

The Honorable James L. Robart

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

ATIGEO LLC, a Washington limited liability)
company; and MICHAEL SANDOVAL, an)
individual,)

Plaintiffs,

vs.

OFFSHORE LIMITED D, a California)
business organization, form unknown;)
OFFSHORE LIMITED D, a California)
partnership; DENNIS MONTGOMERY,)
individually and as a partner of Offshore)
Limited D; ISTVAN BURGYN,)
individually and as a partner of Offshore)
Limited D; DEMARATECH, LLC, a)
California limited liability company; and)
DOES 1-10, inclusive,)

Defendant.

NO. 2:13-cv-01694

**DECLARATION OF DEFENDANT
DENNIS MONTGOMERY IN SUPPORT
OF MOTION TO DISMISS AND
SPECIAL MOTION TO STRIKE**

I, Dennis Montgomery, declare:

1. I am over the age of 18 years and I am a defendant in this lawsuit. I am of legal age and competent to testify to the matters herein, and do so of my own personal knowledge.



1 2. I make this declaration in support of my motion to dismiss and special motion to
2 strike.

3 3. On April 5, 2006, I was hired by Michael Sandoval to work for his startup,
4 Opspring LLC (“Opspring”). As the Chief Technology Officer it was my responsibility to head
5 the company’s software development.

6 4. I met Edra Blixseth through Michael Sandoval shortly before being hired at
7 Opspring. Edra had invested approximately \$20 million with Michael’s startup companies,
8 Xpatterns LLC (“Xpatterns”), Opspring and Atigeo, between December of 2005 and March of
9 2007. As explained to me by Edra, \$8 million of this investment was made in order to shelter
10 money prior to her divorce with her former husband, Tim Blixseth. Edra also informed me that
11 just before filing for divorce in December of 2006, she demanded Michael provide her with
12 financial statements as to the status of all of her investments. She wanted to ensure she had
13 access to the capital after filing for divorce. Michael refused. To the best of my knowledge,
14 Michael never produced financial statements of any kind showing the distribution of these
15 funds.
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17 6. In March of 2007, Edra, Allen Annex (her attorney), and Mike Flynn (my
18 attorney), met with Michael Sandoval and Andrew Boyd (CEO of Atigeo) in Los Angeles and
19 confronted them as to the status of her investments. Flynn was there to protect my personal and
20 financial interests stemming from my multimillion dollar employment contract with Opspring.
21 It was at this meeting that Michael admitted to using Edra’s money to purchase property in
22 Kirkland, for him and his family’s personal use, without her knowledge. I understand Michael
23 and Edra subsequently entered into a Letter Agreement whereby Michael was to pay Edra
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1 approximately \$8 million dollars over several years. To the best of my knowledge, this money
2 was never repaid.

3 7. I first learned of this meeting because Flynn and Edra called me shortly before
4 and told me not to take Michael's phone calls. Subsequently, Edra called and informed me that
5 Michael had misappropriated millions of dollars of her investment. Over the next several years,
6 Edra continually represented to me that Michael had misappropriated those funds to buy
7 property in Kirkland and that she had no idea of this until she confronted him.

8 8. On May 28, 2008, Edra filed a lawsuit against Michael and Heather Sandoval
9 and Atigeo, amongst others. A true and correct copy of the First Amended Complaint from that
10 lawsuit, dated June 16, 2008, is attached hereto as **Exhibit 1**. In pertinent part, the complaint
11 alleges the following:
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13 "...Sandoval took \$5.75 million of Blixseth's \$10 million xPatterns investment in
14 the form of a personal loan from the company to purchase real property, located
15 in Kirkland, Washington....Subsequently, Blixseth learned that the personal loan
16 Sandoval obtained from xPatterns was for more than he had represented, and was
17 to be repaid in three years or more, rather than within 30 to 60 days as Sandoval
had represented. Concerned about Sandoval's significant misrepresentations with
respect to the loan, Blixseth sought to terminate her equity interest in
xPatterns...."

18 Amended Complaint at ¶¶ 16, 17.

19 The complaint further alleges that the defendants in that case – in other words, Michael
20 Sandoval and Atigeo: (1) misrepresented Atigeo as owning software owned by Blixseth and her
21 company, Opspring (Id. at ¶ 20); (2) "engaged in a course of action to eliminate xPatterns
22 ability to repay Blixseth's debt" (Id. at ¶ 21); "knowingly caused false financial information to
23 be disseminated to investors (Id. at ¶ 24);" "grossly inflat[ed] the number of hours spent on
24 developing xPattern and Atigeo's IP (Id. at ¶ 26);" and "caused xPatterns to pay for and record
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1 in xPatterns' financial records, development costs for IP that Atigeo claims to own, depleting
2 xPatterns of assets and eliminating its ability to pay the \$8 million debt [owed to Blixseth] (Id.
3 at ¶ 30).”

4 9. Plaintiffs' complaint and the declaration of Michael Sandoval allege that I
5 attempted to extort money from Michael prior to putting up the websites at issue in this
6 litigation. These accusations are completely false and without merit. I created the subject
7 websites to alert the public as to the fraudulent and misleading business practices of Michael
8 Sandoval and his company, Atigeo. In doing so, it was my hope to prevent further individuals
9 from being victimized or injured from these deceptive business practices. In no way was I
10 motivated by an alleged extortion scheme. In my opinion (and others), Michael has been
11 defrauding investors and business partners for the last seven years.

12 10. During March of 2009, Edra declared bankruptcy. I understand Michael attached
13 to his declaration an Affidavit of Edra Blixseth from her bankruptcy proceedings, noting it fails
14 to mention fraudulent conduct. However, Edra recently backed off of her claims as to the
15 money Michael owes her in order to sidestep one of her creditors, Western Capital Partners,
16 LLC (“Western Capital”). A true and correct copy of Western Capital’s Response to Motion for
17 Order Approving Settlement with Plaintiffs Atigeo LLC and Xpatterns LLC and Third Party
18 Defendant Michael Sandoval, dated August 4, 2011, is attached hereto as **Exhibit 2**.

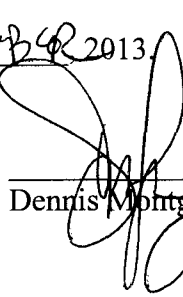
19 11. In essence, Edra rescinded her prior Letter Agreement with Michael, in which
20 she or her estate was to be paid approximately \$8 million, and instead entered into a Settlement
21 Agreement where Michael would pay her estate \$1.25 million and Edra would receive
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1 additional compensation.¹ As referenced in Western Capital’s Response, the Settlement
2 Agreement expressly stated it was “based upon [the parties’] expectation that the court will
3 dismiss with prejudice all claims asserted by any third parties....” Western National Response at
4 3. In other words, due to Edra and Michael’s collusive agreement, she had a vested interest in
5 denying prior instances of fraud.

6 **I declare under penalty of perjury under the laws of the state of Washington that**
7 **the foregoing is true and correct.**

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9 DATED this 22 day of NOVEMBER 2013

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13 Dennis Montgomery, Declarant
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23 _____
24 ¹ Due to the bankruptcy, the entire \$8 million owed to Edra was to flow directly to Western Capital. By creating a
25 new agreement which sought to exclude Western Capital’s claims, Michael Sandoval would be released from
paying his \$8 million debt and, instead, would only have to pay \$1.25 million to Edra’s estate. Western Capital is
still in litigation to recover the money it is owed.