

KELLY / WARNER, PLLC
404 S. Mill Ave., Suite C-201
Tempe, AZ 85281
Telephone: (480) 331-9397

1 **KELLY / WARNER, PLLC**
404 S. Mill Ave, Suite C-201
2 Tempe, Arizona 85281
Aaron M. Kelly, Esq. (AZ Bar #025043)
3 Email: aaron@kellywarnerlaw.com
Daniel R. Warner, Esq. (AZ Bar # 26503)
4 Email: dan@kellywarnerlaw.com
Tel: 480-331-9397
5 Fax: 1-866-961-4984
Attorneys for Plaintiff

Michael K. Jeanes, Clerk of Court
*** Electronically Filed ***
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5/15/2013 1:12:00 PM
Filing ID 5252292

6 **IN SUPERIOR COURT OF THE STATE OF ARIZONA**
7 **IN AND FOR THE COUNTY OF MARICOPA**

9 FRANK DIMAGGIO, an individual;
10
11 Plaintiff,

12 v.

13 LAUREN MCDEVITT, an individual; JOHN
14 DOES 1-10; JANE DOES 1-10; ABC
15 PARTNERSHIPS I-X; DEF LIMITED LIABILITY
16 COMPANIES I-X; and XYZ CORPORATIONS
17 I-X,
18 Defendant.

NO. CV2013-003633

**STIPULATION FOR DISMISSAL
WITHOUT PREJUDICE**

19 Plaintiff and Lauren McDevitt ("Defendant") hereby Stipulate to the Dismissal,
20 without Prejudice, of all claims pled or that could have been pled in the above-
21 captioned matter against Defendant, with the parties to bear their own attorneys' fees,
22 costs, and expenses incurred in the above-captioned matter.

23 Defendant agrees to the entry of the Stipulated Permanent Injunction, attached
24 to Exhibit "A" hereto.
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DATED this 1st day of May, 2013



LAUREN MCDEVITT
11755 NORBOURNE DRIVE #1203
CINCINNATI, OHIO 45240
Pro Per Defendant

KELLY / WARNER, PLLC

By: /s/ Aaron M. Kelly
Aaron M. Kelly, Esq.
404 S. Mill Ave, Suite C-201
Tempe, Arizona 85281
Attorneys for Plaintiff

ORIGINAL of the foregoing filed electronically on this same date with the Clerk of the Superior Court.

Copy of the foregoing emailed and mailed this same date to:

Lauren McDevitt
11755 Norbourne Drive.
#1203
Cincinnati, OH 45240
Pro Per Defendant

/s/ Jill J. Loy

FILED

5/22/13 9:47am

MICHAEL K. JEANES, Clerk

By R. Tomlinson
R. Tomlinson, Deputy

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2 Daniel R. Warner, Esq. (AZ Bar # 26503)
3 Email: dan@kellywarnerlaw.com
4 Tel: 480-331-9397
5 Fax: 1-866-961-4984
6 Attorneys for Plaintiffs

7 **IN SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MARICOPA**

9 FRANK DIMAGGIO, an individual;
10
11 Plaintiff,

NO. CV2013-003633

12 v.

**STIPULATED PERMANENT
INJUNCTION**

(Assigned to the Honorable
Richard J. Gama)

13 LAUREN MCDEVITT, an individual; JOHN
14 DOES 1-10; JANE DOES 1-10; ABC
15 PARTNERSHIPS I-X; DEF LIMITED LIABILITY
16 COMPANIES I-X; and XYZ CORPORATIONS
17 I-X,

18 Defendant.

19 Pursuant to Stipulation of the Parties, and good cause appearing therefore, IT IS
20 ORDERED, ADJUDGED AND DECREED that:

21 1. Plaintiffs are awarded a permanent injunction against Defendant
22 LAUREN MCDEVITT ("Defendant") enjoining Defendant from publishing false and
23 defamatory statements concerning Plaintiffs;

24 2. Defendant and/or Defendant's agents, affiliates, and/or other
25 person/entity assisting or enabling Defendant's publication of the below-referenced
26 Content (collectively "Defendant's Agents"), shall immediately remove from all
27 websites, search engines, forums, blogs, lists, auto suggestions, social media sites,
28 and/or other forums of mass communication (collectively "Forums"), all negative
statements, material, and/or information pertaining to Plaintiffs and/or any of their

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1 employees/agents (the "Content"), including, but not limited to, the following:

2 [http://www.ripoffreport.com/bars-lounges-clubs/frank-dimaggio-jr/frank-](http://www.ripoffreport.com/bars-lounges-clubs/frank-dimaggio-jr/frank-dimaggio-jr-arl-golden-dfc67.htm)
3 [dimaggio-jr-arl-golden-dfc67.htm;](http://www.ripoffreport.com/bars-lounges-clubs/frank-dimaggio-jr/frank-dimaggio-jr-arl-golden-dfc67.htm)

4
5 [http://www.ripoffreport.com/directory/frank-dimaggio-jr.aspx;](http://www.ripoffreport.com/directory/frank-dimaggio-jr.aspx)

6
7 [http://www.ripoffreport.com/directory/JR.aspx?p=3;](http://www.ripoffreport.com/directory/JR.aspx?p=3)

8
9 <http://www.ripoffreport.com/directory/Tempe-Arizona.aspx?p=2;>

10
11 <http://www.ripoffreport.com/directory/con-artist.aspx?p=7;>

12
13 [http://www.ripoffreport.com/directory/frank-dimaggio.aspx;](http://www.ripoffreport.com/directory/frank-dimaggio.aspx)

14
15 <http://www.ripoffreport.com/directory/Frank.aspx?p=3;>

16
17 <http://www.ripoffreport.com/directory/Ripoff.aspx?p=19;>

18
19 [http://www.ripoffreport.com/Category/Entertainment/Bars-Lounges-Clubs.aspx.](http://www.ripoffreport.com/Category/Entertainment/Bars-Lounges-Clubs.aspx)

20
21 3. To the extent Defendant and/or Defendant's Agents are unable to remove
22 any Content from any Forum, including ripoffreport.com, Defendant and/or Defendant's
23 shall immediately take all reasonable actions requested by Plaintiffs to assist Plaintiffs
24 in removing such content and/or having the Content rendered unsearchable;

25
26 4. Defendant and/or Defendant's Agents shall not post any Content,
27 defamatory or negative material or information about Plaintiffs and/or any of their
28 employees/agents on any Forum; and

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5. Defendant and/or Defendant's Agents shall not publish any Content, defamatory or negative material or information about Plaintiffs and/or any of their employees/agents to any third party.

DATED this 21 of May, 2018.


The Honorable **J. RICHARD GAMA**
Maricopa County Superior Court

APPROVED AS TO
FORM AND CONTENT


LAUREN MCDEVITT
Pro Per Defendant

KELLY / WARNER, PLLC
404 S. Mill Ave., Suite C-201
Tempe, AZ 85281
Telephone: (480) 331-9397

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-003633

05/22/2013

HONORABLE J. RICHARD GAMA

CLERK OF THE COURT
R. Tomlinson
Deputy

FRANK DIMAGGIO

AARON MATTHEW KELLY

v.

LARUEN MCDEVITT

LARUEN MCDEVITT
11755 NORBOURNE DR #1203
CINCINNATI OH 45240

MINUTE ENTRY

The Court has reviewed the parties' Stipulation for Dismissal Without Prejudice filed on May 15, 2013.

IT IS ORDERED approving the parties' Stipulation and dismissing this action without prejudice.

IT IS FURTHER ORDERED approving and settling the formal written Stipulated Permanent Injunction signed by the Court on May 21, 2013, and filed (entered) by the clerk on May 22, 2013.

Please note: The Court has signed a hard-copy version of the order provided with an electronically filed pleading. Therefore, copies of the order and self-addressed, stamped envelopes were not available for mailing to the parties. After the order has been scanned and docketed by the Clerk of Court, copies of this order may be available through ECR Online at

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2013-003633

05/22/2013

clerkofcourt.maricopa.gov or through AZTurboCourt.gov and from the Public Access Terminals at the Clerk of Court's offices located throughout Maricopa County.

ALERT: The Arizona Supreme Court Administrative Order 2011-140 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.

MICHAEL K. JEANES
Clerk of the Superior Court
By Vanessa Martinez, Deputy
Date 04/15/2013 Time 14:22:29

Description	Amount
CASE# CV2013-003633	
CIVIL NEW COMPLAINT	309.00
TOTAL AMOUNT	309.00

Receipt# 22909488

1 **KELLY/WARNER, PLLC**
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9 FRANK DIMAGGIO, an individual;
10
11 Plaintiff,

12 v.

13 JOHN DOES 1-10; JANE DOES 1-10;
14 ABC PARTNERSHIPS I-X; DEF LIMITED
15 LIABILITY COMPANIES I-X; and XYZ
16 CORPORATIONS I-X,
17 Defendants.

NO.: CV2013-003633

**COMPLAINT AND APPLICATION
FOR INJUNCTIVE RELIEF**

(Defamation, False Light, Invasion of
Privacy, and Tortious Interference with
Current and Prospective Business
Relationships)

18
19 For their claims for relief against Defendants, upon information and belief,
20 Plaintiff alleges as follows:

21 **PARTIES, JURISDICTION AND VENUE**

22 1. Frank DiMaggio (hereinafter "Plaintiff" or "DiMaggio") is an individual
23 residing in Maricopa County, Arizona.

24 2. Plaintiff was at one time the owner of The Elite Guide LLC, located in
25 Chandler, Arizona.

26 3. Defendants purposefully availed themselves of the benefits of Arizona
27 law by publishing defamatory content on an Arizona-based website, namely,
28

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1 www.ripoffreport.com, which is owned by Xcentric Ventures, LLC, an Arizona limited
2 liability company located in Maricopa County, Arizona.

3 4. Defendants did things and caused things to happen in Maricopa County,
4 Arizona, upon which the allegations in this Complaint are based.

5 5. JOHN DOES 1-10 and JANE DOES 1-10 are fictitious persons who may
6 be the individuals engaging in the actionable conduct stated herein and/or have an
7 interest in the website. ABC PARTNERSHIPS 1-10; XYZ CORPORATIONS 1-10; and
8 DEF LIMITED LIABILITY COMPANIES 1-10 are fictitious entities who may have an
9 interest herein. At such time as the true name of said fictitious persons and/or entities
10 become known to Plaintiff, Plaintiff may amend his pleadings to reflect same.
11

12 6. The amount in controversy herein exceeds the minimum amount required
13 for jurisdiction in this Court.
14

15 7. Upon information and belief, the transactions and occurrences involved in
16 this matter took place in Maricopa County; therefore, jurisdiction and venue are proper
17 in this Court.
18

19 FACTUAL BACKGROUND

20 8. All of the allegations contained within the paragraphs above and below
21 are hereby incorporated by reference as if fully set out herein.

22 9. Defendants, on or about February 24, 2011, and updated on January 29,
23 2013, under the username "Rip Johnson" posted false statements collectively on the
24 internet at:
25

26 <http://www.ripoffreport.com/bars-lounges-clubs/frank-dimaggio-jr/frank-dimaggio-jr-ari-golden-dfc67.htm>;

27 <http://www.ripoffreport.com/directory/frank-dimaggio-jr.aspx>;

28 <http://www.ripoffreport.com/directory/JR.aspx?p=3>;

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1 [http://www.ripoffreport.com/directory/Tempe-Arizona.aspx?p=2;](http://www.ripoffreport.com/directory/Tempe-Arizona.aspx?p=2)

2 [http://www.ripoffreport.com/directory/con-artist.aspx?p=7;](http://www.ripoffreport.com/directory/con-artist.aspx?p=7)

3 [http://www.ripoffreport.com/directory/frank-dimaggio.aspx;](http://www.ripoffreport.com/directory/frank-dimaggio.aspx)

4 [http://www.ripoffreport.com/directory/Frank.aspx?p=3;](http://www.ripoffreport.com/directory/Frank.aspx?p=3)

5 [http://www.ripoffreport.com/directory/Ripoff.aspx?p=19;](http://www.ripoffreport.com/directory/Ripoff.aspx?p=19)

6 [http://www.ripoffreport.com/Category/Entertainment/Bars-Lounges-Clubs.aspx.](http://www.ripoffreport.com/Category/Entertainment/Bars-Lounges-Clubs.aspx)

7
8 these postings accuse Plaintiff DiMaggio as being a "con artist who lies to people to
9 make money and sleep with women and men," "Frank Dimaggio uses his family name
10 to steal people money," [sic] which are all untrue and damaging statements at Plaintiff
11 (collectively the 'False Statements"). The False Statements have been attached
12 collectively to **Exhibit "A"** hereto.

13
14 10. The statements made by the Defendants are false and defamatory, and
15 cause harm to Plaintiff.

16 11. Defendants' statements have already been found to be false as decided
17 by an independent arbitrator through RipoffReports Corporate Advocacy program.

18 12. Plaintiff has suffered damages as a result of these false statements and
19 will continue to suffer damages if the defamation persists.

20
21 **COUNT I - DEFAMATION AND DEFAMATION PER SE**

22 13. All of the allegations contained within the paragraphs above and below
23 are hereby incorporated by reference as if fully set out herein.

24 14. Defendants, in making and publishing the False Statements, have
25 caused to be published and portrayed out of context and in false light, false,
26 disparaging, and defamatory statements about Plaintiff.

27
28 15. The False Statements that Defendants made are about and concerning

Kelly / Warner, PLLC.
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Tempe, AZ 85281
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1 Plaintiff.

2 16. Defendants communicated the False Statements to third parties via the
3 Internet and/or intentionally made such statements on the Internet, which were
4 accessible to third parties without password protection.

5 17. Defendants' False Statements are and would be highly offensive to a
6 reasonable person and have been published to third parties with the apparent intent of
7 causing harm to the reputation and economic interests of Plaintiff.
8

9 18. In making and publishing the False Statements, Defendants had
10 knowledge of or acted in reckless disregard as to the falsity of the False Statements
11 and the false light in which Plaintiffs would be placed.
12

13 19. As a direct and proximate result of the Defendants posting the False
14 Statements, Plaintiff has sustained, and will continue to sustain, immediate and
15 irreparable harm and injury including, but not limited to, damage to reputation, losses in
16 revenues, loss of profits, loss of goodwill, loss of business relations with existing and
17 future business prospects, and loss of competitive business advantage, opportunity,
18 and/or expectancy.
19

20 20. The False Statements made by Defendants impeach the honesty,
21 integrity or reputation of Plaintiff.
22

23 21. The False Statements made by Defendants constitute defamation *per se*
24 and general damages are presumed as a matter of law.

25 22. Plaintiff has suffered general and special damages in an amount to be
26 proved at trial.

27 23. In making and publishing the False Statements, Defendants acted
28 maliciously, willfully, wantonly, and unlawfully.

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1 24. For such willful and malicious acts, Plaintiff hereby seeks punitive
2 damages in addition to actual damages.

3 25. Defendants' acts, omissions, conduct and transactions alleged herein
4 were aggravated, outrageous, and guided by evil motives wherein Defendants
5 intended to harm Plaintiff and/or consciously pursued a course of conduct knowing that
6 it created a substantial risk of significant harm to Plaintiff.
7

8 26. To dissuade Defendants from pursuing a similar course of conduct in the
9 future and to discourage other persons from similar conduct in the future, an award of
10 punitive damages should be awarded against Defendants in the sum of sufficient
11 magnitude to punish Defendants and to deter similar conduct by others.
12

13 **COUNT II – APPLICATION FOR PRELIMINARY AND PERMANENT**
14 **INJUNCTION**

15 27. All of the allegations contained within the paragraphs above and below
16 are hereby incorporated by reference as if fully set out herein.
17

18 28. As a direct and proximate result of the Defendants posting the False
19 Statements, Plaintiff has sustained, and will continue to sustain, immediate and
20 irreparable harm and injury including, but not limited to, damage to reputation, losses in
21 revenues, loss of profits, loss of goodwill, loss of business relations with existing and
22 future business prospects, and loss of competitive business advantage, opportunity,
23 and/or expectancy.
24

25 29. The False Statements made by Defendants impeach the honesty,
26 integrity or reputation of Plaintiffs.

27 30. The False Statements made by Defendants are defamatory on their face.

28 31. There is a substantial risk that unless Defendants' wrongful acts

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404 S. Mill Ave., Suite C-201
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1 described herein are temporarily, preliminarily, and/or permanently enjoined,
2 Defendants will continue to irreparably injure Plaintiff.

3 32. Plaintiff has no adequate remedy at law; therefore, Plaintiff is entitled to
4 injunctive relief.

5 **COUNT III – FALSE LIGHT INVASION OF PRIVACY**

6 **(As to Plaintiff DiMaggio)**

7
8 33. All of the allegations contained within the paragraphs above and below
9 are hereby incorporated by reference as if fully set out herein.

10 34. Defendants, in making and publishing the False Statements, have
11 caused Plaintiff DiMaggio to be published and portrayed out of context and in false
12 light.

13
14 35. The False Statements that Defendants posted on the Internet are about
15 and concerning Plaintiff.

16 36. Defendants communicated the False Statements to third parties via the
17 Internet and/or intentionally made such statements on the Internet, which were
18 accessible to third parties without password protection.

19
20 37. Defendants' False Statements are and would be highly offensive to a
21 reasonable person and have been published to third parties with the apparent intent of
22 causing harm to the reputation and economic interests of Plaintiff.

23
24 38. In making and publishing the False Statements, Defendants had
25 knowledge of or acted in reckless disregard as to the falsity of the False Statements
26 and the false light in which Plaintiff would be placed.

27 39. Defendants' False Statements pose a direct and immediate threat to
28 Plaintiff's business contracts and business relationships.

1 40. In making and publishing the False Statements, Defendants acted
2 maliciously, willfully, wantonly, and unlawfully.

3 41. For such willful and malicious acts, Plaintiff hereby seeks punitive
4 damages in addition to actual damages.

5 42. Defendants' acts, omissions, conduct and transactions alleged herein
6 were aggravated, outrageous, and guided by evil motives wherein Defendants
7 intended to harm Plaintiff and/or consciously pursued a course of conduct knowing that
8 it created a substantial risk of significant harm to Plaintiff.

9
10 43. To dissuade Defendants from pursuing a similar course of conduct in the
11 future and to discourage other persons from similar conduct in the future, an award of
12 punitive damages should be awarded against Defendants in the sum of sufficient
13 magnitude to punish Defendants and to deter similar conduct by others.

14
15 **COUNT IV – TORTIOUS INTERFERENCE WITH CURRENT AND**
16 **PROSPECTIVE BUSINESS RELATIONSHIPS**

17 44. All of the allegations contained within the paragraphs above and below
18 are hereby incorporated by reference as if fully set out herein.

19 45. Plaintiff has existing business relationships with clients and other persons
20 relating to its business.

21
22 46. Plaintiff has a reasonable expectation of future business relationships
23 with existing colleagues, prospective clients and employees, and others with whom
24 Plaintiff does business or with whom Plaintiff may reasonably expect to do business.
25 This expectancy is based, in part, on the considerable time, energy, and resources it
26 takes to develop the goodwill and reputation associated with Plaintiff's name.

27
28 47. At all material times hereto, Defendants were aware of Plaintiff's existing

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404 S. Mill Ave., Suite C-201
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1 and/or prospective business relationships.

2 48. As described herein, Defendants intentionally and/or purposefully
3 interfered with Plaintiff's existing and prospective relationships by unlawfully making
4 the False Statements.

5 49. Defendants communicated the False Statements to third parties via the
6 Internet and/or intentionally made such statements on the Internet, which were
7 accessible to third parties without password protection.

8 50. As a direct and proximate result of the Defendants posting the False
9 Statements, Plaintiff has sustained, and will continue to sustain, immediate and
10 irreparable harm and injury including, but not limited to, damage to reputation, losses in
11 revenues, loss of profits, loss of goodwill, loss of business relations with existing and
12 future business prospects, and loss of competitive business advantage, opportunity,
13 and/or expectancy.

14 51. Defendants' conduct was intentional, malicious and done for the purpose
15 of causing injury to Plaintiff.

16 52. For such willful and malicious acts, Plaintiff hereby seeks punitive
17 damages in addition to actual damages.

18 53. Defendants' acts, omissions, conduct and transactions alleged herein
19 were aggravated, outrageous, and guided by evil motives wherein Defendants
20 intended to harm Plaintiff and/or consciously pursued a course of conduct knowing that
21 it created a substantial risk of significant harm to Plaintiff.


22 54. To dissuade Defendants from pursuing a similar course of conduct in the
23 future and to discourage other persons from similar conduct in the future, an award of
24 punitive damages should be awarded against Defendants in the sum of sufficient
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1 magnitude to punish Defendants and to deter similar conduct by others.

2 **WHEREFORE**, Plaintiff demands judgment against Defendants as follows:

- 3 A. For a preliminary and permanent injunction compelling Defendants to
4 remove from the Internet all material pertaining to Plaintiff;
- 5 B. For a preliminary and permanent injunction enjoining Defendants
6 from publishing any false statements or defamatory material to any
7 third party;
- 8 C. For general damages in an amount to be proven at trial;
- 9 D. For special damages in an amount to be proven at trial;
- 10 E. For punitive damages in an amount to be proven at trial;
- 11 F. For Plaintiffs' costs herein incurred;
- 12 G. For Plaintiffs' reasonable attorneys' fees incurred herein, which are
13 not less than \$10,000.00 in the event of default;
- 14 H. For interest on the foregoing attorneys' fees and court costs at the
15 rate of 10% per annum from the date of judgment, until paid;
- 16 I. For prejudgment and post-judgment interest on all damages at the
17 highest rate allowed by law from the date of injury until paid in full;
18 and
- 19 J. For such other and further relief as the Court deems just and proper.
20
21
22
23

24 RESPECTFULLY submitted this 15th day of April, 2013.

25 By: KELLY / WARNER, PLLC

26 Aaron M. Kelly, Esq.
27 404 S. Mill Ave. Suite C-201
28 Tempe, Arizona 85281
Attorneys for Plaintiff

Kelly / Warner, PLLC.
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VERIFICATION OF COMPLAINT

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I, FRANK DIMAGGIO, declare as follows:

- 1. I am the Plaintiff named in the matter filed in the Maricopa County Superior Court entitled FRANK DIMAGGIO, v. JOHN DOES I-X, et al. and I am authorized to make this declaration/verification;
- 2. I am also a Plaintiff in this lawsuit;
- 3. I have read and know the contents of the Complaint, and the matters and things therein stated are true and correct to the best of my knowledge and belief;
- 4. I make this declaration/verification under the penalty of perjury; and
- 5. All of the foregoing matters and factual matters set forth in the Complaint are within my personal knowledge, and all documents attached to the Complaint are true and correct copies of what the documents purport to be.

Dated: 4/15/13


FRANK DIMAGGIO