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Attorneys for Plaintiffs

20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION
23

24 ROBERT BADELLA, individually and on
25 behalf of all persons similarly situated;
BRADLEY AUG, individually and on
26 behalf of all persons similarly situated;
LOUIS FEBUS, individually and on behalf
27 of all persons similarly situated; ROBERT
LANGFORD, individually and on behalf
28 of all persons similarly situated;

CASE NO. CV 10 03908 CRB (EDL)

**STIPULATION AND ~~PROPOSED~~
ORDER RE: DISCOVERY**

Trial Date: None Set

1 MICHAEL SHANE YORK, individually
2 and on behalf of all persons similarly
3 situated; ROBERT W. JEFFRIES,
4 individually and on behalf of all persons
5 similarly situated,

6 Plaintiffs,

7 vs.

8 DENIRO MARKETING, LLC, a
9 California limited liability company;
10 ALAN HENNING, an individual;
11 MODENA MARKETING INC., an
12 Antigua and Barbuda corporation;
13 THOMAS JONES, an individual;
14 PIRANHA NEW MEDIA LTD., a United
15 Kingdom corporation; DELTABREEZE
16 HOLDINGS LTD., a Cyprus corporation;
17 PEN HELP LTD., a United Kingdom
18 corporation; and DOES 1-100,

19 Defendants.

20 Pursuant to the Court's Orders arising out of plaintiffs' motions to compel
21 (document numbers 92, 93, 94 and 95) and the hearing before the Court on said motions on
22 November 15, 2011, plaintiffs ROBERT BADELLA, ROBERT LANGFORD,
23 MICHAEL SHANE YORK and ROBERT W. JEFFRIES ("Plaintiffs), represented by
24 Richard M. Garbarini, Thomas J. FitzGerald and Daniel L. Balsam, Garbarini Law Group
25 PC and defendants ALLAN HENNING, DENIRO MARKETING LLC; MODENA
26 MARKETING, INC.; and DELTABREEZE HOLDINGS, LTD. ("Defendants"),
27 represented by Ralph A. Zappala, Lewis Brisbois Bisgaard & Smith LLP and Gary Jay
28 Kaufman, The Kaufman Law Group, submit the following stipulation:

- 23 1. The time limit for discovery is from July 2007 to the present ("time
24 limitations").
- 25 2. The discovery is to concern the subject matters of dating and pornography.
- 26 3. The Defendants are to produce documents and respond to an interrogatory,
27 as more specifically set forth below, on or before Tuesday, November 22,
28 2011. If the discovery is not made available to Plaintiffs at that time,

1 Defendants are to provide to Plaintiffs explanations in the form of
2 declarations explaining the circumstances giving rise to any further delay.
3 The parties further agree that for the individual requests for documents and
4 the interrogatory set forth below, the named Defendants will provide their
5 responses singularly rather than separately.

6 4. Pursuant to the Court's ruling at the hearing on Plaintiffs' motions to
7 compel, the discovery in this matter is to proceed with respect to the
8 individually named Plaintiffs and Plaintiffs at this point are not entitled to
9 discovery based on a class action.

10 5. The following discovery requests have been modified and agreed upon in
11 accordance with the Court's ruling on the motions to compel:

12 **Request No. 1**

13 Plaintiffs request that all documents and electronically stored information
14 concerning the corporate formation or corporate governance of DENIRO, including
15 without limitation certificates of incorporation, memoranda of association, articles of
16 association, articles of organization, by-laws, board meeting minutes, operating
17 agreements, annual reports, and annual returns.

18 Modification:

19 Defendants will produce the articles of incorporations and by-laws, if any, in the
20 possession of any of the named defendants and concerning any of the named defendants,
21 subject to agreed upon time of limitations.

22 **Request No. 2**

23 Documents sufficient to identify all persons who are or have been officers,
24 directors, shareholders, and/or members of DENIRO during the Relevant Times, and the
25 job titles and responsibilities for each such person.

26 Modification:

27 Defendants will produce documents identifying all persons who are officers,
28 including documents concerning their job titles as officers for any of the named defendants

1 that are in the possession or under the control of the named defendants, subject to the time
2 limitations.

3 **Request No. 9**

4 Documents sufficient to identify all websites used to advertise, market, operate,
5 and/or carry out any adult internet services.

6 Modification:

7 Defendants will provide a list of all of the defendants' websites concerning
8 pornography and dating, subject to the time limitations.

9 **Request No. 21**

10 All documents and electronically stored information concerning advertising and
11 marketing of adult internet services, including: market profiles, marketing strategies, and
12 market analyses, including but not limited to the affiliate programs.

13 Modification:

14 Defendants will produce in response to this request documentation regarding the
15 defendants' marketing and advertising of pornography and dating services, subject to the
16 time limitations.

17 **Request No. 26**

18 All documents and electronically stored information concerning the creation and
19 use of policy(ies) regarding verified members and the verification process for users of an
20 adult internet service.

21 Modification:

22 Defendants will produce this information subject to the time limitations and this
23 request may overlap Request No. 21.

24 **Request No. 27**

25 All documents and electronically stored information relating to any claims that a
26 person who joins an additional adult internet service will "double" his/her opportunity to
27 actually meet someone.

28 Modification:

1 Defendants will respond to this request subject to the time limitations.

2 **Request No. 28**

3 All documents and electronically stored information concerning any electronic mail
4 campaign for the promotion, advertising, or marketing of an adult internet service.

5 Modification:

6 This request will be dealt with the same as Request Nos. 21 and 26, subject to the
7 time limitations, and Defendants anticipate there will be some overlap with those requests.

8 **Request No. 31**

9 All versions of the "terms and conditions" documents used in an adult internet
10 service for all relevant times.

11 Modification:

12 Defendants will provide its information responsive to this request concerning terms
13 and conditions, subject to the time limitations.

14 **Request No. 37**

15 All documents and electronically stored information concerning complaints about
16 any adult internet service.

17 Modification:

18 Defendants will provide, subject to the time limitations, responses to this request
19 limited to pornography and dating complaints. All personal data is to be eliminated from
20 any of the information produced in response to this request, including, but not limited to,
21 names, addresses, telephone numbers, email addresses, credit card and banking
22 information, and any depiction or likeness of any of the persons who made such
23 complaints about pornography and dating to the defendants.

24 **Interrogatory**

25 Further, it was stipulated that all defendants will provide a single response to the
26 following interrogatory:

27 Provide a description of job responsibilities for any and all officers of the named
28 defendants in the possession and control of the named defendants.

1 DATED: November 29, 2011

LEWIS BRISBOIS BISGAARD & SMITH LLP

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By: /s/
Ralph A. Zappala

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6 DATED: November 29, 2011

THE KAUFMAN LAW GROUP

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By: /s/ Gary J. Kaufman
Gary Jay Kaufman
Colin Hardacre

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Attorneys for Defendants ALLAN HENNING,
DENIRO MARKETING LLC; MODENA
MARKETING, INC.; and DELTABREEZE
HOLDINGS, LTD.;

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14 DATED: November 29, 2011

GARBARINI LAW GROUP PC

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By: /s/ Thomas J. Fitzgerald
Daniel L. Balsam
Richard M. Garbarini (pro hac vice)
Thomas J. FitzGerald (pro hac vice)
Attorneys for Plaintiffs

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ATTESTATION PURSUANT TO GENERAL ORDER 45

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I, Ralph A. Zappala, attest that concurrence in the filing of this document has been
22 obtained from each of the other signatories. I declare under penalty of perjury under the laws of
23 the United States of America that the foregoing is true and correct.

24

Executed on November 29, 2011, in San Francisco, California.

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26

/s/
Ralph A. Zappala

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1 IT IS SO ORDERED:

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3 Dated: November 30, 2011

Elizabeth D. Laporte
United States Magistrate Judge
Elizabeth D. Laporte

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