UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

GLOBAL DIRECT SALES, LLC, PENOBSCOT INDIAN NATION, CHRISTOPHER RUSSELL and RYAN HILL, Plaintiffs, -v- AARON KROWNE, individually and d/b/a THE MORTGAGE LENDER IMPLOD-O-METER and ML-IMPLODE.COM, KROWNE CONCEPTS, INC., IMPLODE-EXPLODE HEAVY INDUSTRIES, INC., JUSTIN OWINGS, KRISTA RAILEY, STREAMLINE MARKETING, INC. and LORENA LEGGETT, Defendants.	Case No.: 8:08-cv-02468 Assigned: Hon. Deborah K. Chasanow

PLAINTIFFS' OPPOSITION TO DEFENDANTS' SPECIAL MOTION TO DISMISS

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INTRODUCTION and PRELIMINARY STATEMENT

This memorandum of law is submitted in opposition to the defendants' special motion to dismiss pursuant to Marland Courts and Judicial Proceedings §5-807. Plaintiffs' lawsuit is not an anti-SLAPP lawsuit, but a lawsuit brought in good faith seeking redress for the defendants' publishing of an untrue and defamatory article in retaliation for the plaintiffs' refusal to advertise on their website.

In fact, the author of the article, defendant Railey, admits that.

- "the article contains and implies false statements of fact and is misleading in a material manner";
- she "advised IEHI and Krowne that the article was not factual accurate and should be removed from the website or substantially corrected";
- "defendants IEHI and Krowne dissuaded me from making corrections to the article or publishing a corrected article on the website";
- defendants IEHI and Krowne encouraged defendant Railey "to write a negative story a GCS [advertiser's] competitor" and.
- defendants IEHI and Krowne are concealing "the illegal activities of a paying advertiser while publishing an article containing false statements about the plaintiffs' legally compliant companies."

This lawsuit was brought in good-faith because defendants published an untrue and defamatory article, as confirmed by defendant Railey's admission. Further, by its express terms, Maryland's anti-SLAPP law only applies to matters within the authority of a government body. Defendants' article makes numerous untrue defamatory statements unrelated to matters within the authority of a government body. Lastly, Maryland's anti-SLAPP statute is predominantly procedural, conflicts with federal rules of civil procedure, and does not apply in this diversity action which is governed by the Federal Rules of Civil Procedure.

Based on the foregoing, the defendants' special motion to dismiss should be denied.

STATEMENT OF FACTS

A. Defendants' Solicitation of Advertising from Plaintiffs

In or about June, 2008, Defendants began soliciting the plaintiffs to advertise on their website. (Russell Dec. at p. 2, ¶ 7). Defendants affirmatively represent that they scrutinize companies considered for advertising. (Id. at ¶ 6). Defendants' solicitation consisted of multiple telephone calls and emails to Plaintiffs. (Id. at ¶ 8). On August 5, 2008, the defendants were still contacting the plaintiffs hoping that they would be "granted the opportunity to advertise Grant America on ml-implode." (Id. at ¶ 9).

B. Defendants' False and Defamatory Publication

On or about September 9, 2008, shortly after the plaintiffs advised the defendants that they would not be advertising on the defendants' website, the defendants published an untrue and defamatory article regarding the plaintiffs. (Id. at ¶ 11). Defendants' statements are untrue and defamatory *per se,* harm the plaintiffs' reputation, expose them to ridicule and financial injury.

Defendants' published numerous defamatory statements in the original article that were so wholly unsupportable, knowingly false and intentionally misleading that they were withdrawn. (Id. at ¶ 13). While the defendants have removed from the article that GAP is a scam, Dp Funder is a scam and the plaintiffs' Russell and Hill treated AmeriDream like their own personal piggy bank, the currently published article still falsely claims that Russell attempted to extort AmeriDream and the Penobscot Indian Tribe is laundering downpayments for a fee. (Id.).

While certain incontestably false and *per se* defamatory statements have been removed from the article and/or altered, the currently published article still contains multiple untrue and defamatory statements, including, but not limited to:

False Statement - Hence, the Penobscot Indian Tribe isn't really providing "assistance" and is merely laundering the down payment for a fee . . .

The Truth – Defendants' accusation that PIN, through GAP, is laundering the down payment is false. As set forth above, HUD has expressly acknowledged that GAP is HUD compliant, PIN has never been accused of laundering and all aspects of the transaction are completely transparent and disclosed.

False Statements - That Russell had a copycat website of Ameridream and Ameridream claimed Russell attempted to extort $5,000 per domain.

The Truth – Russell did not have, the arbitration decision did not find and AmeriDream did not even allege that Russell had a "copycat website". The arbitrator found that the domain name, not website, was confusingly similar to AmeriDream. AmeriDream has never alleged that Russell attempted to extort money from them.

False Statement - The seller contribution to the Grant America Program is clearly a concession that is confirmed by IRS ruling 2006-27. . . The PIN program Seller Enrollment form itself solidifies the fact that it is a sales concession . .

The Truth – The contribution is not a concession and the IRS Ruling involves an entirely different issue – the propriety of an organization's 501(c) status – not whether the contribution is a concession. HUD, not the IRS, is responsible for making this determination and has expressly found that the contribution is not a concession. GAP's forms do not support the defendants' falsehood in any way. This false statement would lead customers into believing GAP was being used to facilitate mortgage fraud. By calling the contribution a concession, Defendants are accusing Plaintiffs of committing mortgage fraud.

False Statements - On April 3, 2008, HUD and the Penobscot Indian Tribe executed a Stipulation to Resolve Remaining Claims and Dismiss Action which the Grant America Program website posts as a HUD approval letter. Click here to view the Stipulation of Dismissal.

Not only is the Stipulation and Dismissal ***not*** an approval letter, it doesn't provide specific approval of seller-funded grants as Sovereign Grant providers claim. The Stipulation and Dismissal is merely a temporary settlement which gave HUD the opportunity to publish a revised proposed rule and re-open the comment period.

The Truth - On April 3, 2008, HUD expressly stipulated:

> that PIN's Grant America Program™ ("GAP") meets HUD's current policies pertaining to the source of gift funds for the borrowers' required cash investment for obtaining FHA insured mortgage financing (Exhibit A).

(Id. at p.3-4, ¶ 14).

C. Defendant Railey's Admissions

Defendant Krista Railey wrote the September 2008 article regarding the plaintiffs. (Railey Dec., p. 1, ¶ 3). The article was published by defendants IEHI and Krowne on the website and Mr. Krowne and Randall Marquis of IEHI and Krowne were the article's editors. (Id. at ¶ 4). Railey admits that "there are significant problems with the final published article" and the "article contains and implies false statements of fact and is misleading in a material manner." (Id. at p.2, ¶ 6).

Railey states that she requested that defendants' IEHI and Krowne provide Russell "a fair opportunity to rebut the article" (Id. at ¶ 7). Defendant Railey also admits that she "advised IEHI and Krowne that the article was not factual accurate and should be removed from the website or substantially corrected" (Id. at ¶ 8), but that "defendants IEHI and Krowne dissuaded me from making corrections to the article or publishing a corrected article on the website." (Id. at ¶ 9).

Defendant Railey confirms defendants IEHI and Krowne's disparate treatment of advertisers and non-advertises (Id. at ¶ 10), including, concealing and removing "posts regarding the illegal activities of an advertiser" (Id. at ¶ 11), "encouraged [her] to write a negative story a GCS [advertiser's] competitor" (Id. at ¶ 13) and that she as "serious questions regarding whether the article was published and/or not corrected/removed from the website because the plaintiffs refused to advertise." (Id. at p.3, ¶ 17).

Railey describes researching an article regarding another DPA provider, American Family Funds ("AFF") administers of the Dove Foundation (collectively "AFF/Dove") (Id. at ¶

18), that a principal of AFF/Dove began advertising on the website (Id. at ¶ 19) and that she was not encouraged to write the article by ML Implode and no AFF/Dove article was published on the website. (Id. at ¶ 20).

Railey declares that defendants IEHI and Krowne did not allow her to correct the article (Id. at ¶ 23), continued to publish it after she advised it contained false statements (Id. at p. 1, ¶ 23) and are using the article and lawsuit to raise funds and generate publicity. (Id. at p. 3, ¶ 23).

ARGUMENT

POINT I

THIS IS NOT A SLAP LAWSUIT

This lawsuit was brought in good-faith because the defendants published an untrue and defamatory article – defendant Railey's admissions confirm the same. Further, by this lawsuit the plaintiffs are vindicating their rights and reputation and have no censorious intent. Lastly, by its express terms Maryland's anti-SLAPP law only applies to matters within the authority of a government body and the defendants' article makes multiple defamatory statements unrelated to matters within the authority of a government body.

A. Maryland's Anti-SLAPP Statute

Maryland's statute defines anti-SLAPP suits as ones that are brought "in bad faith", are "intended to inhibit the exercise of rights under the First Amendment" and are "regarding any matter within the authority of a government body." Defendants' cannot establish any of these factors – the plaintiffs have no censorious intent, but are only vindicating their rights and reputation, the defendants' false statements of fact are not protected by the First Amendment and multiple of the defendants' untrue and defamatory statements are not involving matters within the authority of a government body.

MD Code, Courts and Judicial Proceedings, § 5-807(b) (emphasis added) provides:

> A lawsuit is a SLAPP suit if it is:
>
> (1) **Brought in bad faith** against a party who has communicated with a federal, State, or local government body or the public at large to report on, comment on, rule on, challenge, oppose, or in any other way **exercise rights under the First Amendment** of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights **regarding any matter within the authority of a government body**;

> (2) Materially related to the defendant's communication; and
>
> (3) Intended to inhibit the exercise of rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights.

MD Code, Courts and Judicial Proceedings, § 5-807. §5-807(c) provides that

> [a] defendant in a SLAPP suit is not civilly liable for communicating with a federal, State, or local government body or the public at large, if the defendant, without constitutional malice, reports on, comments on, rules on, challenges, opposes, or in any other way exercises rights under the First Amendment of the U.S. Constitution or Article 10, Article 13, or Article 40 of the Maryland Declaration of Rights regarding any matter within the authority of a government body.

B. No Bad Faith

Plaintiffs have no censorious intent, but are only vindicating their rights and reputation. Defendant Railey admits that "there are significant problems with the final published article" and the "article contains and implies false statements of fact and is misleading in a material manner," that she "advised IEHI and Krowne that the article was not factual accurate and should be removed from the website or substantially corrected", but that "defendants IEHI and Krowne dissuaded me from making corrections to the article or publishing a corrected article on the website." Defendant Railey's admissions establish that the lawsuit is meritoriously based upon the defendants' publishing an untrue and defamatory article and not some other dishonest purpose.

In Bond v. Messerman, 162 Md.App. 93, 120, 873 A.2d 417, 432 (Md.App. 2005), the Court defined "bad faith" stating that:

> 'Bad-faith' is the opposite of good faith; it is not simply bad judgment or negligence, but it implies a dishonest purpose or some moral obliquity and a conscious doing of wrong. Though an indefinite term, "bad-faith" differs from the negative idea of

> negligence in that it contemplates a state of mind affirmatively operating with a furtive design.

See also Rite Aid Corp. v. Hagley, 374 Md. 665, 681, 824 A.2d 107, 116-117 (Md. 2003) ("'Bad-faith' is the opposite of good faith; it is not simply bad judgment or negligence, but implies a dishonest purpose or some moral obliquity and a conscious doing of wrong.").

Plaintiffs do not have any dishonest purpose, but intend on winning this lawsuit by demonstrating that the defendants' article contains provably untrue and defamatory statements. In addition to Railey's admissions, the very email the defendants cite for Russell's purported "bad faith" clearly evinces that this suit is brought in good faith to seek redress for harm caused by the defendant's publication of an untrue and defamatory article. The portion of Russell's email that the defendants' omitted provides:

> Let's just say, you need to remove it or bear the consequences of your actions because you have made repeated 'statements of fact' which are untrue and if you had done a shred of investigation, you would know that. Also, you failed to tell everyone that I readily participated in your joke of an interview. If you actually cared about reporting the truth, you would have simply asked me about the things you wrote about but since you never asked me a single question about AmeriDream and even acted surprised when I told you I was the Founder of AmeriDream, it!s obvious that this is a hit piece written by an amateur hack.
>
> Real and credible news organizations like, the Washington Post, Wall Street Journal, Forbes and others have all investigated this to the nth degree and they never reported the bullshit you are reporting because they found most of it to be gossip and innuendo which was completely untrue.
>
> Incompetent and irresponsible armchair sleuths like you are why the internet is full of lies, half truths and down right bullshit. Fortunately, our judicial system offers a way for me to seek recompense for the harmed caused by a fraud, such as you. (Exhibit F to defendants' moving papers)

Plaintiffs have no censorious intent, but are only vindicating their rights and reputation. Accordingly, the defendants cannot establish the bad faith element required by Maryland's anti-SLAPP statute.

C. Maryland's Anti-Slapp Statute Only Applies to Communications Regarding Matters Within The Authority of a Government Body

By its express terms Maryland's Anti-SLAPP statute only applies to communications "regarding any matter within the authority of a government body." §5-807(c)

Defendants' articles contain false and defamatory communications that do not involve matters within the authority of a government body. For example, the article states "[t]hat Russell had a copycat website of Ameridream and Ameridream claimed Russell attempted to extort $5,000 per domain." This statement is false and defamatory - Russell did not have, the arbitration decision did not find and AmeriDream did not even allege that Russell had a "copycat website". Further, the arbitrator found that the domain name, not website, was confusingly similar to AmeriDream and AmeriDream never alleged that Russell attempted to extort money. Second, this was a private arbitration between two parties and was not, is not and never will be a matter within the authority of a government body. Likewise, the defendants' originally published article avers that the plaintiffs' Russell and Hill treated AmeriDream like their own personal piggy bank. Again, a matter that was not, is not and never will be within the authority of a government body.

Defendants' motion should be denied because the article contains untrue and defamatory statements regarding matters that are not within the authority of a government body.

D. Defendants' Article Is Not Potected By The 1st Amendment

Speech – particularly defamatory and otherwise tortuous speech – is not protected by the first amendment. Likewise, the defendants' false statements of fact are not protected by the first

amendment because "there is no constitutional value in false statements of fact." Gertz v. Robert Welch, Inc., 418 U.S. 323, 339-40, 94 S.Ct. 2997, 41 L.Ed.2d 789 (1974). Defendant Railey admits that the "article contains and implies false statements of fact and is misleading in a material manner." False statements of fact and implications of false statements of fact are not protected by the First Amendment.

There is a line separating protected rhetorical hyperbole from unprotected fraudulent misrepresentations of fact. See Mercy Health Servs. v. 1199 Health and Human Serv. Employees Union, 888 F.Supp. 828 (W.D.Mich.1995). As in Peel v. Attorney Registration and Disciplinary Comm'n of Ill., 496 U.S. 91, 107 n. 14, 110 S.Ct. 2281, 2291 n. 14, 110 L.Ed.2d 83 (1990), the "legal question" in this case "is whether a statement of ... fact is nonetheless so misleading that it falls beyond the First Amendment's protections." The First Amendment offers no protection for false or deceptive commercial speech. Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n, 447 U.S. 557, 563, 100 S.Ct. 2343, 65 L.Ed.2d 341 (1980).

In Milkovich v. Lorain Journal Co., 497 U.S. 1, 110 S.Ct. 2695, 111 L.Ed.2d 1 (1990), the Supreme Court clarified that the Gertz dicta "was [not] intended to create a wholesale defamation exemption for anything that might be labeled 'opinion.'" Id. at 18. An unsupported opinion that implies defamatory facts, like " '[i]n my opinion Jones is a liar,' can cause as much damage to reputation' and may be just as actionable 'as the statement, 'Jones is a liar.' " Id. at 19. Thus, the Milkovich Court declined to create "an artificial dichotomy between 'opinion' and fact." Id.

Defendants' article contains both false statements of fact and unsupported opinion that implies defamatory facts. The article contains statements which are provably, and now admittedly, false.

E. Constitutional Malice Exists

Nonetheless, the defendants' conduct evidences actual malice. Defendants admittedly scrutinize companies considered for advertising beforehand, solicited the plaintiffs to advertise on their website for weeks and directly after the plaintiffs declined to advertise on the website, publishing the article on their website. Defendants' made numerous defamatory statements in the original article - Defendants' GAP is a scam, Dp Funder is a scam, Plaintiffs' Russell and Hill treated AmeriDream like their own personal piggy bank, Russell attempted to extort AmeriDream and that the Penobscot Indian Tribe is laundering down the payment for a fee - that were so wholly unsupportable, knowingly false and intentionally misleading that they have been withdrawn. Further, after the Plaintiffs sent a cease and desist letter, the defendants continued publishing the article and began actively soliciting other websites to republish the article. Lastly, after the author advised that the article contained false statements of fact and should be removed and/or revised, the defendants failed to revise and/or stop publishing the article. This more then sufficiently evidences actual malice.

In New York Times Co. v. Sullivan, 376 U.S. 254, 279-80, 84 S.Ct. 710 (1964) the Court defined actual malice as knowledge that a defamatory statement is false or reckless disregard of a statement's truth or falsity. Reckless disregard means a "high degree of awareness of ... probable falsity." St. Amant v. Thompson, 390 U.S. 727, 731 (1968)(citations omitted). The Court has cautioned, however, that reckless disregard "cannot be fully encompassed in one infallible definition. Inevitably its outer limits will be marked out through case-by-case adjudication...." Id. at 730. A court or jury may infer actual malice from objective circumstantial evidence, which can override a defendants' protestations of good faith. Schiavone Constr. Co. v. Time, Inc., 847 F.2d 1069, 1090 (3d Cir.1988); Tavoulareas v. Piro, 817 F.2d 762, 789 (D.C.Cir.) (en banc), cert.

denied, 484 U.S. 870 (1987); Bose Corp. v. Consumers Union of U.S., Inc., 692 F.2d 189, 196 (1st Cir. 1982). "These facts should provide evidence of negligence, motive, and intent such that an accumulation of the evidence and appropriate inferences supports the existence of actual malice." Id.

Defendants IEHI and Krowne did not allow defendant Railey to correct the article, continued to publish the article after Railey advised it contained false statements and are using the article and lawsuit to raise funds and generate publicity.

Defendants' conduct provides ample evidence for the inference of actual malice.

POINT II

MARYLAND'S ANTI-SLAPP LAW DOES NOT APPLY IN THIS DIVERSITY ACTION

Maryland's anti-SLAPP statute is predominantly procedural, conflicts with federal rules of civil procedure, and does not apply in this diversity action which is governed by the Federal Rules of Civil Procedure.

A. Maryland's anti-SLAPP Statute is Procedural in Nature

Federal courts generally consider the application of a state anti-SLAPP statute to be procedural in nature and inapplicable to federal court actions. Under the Erie doctrine, federal courts reviewing state law claims generally apply federal procedural law and state substantive law. See Hanna v. Plumer, 380 U.S. 460, 465, 85 S.Ct. 1136, 14 L.Ed.2d 8 (1965). This rule holds for state claims in diversity cases. United Mine Workers of America v. Gibbs, 383 U.S. 715, 725, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966). Maryland's anti-SLAPP statute's special motion provision is predominantly procedural in nature, directly conflicts with the Federal Rules of Procedure and is inapplicable to the instant action.

In South Middlesex Opportunity Council, Inc. v. Town of Framingham, 2008 WL 4595369, 10 (D.Mass. 2008)(citations omitted), the court addressed this issue stating:

> '[T]he anti-SLAPP statute's special motion provision is predominantly procedural in nature'. Because of the collision between state and federal procedures, 'in a diversity action the Federal Rules of Civil Procedure supplant the state anti-SLAPP procedures ....' This view of the anti-SLAPP statute comports with the Supreme Judicial Court's description of Mass. Gen. Laws ch. 231, § 59H as 'a procedural remedy for early dismissal of the disfavored SLAPP suits.'

See also Stuborn Ltd. P'ship v. Bernstein, 245 F.Supp.2d 312, 315-316 (D.Mass. 2003) (In diversity jurisdiction action denying motion outright, concluding: "In light of the competing

procedures, I am persuaded that the anti-SLAPP statute's special motion provision is predominantly procedural in nature, and that it directly conflicts with the Federal Rules of Procedure."); see also Baker v. Coxe, 230 F.3d 470 (1st Cir. 2000) (The District Court rejected the argument of the moving defendants that they were entitled to dismissal under the Massachusetts anti-SLAPP provision (940 F.Supp. 409 (D.Mass. 1996), the First Circuit addressed this case and subsequent summary judgment order and affirmed without discussion of anti-SLAPP aspect of the District Court's disposition); see also Daerr-Bannon, 22 Causes of Action 2d 317, at §2 ("except for the Ninth Circuit, federal courts generally consider the application of a state anti-SLAPP statute to be procedural in nature and inapplicable to federal court actions."); Id. at §7 ("Except for some federal authority in the Ninth Circuit applying the California anti-SLAPP statute in a federal diversity action (see U.S. ex rel. Newsham v. Lockheed Missiles & Space Co., 190 F.3d 963 (9th Cir. 1999)), the general tendency of the federal courts is to consider such state statutes to be procedural in nature and thus not applicable in federal courts.").

To the extent that the anti-SLAPP statute imposes additional procedures in certain kinds of litigation in state court, it does not trump Fed.R.Civ.P. 12(b)(6). 5A Charles A. Wright & Arthur R. Miller, Federal Practice and Procedure § 1343 (1990) ("State rules of practice do not control any of the purely procedural questions that arise under Rule 12."); see also Baker v. Coxe, 940 F.Supp. 409, 417 (D.Mass. 1996).

Defendants' motion should be denied because Maryland's anti-SLAPP statute is procedural in nature and inapplicable to this federal court action.

B. Maryland's anti-SLAPP statute Conflicts with FRCP

Maryland's anti-SLAPP statute conflicts with federal rules of civil procedure. The special motion conflicts with the Federal Rules of Civil Procedure governing motions to dismiss – the defendants are not arguing that the plaintiffs' complaint fails to state a cause of action. Rather the defendants make a hybrid type of special motion that conflicts with the Federal Rules of Civil Procedure.

In Godin v. School Union 134, 2009 WL 1686910, 4 -5 (D.Me. 2009), the Court stated:

> [T]he manner that the Maine anti-SLAPP statute contemplates these special motions being presented with competing declarations and a shifting burden conflicts with the Federal Rules of Civil Procedure governing motions to dismiss and motions for summary judgment.

Accordingly, this Court should examine the allegations of the complaint under the well-worn standards governing Fed.R.Civ.P. 12(b)(6) motions, not the hybrid statutory procedure in § 5-807(b) which is more akin to a summary judgment motion. Under this standard, clearly the defendants' motion must be denied.

CONCLUSION

Based on the foregoing, Defendants' motion should be denied in its entirety.

Dated: December 7, 2009

KANTROWITZ, GOLDHAMER & GRAIFMAN, P.C.

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

GLOBAL DIRECT SALES, LLC, PENOBSCOT INDIAN NATION, CHRISTOPHER RUSSELL and RYAN HILL, Plaintiffs, -v- AARON KROWNE, individually and d/b/a THE MORTGAGE LENDER IMPLOD-O-METER and ML-IMPLODE.COM, KROWNE CONCEPTS, INC., IMPLODE-EXPLODE HEAVY INDUSTRIES, INC., JUSTIN OWINGS, KRISTA RAILEY, STREAMLINE MARKETING, INC. and LORENA LEGGETT, Defendants.	Case No.: 8:08-cv-02468 **CERTIFICATION** Assigned: Hon. Deborah K. Chasanow

CHRISTOPHER RUSSELL, certifies as follows:

1. I am a Plaintiff in the within action and a principal of Plaintiff Global Direct Sales, LLC, and as such, I am familiar with the facts and circumstances set forth herein.

A Grant America Program™

2. PIN and Global Direct Sales, LLC ("GDS") are parties to an Agreement to develop, organize and operate a downpayment assistance ("DPA") program wholly owned by PIN. The DPA program, entitled Grant America Program™ ("GAP"), is a program that provides gift funds to low-to-moderate-income families purchasing a home or first-time homebuyers across America.

3. GAP was established to help low to moderate income homebuyers realize the dream of home ownership by providing down payment assistance grants.

4. On April 3, 2008, HUD expressly acknowledged:

> that PIN's Grant America Program™ ("GAP") meets HUD's current policies pertaining to the source of gift funds for the borrowers' required cash investment for obtaining FHA insured mortgage financing.

5. GAP did not provide down payment assistance grants to purchaser utilizing a subprime mortgage to purchase their home.

B. Defendants' Solicitation of Plaintiffs

6. Defendants affirmatively represent that they scrutinize companies considered for advertising beforehand.

7. In or about June, 2008, Defendants began soliciting us to advertise on Defendants' website.

8. Defendants' solicitations consisted of multiple telephone calls and at least one email.

9. On August 5, 2008, Defendants were still contacting us hoping that they would be "granted the opportunity to advertise Grant America on ml-implode."

10. Thereafter, we advised Defendants that they would not advertise on Defendants' website.

C. Defendants' Untrue & Defamatory Article

11. On September 9, 2008, after we advised Defendants that they would not be advertising on the Defendants' website, Defendants published an untrue and defamatory article regarding us.

12. Defendant Railey authored the untrue and defamatory article which was published on defendants IEHI and Krowne's website.

13. Defendants' published numerous defamatory statements in the original article that were so wholly unsupportable, knowingly false and intentionally misleading that they were

withdrawn. While the defendants have removed from the article that GAP is a scam, Dp Funder is a scam and the plaintiffs' Russell and Hill treated AmeriDream like their own personal piggy bank, the currently published article still falsely claims that Russell attempted to extort AmeriDream and the Penobscot Indian Tribe is laundering downpayments for a fee.

14. While certain incontestably false and *per se* defamatory statements have been removed from the article and/or altered, the currently published article still contains multiple untrue and defamatory statements, including, but not limited to:

False Statement - Hence, the Penobscot Indian Tribe isn't really providing "assistance" and is merely laundering the down payment for a fee . . .

The Truth – Defendants' accusation that PIN, through GAP, is laundering the down payment is false. As set forth above, HUD has expressly acknowledged that GAP is HUD compliant, PIN has never been accused of laundering and all aspects of the transaction are completely transparent and disclosed.

False Statements - That Russell had a copycat website of Ameridream and Ameridream claimed Russell attempted to extort $5,000 per domain.

The Truth – Russell did not have, the arbitration decision did not find and AmeriDream did not allege that Russell had a "copycat website". The arbitrator found that the domain name, not website, was confusingly similar to AmeriDream. AmeriDream has never alleged that Russell attempted to extort money from them.

False Statement - The seller contribution to the Grant America Program is clearly a concession that is confirmed by IRS ruling 2006-27. . . The PIN program Seller Enrollment form itself solidifies the fact that it is a sales concession .

The Truth – The contribution is not a concession and the IRS Ruling involves an entirely different issue – the propriety of an organization's 501(c) status – not whether the contribution is a concession. HUD, not the IRS, is responsible for making this determination and has expressly found that the contribution is not a concession. GAP's forms do not support the defendants' falsehood in any way. Defendants' false statement accuses Plaintiffs of committing mortgage fraud.

False Statements - On April 3, 2008, HUD and the Penobscot Indian Tribe executed a Stipulation to Resolve Remaining Claims and Dismiss Action which the Grant America

Program website posts as a HUD approval letter. Click here to view the Stipulation of Dismissal.

Not only is the Stipulation and Dismissal ***not*** an approval letter, it doesn't provide specific approval of seller-funded grants as Sovereign Grant providers claim. The Stipulation and Dismissal is merely a temporary settlement which gave HUD the opportunity to publish a revised proposed rule and re-open the comment period.

The Truth - On April 3, 2008, HUD expressly stipulated:

> that PIN's Grant America Program™ ("GAP") meets HUD's current policies pertaining to the source of gift funds for the borrowers' required cash investment for obtaining FHA insured mortgage financing.

15. On September 18, 2008, after our counsel wrote to Defendants and demanded that they cease and desist from publishing the untrue and defamatory article; Defendants began actively soliciting other websites to republish their untrue and defamatory article.

D. Lawsuit

16. We did not bring this lawsuit with any censorious intent, but to vindicate our rights and reputation.

17. We brought this lawsuit because the articles contain and imply false statements of fact and are damaging to our reputation.

E. DPA Advertising

18. In 2007, Defendant Aaron Krowne, was sued for, among other things, defamation after Defendants' published that the Loan Center of California, Inc. ("LCC") had gone out of business; which was untrue.

19. Defendants' motion to dismiss under California's anti-SLAPP statute was denied after LCC made a showing, as required by the statute, that there was a probability it would prevail on its claims (California Civil Code Civ. Proc. § 425.16(b)(1). The court stated that LCC

had established a probability it would prevail on its defamation claim, making a *prima facia* showing:

> That defendants falsely stated LCC had gone out of business, that LCC was an is in the business, that LCC was damaged by Washington Mutual and Credit Suisse withdrawing at least 3.5 million dollars in funds from LCC's accounts, and that Washington Mutual and Credit Suisse did this after viewing the false information published by defendants on defendants' website (Exhibit Q).

20. Prior to writing their defamatory article about LLC, Defendants did not have any mortgage lender advertising on their website.

21. Weeks after the defamatory LCC article, Defendants dedicated an entire section of their website to the "Top Non-Imploded" mortgage lenders – all of which pay Defendants to advertise.

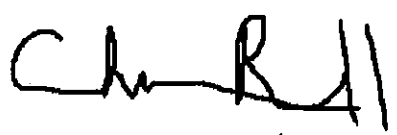
22. Prior to September 9-15, 2008, Defendants did not have any advertising from any DPA provider.

23. After publishing the September 9-15, 2008 articles, a principal of DPA provider American Family Funds ("AFF") administers of the Dove Foundation (collectively "AFF/Dove") began advertising on the website.

24. No article about AFF/Dove was ever published on the website

25. I hereby certify, under penalty of perjury that the foregoing is true and correct.

Dated: December 7, 2009



CHRISTOPHER RUSSELL

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

GLOBAL DIRECT SALES, LLC, PENOBSCOT INDIAN NATION, CHRISTOPHER RUSSELL and RYAN HILL, Plaintiffs, -v- AARON KROWNE, individually and d/b/a THE MORTGAGE LENDER IMPLOD-O-METER and ML-IMPLODE.COM, KROWNE CONCEPTS, INC., IMPLODE-EXPLODE HEAVY INDUSTRIES, INC., JUSTIN OWINGS, KRISTA RAILEY, STREAMLINE MARKETING, INC. and LORENA LEGGETT, Defendants.	Case No.: 8:08-cv-02468 Assigned: Hon. Deborah K. Chasanow

I, Krista Railey, declare as follows:

1. I am over the age of 18 and competent to testify to the matters set forth herein.

2. I am personally a defendant, and an officer of defendant Streamline Marketing, Inc., in the within action, and as such, I am familiar with the facts and circumstances set forth herein.

3. I wrote the September 2008 article regarding the plaintiffs upon which this lawsuit centers. The article was published by defendants Implode-Explode Heavy Industries, Inc. ("IEHI") Krowne Concepts, Inc. "Krowne") on the Mortgage Implode-O-Meter website (the "website").

4. Mr. Krowne and Randall Marquis of IEHI and Krowne were the editors of the article before it was published.

5. My primary editorial contact was with Randall Marquis of IEHI and Krowne. Marquis was also the advertising sales manager for the website.

6. I believe that there are significant problems with the final published article. I believe that the article contains and implies false statements of fact and is misleading in a material manner.

7. After September 15, 2008, the date the final version of the article was posted, I advised IEHI and Krowne that Russell should be afforded a fair opportunity to rebut the article and IEHI and Krowne refused.

8. Again in 2009, I advised IEHI and Krowne that the article was not factual accurate and should be removed from the website or substantially corrected.

9. On both occasions, defendants IEHI and Krowne dissuaded me from making corrections to the article or publishing a corrected article on the website.

10. After the commencement of this lawsuit, I learned of defendants IEHI and Krowne disparate treatment of advertisers and non-advertises.

11. Particularly, I know that defendants IEHI and Krowne concealed and removed posts regarding the illegal activities of an advertiser.

12. Specifically, Marquis advised one of the website advertisers, Green Credit Services ("GCS") to speak with me about GCS because he was my publisher.

13. Marquis also encouraged me to write a negative story a GCS competitor.

14. Thereafter, the website deleted and moved threads containing negative information about GCS and would not allow me to publish any articles about GCS.

15. I can say with a great deal of certainty that Marquis had a history of granting editorial preference to advertisers.

16. I find it unconscionable for defendants IEHI and Krowne to conceal the illegal activities of a paying advertiser while publishing an article containing false statements about the plaintiffs' legally compliant companies.

17. Based upon what I have learned, I have serious questions regarding whether the article was published and/or not corrected/removed from the website because the plaintiffs refused to advertise.

18. I know that I was researching an article regarding DPA provider American Family Funds ("AFF") administers of the Dove Foundation (collectively "AFF/Dove").

19. I have been told that a principal of AFF/Dove began advertising on the website.

20. Despite extensively researching AFF/Dove, I was not encouraged to write the article by ML Implode and no AFF/Dove article was published on the website.

21. I believe that defendants IEHI and Krowne are utilizing the article and lawsuit to raise funds. In fact, defendants IEHI and Krowne have embedded a donation link in the website's articles about the lawsuit.

22. Lastly, defendants IEHI and Krowne are prominently advertising for people who received downpayment assistance from Grant America and have been foreclosed by the FHA.

23. I regret that I have not been allowed to correct my article and the manner in which defendants IEHI and Krowne are using the article and lawsuit to raise funds and generate publicity.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on: 4 Dec 2009

KRISTA RAILEY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

GLOBAL DIRECT SALES, LLC, PENOBSCOT INDIAN NATION, CHRISTOPHER RUSSELL and RYAN HILL, Plaintiffs, -v- AARON KROWNE, individually and d/b/a THE MORTGAGE LENDER IMPLOD-O-METER and ML-IMPLODE.COM, KROWNE CONCEPTS, INC., IMPLODE-EXPLODE HEAVY INDUSTRIES, INC., JUSTIN OWINGS, KRISTA RAILEY, STREAMLINE MARKETING, INC. and LORENA LEGGETT, Defendants.	Case No.: 8:08-cv-02468 Assigned: Hon. Deborah K. Chasanow

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2009, I electronically filed a true and correct copy of the foregoing ***Plaintiffs' Opposition to Defendants' Special Motion to Dismiss, Certification of Christopher Russell, and Declaration of Krista Railey*** with the Clerk of the Court using the CM/ECF system which will send notification to those attorneys who are duly registered with the CM/ECF System.

Cherie Cornfield