

EXHIBIT 1

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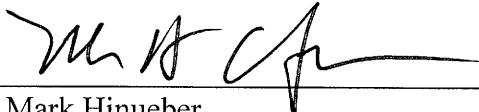
COPYRIGHT ASSIGNMENT

This Copyright Assignment is made effective as of May 25, 2010 by Stephens Media LLC, a Nevada limited-liability company ("Assignor").

In consideration of monetary commitments and commitments to services to be provided and/or already provided by *Righthaven* LLC, a Nevada limited-liability company ("*Righthaven*"), to Assignor and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby transfers, vests and assigns the work described in Exhibit A, attached hereto and incorporated herein by this reference (the "Work"), to *Righthaven*, subject to Assignor's rights of reversion, all copyrights requisite to have *Righthaven* recognized as the copyright owner of the Work for purposes of *Righthaven* being able to claim ownership as well as the right to seek redress for past, present and future infringements of the copyright, both accrued and unaccrued, in and to the Work.

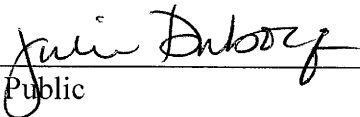
IN WITNESS WHEREOF, Assignor hereby executes this Assignment on this 25 day of May, 2010.

STEPHENS MEDIA LLC

By: 
Name: Mark Hinueber
Title: Vice-President/General Counsel

STATE OF NEVADA
COUNTY OF CLARK

Subscribed and sworn to before me by Mark Hinueber this 25 day of May, 2010.


Notary Public

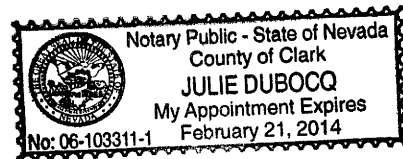


EXHIBIT A

'Idol' finalists keep busy in Las Vegas. Work made for hire by Norm Clarke. Originally published April 11, 2010. *Las Vegas Review-Journal* and www.lvrj.com.

reviewjournal.com

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Apr. 11, 2010
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NORM: 'Idol' finalists keep busy in Las Vegas

Season 9 "American Idol" finalists made the most of an Elvis experience during an overnight trip to Las Vegas.

Outnumbered by their own security force, the nine finalists took in Cirque du Soleil's "Viva Elvis" on Friday and took over the stage Saturday for some critique from mentor Adam Lambert, Season 8 runner-up.

They were in town to soak up all the Elvisness they could get for next week's show, which features Elvis music.

Lambert flew in from Vancouver to meet with the contestants, who rehearsed Elvis hits such as "Viva Las Vegas." He told them not to be afraid to jump out of character.

No photos were released of the "Viva Elvis" visit, and security confiscated cell phones for most of the three-hour stay in the Elvis theater, although Vegas Confidential provided extensive details by Twitter feed (@norm_clarke).

Earlier, Lambert tweeted on his site that he was staying in Las Vegas to see the Muse, an English alternative rock band, for the first time. They were playing at Mandalay Bay Events Center.

Across town at Sam Boyd Stadium, Season 8 winner Kris Allen tweaked Lambert during Pet-a-Palooza, the annual pet extravaganza put on by KMXB-FM, 94.1, with Mark and Mercedes in the Morning, which drew an estimated 20,000 people.

While being interviewed on stage after his 45-minute performance, Allen saw a dog held by an attendee and remarked that the dog didn't look very happy.

"Must be an Adam fan," Allen jabbed.

Season 9 finalist Crystal Bowersox, the dreadlocked single mom from Ohio and "Idol" favorite according to several Web sites, raised some eyebrows Friday. When her fellow contestants gathered at the Aria buffet, she chose to sit at a table by herself.

It was the first trip to Las Vegas for many of the young hopefuls. For Andrew Garcia of Compton, Calif., it was his first plane ride, he said in a tweet as he boarded the plane Friday.

The "Idol" contingent left about 6 p.m. Saturday.

HEF'S HAVING THE USUAL

For a guy who's famous for embracing variety as the spice of life, Hugh Hefner never strays when it comes to dining.

Sure enough, the customary e-mailed message with precise details on what he wanted and how he wanted it arrived at N9NE Steakhouse in advance of his arrival for his 84th birthday visit.

Hef's dinner do's and don'ts:

- One plate of sliced tomatoes with nothing on them.
- Lamb chops and sauce provided by the Playboy Mansion.
- Canned peas, also brought directly from the Mansion.
- Plain baked potato. No seasoning.
- When his entrée arrives, he nods, which is the signal to bring him a glass of cold milk.
- For dessert, vanilla cake with fresh strawberries and whipped cream.
- He drinks Jack Daniels and Pepsi and usually has a birthday shot or two.

I asked him about his longtime ritual during an interview Friday.

"It's something a restaurant can't screw up. It's a safe bet," said Hefner, adding that it's been his favorite meal since childhood (OK, not with Jack Daniels, another safe bet.)

SIGHTINGS

Reggie Bush of the New Orleans Saints, at Coyote Ugly (New York-New York) on Friday where his rumored new girlfriend, Jessie James, performed a four-song set. On Saturday, he showed up in her cabana at Venus Pool Club at Caesars Palace. He recently broke up with socialite Kim Kardashian. James has been romantically linked to Chicago Bears quarterback Jay Cutler. Earlier, Bush was at Wet Republic, the pool venue at MGM Grand, where he was in a cabana with a large group that included Paris Hilton. But the word is they kept their distance, no doubt still on chilly terms because of Kardashian's falling out with Hilton. ... Heidi Montag, hosting at Liquid Pool at Aria (CityCenter). ... "Dancing With the Stars" alum and "Entertainment Tonight" correspondent Melissa Rycroft-Strickland, with husband Tye Strickland, at The Palazzo for his 29th birthday. They met Joan Rivers backstage before heading for CUT Steakhouse. ... At the Playboy Club (Palms) on Friday: Laurence Fishburne . Actress/ model Jaime Pressly, at the Palms Pool & Bungalows on Friday. Also there: Brooke Hogan.

THE PUNCH LINE

"Archaeologists in Greece found the oldest man-made structure in a prehistoric cave. Meanwhile, archaeologists in Beverly Hills found the youngest man-made structure having dinner with her husband, Spencer Pratt." -- Jimmy Fallon

Norm Clarke can be reached at 702-383-0244 or norm@reviewjournal.com. Find additional sightings and more online at www.normclarke.com.

Find this article at:

<http://www.lvrj.com/news/-idol--finalists-keep-busy-in-las-vegas-90560254.html>

Check the box to include the list of links referenced in the article.

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EXHIBIT 2

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 17

18 **UNITED STATES DISTRICT COURT**
 19 **DISTRICT OF NEVADA**

20
 21 RIGHTHAVEN LLC, a Nevada limited
 liability company,)
 22)
 Plaintiff,)
 23)
 v.)
 24)
 NATIONAL ORGANIZATION FOR THE)
 REFORM OF MARIJUANA LAWS, a)
 25)
 District of Columbia domestic nonprofit)
 Corporation; MEDIA ACCESS PROJECT,)
 26)
 INC., a California corporation,)
 27)
 Defendants.)
 28

Case No. 2:10-cv-00351-LDG-PAL
DEFENDANT'S MOTION TO DISMISS
FOR LACK OF SUBJECT MATTER
JURISDICTION AND LACK OF
PERSONAL JURISDICTION

1 that Righthaven is not even the current owner of the copyrights in “Dr. Reefer’s business goes
2 to pot” and “Marijuana activists take stand against bill.” These defects deprive the court of
3 jurisdiction over the subject matter of this case. Additionally, as explained below, NORML’s
4 contacts with Nevada are insufficient to confer personal jurisdiction on this Court,
5 notwithstanding Righthaven’s conclusory statements to the contrary. Accordingly, the Court
6 is without discretion to adjudicate Righthaven’s claims against NORML.

7 IV. ARGUMENT

8 A. The Court Lacks Subject Matter Jurisdiction in this Case.

9 1. Righthaven lacks standing to prosecute its claims of copyright 10 infringement.

11 As a general rule, “[t]he legal or beneficial owner of an exclusive right under a
12 copyright is entitled to bring actions for infringements of that right occurring *during the period*
13 *of its ownership.*” *ABKCO Music, Inc. v. Harrisongs Music, Ltd.*, 944 F.2d 971, 980 (2d Cir.
14 1991) (quoting 17 U.S.C. § 501(b)) (emphasis added); *Pye v. Mitchell*, 574 F.2d 476, 479 (9th
15 Cir. 1978) (“Only the proprietor of statutory copyright at the time of acts of infringement is
16 entitled to damages under 17 U.S.C. § 101.”). “Ownership of a copyright may be transferred
17 in whole or in part by any means of conveyance,” and “[t]he owner of any particular exclusive
18 right is entitled, to the extent of that right, to all the protection and remedies accorded to the
19 copyright owner.” 17 U.S.C. § 201(d)(1)-(2).

20 A plaintiff who fails to show ownership of a valid copyright at the time of infringement
21 lacks standing to sue for any infringement that occurred prior to assignment of the copyright.
22 *See Silvers v. Sony Pictures Entertainment, Inc.*, 402 F.3d 881, 885 (9th Cir. 2005) (outlining
23 the requirements for standing to sue for copyright infringement). “Standing to assert a
24 copyright claim is a jurisdictional requirement, and the Court must dismiss an action for lack
25 of subject matter jurisdiction if it determines the plaintiff lacks standing.” *Giddings v. Vision*
26 *House Production, Inc.*, 584 F.Supp.2d 1222, 1229 (D.Ariz. 2008) (citing *Lewis v. Casey*, 518
27 U.S. 343, 349 n.1 (1996)).

1 In this case, while Righthaven has adduced evidence that it is now the owner of a valid
2 copyright in “Marijuana as Medicine,” that evidence shows that Righthaven is not the original
3 owner, but rather an assignee of that copyright. (Pl.’s Compl. Ex. 4. (“Transfer: By written
4 agreement.”).) Righthaven has failed, however, to show that it was the owner of the copyright
5 in “Marijuana as Medicine” when the alleged infringement occurred, and it has not submitted
6 any proof whatsoever that it has *ever* owned the copyrights in “Dr. Reefer’s business goes to
7 pot” and “Marijuana activists take stand against bill.” The copyright notice on each of these
8 articles, as shown in Righthaven’s Exhibits 1, 2, 3, and 5, indicates that LVRJ was the
9 copyright owner at the time the articles were made available in the MAP news feed. Under
10 these circumstances—and absent more—the Court cannot satisfy itself that Righthaven has
11 standing to prosecute its claims of copyright infringement against NORML; nor can it,
12 therefore, satisfy itself of subject matter jurisdiction.

13 **B. The Court Lacks Jurisdiction Over NORML Because NORML’s Contacts with**
14 **Nevada are Insufficient to Satisfy the Requirements of Federal Due Process.**

15 The basis for personal jurisdiction in Nevada over a non-Nevada resident is set forth in
16 the Nevada long-arm statute. That statute is coextensive with the Due Process Clause of the
17 U.S. Constitution. *See Nev. Rev. Stat. § 14.065.* Thus, in determining whether the exercise of
18 jurisdiction over a non-Nevada resident by a Nevada court is proper, the federal due process
19 analysis applies.

20 In the case of a corporate defendant, the requirement of “presence” in the forum state
21 “may be met by such contacts of the corporation with the state of the forum as make it
22 reasonable, in the context of our federal system of government, to require the corporation to
23 defend the particular suit which is brought.” *International Shoe Co. v. Washington*, 326 U.S.
24 310, 316-17 (1945).

25 Where a defendant is not physically present in the forum state but maintains a website
26 that is accessible to forum residents, the Ninth Circuit and the District of Nevada apply the
27 “sliding scale” test articulated in *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.*, 952 F.
28 Supp. 1119, 1124 (W.D.Pa. 1997), to determine whether personal jurisdiction lies in the forum

EXHIBIT 3

EXHIBIT 3

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6

7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 RIGHTHAVEN, LLC, a Nevada limited liability
company,

11 Plaintiff,

12 vs.

13 MAJORWAGER.COM, INC., a Canadian
14 corporation,

15 Defendant.

Case No. 2:10-cv-00484-RCJ-LRL

**DEFENDANT'S MOTION
TO DISMISS**

16 Pursuant to Federal Rule of Civil Procedure 12(b)(1), 12(b)(2), and 12(b)(6), Defendant
17 MAJORWAGER.COM, INC., ("Defendant" and/or "MajorWager"), hereby moves the Court to
18 dismiss this action for lack of subject matter jurisdiction, lack of personal jurisdiction, and for
19 failure to state a claim upon which relief can be granted. This motion is supported by the
20 accompanying declarations of Russ Hawkins (the "Hawkins Decl.") and Jonathan W. Fountain
21 (the "Fountain Decl."), the exhibits attached thereto, and any oral argument the Court may allow.

22 **PRELIMINARY STATEMENT**

23 MajorWager operates an Internet website devoted to providing information of general
24 interest to a worldwide audience of persons interested in sports, sports betting, and a variety of
25 both related and unrelated topics. This case is based upon nothing more than the posting of a
26 single¹ article from the Las Vegas Review Journal within the "forums" section of MajorWager's

27 ¹ While Plaintiff has attached several articles to the Complaint that it claims were posted on Defendant's
28 website, the Complaint only alleges that a single article (the "Work") has been infringed. The Work is entitled
"March to book begins," and is attached to the Complaint as Exhibit 14.

1 plausible for the court to constitutionally exercise personal jurisdiction over the defendant. *See id.*;
 2 *Myers v. Bennett Law Offices*, 238 F.3d 1068, 1071 (9th Cir. 2001). In ruling on the motion, only
 3 uncontroverted allegations must be accepted as true. *See AT&T v. Compagnie Bruxelles Lambert*,
 4 94 F.3d 586, 588 (9th Cir. 1996). Thus, the court need not assume the truth of allegations
 5 contradicted by affidavit. *Data Disc, Inc. v. Systems Tech. Assocs., Inc.*, 557 F.2d 1280, 1284 (9th
 6 Cir. 1977). However, in the absence of an evidentiary hearing, conflicts in the parties' affidavits
 7 are resolved in the plaintiff's favor. *AT&T*, 94 F.3d at 588-89.

8 ARGUMENT

9 I. RIGHTHAVEN DOES NOT HAVE STANDING TO SUE (AND THE COURT 10 LACKS SUBJECT MATTER JURISDICTION) BECAUSE RIGHTHAVEN HAS 11 FAILED TO ALLEGE THAT IT OWNED THE COPYRIGHTS AT ISSUE AT THE 12 TIME OF THE ALLEGED INFRINGEMENT.

13 While "[t]he legal or beneficial owner of an exclusive right under a copyright is entitled to
 14 bring actions for infringements of that right occurring during the period of its ownership,"
 15 *ABKCO Music, Inc. v. Harrisongs Music, Ltd.*, 944 F.2d 971, 980 (2d Cir. 1991), **a plaintiff who**
 16 **fails to show ownership of a valid copyright at the time of infringement lacks standing to sue**
 17 **for any infringement that occurred prior to its ownership of those rights.** *See Silvers v. Sony*
 18 *Pictures Entm't, Inc.*, 402 F.3d 881, 885 (9th Cir. 2005) ("in order for a plaintiff to be 'entitled . . .
 19 to institute an action' for infringement, the infringement must be 'committed while he or she is the
 20 owner of' the particular exclusive right allegedly infringed."). "Standing to assert a copyright
 21 claim is a jurisdictional requirement, and the Court must dismiss an action for lack of subject
 22 matter jurisdiction if it determines the plaintiff lacks standing." *Giddings v. Vision House*
 23 *Production, Inc.*, 584 F. Supp. 2d 1222, 1229 (D. Ariz. 2008) (citing *Lewis v. Casey*, 518 U.S.
 24 343, 349 n.1 (1996)). Here, the Court lacks subject matter jurisdiction and should dismiss this
 25 case because Righthaven has failed to allege or otherwise demonstrate that it was the owner of the
 26 copyrights at issue **at the time of the alleged infringement.**

27 The Complaint alleges that Righthaven is the owner of the copyrights in "March to book
 28 begins" (the "Work"). (Compl. ¶ 54.) The Complaint further alleges that: "**No later than** March
 18, 2010, MajorWager reproduced an unauthorized copy of the Work . . . on MajorWager's

1 Website.” (Compl. ¶ 60.) (Emphasis added.) The Complaint, however, does not allege that
2 Righthaven was the owner of the copyrights at the time of the alleged infringement.

3 Even worse, it appears that Righthaven was not, in fact, the copyright owner at the time of
4 the alleged infringement. Each of the articles attached to the Complaint (including the Work) bear
5 a copyright notice. In every case, the notice states: “Copyright © Las Vegas Review-Journal.”
6 The Las Vegas Review-Journal is the most widely published newspaper in Clark County, Nevada.
7 It is owned and operated by Stephens Media, LLC, who has registered the name “Las Vegas
8 Review-Journal” as a fictitious firm name in Clark County, Nevada. (See Ex. A to Fountain Decl.,
9 LVRJ FFN Filing.) Copyrights vest in the author of a work when the work is first fixed into
10 tangible form. See *Community for Creative Non-Violence v. Reid*, 490 U.S. 730, 737, 109 S. Ct.
11 2166, 2171, 104 L. Ed. 2d 811, 822 (1989); 17 U.S.C. § 201(a). If the author is an employee, the
12 employer will own the work under the “work for hire” doctrine. *Id.* Here, the Work is dated
13 March 18, 2010, and contains the statement “By Matt Youmans” underneath the title. Thus, it
14 appears that the Work was written by Mr. Youmans as an employee of Stephens Media LLC.
15 Under the “work for hire” doctrine Stephens Media LLC was the author of the work, and,
16 therefore, was the initial owner of all copyrights in the Work. This analysis is consistent with
17 Righthaven’s Exhibit 15. It states that, at the time the copyright application was filed, Stephens
18 Media LLC was the author of the Work. It also states that Righthaven succeeded to the copyrights
19 in the Work as a result of “Transfer: By written agreement,” but does not give a date when the
20 alleged transfer occurred. While copyrights may be assigned, and while Stephens Media LLC
21 may have, in fact, assigned its copyrights to Righthaven, there is no allegation that Stephens
22 Media LLC did so on or prior to March 18, 2010, the date of the alleged infringement.

23 Because Righthaven was not the owner of the copyrights in the Work on the date of the
24 alleged infringement, March 18, 2010, it does not have standing to sue, the Court lacks subject
25 matter jurisdiction, and the Complaint must be dismissed.

26 ///

27 ///

28 ///