

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

2004 AUG 16 PM 1:50

Case No. 2:04-cv-47-FtM-29 SPC

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT MYERS DIVISION

WHITNEY INFORMATION
NETWORK, INC., a Colorado corporation,
and RUSS WHITNEY, an individual,

Plaintiffs,

v.

XCENTRIC VENTURES, LLC., an
Arizona limited liability company;
BADBUSINESSBUREAU.ORG, an
Arizona limited liability company; and
ED MAGEDSON, an individual,

Defendants.

_____ /

AFFIDAVIT OF SCOTT DURKIN

STATE OF FLORIDA)
) ss:
COUNTY OF LEE)

BEFORE ME, the undersigned Notary Public, this day personally appeared **Scott Durkin**, as an individual and independent contractor of Whitney Information Network, Inc. who is personally known to me and who did take an oath and he did depose and state:

1. I, Scott Durkin, am over the age of eighteen.
2. I have personal knowledge of the following facts as I previously worked in the software development department for Whitney Information Network, Inc. from 2002 to 2004.

3. Whitney Information Network's principal place of business is in Cape Coral, Lee County, Florida.
4. As part of my job duties with Whitney, I was required to monitor the Internet for any possible trademark infringement and/or false and defamatory articles printed about Whitney Information Network and/or Russ Whitney.
5. While searching for trademark infringement and defamatory articles, I came across the website known as Rip-Off Report.com, "www.ripoffreport.com." See Composite Exhibit "A."
6. Xcentric Ventures, Badbusinessbureau.org and Ed Magedson ("Defendants"), through their Internet website, "www.ripoffreport.com," provide complaint gathering and reporting services to Florida residents, consumers and businesses. I have personally accessed the website in Florida.
7. I personally accessed the false information published about Whitney Information Network, Whitney Education Group and Russ Whitney in Florida on the www.ripoffreport.com website. See Composite Exhibit "E."
8. I personally accessed all of the exhibits attached to Plaintiffs' Opposition to Defendants' Motion to Dismiss Complaint for Lack of Personal Jurisdiction in Florida. See Composite Exhibit "A"- "F."
9. All of the exhibits attached to Plaintiffs' Opposition are true and correct copies printed from the Rip-Off Report.com website.

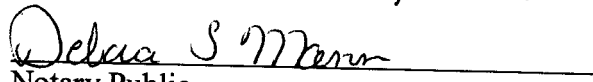
- 10. I personally viewed the source code of Defendants' website that shows Defendants' meta tag key words, which includes "Florida" as a key word for Defendants' website. See Exhibit "F."
- 11. Search engines have spiders that crawl a website's invisible and embedded code, called meta tags, which are programmed by web designers, to alert the search engine to the content of the website.
- 12. Defendants programmed the meta tags (invisible coding) on their website to alert search engines to the key words that Defendants believe relate to the content contained on their website, "www.ripoffreport.com."
- 13. Defendants programmed their meta tags to include the key word "Florida."
- 14. By including the key word "Florida" in their meta tags, Defendants are clearly seeking to be listed high on search engines when anyone, including Florida consumers, are searching for information on Florida corporations.

FURTHER AFFIANT SAYETH NAUGHT.



 SCOTT DURKIN

SWORN TO AND SUBSCRIBED before me on this 9 day of August, 2004.



 Notary Public
 State of Florida

My Commission expires: April 3, 2005
 Name of Acknowledger typed, stamped
 or printed

