny ¶ 78 of Plaintiffs' Complaint.

79. Defendants deny ¶ 79 of Plaintiffs' Complaint.

80. Defendants deny ¶ 80 of Plaintiffs' Complaint.

81. Defendants deny ¶ 81 of Plaintiffs' Complaint.

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82. Defendants repeat and reallege all paragraphs of this Answer as if fully set forth herein.

83. Defendants deny ¶ 83 of Plaintiffs' Complaint.

84. Defendants deny ¶ 84 of Plaintiffs' Complaint.

85. Defendants deny ¶ 85 of Plaintiffs' Complaint.

86. Defendants deny ¶ 86 of Plaintiffs' Complaint.

87. Defendants deny ¶ 87 of Plaintiffs' Complaint.

88. Defendants deny ¶ 88 of Plaintiffs' Complaint.

89. Defendants deny ¶ 89 of Plaintiffs' Complaint.

90. Defendants deny ¶ 90 of Plaintiffs' Complaint.

91. Defendants deny ¶ 91 of Plaintiffs' Complaint.

92. Defendants deny ¶ 92 of Plaintiffs' Complaint.

93. Defendants deny ¶ 93 of Plaintiffs' Complaint.

94. Defendants repeat and reallege all paragraphs of this Answer as if fully set forth herein.

95. Defendants deny ¶ 95 of Plaintiffs' Complaint.

96. Defendants deny ¶ 96 of Plaintiffs' Complaint.

97. Defendants deny ¶ 97 of Plaintiffs' Complaint.

98. Defendants deny ¶ 98 of Plaintiffs' Complaint.

99. Defendants deny ¶ 99 of Plaintiffs' Complaint.

100. Defendants deny ¶ 100 of Plaintiffs' Complaint.

101. Defendants deny ¶ 101 of Plaintiffs' Complaint.

102. Defendants repeat and reallege all paragraphs of this Answer as if fully set forth herein.

103. Defendants deny ¶ 103 of Plaintiffs' Complaint.

104. Defendants deny ¶ 104 of Plaintiffs' Complaint.

105. Defendants deny ¶ 105 of Plaintiffs' Complaint.

106. Defendants deny ¶ 106 of Plaintiffs' Complaint.

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107. Defendants deny ¶ 107 of Plaintiffs' Complaint.

108. Defendants deny ¶ 108 of Plaintiffs' Complaint.

109. Defendants deny ¶ 109 of Plaintiffs' Complaint.

110. Defendants deny ¶ 110 of Plaintiffs' Complaint.

111. Defendants repeat and reallege all paragraphs of this Answer as if fully set forth herein.

112. Defendants deny ¶ 112 of Plaintiffs' Complaint.

113. Defendants repeat and reallege all paragraphs of this Answer as if fully set forth herein.

General Denial

Xcentric generally denies each and every allegation of the Complaint except as otherwise expressly admitted herein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE
(Failure to State Claim)

The Complaint fails to state any claim upon which relief may be granted because Magedson and Xcentric may not be treated as the publisher of any of the statements at issue in this matter pursuant to 47 USC ¶230.

SECOND AFFIRMATIVE DEFENSE
(Unclean Hands)

The Complaint and each cause of action set forth therein is barred by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE
(Truth)

Any defamation-based claims set forth in the Complaint are barred to the extent that the statements which form the basis for such claims are, in fact, true.

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FOURTH AFFIRMATIVE DEFENSE
(Lack of Intent; Actual Malice)

Notwithstanding the fact that Xcentric did not publish any of the alleged defamatory or unlawful statements at issue in this case, any defamation-based claims set forth in the Complaint are barred to the extent that Plaintiff is a public figure and Defendants lacked actual malice and/or negligence sufficient to support any defamation-based claims.

FIFTH AFFIRMATIVE DEFENSE
(Consent)

All claims in the Complaint are barred to the extent Plaintiffs consented to the publication of such statements.

SIXTH AFFIRMATIVE DEFENSE
(Incremental Harm)

All claims in the Complaint are barred to the extent that any false statements of an concerning Plaintiffs caused no greater harm than would be caused by the publication of the truth about Plaintiffs.

SEVENTH AFFIRMATIVE DEFENSE
(Communications Decency Act Immunity)

All claims set forth in the Complaint are barred to the extent that the content of the statements which form the basis for such claims was provided by third parties. As such, pursuant to 47 U.S.C. § 230(c)(1), Defendants are absolutely immune from civil liability for any such statements posted by third parties.

WHEREFORE, having fully answered Plaintiffs' Complaint, Defendants **XCENTRIC VENTURES, L.L.C.** and **ED MAGEDSON** pray for the following relief:

A. Dismiss Plaintiffs' Complaint with prejudice and order that Plaintiffs take nothing thereby;

B. Deny, with prejudice, all equitable, injunctive, and/or declaratory relief in any form requested by Plaintiffs;

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C. Award judgment for all reasonable attorney's fees incurred in favor of Defendants and against Plaintiffs pursuant to A.R.S. § 12-349, Ariz. R. Civ. P. 11, and/or under any other applicable authority;

D. Any other relief deemed appropriate by the Court.

DATED this 29th day of September 2008.

JABURG & WILK, P.C.

s/Maria Crimi Speth
Maria Crimi Speth
Attorneys for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2008 I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing, and for transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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Attorneys for Plaintiffs

With a COPY of the foregoing delivered to:

Honorable Michelle H. Burns
United States District Court
District of Arizona

s/Debra Gower

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