

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

VERIZON TRADEMARK SERVICES LLC;
and VERIZON LICENSING COMPANY,

Plaintiffs,

v.

Case No. 8:10-cv-00665-VMC-EAJ

THE PRODUCERS, INC.; INTERCOSMOS
MEDIA GROUP INC. d/b/a DIRECTNIC.COM;
DIRECTNIC, L.L.C.; DIRECTNIC LTD.;
DOMAIN CONTENDER, L.L.C.; SIGMUND J.
SOLARES; MICHAEL H. GARDNER;
NOAH S. LIESKE; and DOES 1-10,

Defendants.

PLAINTIFFS' AMENDED REQUEST FOR JUDICIAL NOTICE

Plaintiffs Verizon Trademark Services LLC and Verizon Licensing Company (collectively, "Verizon") request that the Court, pursuant to Rule 201 of the Federal Rules of Evidence, take judicial notice of the Complaint titled *Mark Deshong v. Keypath, LLC, et al.*, Case No. 8:10-cv-01731-VMC-TBM (M.D.Fla 2010) (the "Deshong Complaint"), a copy of which is attached to this Request as Exhibit A. Mr. Deshong filed the Deshong Complaint against many of the same defendants in the instant case, including The Producers, Inc., Intercosmos Media Group Inc. d/b/a DirectNic.Com, DirectNic, Ltd. and Michael Gardner¹ and makes several allegations as to the fact that the defendants are all interrelated companies with offices and employees in Tampa, Florida. For example:

¹ Keypath, LLC and Parked.com, LLC. are additional defendants in the Deshong Complaint.

Paragraph 19: “Defendants and their affiliated companies all operate with principal offices in Tampa, Florida, with the same officers and employees running the companies as a common business enterprise, under a single uniform control.”

Paragraph 20: “The main shareholders of the Defendants as well many of the affiliated companies, are in most instances all the same: Sigmund Solares and Michael Gardner.”

Paragraph 23: “Defendant Keypath, LLC., provides services to Parked.com and Directnic.com through the services of its employee then charged or billed as independent contractors on paper to the other related companies while all such employees work in Tampa, Florida under a single uniform structure and control.”

Paragraph 24: “All work performed by Plaintiff [in Tampa] was at all times on behalf of Keypath and other Defendants including, Parked.com, Directnic.com without separation of work details or assignments, for which Plaintiff was compensated by Keypath, LLC.”

Paragraph 25: “Keypath, LLC has approximately 45 to 50 employees, all of whom work for multiple companies at the same time.”

Paragraph 26: “The Defendants not only share officers, office locations, but all have a single accounting department responsible for the shifting of money to Cayman Island Companies and handling all financial, accounting and tax reporting for the companies combined.”

Paragraph 29: “After the Producers were sued for approximately \$40,000,000.00 by Dell Computers for cybersquatting and related trademark issues, Defendants switched all employees to work under the company name Keypath, LLC.”

Paragraph 31: “Solares, Gardner and another owner, Mr. Lieske have created several different business entities over the last ten years that they have used in the ownership or operation of the registrar business that use domain name directNIC.com.”

Paragraph 84(K): “Defendants concealed the domain owners identities through WHOIS Privacy of falsified WHOIS information was used to conceal the domain owners identity, that being the Defendants.”

Judicial notice may be taken of documents filed in any federal or state court. *Kramer v. Time Warner, Inc.*, 937 F. 2d 767, 774 (2nd Cir. 1991) (“courts routinely take judicial notice of documents filed in other courts, again not for the truth of the matters asserted in the other litigation, but rather to establish the fact of such litigation and related filings”).

In order to determine the truth of the matters alleged by Mr. Deshong in the Deshong Complaint, Verizon has subpoenaed Mr. Deshong and noticed his deposition for January 18, 2011, in Tampa, Florida.

LOCAL RULE 3.01(g) CERTIFICATION

The undersigned certifies that prior to the filing of this Amended Request for Judicial Notice (“Amended Request”), moving counsel conferred with counsel for Defendants The Producers, Inc., Intercosmos Media Group, Inc., d/b/a Directnic.com, Directnic, LLC, Directnic, Ltd., Domain Contender, LLC, and Michael H. Gardner, who opposes the Amended Request.

Counsel for Defendant Noah Lieske does not consent to the Amended Request.

The undersigned certifies that she attempted to confer with counsel for Defendant Sigmund Solares, by e-mail communications, in a good faith effort to resolve the issues raised in the Amended Request, but has been unable to determine the position of Defendant Solares on the Amended Request.

Wherefore, Verizon Trademark Services LLC and Verizon Licensing Company respectfully requests that this Court take judicial notice of the Deshong Complaint.

Dated: January 6, 2011

Respectfully submitted,

By: /s/Mimi L. Sall

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 6, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participants:

By: /s/Mimi L. Sall
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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MARK DESHONG

Plaintiff,

Vs.

Case No _____

**KEYPATH, LLC., DIRECTNIC, L.L.C.,
THE PRODUCERS, INC.,
INTERCOSMOS MEDIA GROUP INC. d/b/a
DIRECTNIC.COM; DIRECTNIC, LTD.,
PARKED.COM, LLC, MICHAEL H.
GARDNER, Individually,**

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, MARK DESHONG, files his complaint against KEYPATH, LLC., DIRECTNIC, L.L.C., THE PRODUCERS, INC., INTERCOSMOS MEDIA GROUP INC. d/b/a DIRECTNIC.COM; DIRECTNIC, LTD, PARKED.COM, LLC; and MICHAEL H. GARDNER, Individually, who are a consolidated group of companies and an individual working from a single office as a business Enterprise in Tampa Florida, collectively herein referred to as "DEFENDANTS".

Plaintiff alleges as follows, upon actual knowledge with respect to himself and upon information and beliefs as to all other matters.

This is an action for greater than \$75,000 in damages, involving claims pursuant to Florida's Whistleblower Act, civil conspiracy and conspiracy to violate Florida's Whistleblower Act.

PARTIES, PERSONAL JURISDICTION AND VENUE

- 1 This Court has jurisdiction based upon Diversity Jurisdiction pursuant to 28 USC Section 1391(a)2 as some of the Defendants are foreign corporations. Additionally, and alternatively, many of the underlying unlawful practices of the Defendant at issue involve federal laws such that federal questions are involved.

2. Plaintiff MARK DESHONG was an employee of Defendant Keypath, LLC., working in the Tampa corporate offices of the Defendants located at 5505 West Gray Street, Hillsborough County, Florida, and all acts complained of herein occurred in Tampa, Hillsborough County Florida.

3. Defendant Keypath, LLC., is a foreign limited liability company, incorporated in the State of Delaware, with principal offices located in Tampa, Florida at 5505 West Gray Street, Tampa, Hillsborough County, Florida. Pursuant to F.S. 48.193, Defendant is subject to personal jurisdiction in this Court.

4. Defendant DirectNIC, L.L.C., is a Louisiana limited liability company with its principal address in New Orleans, Louisiana, operating with offices in Tampa, Florida. This Court has personal jurisdiction over Directnic, L.L.C., pursuant to F.S. 48.193 because it has conducted systematic and continuous business within Florida acting as part of a consolidated group of companies that operate the registrar business that uses the domain name directNIC.com. These consolidated groups of companies all have a single office located in Tampa, Florida where work is performed. In addition, the acts alleged all occurred in Tampa, Florida.

5. Defendant The Producers, Inc., is a Florida Corporation, is a former employer of Plaintiff, with principal offices at 4404 West Gray Street, Tampa, Hillsborough County Florida and this Court has personal jurisdiction over this Defendant.

6. Defendant Intercosmos Media Group, Inc., d/b/a directNic.com is a Delaware Corporation with principal address in Newark, Delaware. This Court has personal jurisdiction over Intercosmos pursuant to F.S. 48.193 because it has conducted systematic and continuous business within Florida acting as part of a consolidated group of companies that operate the registrar business and use the domain name directNIC.com. This Defendant is part of a common business enterprise all with offices located in Tampa, Hillsborough County Florida. Further the acts alleged herein all occurred in Tampa, Florida.

7. Defendant Directnic, LTD, is a Cayman Islands registered company with its postal addresses of Regatta Office Park, Windward I, Suite 141, 85A Lime Tree Bay Road, West Bay, Grand Cayman, Cayman Islands and P.O. Box 11207, Grand Cayman KY 1-1008, Cayman Islands. This court has personal jurisdiction of DirectNIC, LTD, because it has conducted systematic and continuous business within Florida acting as a part of a consolidated group of companies that operate the registrar business that uses the domain name directNIC.com. This consolidated group of companies has an office located in Tampa, Florida.

8. Defendant Parked.Com, LLC, is a Florida Corporation with principal place of business at 5505 West Gray Street, in Tampa, Hillsborough County, Florida and subject to personal jurisdiction of this Court.

9. Defendant Michael Gardner is a resident of Pinellas, County Florida, and an officer and shareholder in one or more of the Defendants. The conduct alleged involving Defendant Gardner occurred in Tampa, Florida, and Defendant Gardner works from Defendants' shared corporate offices at 5505 West Gray Street, Tampa, Hillsborough County, Florida such that this court has personal jurisdiction over this Defendant.

GENERAL ALLEGATIONS

10. Plaintiff Deshong was terminated by Defendant Keypath, LLC., on April 19, 2010 via written communication.

11. Plaintiff, along with most if not all employees for the DEFENDANTS, in the year 2009, previously working for The Producers, LLC, were shifted to work as employees under the Keypath, LLC., company, although continuing to perform the same job duties and work at the same company office in Tampa, Florida as they had for The Producers, Inc.

12. The board of directors and upon information and belief also shareholders of Keypath are: Butch Decossas, Greg Faia, and Donny Simonton; with Michael Gardner and Sigmund Solares also owners of many of the named Defendants.

13. Donny Simonton is believed to be the Chief Technical Officer for many of the Defendant companies.

14. Donny Simonton is also the president of Parked.com and Keypath.

15. Butch Decossas is the COO and CFO of Keypath and many of the other named Defendant companies and affiliated companies operating as a combined business enterprise.

16. Greg Faia is the general counsel for the companies and a shareholder of Keypath, LLC.
17. Each officer of Keypath also serves as an officer in one more, if not all of the other named Defendants or other affiliated companies of the Defendants working out of the Tampa office.
18. Defendant Keypath and its employees perform work for Parked.com and another foreign company, Directnic.com from the Tampa offices.
19. Defendants and their affiliated companies all operate with principal offices in Tampa, Florida, with the same officers and employees running the companies as a common business enterprise, under a single uniform control.
20. The main shareholders of the Defendants as well many of the affiliated companies, are in most instances all the same: Sigmund Solares and Michael Gardner.
21. The Defendants claim that Parked.com and Directnic.com are companies operating in the Cayman Islands and upon information and belief, obtain revenues from the services of Keypath and its employees.
22. Much of the revenue earned by the Defendants and its affiliated companies are claimed under the Cayman Island companies through a shell type game by the Defendants and is not reported to the United States Internal Revenue Service as income by the United States Companies in violation of IRS laws.
23. Defendant Keypath, LLC., provides services to Parked.com and Directnic.com through the services of its employee then charged or billed as independent contractors on paper to the

other related companies while all such employees work in Tampa, Florida under a single uniform structure and control.

24. All work performed by Plaintiff was at all times on behalf of Keypath and other Defendants including, Parked.com, Directnic.com without separation of work details or assignments, for which Plaintiff was compensated by Keypath, LLC.
25. Keypath, LLC., has approximately 45 to 50 employees, all of whom work for multiple companies at the same time.
26. The Defendants not only share officers, office locations, but all have a single accounting department responsible for the shifting of money to Cayman Island Companies and handling all financial, accounting and tax reporting for the companies combined.
27. Owner Sigmund Solares also operates a company ABC Media Group LLC from the same offices in Tampa, Florida.
28. Solares is now or was at one time, an officer, director or managing member of the Cayman Islands registered company DirectNIC, LTD.
29. After the Producers were sued for approximately \$40,000,000.00 by Dell Computers for cybersquatting and related trademark issues, Defendants switched all employees to work under the company name Keypath, LLC.
30. Michael Gardner is now or was at one time an owner, officer, director or managing member of the Cayman Islands registered company DirectNIC, LTD.

31. Solares, Gardner and another owner, Mr. Lieske have created several different business entities over the last ten years that they have used in the ownership or operation of the registrar business that use domain name directNIC.com.

32. Either Gardner, Lieske and Solares or all 3 combined are involved with the formation, ownership and operation of DirectNIC, L.L.C.

THE DEFENDANTS OPERATIONS

33. The Defendants are known to be serial "cybersquatters" who registered used, and trafficked in domain names that are confusingly similar to famous or distinctive trademarks owned by others such as Verizon and Verizon related companies.

34. Plaintiff is informed and believes, and on that basis alleges, that Intercosmos is or was a registrar of internet domain names accredited by the Internet Corporation for Assigned Names and Numbers ("ICANN").

35. The Defendants have used shell-companies or false identities to conceal their true identities and their involvement in the registration of, use of, or trafficking in domain names that are identical or confusingly similar to the distinctive trademarks of others in violation of Trademark laws.

36. These False identities were listed as the registrants within WHOIS records for thousands of Internet domain names that were registered and/or used for the benefit of Defendants.

37. All times material, many of the Defendants and "False Identities", was the agent, servant, employee, partner, alter ego, subsidiary, or joint venturor of each of the other Defendants and False Identities.

38. Each of the Defendants and False Identities aided and abetted each of the other Defendants and False Identities in the acts or omissions alleged in this Complaint.

39. The Defendants, its officers, directors, shareholders, subsidiaries, affiliates and joint venturers created Directnic.com, a domain name registrar involved in the business of cybersquatting.

40. Subsequently, the officers, directors, shareholders, subsidiaries, affiliates and joint venturers created Parked.com to monetize their vast number of domains, estimated at 500,000 to build a new business of parked domain "arbitrage" or "Parked Domain Advertising and Parked Domain Arbitrage".

41. The Defendants, their owners, shareholders, officers, directors, affiliates and joint venturers all are believed to have earned gross revenues of \$170,000,000.00 for the year 2007 with an estimated 40-50% coming from arbitrage based upon representations by the Defendants.

DOMAIN PARKING and ARBITRARGE: THE DEFENDANTS BUSINESS

42. Search engine companies like Google and Yahoo created advertising programs for domain owners who own large portfolios of domains (200,000 or more) to display advertisements on those domains, thereby providing Yahoo and Google more places to list ads and generate revenues.

43. Instead of developing the website, the companies that park the domains maintain them to show ads on them. Some of the domains still get traffic as much as thousands and thousands of unique visitors per day looking for the website from pre-existing links or from people typing the domain name in their web browser address bar.
44. Some of the parked domains are heavily disguised pages where all links lead to ads which are in violation of several Federal laws and contrary to contracts the Defendants have with Yahoo for example.
45. Most if not all of the domains on parked.com are only ads now, and many of the visitors to the parked domains then click on the ads.
46. The advertisers then pay Yahoo or Google for clicks where its ads are displayed in the Yahoo network relating to the keywords the person is interested in.
47. Parked.com then is paid as high as 78% of the total value of those clicks as per contracts between parked.com and Yahoo.
48. Parked.com then pays the domain owner a % of the value of the clicks that they receive.
49. Keypath, LLC., as the representative "service company" for the Defendants manages the parked.com payments from the Tampa offices.
50. Money that parked.com is paid is deposited in either M & I Bank or Regions Bank in Tampa, before payments are made to customers or before any part of the overall money is shipped to offshore bank accounts in the Cayman Islands.

51. Arbitrage is an economic term meaning the simultaneous purchase and sale of an asset in order to profit from a difference in the price. In the context of parked domains, companies buy traffic to a parked domain in order to capitalize on the difference in money spent versus earnings.

52. In February 12, 2008, Yahoo warned Parked.com to stop all Arbitrage activities but the Defendants have continued their unlawful conduct in breach of their contracts.

53. The Defendants operated their companies in a fraudulent manner. For example, the Defendants own a website cameras.com. This website cameras.com displays nothing but advertising or links to advertising with the defendants being paid for each visitors click on an ad. To increase advertising revenues paid to them, the Defendants, through fraudulent means, then actively sought to artificially increase the number of visitors to cameras.com and subsequently, increase the total clicks on ads.

54. The Defendants purchased display ads through Yahoo Search Marketing which would be triggered and displayed next to search results, when yahoo.com users performed a search for camera related phrases. Those ads then directed yahoo.com visitors to cameras.com a page, which again, displayed only ads or links to ads of Yahoo Search Marketing customers.

55. Advertiser will pay the Defendant for each click by someone searching the web for example .50\$ per click on the advertisement on cameras.com.

56. According to studies and statistics, it is common for more than 50% of the persons who visit such pages to click on the ads.

57. To escape the detection on the part of Yahoo Search Marketing and to thwart Yahoo Search Marketing's active attempts to deter this prohibited practice by rendering accounts

inactive and banning related credit cards and identities from further use of their system once detected, the Defendants created fictitious, unregistered DBA company names to secure unlimited additional credit cards from Regions Bank, numbering upwards of 650 to 1000 at the time Plaintiff was last employed; specifically including the following fictitious/fraudulent created company names: DSI Advertising, Rolfs Media Sales, JAM Internet Promotions, MeeMedia, Zone Marketing, NXS Internet Sales and Marketing, Puff Ad Sales, Informed Media Solutions, Rebel Media Group, Balzon Technology, Codco Internet Advertising, Koi Media, Automatic Solutions, Nickels Media Solutions, Indiewealth Solutions, Datsun Publications, Terra Online Group, MonMax Designs, James Consulting, Big Time Productions, Cowboy Media Group, Texan Consulting, Ads To Go, Scranton Media, Click Advertising, Starlight Entertainment, ElevenZoom, Vybe Productions, Strike Pixels, Bulldawg Sales, Max-Tech, Rite Solutions, Burning Ads, Wolf Bytes, Destiny Datacorp, Festival Group, Oovee, Zazio, Realbeat, Discovery Adz, BlackSky, All-In Media, OptiBolt, Signa Media, Pandemonium, Pixel Paradise, Bits 'n' Bytes, Pacific Sales & Marketing, Miller Media Group, Regal Internet Sales, Success Promotions, Aimed Advertising Group, RJJ Media, InnoPromo, Click Interactive Media, Adix, Top Flight Promotions, Virtual Advertising and Sales, Horizon Media, Sprout Media Group, Over the Top Media, Media Agnostic Solutions, Ace Sales and Technology, Agile Promotional Services, Media Inspirations, Tiny Media, Mollywood Media, Midnight Advertising, Nexus Advertising, Bold Media Productions, Real Media Services, Northwest Direct Marketing, MKS Advertising, TrackedMedia, Gateway Internet Advertising, Coastal Advertising Services, Usable Media Solutions, Space Needle Production, Abandoned Media, Link-To-It Media, Push Media, Clover Technologies, Thomas Designs, Media Hype Group, Snap Advertising Group,

Performance Sales Group, Flaming Media Sales, Mariner Media Group, Seattle Marketing Group, Best Internet Marketing and Blown Away Media Sales among the many.

58. Defendants then tool out credit cards under these false company names, using false information, false names of affiliated people for these companies and applications for those credit cards are then submitted to Regions Bank by employees of the Defendants.

59. Defendants created email accounts at gmail.com, hotmail.com or similar free email services for the fictitious persons, such as for example for Bill Smith, the company might create an email address such as BSmith@gmail.com, in order to give the appearance of being a legitimate email contact for this individual.

60. Defendants then filled out the credit card applications for the false persons, false companies in the name of the DBA using the obtained skype.com phone numbers.

61. Defendants were receiving credit cards within days of submitting the applications, typically submitted in batches of 10, 20 or 30.

62. Using those credit cards, the Defendants would then obtain a telephone number from Skype.com, for the city where the fictitious d/b/a was alleged to be located.

63. Using those credit cards, the Defendants would then order a server in the city of the fictitious DBA to be used as a proxy server, meaning that Yahoo Search Marketing is accessed only through this server for this DBA. This process then gives the appearance of Yahoo Search Marketing being accessed from a computer in the same city of the DBA.

64. Defendants would obtain domains for each DBA using one of two methods.

65. Method one is that parked.com supplies them from what is referred to by the Defendants as "The DN_Parked_Good" List: a list of domains that are passed to parked.com after the original owner fails to renew them, and the domain is revealed to have enough traffic to generate enough clicks to pay for the registration fee, plus a sizeable return, believed to be \$.21 per day or less.

66. The second method of ordering domains for each DBA is to register new domains for the account by registering the domains through the company owned domain registrar at cost. With the cooperation and support of the company owned registrar, the Defendants either concealed each domains ownership details or else falsified each domains ownership details to give the appearance of being owned by the fictitious DBA.

67. Once the Defendants access Yahoo Search Marketing as the fictitious person with the new credit card and these domains create advertisements in Yahoo, which then sends users to the parked pages.

68. Each advertiser then will have to pay for each click to the fictitious company and its parked domain, created for the sole purpose of generating visitors to parked domains in order to generate clicks on ads on those parked domains.

69. Defendant creates these fictitious companies and supplies domains and takes out fraudulent credit cards for the purpose of generating as many clicks as it can and as much revenue as it can.

70. Defendants created and supplied approximately 50,000 domains through parked.com and directnic.com.

71. At the time of Plaintiff's termination, approximately 700 DBA'S along with the related credit cards were fraudulently obtained and used by the Defendant companies.
72. To conceal activities and avoid detection from outside sources, the Defendants used code words to conceal their illegal and fraudulent arbitrage. In company documents and communications the word arbitrage was changed to "targeted advertising".
73. For the month of January, 2010, revenues from arbitrage was approximately \$375,000, and the company officials had voiced projections of earning \$10,000,000.00 from this illegal enterprise for the year 2010.
74. Defendant Parked.com took would take 10% of all revenue as an expense of the activity.
75. Defendants were earning upwards of \$1.4 million dollars for January and February 2010 from their unlawful and criminal arbitrage practices.
76. Defendants have never stopped their Arbitrage and Plaintiff was specifically placed in a position to continue this unlawful conduct.
77. Defendants have key personnel working with their many companies in charge of "arbitrage", which the Defendants classify specifically as a line of business of Keypath, LLC.
78. The Defendants created an internal separate department in Keypath, LLC., overseen by Butch Decossas specifically for the "ARBITRAGE".
79. Defendants became the registrant of many domain names that expired but had not yet been deleted through one or more of their related or affiliated companies, including Intercosmos.

80. Defendant engages in the practices of domain registration, monetization and trafficking of expiring domain names.

81. Defendant operates these websites for the sole purpose of displaying advertising of pay per click advertisers.

82. DirectNIC further became the registrant of many domain names that have expired but have not yet been deleted as well.

83. Defendants have shifted much of their income and revenues to their Cayman Islands companies for the purpose of avoiding United States Federal Income Tax Laws under the IRS code.

84. Each fraudulent DBA created by the Defendants consists of the following:

- A) A fictitious company name is created
- B) A fictitious company owner is created
- C) A fictitious company address is created
- D) A hotmail or gmail or similar free email is created for that fictitious DBA
- E) A Skype number is purchase in the city of that d/b/a
- F) An answering service or voice recording is set up for that number online via skype.com
- G) A server is ordered in the city of that DBA to serve as the proxy for that DBA Yahoo accounts for that DBA are accessed only through that server to further provide the illusion of being in that city
- H) A FRAUDULENT credit card application is filed out for each Fictitious DBA
- I) The Defendants Accounting department submits the fraudulent credit card applications for each DBA to Regions BANK and it takes 2-3 business days to get back a new card, ready to use with a high dollar limit.
- J) Defendants would send lists of domains to register in blocks of 1000 to 2000 at a time.

K) Defendants concealed the domain owners identities through WHOIS Privacy of falsified WHOIS information was used to conceal the domain owners identity, that being the Defendants.

**COUNT I VIOLATION OF FLORIDA'S WHISTLEBLOWER ACT AGAINST
KEYPATH, LLC.**

85. Plaintiff adopts and re-alleges paragraphs 9 through 84 as if fully set forth herein.
86. Defendant Keypath, LLC., employs greater than 10 employees and is an employer within the meaning and governance of the Whistleblower act.
87. All of the named Defendants and their affiliated companies operate as a single business "Enterprise": combined activities performed for a common business purpose, at one main establishment, operating under unified operation and common control and engaged in commerce.
88. On April 5, 2010, Plaintiff sent a letter to the Defendant Keypath, LLC., and which was delivered to the company owners and officers, including Greg Faia, Butch Decossas, Michael Gardner along with HR representative Kayle Powers.
89. Plaintiff's letter contained language placing Defendant Keypath, LLC., on notice of Plaintiff's knowledge of company conduct in violation of laws, rules and regulations, to which Plaintiff objected and refused to participate in any further.
90. Plaintiff asserted in this letter that Defendants' criminal and fraudulent conduct of "Arb", "Arbitrage", "Yahoo to Yahoo Arbitrage" and characterized in numerous company documents as "Arbitrage", violates laws, rules and regulations.
91. Defendant received the letter and owner and Officer Michael Gardner sought to schedule a meeting with Plaintiff via communications on ICQ.

92. Defendants arranged a meeting with Plaintiff at a Starbucks coffee shop on Kennedy Boulevard in Tampa Florida at 9:30 p.m. between Michael Gardner and Plaintiff.

93. Plaintiff, in communications with Defendant Gardner, reasserted that he realized the crux of the illegality of the business and that he just could not continue to participate.

94. Plaintiff further stated in the communications that the Defendants conduct violated wire fraud and computer fraud and other anti-fraud laws.

95. Plaintiff was previously told by the Defendants to engage in the arbitrage activities and warned that he would be terminated if he did not comply.

96. Plaintiff expressed to Defendants that he had a conscience and could not simply just ignore the illegal conduct; and further that he had fears that he himself would be held accountable and even go to prison, leading him to finally present the letter of objection to the Defendants on April 5, 2010.

97. Defendants, through shared officers and owners or directions, including Keypath, LLC., then advised Plaintiff that he could not be trusted any further, and that his employment was over.

98. Gardner, acting with authority and knowledge of Keypath, LLC., and other named Defendants, then solicited Plaintiff to present an offer of some kind to maintain his silence.

99. Plaintiff told Defendant Keypath, LLC., and Gardner first and foremost that he did not want to be sued or go to jail.

100. Gardner, acting with authority and knowledge of Defendant Keypath, LLC., as well as other Defendants, then warned Plaintiff not to obtain counsel and legal representation, urging Plaintiff to resolve this matter "quietly".

101. Gardner told Plaintiff that he would get approval by Sigmund and general counsel, Greg Faia, as to the terms of the financial resolution.

102. On April 15, 2010, Plaintiff delivered an email to Michael Gardner with the terms of a proposed severance agreement.

103. All employees of Defendant Keypath and its affiliated companies, including other named Defendants, communicate on a routine daily basis with ICQ and at no time between April 6 and April 19, 2010 did Defendant Keypath, LLC., ever contact Plaintiff via ICQ after the meeting at Starbucks to discuss work details and job duties.

104. Defendant Keypath, LLC., then sent out a formal notice of termination on April 19, 2010 signed by Kayle Powers, Director of HR for Keypath, LLC., which included false facts.

105. Even after the false termination letter, Defendant Keypath, LLC., and its owners and officers continued to engage Plaintiff in discussions and communications about a financial settlement and severance agreement, suggesting meetings.

106. Defendant Keypath, LLC., further asserted that the offer made by Plaintiff was not reasonable and that he needed to further negotiate.

107. Plaintiff was terminated by Defendant Keypath, LLC., in violation of Florida's Whistleblower Act for his objection and refusal to participate in the Defendants' practices which violate multiple laws rules and regulations including such laws, rules and laws as the following:

a) **THE RICO ACT: 18 USC 1961: RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS**

b) Bank Fraud, 18 USC 1344

c) Wire Fraud 18 USC Section 1343

d) Mail fraud 18 USC 1341

e) Conspiracy to engage in wire and mail fraud 18 USC section 1371

f) 18 USC 1029 Fraud and related activity in connection with access devices

g) 18 USC 1030 Fraud and related activity in connection with computers

h) Florida Statutes 817.034 Florida Communications Fraud Act.

i) the Computer Fraud and Abuse Act (CFAA)

j) the CAN SPAM ACT

k) various sections of the Internal Revenue Code specifically on federal income tax evasion.

108. Plaintiff has suffered an adverse employment action at the hands of Defendant Keypath, LLC., as he was terminated within a short period of time after presenting Defendants with the written objections.

109. Defendant Keypath, LLC.'s actions have caused Plaintiff to suffer financial and emotional harm.

110. Defendant Keypath, LLC.'s conduct to terminate Plaintiff was malicious, extreme and outrageous and intended to punish and harm Plaintiff for refusing to go along with their criminal and unlawful behavior.

WHEREFORE, Plaintiff demands judgment against Defendant Keypath, LLC. For all damages available under the Florida Whistleblower Act, including economic and non-economic damages, punitive damages, prejudgment interest and attorney's fees and expenses as per F.S. 448.104.

COUNT II CIVIL CONSPIRACY TO VIOLATE F.S. 440.102 AGAINST ALL NAMED DEFENDANTS

111. Plaintiff adopts and re-alleges paragraphs 9 through 83 as if fully set forth herein.
112. Defendants shared officers and employees received Plaintiff's written objections and refusals to participate in unlawful conduct shared by some or all of the Defendants.
113. Defendants, acting in concert, conspired and agreed to terminate Plaintiff in retaliation for his written objections; and as a means to hide and conceal their past and continued unlawful conduct.
114. Plaintiff was informed by Defendants' shared officers and shareholders, after his written objections, that he was not welcome back to work for the Defendants prior to receiving a formal termination notice from Defendant Keypath, LLC.
115. Defendants seeking to cover up and insulate their criminal and unlawful conduct, jointly conspired and agreed to terminate Plaintiff, and then to solicit Plaintiff to buy his silence from communicating his knowledge and information to third parties or from seeking legal action.
116. Defendants conspired and agreed to send Plaintiff a letter of termination falsely asserting reasons for his termination, reasons which were a pretext for unlawful conduct in violation of F.S. 440.102

117. As a direct result of the joint conduct and agreements between the named Defendants through the actions of shared officers and employees, Plaintiff's employment was terminated in violation of F.S. 440.102 and he has suffered economic and non-economic losses.

118. All named Defendants aside from Defendant Keypath, LLC., conspired to tortuously interfere with Plaintiff's continued employment with Keypath, LLC., in order to conceal their unlawful conduct and as a means to shield Plaintiff from further discovering their unlawful conduct.

119. The Defendants acted maliciously, intentionally, with the intentions of retaliating against Plaintiff for his refusals to participate in their unlawful conduct his stated objections to their unlawful conduct.

120. The Defendants, through shared shareholders and officers and employees held conferences and communications to discuss terminating Plaintiff and asserting false reasons for his termination.

121. The Defendants acting in concert, agreed that Plaintiff could no longer be allowed to be an employee of Keypath, LLC., because of his knowledge of their unlawful enterprise and unlawful conduct, and took steps to remove Plaintiff as an employee along with his access to their databases, documents and business affairs.

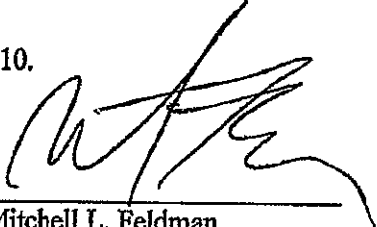
122. All Defendants acted with the intention of inflicting financial harm upon Plaintiff by causing his employment with Keypath, LLC., to end leaving him without an income.

WHEREFORE, Plaintiff demands judgment against all named Defendants for all economic and non-economic damages awardable under F.S. 440.102, punitive damages, pre-judgment interest, attorney's fees as per 440.104 and expenses of litigation.

DEMAND FOR JURY TRIAL

Plaintiff, MARK DESHONG, demands a trial by jury on all issues so triable.

DATED: this 3rd day of August, 2010.



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