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7 IN THE SMALL CLAIMS COURT OF THE LOS ANGELES JUDICIAL DISTRICT

8 ARCHIE GARGA-RICHARDSON

CASE NO.: LAM 09M00854

9 Plaintiffs,

COMMENCEMENT OF SUPERIOR  
 COURT ACTION AND PETITION TO  
 TRANSFER TO SUPERIOR COURT  
 LIMITED JURISDICTION

10 vs.

11 COLOCATION AMERICA, INC.,

[CCP 116.390]

12  
 13 Defendants.

14  
 15 I, Paul Sigelman, say:

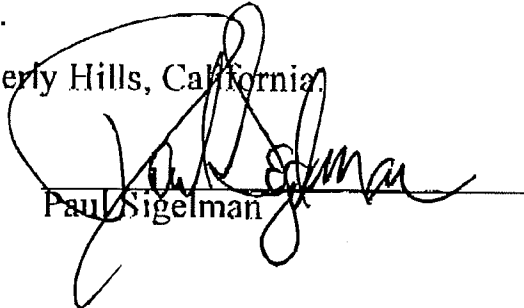
16 1. I am the attorney for the defendant in the above entitled action.

17 2. That defendant has commenced action LASC #09K08409 in the  
 18 Limited Jurisdiction of the Superior Court, Central District on April 17, 2009 for an  
 19 amount in excess of \$7,500 which relates to the event subject of Plaintiff's claim. A  
 20 true copy of the complaint is attached hereto and is of a nature which could be a  
 21 subject a cross-complaint of the above action.

22 3. Petitioners prays that the above-mentioned Small Claims action be  
 23 transferred to the above mentioned Superior Court for trial.

24 I hereby declare under penalty of perjury under the laws of the State of  
 25 California that the foregoing is true and correct.

26 Executed on April 24, 2009 at Beverly Hills, California.

27  
 28   
 Paul Sigelman

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CONFIRMED COPY  
 OF ORIGINAL FILED  
 Los Angeles Superior Court

APR 23 2009

John A. Clark, Clerk

By: *[Signature]*  
 PREMIER FINANCIAL & ACCOUNTING SERVICES, LLC

SUPERIOR COURT OF LOS ANGELES COUNTY

10 COLOCATION AMERICA, INC.,

CASE NO.:

09K084 9

11 Plaintiffs,

COMPLAINT FOR DAMAGES

13 vs

Causes of Action Based On:

14 ARCHIE GARGA-RICHARDSON;  
 15 PREMIER FINANCIAL &  
 16 ACCOUNTING SERVICES, LLC; SCAM  
 17 FRAUD ALERT; and DOES 1-10  
 Defendants.

- 1. Trade Libel;
- 2. Intentional Interference;
- 3. Negligent Interference; and,
- 4. Breach of Contract

[Limited Jurisdiction]

21 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

22 1. Plaintiff Colocation America, Inc. ("Colocation") provides computer server co-  
 23 location to companies operating on the internet. The company is a private enterprise not publicly  
 24 traded-held nor publicly-held.

25 2. Defendant, Archie Garga-Richardson ("Richardson"), was and is an individual  
 26 residing in the county of Los Angeles, and operates Defendant Premier Financial & Accounting  
 27 Services, LLC, ("PFA") in turn represented by Defendant Scam Fraud Alert ("Fraud"), an entity of  
 28 unknown status. All Defendants operate business on the internet.

1           3. The events, happenings and circumstances upon which complaint is hereinafter  
2 made occurred in the county of Los Angeles, State of California.

3           4. Defendants DOES 1-10, inclusive, are sued herein pursuant to the provisions of  
4 California Code of Civil Procedure §474. Plaintiffs will amend this action accordingly when the true  
5 names and capacities of said Defendants are known.

6           5. At all times herein mentioned, Defendants and each of them, were the agents,  
7 servants, and employees of all other Defendants and were acting within the course and scope of their  
8 agency, service, and employment, and each Defendant has ratified and approved the acts of the  
9 remaining Defendants. All Defendants herein whether designated by real or fictitious name are in  
10 some manner or fashion responsible for the acts and conduct complained of herein and all of said  
11 Defendants approved, ratified or participated in such conduct.

12           6. On October 28, 2008 Colocation leased a dedicated internet server to Richardson  
13 and PFR, as well as provided them firewall services through another provider. The contract called for  
14 payment to Colocation in the amount of \$599 per month for a 12 month term. During the 12 months  
15 Richardson, PFA, and Fraud caused a distributed denial-of-service attack, taking down Colocation's  
16 entire network (not only that provided to Defendants but also to all other Colocation clients) and  
17 upstream of other internet providers to Colocation. As a result, Colocation was forced to remove  
18 Defendants from the network. Colocation offered to provide Defendants a computer server  
19 containing all of Richardson's database so that he could relocate, on the condition that Colocation  
20 released from all claims and demands and be paid \$500 for the server equipment. Defendant  
21 Richardson paid Colocation to purchase the dedicated server but refused to sign the release of  
22 liability.

23           7. After the above events, Richardson, PFA, and Fraud made many false accusations  
24 to various individuals in writing and in online public forums, included a statement on February 12,  
25 2009 that Defendant had decided to separate from Colocation requesting his database but  
26 misrepresenting in writing stating that "to date I have not been given access" to his database

27           8. In addition to the false statements published by Defendants Richardson, and PFA,  
28 owe Colocation for the remaining 8 months under their contract at \$599 per month and damages

1 caused to Colocations network and upstreams network and all customers affected by Defendants  
2 violation of Colocation Acceptable Use Policy ("AUP")

3 **FIRST CAUSE OF ACTION**

4 [Trade Libel]

5 (*Against All Defendants*)

6 9. Plaintiff incorporated by reference in paragraphs 1-7 above.

7 10. On or about February 12, 2009, and on one or more occasions thereafter,  
8 Defendants and Does 1-10 willfully, without justification, and without privilege published and/or  
9 communicated or caused to be published an/or caused to be communicated to other persons the false  
10 statements in writing.

11 11. The statements of Defendants disparaged Plaintiff's business in that they indicate  
12 Colocation takes untoward advantage of customers.

13 12. The statement of Defendants were and are false.

14 13. Said statements constitute trade libel per se. Such statements as made by the  
15 Defendants imputes to the Plaintiff dishonest conduct.

16 14. The statements made by Defendants have caused and will cause persons to  
17 whom such statements were made to be deterred from doing business with Plaintiff.

18 15. As a proximate result of the Defendant's false publication, Plaintiff is entitled to  
19 an award of damages according to pleading and proof.

20 16. The conduct of Defendants was willful, oppressive, malicious and fraudulent,  
21 such that Plaintiff is entitled to punitive and exemplary damages in an amount according to proof.

22 **SECOND CAUSE OF ACTION**

23 [Intentional Interference With Prospective Economic Advantage]

24 (*Against All Defendants*)

25 17. Plaintiff incorporates by reference paragraphs 1-16.

26 18. There exists between Plaintiff and its customers the probability of future  
27 economic benefit and prospective economic relationship.

28 19. Defendants, with knowledge of such benefits undertook with intent and design

1 to disrupt and interfere with Plaintiff's economic benefits and prospective economic relationships,  
2 and while doing so made intentional misrepresentations.

3 20. Defendants knew that, at the time of the misrepresentations, customers would  
4 rely and act upon those misrepresentations.

5 21. Plaintiff's benefits and prospective economic relationships were actually  
6 interfered with and disrupted. Such interference and disruption were proximately caused by the  
7 wrongful misrepresentation of Defendants as described.

8 22. As a proximate result of the conduct of Defendants, Plaintiff has lost benefit of  
9 source of capital loss, goodwill and has otherwise been damaged, all in an amount according to proof,  
10 which will be offered at trial.

11 23. The conduct of Defendants was willful, oppressive, malicious and fraudulent,  
12 such that Plaintiff is entitled to punitive and exemplary damages in an amount according to proof.

13 **THIRD CAUSE OF ACTION**

14 [Negligent Interference With Prospective Economic Advantage]

15 *(Against All Defendants)*

16 24. Plaintiff incorporated by reference as though set forth in full hereat, each,  
17 every, and all of the allegations herein above contained in paragraphs 1-16.

18 25. Defendants owed a duty of care to Plaintiff, in that:

- 19 (a) The actions of Defendants were specifically intended to affect the
- 20 prospective economic and capital requirements of Plaintiff;
- 21 (b) Harm to Plaintiff was highly foreseeable as a result of Defendants'
- 22 conduct;
- 23 (c) There was a high degree of certainty that Plaintiff would suffer damage
- 24 to its capital investment;
- 25 (d) The nexus between the conduct of Defendants and the damage from
- 26 suffered by Plaintiff is clear;
- 27 (e) The conduct of Defendants, and each of them, was and is morally
- 28 repugnant; and

1 (f) The policy of preventing future harm will be substantially furthered by  
2 holding Defendants accountable for their conduct in disrupting and  
3 interfering with the business relationship between Plaintiff and its  
4 members.

5 26. Defendants negligently undertook wrongful conduct by communicating  
6 misrepresentations as described above which would disrupt and interfere with Plaintiff's economic  
7 relationships.

8 27. As a direct and proximate result of the conduct of Defendants, the economic  
9 relationship between Plaintiff and its members was actually interfered with and disrupted, thereby  
10 damaging Plaintiff.

11 28. As a proximate result of the conduct of Defendants, Plaintiff has lost loss.  
12 goodwill and has otherwise been damaged, all in an amount according to proof, which will be offered  
13 at trial.

14 **FOURTH CAUSE OF ACTION**

15 [Breach of Contract]

16 (Against Richardson and PFA)

17 29. Plaintiff incorporates paragraphs 1-8 above.

18 30. Plaintiff entered into a purchase agreement with Richardson, PFA, and Does 1-  
19 10.

20 31. Plaintiff has performed all obligations to be performed, except and insofar as  
21 prevented, excused and/or discharged by Defendants, or except insofar as Plaintiff's performance was  
22 waived, not material, and/or Defendants are estopped from asserting to the contrary.

23 32. As a result of Defendants' failure to satisfy their 12 month obligation and  
24 failing to make payment as promised. Plaintiff has been damaged in a manner reasonably foreseeable  
25 by Defendants when they entered into the contract or has been damaged in a manner arising from  
26 circumstances communicated to Defendants at time of sale.

27 33. By reason of Defendants' breach of contract, Plaintiff has suffered damages,  
28 direct and consequential, in an amount not yet fully ascertained but proof of which will be offered at

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trial along with interest thereon at the legal rate from date of breach.

WHEREFORE, Plaintiff prays for judgment as follows:

- A. Compensatory damages according to proof at trial.
- B. Punitive damages according to proof at trial on the First and Second Cause of Action;
- C. Plaintiff remits any amount in excess of the \$25,000 limited jurisdiction of this court; and,
- D. Costs and other just relief.

Dated: April 22, 2009

SIGELMAN LAW FIRM

Paul S. Sigelman