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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Portland Division

**OBSIDIAN FINANCE GROUP, LLC and  
KEVIN D. PADRICK,**

Plaintiffs,

v.

**CRYSTAL COX,**

Defendant.

Civil No. CV 11-0057 HA

**ANSWER OF OBSIDIAN  
FINANCE GROUP, LLC AND  
KEVIN D. PADRICK TO  
COUNTER COMPLAINT**

Plaintiffs Obsidian Finance Group, LLC and Kevin D. Padrick ("Plaintiffs") as and for their Answer to the Counter Complaint of Crystal Cox ("Defendant") in this matter, state as follows:<sup>1</sup>

1. Plaintiffs admit that David Aman and Tonkon Torp LLP reside in Oregon.
2. Plaintiffs admit that Padrick and Obsidian reside in Oregon.
3. Plaintiffs admit that David Brown and Obsidian reside in Oregon.
4. Plaintiffs admit that Ewan Rose and Obsidian reside in Oregon.
5. Plaintiffs admit that Patrick Flaherty resides in Oregon.
6. Paragraph 6 does not contain any allegation of fact.
7. Plaintiffs admit that Stephanie Studebaker-DeYoung resides in Oregon.
8. Plaintiffs admit that Mark Neuman resides in Oregon.
9. Plaintiffs admit that Lane Lyons resides in Oregon.
10. Plaintiffs admit that Tim Larkin resides in Oregon.
11. Plaintiffs admit that Brian Stevens resides in Oregon.
12. Plaintiffs lack information or knowledge as to the truth of the allegation concerning the residency of Sean Boushie.
13. Plaintiffs lack information or knowledge as to the truth of the allegation concerning the residency of Bernie Cassidy.
14. Paragraph 14 does not include an allegation of fact.
15. Paragraph 15 does not include an allegation of fact.
16. Paragraph 16 does not include an allegation of fact.

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<sup>1</sup> The Counter-Complaint includes many un-numbered paragraphs. Plaintiffs have attached a marked-up version of the Counter-Complaint as Exhibit A and provided paragraph numbers for the un-numbered paragraphs, which are then referenced in this Answer.

17. Paragraph 17 does not include an allegation of fact.

18. Plaintiffs admit that this Court has subject matter jurisdiction over the counterclaims asserted against plaintiffs.

18a. Admit.

19. Admit.

19a. Plaintiffs admit that defendant maintains numerous websites, but lacks information or knowledge as to the truth of the allegation concerning the precise number of websites. Plaintiffs deny the remaining allegations in paragraph 19a.

19b. Plaintiffs admit that defendant has made statements on the websites she maintains concerning some or all of the companies, individuals and topics listed in paragraph 19b. Plaintiffs deny the remaining allegations.

19c. Plaintiffs lack information or knowledge as to the truth of the allegation that defendant is a sole proprietor residing in Montana. Plaintiffs deny the remaining allegations.

19d. Plaintiffs admit that defendant has made numerous statements on the websites she maintains. Plaintiffs lack information or knowledge as to truth of the remaining allegations.

19e. Plaintiffs admit that defendant has been making statements on websites she maintains concerning the Summit bankruptcy since in or around January 2009. Plaintiffs deny the remaining allegations.

19f. Plaintiffs admit that in July 2009 defendant registered the domain name [www.obsidianfinancesucks.com](http://www.obsidianfinancesucks.com). Otherwise, deny.

19g. Plaintiffs admit that Obsidian, Padrick and their attorneys reviewed [www.obsidianfinancesucks.com](http://www.obsidianfinancesucks.com) and other websites maintained by defendant soon after

defendant began making statements on those websites about the Summit bankruptcy. Plaintiffs admit that its counsel deposed Stephanie Studebaker-DeYoung in August 2009 and inquired about defendant. Otherwise, deny.

19h. Deny.

19i. Deny.

19j. Paragraph 19j does not include any allegations of fact.

19k. Paragraph 19k does not include any allegations of fact.

19l. Admit.

19m. See response to paragraph 19g above. Otherwise, deny.

19n. Plaintiffs admit that the listed urls link to the videotape of Ms. DeYoung's deposition. Otherwise, deny.

19o. Plaintiffs admit that the listed url links to portions of the videotape of Ms. DeYoung's deposition. Otherwise, deny.

19p. Plaintiffs admit that the listed url links to portions of the videotape of Ms. DeYoung's deposition. Otherwise, deny.

19q. Deny.

19r. Deny.

19s. Admit.

19t. Plaintiffs lack information or knowledge as to truth of the allegation concerning how defendant became aware of the lawsuit and the details of Mr. Boushie's alleged posting. Otherwise, deny.

19u. Plaintiffs admit that their counsel, David Aman, sent an email to plaintiff on January 21, 2011, in order to confirm the substance of defendant's extortion effort. The content of the email speaks for itself. Otherwise, deny.

19v. Deny.

19w. Deny.

19x. Deny.

19y. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19z. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19aa. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19bb. Plaintiffs admit that they were contacted by Mr. Boushie. Otherwise, deny.

19cc. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19dd. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19ee. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19ff. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19gg. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19hh. Plaintiffs admit that Padrick received an email from Mr. Boushie.

Otherwise, deny.

19ii. Deny.

19jj. Deny.

19kk. Deny.

19ll. Deny.

19mm. Deny.

19nn. Plaintiffs lack information or knowledge as to the truth of the allegation in this paragraph.

19oo. Plaintiffs admit that David Aman practices in the area of intellectual property law and that he is counsel for Obsidian. Plaintiffs admit that their first contact with defendant was when they sent a cease and desist letter in December 2010. Plaintiffs admit that Ms. DeYoung was asked questions about defendant during her deposition. Otherwise, deny.

19pp. See response to paragraph 19oo above. Otherwise, deny.

19qq. Plaintiffs lack information or knowledge as to the truth of the allegation in the first sentence of this paragraph. Plaintiffs admit that Mr. Padrick was contacted by Mr. Boushie. Otherwise, deny.

19rr. Plaintiffs lack information or knowledge as to the truth of the allegation in the first sentence of this paragraph. Otherwise, deny.

19ss. Paragraph 19ss does not contain any allegations of fact.

19tt. Deny.

19uu. Deny.

20. Deny.

21. Deny.

21a. Deny.

21b. Deny.

21c. Deny.

21d. Deny.

22. Deny.

22a. Deny.

22b. Deny.

23. Deny.

23a. Deny.

24. Deny.

24a. Deny.

24b. Deny.

24c. Deny.

25. Deny.

25a. Deny.

26. Deny.

27. Except as expressly admitted above, plaintiffs deny each and every allegation in the Counter-Complaint.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

28. Defendant's Counter-Complaint fails to state any claim for relief.

**SECOND AFFIRMATIVE DEFENSE**

29. Defendant's Counter-Complaint is barred in whole or in part because plaintiffs' actions were and are subject to an absolute, conditional and/or qualified privilege.

**THIRD AFFIRMATIVE DEFENSE**

30. Defendant's defamation counterclaim is barred because plaintiffs' statements referenced in the Counter Complaint were and are true.

By pleading the foregoing affirmative defenses, plaintiffs do not assume any burden of production or persuasion not otherwise imposed on them by applicable law.

WHEREFORE, plaintiffs seek judgment on defendant's Counter-Complaint as follows:

- A. Finding in favor of plaintiffs on all counterclaims in the Counter-Complaint;
- B. Dismissing the Counter-Complaint with prejudice;
- C. Awarding plaintiffs their costs incurred;
- D. Awarding plaintiffs their reasonable attorneys' fees incurred pursuant to ORS 20.105 because the counterclaims have been asserted without any objectively reasonable basis; and,



E. Granting such other and further relief as the Court deems just or equitable.

DATED this 26th day of May 2011.

TONKON TORP LLP

By /s/ David S. Aman

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Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **OBSIDIAN FINANCE, LLC AND KEVIN D. PADRICK'S ANSWER TO COUNTER COMPLAINT** on:

Crystal L. Cox  
PO Box 505  
Eureka, Montana 59917  
Crystal @CrystalCox.com

- by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said party's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below;
- by causing a copy thereof to be e-mailed to said party at her last-known email address on the date set forth below;

DATED this 26th day of May 2011

TONKON TORP LLP

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