

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

TRADEMARK PROPERTIES, INC., a	)	Civil Action No. 2:06-cv-2195-CWH
South Carolina corporation; RICHARD C.	)	
DAVIS, an individual,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	<b><u>DEFENDANTS/COUNTERCLAIM</u></b>
	)	<b><u>PLAINTIFF'S MOTION TO COMPEL</u></b>
	)	<b><u>DISCOVERY RESPONSES OF</u></b>
A&E TELEVISION NETWORKS, a joint	)	<b><u>PLAINTIFFS/COUNTERCLAIM</u></b>
venture of the Hearst Corporation, ABC,	)	<b><u>DEFENDANTS</u></b>
Inc. and NBC Universal; DEPARTURE	)	
FILMS, an entity of unknown origin; and	)	
DOES 1-20, Inclusive,	)	
	)	
Defendants.	)	
	)	
<hr/>	)	
A&E TELEVISION NETWORKS,	)	
	)	
Counterclaim Plaintiff,	)	
	)	
vs.	)	
	)	
TRADEMARK PROPERTIES, INC. and	)	
RICHARD C. DAVIS,	)	
	)	
Counterclaim Defendants.	)	
<hr/>	)	

Pursuant to Rules 26 and 37 of the Federal Rules of Civil Procedure, defendant/counterclaim plaintiff A&E Television Networks (“AETN”) and defendant Max Weissman Productions, Inc. d/b/a Departure Films (“Departure Films”) (collectively, “Defendants”), through their undersigned counsel, do hereby move this Court for an Order compelling plaintiffs/counterclaim defendants Trademark Properties, Inc. and Richard C.

Davis (together, "Plaintiffs") to fully respond to Defendants' discovery requests. In support of this motion and in accordance with Local Rule 7.04, Defendants show the Court as follows:

1. Defendants served Defendants/Counterclaim Plaintiffs' First Set of Interrogatories and Defendants/Counterclaim Plaintiffs' First Requests for Production of Documents and Things on Plaintiffs by mail on September 18, 2006. Copies of the discovery requests and service letter are attached hereto as Exhibits A, B, and C, respectively.

2. Plaintiffs' responses were thus due on or before Monday, October 23, 2006. Defendants, however, received no responses or request for an extension by this date. Defendants wrote to Plaintiffs on October 27, 2006 inquiring as to when they might receive responses. A copy of this letter is attached hereto as Exhibit D.

3. On November 8, 2006, Plaintiffs served Plaintiffs' Answers to the Defendants/Counterclaim Plaintiff's First Set of Interrogatories and Plaintiff's Responses to the Defendants/Counterclaim Plaintiff's First Request for Production, copies of which are attached hereto as Exhibits E and F.

4. On November 21, 2006, Defendants sent Plaintiffs a letter (the "November 21 Letter") outlining ten specific deficiencies in the above-referenced responses and requesting complete responses on or before November 30, 2006. A copy of the November 21 Letter is attached hereto as Exhibit G. To date, Defendants have not received any further response from Plaintiffs.

5. As to two of the ten deficiencies identified in the November 21 Letter, no relief is requested:

- a. With respect to Interrogatory Response No. 1, Defendants had requested assurances that all documents of Ginger Alexander, an employee of Plaintiffs whom they have identified as having relevant knowledge, would be included in

Plaintiffs' production. See November 21 Letter at 1. Defendants now are serving a separate subpoena addressed to Ms. Alexander, which moots this issue.

- b. With respect to Document Response No. 20, Defendants had requested that Plaintiffs produce a certain Private Placement Memorandum upon entry of a confidentiality order. See November 21 Letter at 3. Upon review of Plaintiffs' document production, it is apparent that the Private Placement Memorandum already has been produced, which moots this issue.

6. Based on the above facts and attached exhibits, Defendants respectfully request an Order compelling Plaintiffs to fully remedy the eight remaining deficiencies in their discovery responses as outlined in the November 21, 2006 Letter, i.e., with respect to Interrogatory Response No. 5, Verification, and Document Responses Nos. 2, 5, 7, 8, 10 and 26.

7. In addition, Defendants request that Plaintiffs be required to pay the amount of reasonable expenses incurred in obtaining the Order, including reasonable attorneys' fees and travel time to the hearing of this motion.

As evidenced by the attached exhibits and in accordance with Local Rule 7.02, the undersigned counsel have unsuccessfully attempted to resolve this matter prior to filing this motion.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/ Richard A. Farrier, Jr.

Richard A. Farrier, Jr. (Fed. # 772)

Robert H. Jordan (Fed. # 6986)

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151 Meeting Street

Post Office Box 1806 (29402)

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(843) 853-5200

Attorneys for Defendant/Counterclaim Plaintiff AETN and  
Defendant Departure Films

Charleston, South Carolina  
December 8, 2006

Of Counsel:

Bruce P. Keller

Jeremy Feigelson

S. Zev Parnass

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New York, New York 10022

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Admitted *pro hac vice*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

TRADEMARK PROPERTIES, INC., a ) Civil Action No. 2:06-cv-2195-CWH  
South Carolina corporation; RICHARD C. )  
DAVIS, an individual, )

**Plaintiffs,**

**VS.**

**A&E TELEVISION NETWORKS**, a joint venture of the Hearst Corporation, ABC, Inc. and NBC Universal; **DEPARTURE FILMS**, an entity of unknown origin; and **DOES 1-20, Inclusive**.

**Defendants.**

A&E TELEVISION NETWORKS,

**Counterclaim Plaintiff,**

**vs.**

TRADEMARK PROPERTIES, INC. and  
RICHARD C. DAVIS,

### Counterclaim Defendants.

Civil Action No. 2:06-cv-2195-CWH

**DEFENDANTS/COUNTERCLAIM**  
**PLAINTIFFS' FIRST SET OF**  
**INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiffs hereby are required to answer, under oath, the Interrogatories set forth below within 30 days of service thereof, exclusive of the date of service, and to serve a copy of said responses upon counsel for Defendants/Counterclaim Plaintiff (“Defendants”).

# Exhibit A

The below Interrogatories shall be deemed to continue from the time of service until the time of the trial of this case so that, if the Plaintiffs' answers should change, such amended responses shall be promptly transmitted by service of a copy thereof, upon the undersigned, all in accordance with Rule 26 of the Federal Rules of Civil Procedure.

### **DEFINITIONS**

1. The Definitions set forth in Defendants' First Requests for Production of Documents and Things shall apply in responding to these Interrogatories.

2. The term "identify" when used herein in connection with natural persons means to state their full name, title and job descriptions, if applicable, and their present business and residence addresses.

3. The term "identify" when used in connection with business entities means to state the business name and present address of each said entity.

### **INSTRUCTIONS**

1. The Instructions set forth in Defendants' First Requests for Production of Documents and Things shall apply in responding to these Interrogatories.

2. Plaintiffs must answer each of the Interrogatories separately and fully.

3. When an Interrogatory asks for a description or identification of a document, the answer should be given in sufficient detail to enable a party or person to whom a subpoena or a request to produce documents is directed to identify fully the documents sought to be produced and to enable counsel for Defendants to determine that such documents, when produced, are in fact the documents so described.

4. If any of these Interrogatories cannot be answered in full, Plaintiffs are asked to answer to the fullest extent possible and specify the reason for Plaintiffs' inability to answer the remainder and state whatever information or knowledge Plaintiffs have concerning the unanswered portion.

5. If Plaintiffs withhold any information called for by an Interrogatory by reason of a claim of privilege or work product, Plaintiffs shall furnish a list setting forth as to each objection the nature of the privilege being asserted. In addition, the following information shall be provided in the objection:

a. For documents, (a) the nature of the document, e.g., letter, memorandum, telegram, etc.; (b) the name, address, occupation, title and business affiliation of each person who prepared, received, viewed and has or had possession, custody or control of the document; (c) the date of the document; (d) the title of the document; (e) the number of pages in the document; (f) a description of the subject matter of the document; (g) a statement of the basis upon which the privilege or work product claim is made; and (h) the paragraphs of this request that call for the production of the document.

b. For oral communications, (a) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present; (b) the date and place of the communication; and (c) the subject matter of the communication.

## **INTERROGATORIES**

1. Identify all persons known to Plaintiffs or their counsel who have knowledge concerning the factual allegations set forth in the Complaint and any responsive pleading to the Complaint, including the general nature of each person's knowledge.
2. List all documents, drawings, photographs, plans, "digital video pilots," videos, DVDs and demo tapes that relate to the claims, counterclaims or defenses in this case.
3. Itemize all damages Plaintiffs seek to recover in this lawsuit.
4. Itemize all expenses or costs Plaintiffs allege to have incurred in connection with the Series for which compensation is claimed.
5. Identify all agents, attorneys, agencies or firms that represented or assisted Plaintiffs in connection with the matters alleged in the Complaint or counterclaims.
6. Regarding the allegations set forth in paragraph 46 of Plaintiffs' Complaint, describe Trademark's "unique" "means and methods of locating, acquiring, refurbishing and selling real property," including but not limited to any means, methods or associated information that Plaintiffs claim to be confidential or trade secrets.
7. State the precise relationship between Davis and Trademark.
8. Identify any affiliates of Trademark and the relationship between Trademark and each affiliate.

9. Identify all persons who were present at any meetings, or who were on any telephone calls, between Plaintiffs and Defendants at or during which any alleged agreements or contracts were reached or discussed relating to the Series.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

Robert H. Jordan  
Federal Bar No. 6986  
Liberty Building, Suite 800  
151 Meeting Street  
Post Office Box 1806 (29402)  
Charleston, SC 29401  
(843) 853-5200

Attorneys for Defendants/Counterclaimants AETN and Departure Films

Charleston, South Carolina  
September 18, 2006

Of Counsel:

Bruce P. Keller  
Jeremy Feigelson  
S. Zev Parnass  
DEBEVOISE & PLIMPTON LLP  
919 Third Avenue  
New York, New York 10022  
(212) 909-6000

*Admitted Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I, the undersigned Paralegal of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendants A&E Television Networks ("AETN") and Max Weissman Productions, Inc. d/b/a Departure Films ("Departure Films"), do hereby certify that I have served all counsel in this action with filed copies of the pleading(s) hereinbelow specified by mailing same first-class postage pre-paid to the following address(es):

Pleadings:

DEFENDANTS/COUNTERCLAIM PLAINTIFFS' FIRST SET  
OF INTERROGATORIES

Counsel Served:

Frank Cisa, Esquire  
Cisa & Dodds, LLP  
622 Johnnie Dodds Blvd.  
Mt. Pleasant, SC 29464

  
\_\_\_\_\_  
Paralegal

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

TRADEMARK PROPERTIES, INC., a ) Civil Action No. 2:06-cv-2195-CWH  
South Carolina corporation; RICHARD C. )  
DAVIS, an individual, )

Plaintiffs, )

vs. )

A&E TELEVISION NETWORKS, a joint )  
venture of the Hearst Corporation, ABC, )  
Inc. and NBC Universal; DEPARTURE )  
FILMS, an entity of unknown origin; and )  
DOES 1-20, Inclusive, )

Defendants. )

**DEFENDANTS/COUNTERCLAIM**  
**PLAINTIFFS' FIRST REQUESTS**  
**FOR PRODUCTION OF**  
**DOCUMENTS AND THINGS**

---

A&E TELEVISION NETWORKS, )

Counterclaim Plaintiff, )

vs. )

TRADEMARK PROPERTIES, INC. and )  
RICHARD C. DAVIS, )

Counterclaim Defendants. )

---

A&E Television Networks ("AETN") and Max Weissman Productions, Inc. d/b/a  
Departure Films ("Departure Films") (collectively, "Defendants") hereby request that Richard  
C. Davis and Trademark Properties, Inc. ("Trademark Properties" or "Trademark")  
(collectively, "Plaintiffs") produce for inspection and copying, pursuant to Rules 26 and 34 of

the Federal Rules of Civil Procedure and the definitions and instructions prescribed herein, the documents and other things requested herein by delivering such documents and other things, or copies thereof, to the offices of the undersigned counsel within 30 days of service hereof, exclusive of the date of service.

The below requests for production shall be deemed to continue from the time of service until the time of the trial of this case so that, if the Plaintiffs' responses should change, such amended responses shall be promptly transmitted by service of a copy thereof, upon the undersigned, all in accordance with Rule 26 of the Federal Rules of Civil Procedure.

#### **DEFINITIONS**

1. The term "document" shall mean written, graphic or other matter whether produced, reproduced or stored on paper, cards, tapes, discs, belts, charts, films, computer storage devices or other media and shall include, without limitation, matters in the form of books, reports, studies, statements, accounts, speeches, notebooks, applications, agreements, appointment calendars, working papers, graphs, manuals, brochures, contracts, memoranda, notes, records, correspondence, diaries, bookkeeping entries, invoices, checks, blueprints, plans, tax returns, catalogs, pamphlets, periodicals, licenses, lists, letters, receipts, telephone logs, minutes, photographs, diagrams, drawings, and any published materials and shall include, without limitation, originals, copies (with or without notes or changes thereon) and drafts.

2. The term "communications" shall mean correspondence, contacts, discussions or any other kind of written or oral exchange between two or more persons or entities

including, but not limited to, all telephone conversations, face-to-face conversations, meetings, visits, conferences, internal and external discussions and documents.

3. The term “concerning” shall mean relating to, referring to, describing, evidencing or constituting.

4. The term “Plaintiffs” shall mean Richard C. Davis and/or Trademark Properties, Inc., their principals, and any and all agents, employees, servants, representatives or other persons or entities who have obtained information or acted for or on behalf of Plaintiffs.

5. The term “Defendants” shall mean A&E Television Networks and/or Max Weissman Productions, Inc. d/b/a Departure Films, their principals, and any and all agents, employees, servants, representatives or other persons or entities who have obtained information or acted for or on behalf of Defendants.

### **INSTRUCTIONS**

1. Responsive documents shall be produced as they have been kept in the ordinary course of business or shall be organized and labeled to correspond with the enumerated requests in this demand. It is requested that documents produced in compliance with these requests be accompanied with an indication as to the particular paragraphs under which the documents are being produced.

2. If Plaintiffs are unable to produce any documents called for by any portion of these requests, or if Plaintiffs have no documents responsive to any portion of these requests, Plaintiffs should, with respect to each such portion, state the reasons why they are unable to

produce such documents or identify the portions of the requests for which they have no responsive documents.

3. Each paragraph of these requests should be construed independently and not with reference to any other paragraph for the purpose of limitation, unless otherwise indicated.

4. Computer files should be provided in electronic form on compact discs in the first instance rather than printouts on paper.

5. In producing documents pursuant to these requests, Plaintiffs are required to furnish all documents in Plaintiffs' possession, custody or control that are known or available to them, regardless of whether those documents are possessed by Plaintiffs or by any of their agents, attorneys, investigators, representatives, financial advisors, consultants or employees. Plaintiffs must make a diligent search of their records (including, but not limited to, paper records, computerized records, electronic mail records and voice-mail records) and of other papers and materials in their possession or available to them or their attorneys, financial advisors, consultants, investigators, and other agents or representatives. Plaintiffs are required to search all of their servers, desktop computers, laptop computers, mobile devices and any other machines that may contain relevant documents.

6. Documents attached to each other, including, but not limited to, by staple, clip, tape or "Post-It" note, should not be separated.

7. If any documents or parts of documents called for by these requests are withheld under a claim of privilege or work product, a list shall be furnished setting forth as to each document the following information: (a) the nature of the document, e.g., letter, memorandum, telegram, etc.; (b) the name, address, occupation, title, and business affiliation

of each person who prepared, received, viewed, and has or has had possession, custody, or control of the document; (c) the date of the document; (d) the title of the document; (e) the number of pages in the document; (f) a description of the subject matter of the document; (g) a statement of the basis upon which the privilege or work product claim is made; and (h) the paragraph(s) of these requests that call for production of the document.

8. If any documents or parts of documents called for by these requests have been destroyed, discarded, or otherwise disposed of, a list shall be furnished setting forth as to each document the following information: (a) the nature of the document, e.g., letter, memorandum, telegram, etc.; (b) the name, address, occupation, title, and business affiliation of each person who prepared, received, viewed, and has or has had possession, custody, or control of the document; (c) the date of the document; (d) a description of the subject matter of the document; (e) the date of destruction or other disposition; (f) a statement of the reasons for destruction or other disposition; (g) the name, address, occupation, title, and business affiliation of each person who authorized destruction or other disposition; (h) the name, address, occupation, title, and business affiliation of each person who destroyed or disposed of the document; and (i) the paragraph(s) of these requests that call for the production of the document.

9. Unless otherwise indicated, these requests call for all documents generated or received by Plaintiffs during the period from July 1, 2003 through and including the date of production.

### **DOCUMENTS REQUESTED**

1. Documents sufficient to describe the corporate structure and organization of Trademark Properties.
2. All “digital video pilots,” videos, DVDs or demo tapes provided or shown to Defendants by Plaintiffs.
3. All documents, materials, “digital video pilots,” videos, DVDs or demo tapes submitted to or registered by Plaintiffs with the Writers Guild of America or any of its affiliates, together with any forms or correspondence exchanged between Plaintiffs and the Writers Guild.
4. Copies of all reports, complaints, or claims filed by Plaintiffs or on their behalf in connection with this lawsuit, including, but not limited to, reports, complaints, or claims filed with any insurance company, agency or adjuster.
5. Documents sufficient to show Plaintiffs’ financial condition at year-end for every year from 2003 to the present, including revenues and profits or losses generated.
6. All documents concerning any communications between Plaintiffs and Defendants concerning the claims, counterclaims or defenses asserted in this lawsuit.
7. All documents concerning any communications between Plaintiffs and any other person or entity concerning the claims, counterclaims or defenses asserted in this lawsuit, including but not limited to the St. Paul Saints, Tom Whaley, Creative Artists Agency (CAA), Bryan Geers and Pierre Brogan.

8. All documents concerning communications between Plaintiffs and television networks other than A&E, including but not limited to The Learning Channel and any of its affiliates.

9. All documents concerning Plaintiffs' claims in Paragraph 6 of the Complaint that Plaintiff Davis "is the creator and owner of the unique concept, format and treatment of a reality based television program which features Davis and certain staff members of Trademark going through the process of locating, acquiring, refurbishing and selling houses."

10. All documents concerning any television shows that have a concept or format similar to that of the Series.

11. All documents concerning Plaintiffs' claims in Paragraph 6 of the Complaint that "Flip This House" (the "Series") "is jointly owned and controlled" by Plaintiffs.

12. All documents concerning Plaintiffs' claims in Paragraph 7 of the Complaint that, in or around May 2004, AETN "requested a meeting with Davis to discuss an agreement regarding the potential production and exploitation of a television series."

13. All documents concerning Plaintiffs' claims in Paragraph 8 of the Complaint that, in or around June 2004, "representatives of [AETN] met with Davis and expressed their interest in entering into an agreement with Plaintiffs to produce and televise a television series based on Plaintiffs' Project."

14. All documents concerning Plaintiffs' claims in Paragraph 8 of the Complaint that, in or around June 2004, "Davis made it clear to the representatives of [AETN] that he was only willing to consider an agreement to have Plaintiffs' Project produced and televised by [AETN] provided that Plaintiffs and [AETN] would be equal 50/50 owners of the project, and

would share equally in all net revenues and proceeds generated from the exploitation of the project,” and that “[AETN] explicitly agreed to those terms.”

15. All documents concerning Plaintiffs’ claims in Paragraph 9 of the Complaint that, in or around June 2004, AETN “repeatedly promised to prepare and submit a written agreement to Plaintiffs embodying the terms of the parties’ agreement” and that Plaintiffs “repeated[ly] demand[ed]” that AETN provide such written agreement.

16. All documents concerning Plaintiffs’ claims in Paragraph 11 of the Complaint that, in or about May 2004, “Charles Nordlander of [AETN] contacted Davis and advised him that [AETN] was interested in potentially producing and televising a television series based on Plaintiffs’ Project.”

17. All documents concerning any alleged agreement or contract that was reached in or about June 2004 between Plaintiffs and Defendants, including the terms of any such alleged agreement, any alleged acceptance of such agreement by Defendants and any discussions about any alleged agreement.

18. All documents concerning Plaintiffs’ claims in Paragraph 11 of the Complaint that, in or about June 2004, Davis “made it clear” to Nordlander and Thomas Moody of AETN and Max Weissman of Departure Films “that he was only interested in considering a potential agreement regarding the production of Plaintiffs’ Project provided that Plaintiffs and [AETN] be equal partners in the project, including that: (1) Plaintiffs retain an ownership interest in the project; (2) [AETN] pay for all production costs of any episodes produced based on the project; (3) Trademark Properties be responsible for locating, acquiring, refurbishing and selling all real estate featured in any episodes produced based on the Project; (4)

Trademark Properties and its principals be prominently featured in the show, and no episode be produced which does not include them in a lead role; (5) Davis to have creative control over the production and receive a 'Created By' credit on any episodes produced; (6) Trademark be reimbursed for any direct expenditures regarding the development and production of any episodes produced, and (7) [AETN] and Trademark share equally on a 50/50 basis in all revenues and proceeds generated by the sale, distribution and/or exploitation of the show, including without limitation sponsorship revenues, product placement revenues, ad sales, syndication fees, and video sales."

19. All documents concerning AETN's alleged agreement to any of the terms contained in the preceding paragraph.

20. All documents concerning any confidential proprietary business information, procedures or trade secrets allegedly provided to Defendants.

21. All documents concerning any policies, practices or procedures implemented by Plaintiffs in order to maintain the confidentiality or trade secret status of any of its alleged proprietary business information, procedures or trade secrets.

22. All documents concerning any expenses or costs incurred by Plaintiffs in connection with the Series.

23. All documents concerning Plaintiffs' claims in Paragraph 13 of the Complaint that they "have suffered significant damages to their business reputation and operations" in connection with the claims and defenses asserted in this lawsuit.

24. All documents concerning Plaintiffs' claims in Paragraph 42 of the Complaint that "Plaintiffs have repeatedly demanded that [AETN] account for and pay over to Plaintiffs a

50% share of all net revenues and proceeds generated from the distribution, licensing and/or other exploitation of the Series.”

25. All business plans, financial models, risk analyses, financial pro formas, financial projections, business growth projections, marketing studies, marketing plans and/or market potential projections relating to the Series.

26. All documents reflecting any executed or final agreements between Plaintiffs and The Learning Channel or any of its affiliates.

27. All drafts of any agreements or contracts between Plaintiffs and Defendants.

28. All documents and things identified in Plaintiffs’ answers to Defendants’ First Set of Interrogatories.

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NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

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(843) 853-5200

Attorneys for Defendants/Counterclaimants AETN and Departure Films

Charleston, South Carolina  
September 18, 2006

Of Counsel:

Bruce P. Keller  
Jeremy Feigelson  
S. Zev Parnass  
DEBEVOISE & PLIMPTON LLP  
919 Third Avenue  
New York, New York 10022  
(212) 909-6000

*Admitted Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I, the undersigned Paralegal of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendants A&E Television Networks ("AETN") and Max Weissman Productions, Inc. d/b/a Departure Films ("Departure Films"), do hereby certify that I have served all counsel in this action with filed copies of the pleading(s) hereinbelow specified by mailing same first-class postage pre-paid to the following address(es):

Pleadings:

DEFENDANTS/COUNTERCLAIM PLAINTIFFS' FIRST  
REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

Counsel Served:

Frank Cisa, Esquire  
Cisa & Dodds, LLP  
622 Johnnie Dodds Blvd.  
Mt. Pleasant, SC 29464

  
\_\_\_\_\_  
Paralegal

# Nelson Mullins

## Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

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September 18, 2006

Frank Cisa, Esquire  
Cisa & Dodds, LLP  
622 Johnnie Dodds Blvd.  
Mt. Pleasant, SC 29464

RE: Trademark Properties, a South Carolina corporation; Richard C. Davis, an individual v. A&E Television Networks, a joint venture of the Hearst Corporation, ABC, Inc. and NBC Universal; Departure Films, an entity of unknown origin; and DOES 1-20, Inclusive  
USDC C/A No.: 2:06-cv-2195-CWH  
Our File No.: 28692/01500

Dear Frank:

Please find enclosed herewith for service upon you Defendants/Counterclaim Plaintiffs' First Set of Interrogatories and Defendants/Counterclaim Plaintiffs' First Requests for Production of Documents and Things in the above matter.

Very truly yours,

  
Robert H. Jordan

RHJ:ll  
Enclosures

**Exhibit C**

# Nelson Mullins

## Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

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Robert H. Jordan

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October 27, 2006

### *Via Facsimile*

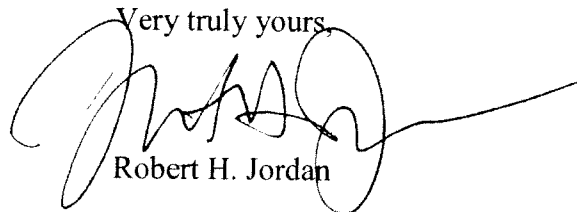
Frank Cisa, Esquire  
Cisa & Dodds, LLP  
622 Johnnie Dodds Blvd.  
Mt. Pleasant, SC 29464

RE: Trademark Properties, a South Carolina corporation; Richard C. Davis, an individual v. A&E Television Networks, a joint venture of the Hearst Corporation, ABC, Inc. and NBC Universal; Departure Films, an entity of unknown origin; and DOES 1-20, Inclusive  
USDC C/A No.: 2:06-cv-2195-CWH  
Our File No.: 28692/01500

Dear Frank:

Plaintiff's responses to Defendants' *First Set of Interrogatories* and *First Requests for Production* in the above-referenced matter were due October 23. Please advise when we can expect to receive responses and documents. If we do not hear from you within 7 days, we plan to file a motion to compel. Please do not hesitate to call me or Richard regarding this matter.

Very truly yours,



Robert H. Jordan

RHJ:nds

cc: Richard A. Farrier, Jr., Esq.

## Exhibit D

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

TRADEMARK PROPERTIES, INC., a South Carolina corporation; RICHARD C. DAVIS, an individual,

Plaintiffs,

**VS.**

**A&E TELEVISION NETWORKS**, a joint venture of the Hearst Corporation, ABC, Inc. and NBC Universal; **DEPARTURE FILMS**, an entity of unknown origin; and **DOES 1-20, Inclusive**,

**Defendants.**

A&E TELEVISION NETWORKS,

**Counterclaim Plaintiff,**

**VS.**

TRADEMARK PROPERTIES, INC. and  
RICHARD C. DAVIS,

### Counterclaim Defendants.

Civil Action No. 2:06-cv-2195-CWH

**PLAINTIFFS ANSWERS TO THE**  
**DEFENDANTS/COUNTERCLAIM**  
**PLAINTIFF'S FIRST SET OF**  
**INTERROGATORIES**

**TO: ROBERT H. JORDAN, ESQUIRE AND THE DEFENDANTS/COUNTERCLAIM PLAINTFF**

## INTERROGATORIES

## Exhibit E

1. Identify all persons known to Plaintiffs or their counsel who have knowledge concerning the factual allegations set forth in the Complaint and any responsive pleading to the Complaint, including the general nature of each person's knowledge.

**Richard Davis  
Trademark Properties, Inc.  
1175 Folly Road  
Charleston, SC 29412**

**Richard Davis has general knowledge concerning the allegations of the Plaintiffs Complaint and can testify concerning same.**

**Ginger Alexander  
Trademark Properties, Inc.  
1175 Folly Road  
Charleston, SC 29412**

**Ginger Alexander is employed by Trademark Investments, LLC and is generally familiar with the allegations in the Plaintiffs Complaint and can testify concerning same.**

**Thomas Moody  
A&E Television Networks  
235 East 45 Street  
New York, NY 10017**

**Mr. Moody is aware of the agreement reached between the Plaintiffs and the Defendant, A&E Television Networks, and should testify concerning same.**

**Michael Morrison  
A&E Television Networks  
235 East 45 Street  
New York, NY 10017**

**Mr. Morrison replaced Charles Norlander and was involved with negotiations with the Plaintiffs after the agreement was made with Charles Norlander, with A&E Television Networks and should testify concerning same.**

**Nancy Dubuc  
A&E Television Networks  
235 East 45 Street**

**New York, NY 10017**

**Ms. Dubuc is aware of the agreement entered into between the Plaintiffs and the Defendants, A&E Television Networks, and should testify concerning same.**

**Max Weissman  
Max Weissman Productions, Inc. d/b/a Departure Films  
333 West 39 Street #1502  
New York, NY 10018**

**Mr. Weissman was in charge of the production company, Departure Films, which was hired by A&E Television Networks relative to the production of the series known as "Flip This House". Mr. Weissman can also testify to his communications with the Plaintiff, Richard Davis, and also to the Plaintiffs' duties and responsibilities and involvement relative to the subject series.**

**Charles Norlander  
Food Network  
1180 6<sup>th</sup> Avenue  
New York, NY 10036**

**Mr. Norlander is aware of the agreement reached between the Plaintiffs and the Defendants, A&E Television Networks, and should testify concerning same.**

**Thomas Whaley  
St. Paul Saints Baseball Club, Inc.  
1771 Energy Park Drive  
St. Paul, Minnesota 55108**

**Mr. Whaley is an attorney that was retained by the Plaintiffs to negotiate talent fees relative to the series known as "Flip This House".**

**Robert W. Bass, CPA  
Williamson & Associates, Inc.  
500 Taylor Street, Suite 402  
Columbia, SC 29201**

**Robert W. Bass is the Certified Public Accountant for the Plaintiffs and can testify to the Plaintiffs expenses relative to the production of the series. It is also anticipated that Robert W. Bass will be able to testify to the net proceeds and revenues generated from the subject series once information is obtained concerning same.**

**2. List all documents, drawings, photographs, plans, "digital video pilots," videos, DVDs and demo tapes that relate to the claims, counterclaims or defenses in this case.**

**All documents are being produced pursuant to the Defendants/Counterclaim Plaintiffs' First Request for Production. The Plaintiffs also have eighty-seven (87) hours of tape that was used relative to the production of the initial pilot for the series; thirteen (13) episodes; and invoices and statements concerning the Plaintiffs claim for damages.**

3. Itemize all damages Plaintiffs seek to recover in this lawsuit.

**The Plaintiffs seek damages for the reimbursement of the Plaintiffs expenses for travel, food, lodging and related expenses incident to the filming and production of the episodes of the series as shown on the attached Exhibit "A". In addition, the Plaintiffs seeks ½ of all net revenues and proceeds generated from the television series "Flip This House". Information concerning the net revenues and proceeds generated relative to the television series "Flip This House" is not presently in the possession of the Plaintiffs.**

4. Itemize all expenses or costs Plaintiffs allege to have incurred in connection with the Series for which compensation is claimed.

**An itemization of expenses are attached as Exhibit "A".**

5. Identify all agents, attorneys, agencies or firms that represented or assisted Plaintiffs in connection with the matters alleged in the Complaint or counterclaims.

**Brian G. Wolf, Esquire  
Lavelly & Singer**

**Martin D. Singer, Esquire  
Lavelly & Singer**

**Frank M. Cisa, Esquire  
Cisa & Dodds, LLP**

6. Regarding the allegations set forth in paragraph 46 of Plaintiffs' Complaint, describe Trademark's "unique" "means and methods of locating, acquiring, refurbishing and selling real property," including but not limited to any means, methods or associated information that Plaintiffs claim to be confidential or trade secrets.

**The means and methods of locating, acquiring, refurbishing and selling real property are depicted in the episodes of the series known as “Flip This House”. The Plaintiffs delivered a copy of the Plaintiffs’ Private Placement Memorandum to the Defendant, A&E Television Network, which is confidential and contains trade secrets.**

7. State the precise relationship between Davis and Trademark.

**Richard C. Davis is the President, sole shareholder and sole member of the Board of Directors of Trademark Properties, Inc.**

8. Identify any affiliates of Trademark and the relationship between Trademark and each affiliate.

**Trademark Properties, Inc. affiliated companies are as follows:**

- a. Trademark Towers, LLC
- b. Trademark Aviation, LLC
- c. Trademark Investments, LLC
- d. Trademark Productions, LLC
- e. Trademark Profit Sharing I, LLC
- f. Trademark Profit Sharing 2, LLC

**All of the affiliated companies are single member LLCs’ solely owned by Trademark Properties, Inc.**

9. Identify all persons who were present at any meetings, or who were on any telephone calls, between Plaintiffs and Defendants at or during which any alleged agreements or contracts were reached or discussed relating to the Series.

**The agreement was reached and discussed between Charles Norlander with A&E Television Networks and Richard C. Davis. A conference call was then held between Charles Norlander, Thomas Moody, Nancy Dubuc and Richard C. Davis at which time it was agreed that the Plaintiffs and the Defendant, A&E Television Networks would be equal 50/50 partners of Richard C. Davis’s concept and treatment “Worst to First” subsequently renamed” “Flip this House” and would share equally in all net revenues and proceeds**

generated from the exploitation of the series. A&E Television Networks and the Plaintiffs would be reimbursed for their expenses relative to the production of the project and the net revenues and proceeds would be equally divided between the Plaintiffs and A&E. It was agreed that the Plaintiffs would be solely responsible for any and all expenses relative to the acquisition and refurbishment of any properties depicted in the series.

CISA & DODDS, LLP



---

Frank M. Cisa  
622 Johnnie Dodds Blvd.  
Mt. Pleasant, SC 29464  
(843) 881-3700

Mt. Pleasant, SC

This 9<sup>th</sup> day of November, 2006

## Hawthorn Suites- Departure Films

GUEST NAME	DATES	Nights (#)	RATE	TOTAL w/ Tax
Allison Howard	8/27/05-9/02/05	6	\$69.00	\$455.40
	9/02/05-9/23/05	21	\$59.00	\$1,362.90
Steve Kantor	8/28/05-9/02/05	5	\$69.00	\$379.50
Brandon Terrell	8/29/05-9/02/05	4	\$79.00	\$347.60
	9/02/05-9/09/05	7	\$69.00	\$531.30
	9/09/05-9/18/05	9	\$69.00	\$683.10
	11/06/05-11/09/05	3	\$79.00	\$260.70
	11/10/05-11/11/05	1	\$79.00	\$86.90
Ana Cordova	9/13/05-9/20/05	7	\$69.00	\$531.30
	11/03/05-11/05/05	2	\$79.00	\$173.80
	11/06/05-11/09/05	3	\$79.00	\$260.70
Jack Cahill	9/19/05-9/22/05	3	\$79.00	\$260.70
Ginger Alexander	8/27/05-9/23/05	27	\$59.00	\$1,752.30
	11/03/05-11/11/05	8	\$69.00	\$607.20
Richard Davis	8/27/05-9/23/05	27	\$59.00	\$1,752.30
	11/03/05-11/11/05	8	\$69.00	\$607.20
			<b>TOTAL</b>	<b>\$10,052.90</b>



## Expenses--Production of "flip this house"

11.17.05	\$	44.67	food & beverage
9.22.04	\$	315.39	food & beverage
9.23.04	\$	86.02	food & beverage
10.18.04	\$	78.67	food & beverage
10.22.04	\$	195.09	food & beverage
11.18.05	\$	7.72	food & beverage
11.18.06	\$	46.32	food & beverage
11.20.05	\$	130.90	lodging
11.23.05	\$	58.91	food & beverage
11.24.05	\$	195.82	lodging
11.25.05	\$	34.95	food & beverage
11.25.05	\$	151.26	lodging
11.28.05	\$	37.39	food & beverage
11.29.05	\$	724.00	lodging
11.29.05	\$	427.05	lodging
11.29.05	\$	83.16	lodging
11.29.05	\$	118.97	food & beverage
12.01.05	\$	278.31	lodging
12.01.05	\$	88.11	lodging
12.03.05	\$	61.55	lodging
12.04.05	\$	61.55	lodging
12.10.05	\$	44.14	food & beverage
12.10.05	\$	66.09	food & beverage
12.12.05	\$	107.43	food & beverage
12.12.05	\$	61.55	lodging
12.12.05	\$	61.55	lodging
12.14.05	\$	139.64	lodging
12.14.05	\$	166.12	lodging
11.30.05	\$	61.55	lodging
12.16.05	\$	244.43	lodging
4.01.05	\$	107.08	food & beverage
4.03.05	\$	133.10	food & beverage
7.19.05	\$	42.66	food & beverage
8.03.06	\$	55.00	air
8.03.05	\$	55.00	air
8.03.05	\$	803.02	lodging
8.03.05	\$	25.00	air
8.03.05	\$	25.00	air
8.05.05	\$	53.84	lodging
8.15.05	\$	119.46	food & beverage
8.17.05	\$	84.41	food & beverage
8.18.05	\$	135.96	food & beverage
8.24.05	\$	279.00	food & beverage
9.07.05	\$	55.00	air
9.08.05	\$	50.00	air
9.20.05	\$	174.98	food & beverage
9.21.05	\$	33.40	food & beverage
10.08.05	\$	60.00	air
10.08.05	\$	65.00	air
10.09.05	\$	790.83	air
10.13.05	\$	401.60	lodging
10.24.05	\$	407.20	air
10.26.05	\$	774.76	air
1.18.06	\$	256.58	lodging
1.29.06	\$	562.59	air
1.29.06	\$	475.14	lodging
1.29.06	\$	6.95	air
1.31.06	\$	176.42	lodging

**total \$ 10,387.29**

RFP  
**received**  
12/0/06

28692/1500  
RHT  
Lynch

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

TRADEMARK PROPERTIES, INC., a ) Civil Action No. 2:06-cv-2195-CWH  
South Carolina corporation; RICHARD C. )  
DAVIS, an individual, )  
 )  
 )  
Plaintiffs, )

vs. )

A&E TELEVISION NETWORKS, a joint )  
venture of the Hearst Corporation, ABC, )  
Inc. and NBC Universal; DEPARTURE )  
FILMS, an entity of unknown origin; and )  
DOES 1-20, Inclusive, )  
 )  
Defendants. )

**PLAINTIFFS RESPONSES TO THE**  
**DEFENDANTS/COUNTERCLAIM**  
**PLAINTIFF'S FIRST REQUEST FOR**  
**PRODUCTION**

\_\_\_\_\_  
A&E TELEVISION NETWORKS, )  
 )  
Counterclaim Plaintiff, )

vs. )

TRADEMARK PROPERTIES, INC. and )  
RICHARD C. DAVIS, )  
 )  
Counterclaim Defendants. )

TO: ROBERT H. JORDAN, ESQUIRE AND THE DEFENDANTS/COUNTERCLAIM  
PLAINTIFF

### **DOCUMENTS REQUESTED**

1. Documents sufficient to describe the corporate structure and organization of Trademark Properties.

**A copy of Trademark Properties, Inc.'s bylaws will be produced for inspection and copying at a mutual agreeable time at the offices of the Plaintiffs counsel.**

2. All "digital video pilots," videos, DVDs or demo tapes provided or shown to Defendants by Plaintiffs.

**Only one (1) video pilot was produced, however, the Plaintiffs have in their possession approximately eighty-seven (87) hours of film that was used in producing the video pilot. It is believed that the Defendants have in their possession a copy of the video pilot. The eighty-seven (87) hours of film will be made available for inspection and copying to the Defendants.**

3. All documents, materials, "digital video pilots," videos, DVDs or demo tapes submitted to or registered by Plaintiffs with the Writers Guild of America or any of its affiliates, together with any forms or correspondence exchanged between Plaintiffs and the Writers Guild.

**A copy of the treatment filed with Writers Guild of America and Documentation of Registration will be made available for inspection and copying.**

4. Copies of all reports, complaints, or claims filed by Plaintiffs or on their behalf in connection with this lawsuit, including, but not limited to, reports, complaints, or claims filed with any insurance company, agency or adjuster.

**None other than the current Complaint.**

5. Documents sufficient to show Plaintiffs' financial condition at year-end for every year from 2003 to the present, including revenues and profits or losses generated.

**The year-end financial statements of the Plaintiffs for the years of 2003 to the present will be made available for inspection and copying so long as the Defendants will agree to a Confidentiality Order.**

6. All documents concerning any communications between Plaintiffs and Defendants concerning the claims, counterclaims or defenses asserted in this lawsuit.

**All documents concerning all communications between the Plaintiffs and the Defendants will be made available for inspection and copying.**

7. All documents concerning any communications between Plaintiffs and any other person or entity concerning the claims, counterclaims or defenses asserted in this lawsuit, including but not limited to the St. Paul Saints, Tom Whaley, Creative Artists Agency (CAA), Bryan Geers and Pierre Brogan.

**All documents will be made available for inspection and copying except for any documents that constitute communications between the Plaintiffs and Plaintiffs' attorneys.**

8. All documents concerning communications between Plaintiffs and television networks other than A&E, including but not limited to The Learning Channel and any of its affiliates.

**The Plaintiffs objects to Request for Production #8 on the grounds that the information sought is not relevant to the subject matter of the pending action nor is it reasonably calculated to lead to the discovery of admissible evidence.**

9. All documents concerning Plaintiffs' claims in Paragraph 6 of the Complaint that Plaintiff Davis "is the creator and owner of the unique concept, format and treatment of a reality based television program which features Davis and certain staff members of Trademark going through the process of locating, acquiring, refurbishing and selling houses."

**The Plaintiffs created the pilot for the subject series, the Plaintiff, Richard C. Davis, was listed as the creator for the subject series; the Plaintiff, Richard Davis, filed a**

**treatment with the Writers Guild of America and was issued a registration. The Plaintiff, Richard C. Davis, further contends that some or all the documents produced may support the Plaintiffs' claims as alleged in paragraph six (6) of the Complaint.**

10. All documents concerning any television shows that have a concept or format similar to that of the Series.

**The Plaintiffs object to Request for Production #10 on the grounds that the information sought is not relevant to the subject matter of the pending action nor is it reasonably calculated to lead to the discovery of admissible evidence.**

11. All documents concerning Plaintiffs' claims in Paragraph 6 of the Complaint that "Flip This House" (the "Series") "is jointly owned and controlled" by Plaintiffs.

**The Plaintiffs contend that all or some of the documents produced support the Plaintiffs' claims in paragraph six (6) of the Complaint.**

12. All documents concerning Plaintiffs' claims in Paragraph 7 of the Complaint that, in or around May 2004, AETN "requested a meeting with Davis to discuss an agreement regarding the potential production and exploitation of a television series."

**E-mails by and between Charles Norlander and Richard C. Davis which are included in the documents to be produced.**

13. All documents concerning Plaintiffs' claims in Paragraph 8 of the Complaint that, in or around June 2004, "representatives of [AETN] met with Davis and expressed their interest in entering into an agreement with Plaintiffs to produce and televise a television series based on Plaintiffs' Project."

**Some or all of the documents being produced by the Plaintiffs support or concern the Plaintiffs' claims in paragraph #8.**

14. All documents concerning Plaintiffs' claims in Paragraph 8 of the Complaint that, in or around June 2004, "Davis made it clear to the representatives of [AETN] that he

was only willing to consider an agreement to have Plaintiffs' Project produced and televised by [AETN] provided that Plaintiffs and [AETN] would be equal 50/50 owners of the project, and would share equally in all net revenues and proceeds generated from the exploitation of the project," and that "[AETN] explicitly agreed to those terms."

**The Plaintiffs do not have a written agreement concerning the specific allegations in paragraph eight (8), however, the Plaintiffs contend that some of the documents produced support the Plaintiffs' claim concerning their relationship with the Defendant A&E Television Networks.**

15. All documents concerning Plaintiffs' claims in Paragraph 9 of the Complaint that, in or around June 2004, AETN "repeatedly promised to prepare and submit a written agreement to Plaintiffs embodying the terms of the parties' agreement" and that Plaintiffs "repeated[ly] demand[ed]" that AETN provide such written agreement.

**The Plaintiffs repeatedly requested that a written agreement be submitted to the Plaintiffs embodying the terms of the parties' agreement as shown by some of the documents which are being produced.**

16. All documents concerning Plaintiffs' claims in Paragraph 11 of the Complaint that, in or about May 2004, "Charles Nordlander of [AETN] contacted Davis and advised him that [AETN] was interested in potentially producing and televising a television series based on Plaintiffs' Project."

**E-mails between Charles Norlander and Richard Davis as well as e-mails between representatives from A&E Television Networks which are being produced.**

17. All documents concerning any alleged agreement or contract that was reached in or about June 2004 between Plaintiffs and Defendants, including the terms of any such alleged agreement, any alleged acceptance of such agreement by Defendants and any discussions about any alleged agreement.

**The oral agreement entered into between the Plaintiffs and the Defendants was never reduced to a writing. The Plaintiffs contend that some of the documents produced herein will support the Plaintiffs claim that the Plaintiffs' entered into an agreement with the Defendant, A&E Television Network, as alleged in the Plaintiffs Complaint.**

18. All documents concerning Plaintiffs' claims in Paragraph 11 of the Complaint that, in or about June 2004, Davis "made it clear" to Nordlander and Thomas Moody of AETN and Max Weissman of Departure Films "that he was only interested in considering a potential agreement regarding the production of Plaintiffs' Project provided that Plaintiffs and [AETN] be equal partners in the project, including that: (1) Plaintiffs retain an ownership interest in the project; (2) [AETN] pay for all production costs of any episodes produced based on the project; (3) Trademark Properties be responsible for locating, acquiring, refurbishing and selling all real estate featured in any episodes produced based on the Project; (4) Trademark Properties and its principals be prominently featured in the show, and no episode be produced which does not include them in a lead role; (5) Davis to have creative control over the production and receive a 'Created By' credit on any episodes produced; (6) Trademark be reimbursed for any direct expenditures regarding the development and production of any episodes produced, and (7) [AETN] and Trademark share equally on a 50/50 basis in all revenues and proceeds generated by the sale, distribution and/or exploitation of the show, including without limitation sponsorship revenues, product placement revenues, ad sales, syndication fees, and video sales."

**The Plaintiffs cannot point to any one (1) document concerning the claims made in paragraph #11 of the Complaint, however, the Plaintiffs contend that some of the documents produced support the Plaintiffs allegations contained in paragraph #11. In addition, the Plaintiff, Richard C. Davis, was credited as the creator of the series on each episode, filed a treatment with the Writers Guild and was issued a registration.**

19. All documents concerning AETN's alleged agreement to any of the terms contained in the preceding paragraph.

**None other than referred to in the Plaintiffs answer to #18 above.**

20. All documents concerning any confidential proprietary business information, procedures or trade secrets allegedly provided to Defendants.

**The Plaintiffs' Private Placement Memorandum given to the Defendant A&E Television Networks.**

21. All documents concerning any policies, practices or procedures implemented by Plaintiffs in order to maintain the confidentiality or trade secret status of any of its alleged proprietary business information, procedures or trade secrets.

**The Plaintiffs do not believe they have any documents responsive to the Defendants/ Counterclaim Plaintiff's request #21, other than the confidential provisions of the Plaintiffs' Private Placement Memorandum. It is the Plaintiffs policy to keep all proprietary business information, procedures and trade secrets confidential.**

22. All documents concerning any expenses or costs incurred by Plaintiffs in connection with the Series.

**All documents will be produced for inspection and copying.**

23. All documents concerning Plaintiffs' claims in Paragraph 13 of the Complaint that they "have suffered significant damages to their business reputation and operations" in connection with the claims and defenses asserted in this lawsuit.

**The Plaintiff, Richard C. Davis, has received a number of e-mails that were critical of the shows produced relative to the second season. The Plaintiff will produce any of the e-mails in Plaintiffs possession.**

24. All documents concerning Plaintiffs' claims in Paragraph 42 of the Complaint that "Plaintiffs have repeatedly demanded that [AETN] account for and pay over to Plaintiffs a

50% share of all net revenues and proceeds generated from the distribution, licensing and/or other exploitation of the Series.”

**There are a number of e-mails between the Plaintiffs and representatives of A&E Television Networks concerning a written agreement, all of which are being produced.**

25. All business plans, financial models, risk analyses, financial pro formas, financial projections, business growth projections, marketing studies, marketing plans and/or market potential projections relating to the Series.

**None known as of this time.**

26. All documents reflecting any executed or final agreements between Plaintiffs and The Learning Channel or any of its affiliates.

**The Plaintiffs object to Request for Production #26 on the ground that the information sought is not relevant to the subject matter of the pending action nor is it reasonably calculated to lead to the discovery of admissible evidence.**

27. All drafts of any agreements or contracts between Plaintiffs and Defendants.

**The drafts of the Talent Fee Agreement are being produced.**

28. All documents and things identified in Plaintiffs’ answers to Defendants’ First Set of Interrogatories.

**The Plaintiffs will produce all documents referred to in the Plaintiffs Answers to the Defendants First Set of Interrogatories.**

CISA & DODDS, LLP



\_\_\_\_\_  
Frank M. Cisa  
622 Johnnie Dodds Blvd  
Mt. Pleasant, SC 29464  
(843) 881-3700

Mt. Pleasant, SC  
This 24 day of November, 2006.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

CHARLESTON DIVISION

TRADEMARK PROPERTIES, )  
INC., a South Carolina corporation; )  
RICHARD C. DAVIS, an individual )  
)  
Plaintiffs, )

Civil Action No.2:06-CV-2195-CWH

vs. )

A&E TELEVISION NETWORKS, )  
a joint venture of the Hearst )  
Corporation, ABC INC. and NBC )  
UNIVERSAL; DEPARTURE FILMS) )  
an entity of unknown origin; and )  
DOES 1-20, inclusive )  
)  
Defendants. )

CERTIFICATE OF MAILING

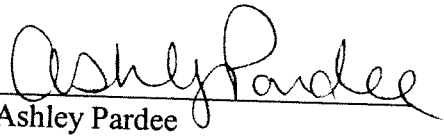
\_\_\_\_\_  
A&E TELEVISION NETWORKS, )  
)  
Counterclaim Plaintiff, )

vs. )

TRADEMARK PROPERTIES, INC.)  
and RICHARD C. DAVIS, )  
)  
Counterclaim Defendants. )  
\_\_\_\_\_

I, Ashley Pardee, Legal Assistant to Frank M. Cisa, hereby certify that on the 8th day of November, 2006 I mailed, postage prepaid via United States Mail, the Plaintiffs' Answers to the Defendants/Counterclaim Plaintiff's First Set of Interrogatories and the Plaintiffs' Answers to the Defendants/Counterclaim Plaintiff's First Request for Production in the above-captioned action, to:

Robert H. Jordan, Esquire  
Nelson Mullins Riley & Scarborough, LLP  
P.O. Box 1806  
Charleston, SC 29402

  
Ashley Pardee

# Nelson Mullins

## Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

151 Meeting Street - Sixth Floor / Charleston, SC 29401-2239

Tel: 843.853.5200 Fax: 843.722.8700

www.nelsonmullins.com

Robert H. Jordan

Tel: 843.534.4221

Fax: 843.722.8700

robert.jordan@nelsonmullins.com

November 21, 2006

### *Via Facsimile and U. S. Mail*

Frank M. Cisa, Esq.  
Cisa & Dodds, LLP  
622 Johnnie Dodds Boulevard  
Mt. Pleasant, SC 29464

RE: Trademark Properties and Richard C. Davis v. A&E Television Networks  
and Departure Films  
USDC Civil Action No.: 2:06-CV-2195-CWH  
Our File No.: 28692/01500  
Chubb File No. 133228

Dear Frank:

Thank you for sending us the responses to our interrogatories and document requests. We write to ask that you provide amended responses addressing these issues:

Interrogatory Response No. 1: You identified Ginger Alexander as one of the people who have knowledge concerning the factual allegations set forth in the Complaint. Please confirm that your production will include all relevant documents in Ms. Alexander's possession or under her control, whether or not they are in Trademark's files or on Trademark's computers. In particular, we want to make sure we receive any documents from Ms. Alexander's home files, home computer, laptop and non-Trademark email accounts. If you represent that all such documents will be produced, there will be no need for us to serve Ms. Alexander with a subpoena.

Interrogatory Response No. 5: To be clear, this interrogatory sought the names of any agents, attorneys or others that assisted Plaintiffs with regard to the underlying events of the case. The response seems to be limited to attorneys who worked on the pleadings in this litigation. We believe that Thomas Whaley, CAA and the CAA agents Pierre Brogan and Bryan Geers, among others, should be identified in this response. Please provide us with a corrected response.

## Exhibit G

Verification: The interrogatory responses must be signed by Trademark Properties and by Richard Davis. *See* FED. R. CIV. P. 33(b)(2). The responses we received were only signed by counsel. Please provide properly verified responses.

Document Response No. 2: This request relates not only to the pilot episode of the Series, a copy of which AETN does have in its possession, but also to the "demo tape" that was sent by Richard Davis to Charles Nordlander sometime during the period of April-June 2004 (and was apparently entitled "Worst to First"). Please confirm that Plaintiffs will produce the demo tape.

Document Response No. 5: Enclosed is a draft of a confidentiality order taken directly from the District Court website. Please sign and return it, or provide us with any comments. Once a confidentiality order is entered, we will expect prompt production of documents responsive to Request No. 5.

Document Response No. 7: Your response states that "any documents that constitute communications between the Plaintiffs and Plaintiffs' attorneys" will be withheld as privileged. The privilege does not apply to all communications between attorney and client. It applies only to those communications that satisfy each element of the privilege – in particular, those that reflect the actual request for or delivery of legal advice. *See generally United States v. Jones*, 696 F.2d 1069, 1072 (4th Cir. 1982). We expect that non-privileged communications between Plaintiffs and their counsel, such as communications limited to the negotiation of financial terms, will be produced. Please also let us know when we can expect to receive a log that identifies any withheld documents.

Document Response No. 8: This request seeks documents concerning communications between Plaintiffs and television networks other than A&E, including but not limited to The Learning Channel and any of its affiliates. These documents are directly relevant to testing the veracity of Plaintiffs' claim that they broke off dealings with AETN because of AETN's purported misconduct. Plaintiffs have made a number of allegations against Defendants in this litigation – and have made public statements – as to why Plaintiffs walked away from Season Two of the Series and signed a new deal with The Learning Channel. Accordingly, Defendants are entitled to such documents because they may shed light on the true reasons why Plaintiffs failed to fulfill their commitments to the production of Season Two of the Series.

Accordingly, your challenge to the relevance of these documents lacks any merit. *See Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978) (relevance under Federal Rule 26(b)(1) is "construed broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case"). We expect the documents to be produced.

Document Response No. 10: This request seeks documents concerning any television shows that have a concept or format similar to that of the Series. Plaintiffs claim in Paragraph 6

Frank M. Cisa, Esq.  
November 21, 2006  
Page 3

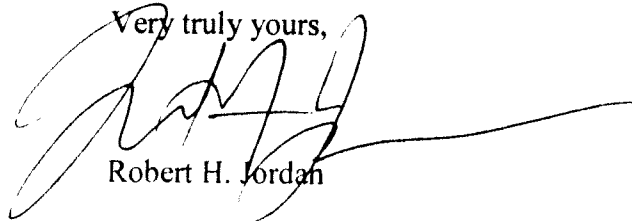
of the Complaint that Plaintiff Davis "is the creator and owner of the unique concept, format and treatment of a reality based television program which features Davis and certain staff members of Trademark going through the process of locating, acquiring, refurbishing and selling houses." These documents are relevant to testing the veracity of Plaintiffs' claim that the concept or format of a "flipping" show is unique or original to Davis. We expect the documents to be produced.

Document Response No. 20: Once the appropriate confidentiality order is entered, we expect a copy of Plaintiffs' Private Placement Memorandum to be produced.

Document Response No. 26: This request seeks documents reflecting any executed or final agreements between Plaintiffs and The Learning Channel or any of its affiliates. Plaintiffs have made a number of allegations and public statements denigrating the terms offered by Defendants for Season Two of the Series. Defendants are entitled to test the veracity of Plaintiffs' positions by examining the terms of Plaintiffs' deal with The Learning Channel. We expect to demonstrate that the terms offered by The Learning Channel and AETN were similar, and that Plaintiffs' claim that AETN did not offer fair terms is merely an excuse for breaching their obligations for Season Two. The terms of Plaintiffs' agreement with The Learning Channel also will be relevant to prove that Plaintiffs' actual agreements with AETN were industry standard, while the imaginary agreement alleged by Plaintiffs – such as 50-50 ownership of the Series and equal shares of all net revenues and proceeds generated – are unheard of in television.

We are continuing to review Plaintiffs' responses, and reserve the right to raise additional issues. With respect to the issues above, we ask that you please respond by November 30. Thank you in advance for your courtesy in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. H. Jordan", with a long horizontal flourish extending to the right.

Robert H. Jordan

RHJ:nds  
Enclosure

cc: Jeremy Feigelson, Esq.  
Richard A. Farrier, Jr., Esq.