

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.)

OPPOSITION TO
PLAINTIFFS' MOTION TO COMPEL

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.)

CROSS-MOTION
FOR A PROTECTIVE ORDER

A&E TELEVISION NETWORKS,)
Counterclaim Plaintiff,)

vs.)

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

Counterclaim Defendants.)

Defendant/Counterclaim Plaintiff A&E Television Networks ("AETN")
and defendant Max Weissman Productions, Inc. d/b/a Departure Films ("Departure
Films") (collectively, "Defendants") hereby (i) oppose Plaintiffs/Counterclaim

Defendants' Motion to Compel and (ii) pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, cross-move for a protective order sequencing discovery so that Defendants are not required to produce confidential commercial information unless and until Plaintiffs can establish at summary judgment that a triable issue of fact exists as to liability – in particular, as to Plaintiffs' contention that the parties agreed to share 50/50 all revenues from the television show "Flip This House." In support of this motion and in accordance with Local Rule 7.04, Defendants show the Court as follows:

1. On December 7, 2006, Plaintiffs served their First Set of Interrogatories and First Request for Production of Documents and Things. These discovery requests included requests for highly confidential information and documents concerning Defendants' revenues and expenses. See Declaration of Richard A. Farrier, Jr. ("Farrier Decl.") Exs. C-D. Plaintiffs contend in this case that AETN promised them, among other things, a 50% share of all revenues associated with the television show "Flip This House." Id. Ex. A. The discovery requests at issue relate particularly to that contention, which defendants strongly deny. Id. Ex. B.

2. On January 9, 2007, Defendants served responses and objections to Plaintiffs' First Set of Interrogatories and Plaintiffs' First Request for Production of Documents and Things. See Farrier Decl. Exs. E-G. Defendants objected to the interrogatories and document requests on financial issues. Defendants have asserted that such information is confidential, that the information sought is not relevant unless and until liability has been established and that the requests are overly burdensome. Id. Ex. E ¶¶ 3-6; Ex. F, ¶¶ 3-6; Ex. G ¶¶ 30-31.

3. On January 22, 2007, in response to a phone call from Plaintiffs, Defendants sent a letter (the “January 22 Letter”) further explaining their objections and setting forth a proposed compromise plan. See Farrier Decl. Ex. H. Under the compromise proposal, the parties would complete discovery on liability issues and proceed to summary judgment before either side takes discovery on its respective damage claims. If summary judgment is denied, the parties would conduct expedited discovery on damages issues under a heightened confidentiality agreement.

4. On January 23, Plaintiffs moved to compel. They have never responded to or acknowledged Defendants’ compromise proposal. Plaintiffs did not mention this proposal or the January 22 Letter in their motion.

5. The parties have produced documents to one another. On November 17, 2006, Plaintiffs produced 1,692 pages of documents in response to Defendants’ document requests. See Farrier Decl. ¶ 15. On February 2, 2007, Defendants produced more than 7,200 pages of documents in response to Plaintiffs’ document requests. Id.

ARGUMENT

6. Defendants object to Plaintiffs’ request for financial information at this time, and ask the Court to adopt the compromise proposal set forth in Defendants’ January 22 Letter. That proposal strikes the right balance between moving the case along efficiently, on the one hand, and protecting Defendants’ strong and legitimate interest in confidentiality, on the other.

7. The Materials Sought Regarding Revenues and Costs are Highly Confidential.

a. AETN is a privately held partnership. AETN does not publicly disclose financial information. The three partners in AETN are Disney/ABC International Television, Inc., NBC A&E Holding, Inc., and Hearst Communications, Inc. Each of these three entities is privately held. None publicly reports financial information about AETN, either directly or through their ultimate parent companies. See Declaration of Andrew Lemaire (Feb. 2, 2007) (“Lemaire Decl.”) ¶ 2.

b. AETN closely guards all information about revenues and costs, both in general and as to particular shows. Maintaining the confidentiality of financial documents and information, both about the network generally and about specific shows, is essential to maintaining AETN’s competitive position and its ability to negotiate effectively with advertisers, talent, producers and others. AETN’s practices in this regard are consistent with the practices of its similarly situated peer companies. See Lemaire Decl. ¶¶ 3-6.

c. Departure Films is also a privately held company. It does not report any financial information publicly. It regards the documents and information being sought here as highly sensitive and confidential, and like AETN is concerned about the competitive impact of any disclosure. Declaration of Max Weissman (Feb. 2, 2007) (“Weissman Decl.”) ¶¶ 3-6.

8. The Disputed Discovery is Only Relevant to Damages. The Plaintiffs claim that the sensitive information is necessary to calculate damages in the event they

can show that AETN breached an agreement to split all revenues from the show 50/50 with Davis. See Plaintiffs' Motion to Compel at 3-4. Defendants have produced all documents and information in their possession relevant to all liability issues in the case, including whether such an agreement existed in the first place.

9. Defendants Face Substantial Risk from Compelled Disclosure.

Defendants are particularly concerned about disclosure given the circumstances of this case. Plaintiff Richard Davis currently is developing a new television program for The Learning Channel ("TLC"), a direct competitor of defendant AETN. Farrier Decl. Ex. M. The show is being produced for TLC by Brainbox Entertainment, a direct competitor of defendant Departure Films. Weissman Decl. ¶ 4. Any financial information produced by Defendants thus could easily find its way, directly or indirectly, into the hands of their competitors. Although a confidentiality order is in place, it provides little practical protection in these circumstances. Davis is an individual and the sole owner of Trademark Properties, Inc. He cannot be expected to unlearn, for purposes of his business dealings with TLC and Brainbox, the confidential information about AETN and Departure Films that he would learn through discovery. Farrier Decl. Ex. H.

10. These concerns are acute given Davis' practice of using this lawsuit as a platform for public attacks on AETN and promotion of his new show. Davis and his Los Angeles counsel issued a press release touting this lawsuit on the day it was filed. Farrier Decl. Ex. I. Since then, Davis has simultaneously discussed the lawsuit, criticized AETN and touted TLC, in a series of press interviews and Internet postings. Id. Ex. J; id. Ex. K at, e.g., pp. 3-4; id. Exs. L-M. In a television interview, he noted that "to me [the lawsuit

is] like David and Goliath.” Id. Ex. K at 4. Davis and a colleague have made postings about this lawsuit and their plans for the TLC show on “flipthislawsuit.com,” an Internet website entirely dedicated to this litigation. Id. Ex. L. Given this history, Defendants have good cause to believe their confidential documents and information, if produced, might be used for purposes other than this litigation.

11. In Light of the Record to Date, Summary Judgment on Liability Issues Should be Resolved Prior to Any Further Production. There has already been substantial discovery in this case, including the exchange of thousands of pages of email messages and other contemporaneous documents from the parties’ business negotiations. Neither side’s document production contains a single reference to any promise of a 50-50 revenue split. Farrier Decl. ¶ 15. Defendants expect to demonstrate at the summary judgment stage that there is no triable issue of fact as to the existence of such an agreement, either on a revenue split or any of the other key points alleged by Plaintiffs in paragraph 11 of their complaint. Under all the circumstances, it is reasonable to put Plaintiffs to the test on this issue at the summary judgment stage before requiring Defendants to risk producing sensitive and highly confidential financial information and documents.

12. Production Would Be Overly Burdensome. Plaintiffs’ Interrogatories 3 and 4 seek all revenue information concerning “Flip This House,” “including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales” for season one (when Davis was in the show) and season two (when he was not). Farrier Decl. Ex. C. Calculating the net revenue derived from a particular

program is not done as a matter of course by AETN and would require significant analysis. See Lemaire Decl. ¶¶ 7, 9-10.

13. Interrogatories 5 and 6 seek all expense and cost information concerning “Flip This House” for season one (when Davis was in the show) and season two (when he was not). Calculating the net cost information derived from a particular program is not done as a matter of course by AETN or Departure Films and also would require significant analysis. See Lemaire Decl. ¶¶ 7-8, 10; Weissman Decl. ¶ 7.

14. Defendants’ Proposal is the Appropriate Way to Proceed. Defendants’ January 22 proposal balances the competing interests in an appropriate way. Defendants are prepared to move ahead promptly to complete merits discovery on liability issues. Defendants expect to move for summary judgment at the close of discovery. If Plaintiffs can show at that stage that there is a triable issue of fact as to the purported 50/50 revenue sharing agreement, the parties would then conduct expedited discovery on all damages issues subject to an enhanced confidentiality order. This approach will not prejudice Plaintiffs. In fact, it treats both sides equally, as AETN’s ability to take discovery on the damages aspects of its counterclaims also would be deferred. At the same time, this approach will ensure that Defendants’ financial documents and information would only be produced, if at all, at the appropriate time and with appropriate safeguards.

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

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/Richard A. Farrier, Jr.

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February 2, 2007

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Admitted *pro hac vice*

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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,)	
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Plaintiffs,)	
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A&E TELEVISION NETWORKS, a joint)	
venture of the Hearst Corporation, ABC,)	
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FILMS, an entity of unknown origin; and)	
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Counterclaim Plaintiff,)	
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vs.)	
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TRADEMARK PROPERTIES, INC. and)	
RICHARD C. DAVIS,)	
)	
Counterclaim Defendants.)	

Declaration of Richard A. Farrier, Jr.

Richard A. Farrier, Jr., declares as follows:

1. I am a partner at Nelson Mullins Riley & Scarborough LLP, counsel to defendant and counterclaim plaintiff A&E Television Networks (“AETN”) and defendant

Max Weissman Productions, Inc. d/b/a Departure Films (“Departure Films”) (collectively “Defendants”). I submit this declaration on personal knowledge in support of Defendants’ Opposition to Plaintiffs’ Motion to Compel and Defendants’ Cross-Motion for a Protective Order.

2. Attached as Exhibit A is a true and correct copy of the Complaint in this case, dated July 20, 2006.

3. Attached as Exhibit B is a true and correct copy of the Answer and Counterclaims, dated August 3, 2006.

4. Attached as Exhibit C is a true and correct copy of Plaintiffs’ First Set of Interrogatories, dated December 7, 2006.

5. Attached as Exhibit D is a true and correct copy of Plaintiffs’ First Request for Production of Documents and Things, dated December 7, 2006.

6. Attached as Exhibit E is a true and correct copy of Defendant AETN’s Responses and Objections to Plaintiffs’ First Set of Interrogatories, dated January 9, 2007.

7. Attached as Exhibit F is a true and correct copy of Defendant Departure Films’ Responses and Objections to Plaintiffs’ First Set of Interrogatories, dated January 9, 2007.

8. Attached as Exhibit G is a true and correct copy of Defendants’ Responses and Objections to Plaintiffs’ First Requests for Production of Documents and Things, dated January 9, 2007.

9. Attached as Exhibit H is a true and correct copy of a letter I sent to Plaintiffs' counsel on January 22, 2007 in response to concerns he had raised by telephone about Defendants' objections.

10. Attached as Exhibit I is a true and correct copy of a July 24, 2006 press release issued by Plaintiffs concerning this lawsuit. This copy is taken from www.flipthislawsuit.com, a website devoted to this case.

11. Attached as Exhibit J is a true and correct copy of a post on flipthislawsuit.com, dated July 30, 2006, which states that it contains the text of a mass email sent by Richard Davis on July 29, 2006.

12. Attached as Exhibit K is a true and correct transcript of Richard Davis' appearance on a Charleston television talk show on August 15, 2006.

13. Attached as Exhibit L are true and correct copies of posts made on flipthislawsuit.com by Richard Davis and his colleague from Trademark Properties, Ginger Alexander, on August 19, 2006, September 29, 2006, December 14, 2006 and January 2, 2007.

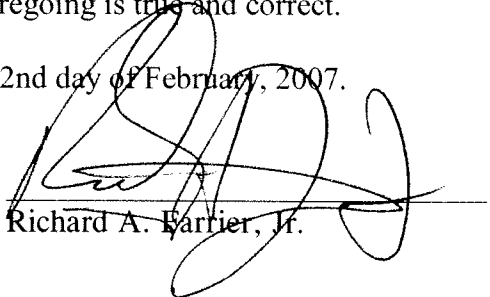
14. Attached as Exhibit M is a true and correct copy of a newspaper article entitled "Davis' Real Estate Reality Show Flips to TLC," from The Post and Courier, by Jim Parker, dated March 31, 2006.

15. The parties have produced documents to one another. On November 17, 2006, Plaintiffs produced 1,692 pages of documents in response to Defendants' document requests. On February 2, 2007, Defendants produced more than 7,200 pages of

documents in response to Plaintiffs' document requests. Neither side's document production contains a single reference to any promise of a 50-50 revenue split.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Charleston, South Carolina this 2nd day of February, 2007.



Richard A. Farrier, Jr.

EXHIBIT A

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

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.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 06-CP-10-2822

COMPLAINT

(Jury Trial Demanded)

(Fraud)

(Breach of Contract)

(Promissory Estoppel)

(Breach of Fiduciary Duty)

(Conversion)

(Misappropriation of Trade Secrets)

(Unfair Competition and Unfair

Business Practices and Unfair Trade

Protection Act)

(Constructive Trust and Accounting)

(Preliminary and Permanent Injunction

Against all Defendants

2005 JUL 20 PM 12:31
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

The Plaintiffs, TRADEMARK PROPERTIES, INC. ("Trademark") and RICHARD C. DAVIS ("Davis") (collectively "Plaintiffs"), complaining of Defendants A&E TELEVISION NETWORKS ("A&E"), a joint venture of The Hearst Corporation, ABC, Inc. and NBC Universal, and DEPARTURE FILMS, (collectively "Defendants"), allege as follows:

PARTIES

1. Plaintiff, Trademark Properties, is a Corporation organized and existing pursuant to the laws of the State of South Carolina, with its principal place of business in Charleston, South Carolina.

2. Plaintiff Richard C. Davis, is an individual residing in Charleston, South Carolina.

3. Plaintiffs are informed and believe that Defendant A&E Television Networks is a joint venture organized and existing pursuant to the laws of the State of New York, and at all times relevant hereto has conducted business in Charleston, South Carolina.

4. Plaintiffs are informed and believe that Defendant Departure Films is a Corporation organized and existing pursuant to the laws of the State of New York, and at all times relevant hereto has conducted business in Charleston, South Carolina.

JURISDICTION AND VENUE

5. That Jurisdiction and Venue are proper in that the Plaintiff, Trademark Properties, Inc.'s principal place of business is in Charleston County, South Carolina and that the Plaintiff, Richard C. Davis resides in Charleston County, South Carolina and at all times hereinafter mentioned conducted business with the Defendants in Charleston County, South Carolina.

FACTUAL BACKGROUND

6. This case presents issues of fraud and theft of valuable property rights. 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. Davis titled his concept and treatment "Worst To First", subsequently renamed "Flip This House"(hereinafter referred to as the Project"). In or around April 2004 Plaintiffs created and produced a digital video pilot version of Plaintiffs' Project, featuring Davis and other staff members of Trademark. Plaintiffs' Project is jointly owned and controlled by Davis and Trademark.

7. In May 2004, Plaintiffs submitted the treatment and DVD pilot episode of

Plaintiffs' Project to Defendant A&E. A&E responded enthusiastically to Plaintiffs' Project, and requested a meeting with Davis to discuss an agreement regarding the potential production and exploitation of a television series based on Plaintiffs' Project.

8. Thereafter, in or around June 2004, representatives of A&E 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. Davis made it clear to the representatives of A&E that he was only willing to consider an agreement to have Plaintiffs' Project produced and televised by A&E provided that Plaintiffs and A&E 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. A&E explicitly agreed to those terms and, based on that agreement, Plaintiffs permitted A&E to retain Defendant Departure Films to produce the episodes of the television series based on Plaintiffs' Project.

9. Thereafter, A&E repeatedly promised to prepare and submit a written agreement to Plaintiffs embodying the terms of the parties' agreement; yet, despite repeated demands by Plaintiffs to A&E for that written agreement, and A&E's repeated assurances that the agreement would be provided to Plaintiffs, A&E ultimately failed to provide Plaintiffs with a written agreement reflecting the terms of their agreement. Instead, A&E defrauded Plaintiffs and misappropriated and stole Plaintiffs' Project for A&E's own use and benefit. In reliance on A&E's agreement that A&E and Plaintiff's would equally share all net revenues and proceeds from exploitation of Plaintiffs' Project, Plaintiffs were induced to permit a first season of 13 episodes of "Flip This House" to be produced by Departure Films for the benefit of A&E, without any written agreement with Plaintiffs and without A&E providing Plaintiffs

any compensation.

10. A&E has, in effect, stolen Plaintiffs' valuable concept and format of the television series "Flip This House" from Plaintiffs, and now intends to produce, televise, and exploit a second season of that television series without Plaintiffs' approval, participation, or otherwise providing any compensation to Plaintiffs. Accordingly, Plaintiffs have been defrauded and cheated by Defendants, and Defendants have used and exploited Plaintiffs' valuable concept and format for "Flip This House" without Plaintiffs' approval or authority.

Partnership Agreement

11. After Davis submitted the treatment and pilot of Plaintiffs' Project to A&E in May 2004, Charles Norlander of A&E contacted Davis and advised him that A&E was interested in potentially producing and televising a television series based on Plaintiffs' Project. On June 14, 2004, Davis met with Norlander and Thomas Moody of A&E and Max Weissman of Departure Films to discuss a potential agreement regarding the production of a television series based on Plaintiffs' Project. At that time, Davis made it clear to Norlander, Moody and Weissman that he was only interested in considering a potential agreement regarding the production of Plaintiffs' Project provided that Plaintiffs and A&E be equal partners in the project, including that: (1) Plaintiffs retain an ownership interest in the project; (2) A&E 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) A&E 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 all of which is hereinafter referred to as the ("Partnership Agreement"). Norlander and Moody on behalf of A&E agreed to the Partnership Agreement. Norlander and Moody further represented that A&E would prepare a written agreement embodying the terms of the Partnership Agreement.

12. In reliance on the Partnership Agreement, Plaintiffs agree to permit A&E to develop and produce a television series "Flip This House" based on Plaintiffs' Project. Departure Films was retained by A&E to produce the episodes of "Flip This House" based on Plaintiffs' Project hereinafter referred to as the ("Series"). Plaintiffs would not have agreed to permit A&E or Departure Films to produce any episodes of "Flip This House" based on Plaintiffs' Project but for A&E's acceptance of the terms of the Partnership Agreement.

13. In further reliance on the Partnership Agreement, (a) Trademark proceeded to locate, acquire, refurbish and sell real property, and have its activities filmed by Departure Films for production into episodes of the Series, (b) Davis and other members of the Trademark staff permitted their images and persona to be filmed and televised in the Series, (c) Trademark disclosed confidential proprietary business information, procedures and trade secrets to Defendants, and (d) Plaintiffs expended significant amounts on the development of the Series without reimbursement or compensation from Defendants. Absent the

Partnership Agreement, Plaintiffs would not have permitted Plaintiffs' Project to be used or exploited as the basis of the Series, nor would Davis, or any other staff members of Trademark have participated in or appeared in the Series, nor would Trademark have disclosed any of its trade secrets featured in the Series, nor would Plaintiffs have expended any amounts on the development of the Series. As a direct and proximate result of Defendants fraud and theft of Plaintiffs' valuable ideas and concept for the Series, Plaintiffs have suffered significant monetary damages. In addition, Plaintiffs have suffered significant damages to their business reputation and operations.

14. Plaintiffs did not learn until on or about March 2006 that A&E intended to repudiate the Partnership Agreement, and instead use and misappropriate Plaintiffs' Project and trade secrets to produce and televise a second season of the Series without Plaintiffs' approval or participation.

FIRST CAUSE OF ACTION

(Fraud Against the Defendant A&E)

15. Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 14 above as though fully set forth herein.

16. As stated hereinabove, to induce Plaintiffs to enter into the Partnership Agreement and participate in and consent to the production of the Series, A&E warranted and represented, among other things, that Plaintiffs and A&E would be equal partners and owners in all results and proceeds generated from the Series, and that A&E would not engage in any acts which would benefit A&E to the exclusion or detriment of Plaintiffs, or otherwise cause any harm or damage

to Plaintiffs. A&E further represented that it would prepare and deliver to Plaintiffs a written agreement consistent with the terms and condition of the Partnership Agreement referenced above.

17. Plaintiffs are informed and believe that A&E misrepresented its intention to treat Plaintiffs as an equal partner or otherwise pay Plaintiffs any portion of the net revenues and proceeds generated from the exploitation of the Series. The true facts are that A&E never intended to treat Plaintiffs as an equal partner with respect to the revenues and proceeds from the exploitation of the Series or to pay Plaintiffs any portion of the net profits generated from the exploitation of the Series. In addition, A&E never intended to prepare or deliver to Plaintiffs a written agreement embodying the terms of the Partnership Agreement as referenced above. Contrary to the representations made by A&E to induce Plaintiffs to enter into the Partnership Agreement and permit A&E, through its designated production company Defendant Departure Films, to produce episodes of the Series based on Plaintiffs' Project, A&E was aware from the inception of its negotiations with Plaintiffs that it would not treat Plaintiffs as an equal partner or otherwise pay Plaintiffs any portion of the net revenues and proceeds generated from the exploitation of the Series.

18. Plaintiffs are informed and believe and based thereon allege that A&E intended to misappropriate and use the valuable ideas and concepts of Plaintiffs' Project to produce the Series, and fraudulently induce Davis and the other staff members of Trademark to appear in the Series for no compensation, to misappropriate and use Trademark's confidential trade secrets, and to retain all results and proceeds from the exploitation of the series for A&E's own use and benefit. In addition, Plaintiffs are informed and believe and based thereon allege that A&E intended to

misappropriate and use the valuable ideas and concepts from Plaintiffs' Project for its own use and benefit by producing a second season of the Series without featuring Davis, the staff of Trademark, or otherwise involving Trademark in the production of the Series.

19. A&E made the aforesaid representations with the intent that Plaintiffs would rely on them and would agree to convey the valuable concepts, format and structure of Plaintiffs' Project to A&E to use to produce and televise the Series, to disclose Trademark's valuable and confidential trade secrets, and to otherwise participate in the production of the Series and to expend considerable times and expense in the production of the Series. Plaintiff reasonably relied on the aforesaid representations in entering into the Partnership Agreement and permitting A&E to use the valuable ideas and concepts of Plaintiffs' Project in producing the Series. Plaintiffs would not have entered into the Partnership Agreement or otherwise permitted A&E to use the valuable rights in and to Plaintiffs' Project had Plaintiffs known the true facts as alleged herein.

20. Plaintiffs are informed and believe and based thereon allege that A&E knew the aforesaid representations were false at the time they were made, and that the false representations were made by A&E with the intent to induce Plaintiffs to enter into the Partnership Agreement, permit A&E to use the valuable ideas and concepts of Plaintiffs' Project to produce the Series, and to induce Davis and other staff of Trademark to appear in the Series.

21. As a direct and proximate result of the aforesaid fraudulent representations by A&E, Plaintiffs have been damaged in an amount that has not yet been fully ascertained but which is believed to be in excess of a million dollars. Amount of the damages, they will seek leave of the court to amend this complaint accordingly.

22. Plaintiffs are informed and believe and based thereon allege that A&E, in

doing the things herein alleged, acted willfully, maliciously, oppressively and with full knowledge of the adverse effects of its actions on Plaintiffs, and with willful and deliberate disregard to the consequences to Plaintiffs such as to constitute oppression, fraud or malice, and that such actions were authorized, ratified and adopted by the officers, directors and/or managing agents of A&E. As a direct result of the fraudulent, willful and malicious conduct of A&E, Plaintiffs are entitled to exemplary and punitive damages in an amount to be determined as appropriate by the court and jury.

SECOND CAUSE OF ACTION

(For Breach of Contract Against the Defendant A&E)

23. Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 22 and above as though fully set forth herein.

24. As stated hereinabove, A&E has materially breached the Partnership Agreement by, inter alia, failing to pay Plaintiffs 50% of all net revenues and proceeds from the exploitation of the Series, failing to reimburse Plaintiffs for the production costs and expense incurred by Plaintiffs in connection with the Series, and proceeding to produce and televise a second season of the Series without Plaintiffs' approval or participation.

25. Plaintiffs have performed all duties and obligations on their part required to be performed by the Partnership Agreement, except to the extent such performance was waived, excused, or prevented by reasons of the acts and omissions of A&E.

26. As a direct and proximate result of the material breaches of the Agreement by A&E, Plaintiffs have been damaged in an amount that has not yet been fully ascertained but which is believed to be in excess of a million dollars.

THIRD CAUSE OF ACTION

(Promissory Estoppel Against Defendant A&E)

27. Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 26 above as though fully set forth herein.

28. Beginning with the meeting in June 2004 between Plaintiffs, and Norlander and Moody on behalf of A&E, and continuing through and including March 2006, A&E promised and assured Plaintiffs that, in consideration for Plaintiffs agreeing to permit Defendants to produce and televise the first season of the Series based on Plaintiffs' Project, Plaintiff would equally share in and receive 50% of all net revenues and proceeds generated from the exploitation of the Series and that no episodes of the Series would be produced absent Plaintiffs approval and participation. In addition, A&E promised and assured Plaintiffs that Plaintiffs would continue to have creative control over the Series, and that A&E would not produce or televise any episode of the Series which did not feature Davis and other staff members of Trademark prominently in the Series.

29. In so promising and assuring Plaintiffs, A&E knew or should have known that Plaintiffs would be reasonably induced to rely on A&E's promises and assurances and would, among other things, provide their approval to produce episodes of the Series based on Plaintiffs' Project, and otherwise participate and appear in the Series and continue to expend considerable amounts in the production of the Series.

30. Plaintiffs reasonably relied on A&E's promises and assurance, and were thereby induced to provide the aforesaid services and monetary expenditures in connection with the production of the Series.

31. A&E has failed and refused to perform in accordance with its promises and assurances by, among other things, failing and refusing to honor the terms of the Partnership Agreement, including accounting for and paying Plaintiffs 50% of all net revenues and proceeds from the exploitation of the Series, affording Plaintiffs creative control over the production of the Series, and announcing that a second season of the Series will be produced independently by A&E without the participation or involvement of Plaintiffs, or otherwise featuring Davis and the other staff of Trademark.

32. Based on the facts and circumstances alleged hereinabove, including Plaintiffs reasonable and detrimental reliance on A&E's promises, A&E is estopped to deny its obligations under the Partnership Agreement, and is estopped to deny the validity and enforceability of the Partnership Agreement.

33. As a direct and proximate result of the A&E's failure and refusal to perform the promises and representations made by A&E to induce Plaintiffs to enter into the Partnership Agreement, Plaintiffs have been damaged in an amount that has not yet been fully ascertained but which is believed to be in excess of a million dollars.

FOURTH CAUSE OF ACTION

(Breach of Fiduciary Duty Against the Defendant A&E)

34. Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 33 above as though fully set forth herein.

35. As alleged above, the Partnership Agreement created a partnership and joint venture relationship between Plaintiffs and A&E, whereby Plaintiffs disclosed valuable and confidential information concerning Plaintiffs' Project to A&E and permitted A&E to produce the

Series based on Plaintiffs' Project, in exchange for the Partnership Agreement providing, among other things, that Plaintiffs and A&E would share equally on a 50\50 basis all net revenues and proceeds generated from the exploitation of the Series. By virtue of Plaintiff's rights under the Partnership Agreement, and the fact that Plaintiffs conveyed the valuable concept and ideas of Plaintiffs' Project to A&E in reliance on the Partnership Agreement and Plaintiffs also invested considerable time and money in the development and production of Plaintiffs' Project and the Series based thereon, Plaintiffs and A&E had a joint interest in the successful licensing, marketing, distribution and other exploitation of the Series, including sharing equally in all revenues generated from sponsorships, product placement and advertising connected with the Series. Because of the complete and exclusive control exercised by A&E over the licensing, marketing, distribution, and other exploitation of the Series, and the obligation of A&E to timely and accurately report and pay over to Plaintiffs 50% of revenues and proceeds generated from the exploitation of the Series pursuant to the Partnership Agreement, A&E placed itself in a position of trust and confidence with regard to Plaintiffs.

36. Plaintiffs relied on the warranties and representations of A&E that it would not take any action to interfere with Plaintiffs rights to receive a 50% percent share of the net revenues and proceeds from the exploitation of the Series, and that A&E would timely and accurately account for all revenues and proceeds generated from the distribution, licensing and/or other exploitation of the Series. Accordingly, A&E owed and continues to owe a fiduciary duty to accurately account for and pay to Plaintiffs 50% of all net revenues and proceeds generated from the distribution, licensing and/or other exploitation of the Series, and to not engage in any act or omission which would harm Plaintiffs in any manner or decrease or diminish Plaintiffs

expected benefits under the Partnership Agreement.

37. Plaintiffs are informed and believe and based thereon allege that, by engaging in the conduct herein alleged, A&E has breached its fiduciary duties to Plaintiffs by placing its own interest above those of Plaintiffs, by perpetrating the aforesaid fraud and deceit upon Plaintiffs in misappropriating Plaintiffs' Project for A&E's own use and benefit to the exclusion of Plaintiffs, and by failing and refusing to timely, accurately and fully account for and pay to Plaintiffs all amounts due and owing to Plaintiffs from the exploitation of the Series pursuant to the terms of the Partnership Agreement.

38. As a direct and proximate result of the aforesaid breach of fiduciary duty by A&E, Plaintiffs have been damaged in an amount that has not yet been fully ascertained but which is believed to be in excess of a million dollars.

39. Plaintiff are informed and believe and based thereon allege that A&E, in doing the things herein alleged, acted willfully, maliciously, oppressively and with full knowledge of the adverse effects of its actions on Plaintiff, and with willful and deliberate disregard to the consequences to Plaintiffs such as to constitute oppression, fraud or malice, and that such actions were authorized, ratified and adopted by the officers, directors and/or managing agents of A&E. As a direct result of the fraudulent, willful and malicious conduct of A&E, Plaintiffs are entitled to exemplary and punitive damages in an amount to be determined as appropriate by the court.

FIFTH CAUSE OF ACTION

(Conversion Against the Defendant A&E)

40. *Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 39*

above as though fully set forth herein.

41. As alleged hereinabove, A&E has improperly and fraudulently withheld and failed to pay all amounts rightfully owed to Plaintiffs pursuant to the Partnership Agreement, and has diverted said amounts to its own use and benefit. As a result of the aforesaid acts and omissions, A&E has deprived Plaintiffs of the use and enjoyment of those funds.

42. Plaintiffs have repeatedly demanded that A&E 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, but A&E has failed and refused to pay Plaintiffs the amounts rightfully due and owing to Plaintiffs pursuant to the terms and conditions of the Partnership Agreement.

43. As a direct and proximate result of the aforesaid unlawful conversion of monies due and owing to Plaintiffs by A&E, Plaintiffs have been damaged in an amount that has not yet been fully ascertained but which is believed to be in excess of a million dollars.

44. Plaintiffs are informed and believe and based thereon allege that A&E, in doing the things herein alleged, acted willfully, maliciously, oppressively and with full knowledge of the adverse effects of its actions on Plaintiffs, and with willful and deliberate disregard to the consequences to Plaintiffs such as to constitute oppression, fraud or malice, and that such actions were authorized, ratified and adopted by the officers, directors and/or managing agents of A&E. As a direct result of the fraudulent, willful and malicious conduct of A&E, Plaintiffs are entitled to exemplary and punitive damages in an amount to be determined as appropriate by the court.

SIXTH CAUSE OF ACTION

(Misappropriation of Trade Secrets Against All Defendants)

45. Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 44 above as though fully set forth herein.

46. Trademark has invested significant time, effort and expense to develop, protect and package its means and methods of locating, acquiring, refurbishing and selling real property that is unique and was unknown to the public or competitors of Trademark, and which gave Trademark a competitive advantage in its business operations. Trademark's confidential proprietary business information and trade secrets were developed by Plaintiffs over several years, and included without limitation the strategies, sources, business models, price points and related information for locating, acquiring, refurbishing and selling real property in a manner to maximize the success and profits from that process.

47. Plaintiffs incorporated the aforesaid confidential proprietary business information and trade secrets into Plaintiffs' Project, and otherwise disclosed that confidential proprietary business information and trade secrets to Defendants in confidence with the explicit understanding and agreement by Defendants that Plaintiffs' confidential proprietary business information and trade secrets would only be used and incorporated in the production of the Series with Plaintiffs' approval and provided that Plaintiffs were compensated for the public disclosure and use of that information consistent with the terms and conditions of the Partnership Agreement. Because Defendants wholly failed to comply with the terms and conditions of the Partnership Agreement, Defendants never acquired the rights to use or disclose Trademark's confidential proprietary business information and trade secrets in episodes of the Series.

48. Trademark's confidential proprietary business information and trade secrets is not known by others or competitors of Trademark, and Trademark has made reasonable efforts to insure that its proprietary information remained a secret by not disclosing it to anyone outside of Trademark, or by allowing the information to be used for any purpose other than the business and functions of Trademark. Trademark's confidential and proprietary business information as embodied in Plaintiffs' Project and in the Series is a trade secret which merits legal protection from Defendants misappropriation and use of that information for their own benefit through the continuing production and exploitation of the Series in violation of the Partnership Agreement.

49. Plaintiffs are informed and believe and based thereon alleges that Defendants, and each of them, misappropriated the above-described trade secrets of Trademark by illegally using and incorporating the trade secrets to produce episodes of the Series in violation of the terms of the Partnership Agreement, and without the approval, involvement and participation of Plaintiffs in the continuing episodes of the Series.

50. As a direct and proximate result of the misappropriation of Trademark's trade secrets as alleged herein, Trademark has been damaged in an amount that is not yet fully ascertainable but which is believed to be in excess of a million dollars.

51. Plaintiffs are informed and believe and based thereon allege that A&E, in doing the things herein alleged, acted willfully, maliciously, oppressively and with full knowledge of the adverse effects of its actions on Plaintiffs, and with willful and deliberate disregard to the consequences to Trademark such as to constitute oppression, fraud or malice, and that such actions were authorized, ratified and adopted by the officers, directors and/or managing agents of A&E. As a direct result of the fraudulent, willful and malicious conduct of A&E, Trademark

is entitled to exemplary and punitive damages in an amount to be determined as appropriate by the court.

SEVENTH CAUSE OF ACTION

(Unfair Competition, Unfair Business Practices and Unfair Trade Practices Against All Defendants)

52. Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 51 above as though fully set forth herein.

53. Plaintiffs are informed and believe and based herein allege that Defendants, and each of them, have engaged in unlawful, unfair and fraudulent business practices and/or unfair competition and/or unfair trade practices, and have utilized certain improper, unlawful and tortious means to unjustly enrich themselves, and to cause deliberate injury to Plaintiffs by, among other things, using, misappropriating and exploiting Plaintiffs' valuable ideas and concept as embodied and referenced in Plaintiffs' Project and in the Series for Defendants' own use and benefit, without the approval or participation of Plaintiffs.

54. By engaging in the acts and omissions described herein, Defendants have committed acts of unfair competition and false and misleading business practices and unfair trade practices, all of which said acts and omissions effect the Plaintiffs and the public as said acts and omissions capable of repetition.

55. As a direct and approximate result of the unfair competition and false and misleading business practices of Defendants, as described herein, Plaintiffs have been damaged in an amount that has not yet been fully ascertained but which is believed to be in excess of a

million dollars.

EIGHTH CAUSE OF ACTION

(Constructive Trust and Accounting Against All Defendants)

56. Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 55 above as though fully set forth herein.

57. Plaintiffs are informed and believe and based thereon allege that Defendants, and each of them, have derived and received income and profits from the aforesaid, illegal, unlawful and deceitful and wrongful acts, including, among other things, the proceeds received by Defendants from the licensing, sale, distribution and other exploitation of the Series, together with the advertising, promotional and sponsorship revenues generated therefrom.

58. By reason of the aforesaid illegal, unlawful, deceitful and wrongful acts of Defendants, and each of them, Defendants are involuntary constructive trustees holding the monies derived and received from the misappropriation, use and exploitation of Plaintiffs' valuable ideas and concepts in the creation, development and exploitation of the Series in constructive trust for Plaintiffs, with a duty to account fully therefore, and pay over to Plaintiffs all said amounts.

59. The exact amount of compensation to be paid to Plaintiffs by Defendants, and each of them, is unknown to Plaintiffs. The exact amount cannot be ascertained without a full accounting of all transactions, agreements and licenses entered into by and on behalf of Defendants, and each of them, in connection with the licensing, sale, distribution and other exploitation of the Series.

NINTH CAUSE OF ACTION

(Preliminary and Permanent Injunction Against All Defendants)

60. Plaintiffs reallege, adopt and incorporate by reference paragraphs 1 through 59 above as though fully set forth herein.

61. Plaintiffs are informed and believe and based thereon allege that unless Defendants, and each of them are enjoined from (1) licensing, distributing and otherwise exploiting the Series, (2) using and incorporating Plaintiffs' valuable ideas and concepts for the Series in the current season of the Series without Plaintiffs' approval and participation, and (3) using and incorporating Trademark's confidential proprietary trade secrets in the current season of the Series without Trademark's approval, Plaintiffs will be irreparably harmed and injured as a direct and proximate result of Defendants' illegal and unlawful acts.

62. Plaintiffs have demanded that Defendants stop their unlawful conduct as described hereinabove, including without limitation ceasing all use and misappropriation of Plaintiffs' valuable ideas and concepts in the Series, and otherwise producing any further episodes of the Series in violation of the Partnership Agreement and without Plaintiffs' explicit authorization and participation. Unless enjoined and restrained by order of this court, Defendants wrongful and continuing conduct will cause great and irreparable injury to Plaintiffs in that the unauthorized use and exploitation of Plaintiffs' valuable concepts and trade secrets in the Series has effected and will continue to effect Plaintiffs' future endeavors, business operations and opportunities.

63. Plaintiffs have no adequate remedy at law for the injuries currently being suffered and will be suffered if Defendants' conduct is not restrained, and Plaintiffs will be forced to institute a multiplicity of suits to obtain adequate compensation and relief for the injuries suffered

by them.

64. Consequently, Plaintiffs respectfully request that the court issue an injunction restraining Defendants from (1) directly or indirectly making any use of Plaintiffs' valuable concept, format and structure in and for the Series, (2) directly or indirectly using or disclosing any of Trademark's trade secrets in the production of the Series and (3) distributing, exhibiting, airing or advertising the Series in its present form.

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

AS TO THE FIRST CAUSE OF ACTION:

1. General and special damages in excess of a million dollars, in accordance with proof at trial, together with interest thereon at the legal rate;

2. Exemplary and punitive damages in an amount according to proof at the time of trial;

AS TO THE SECOND CAUSE OF ACTION:

3. General and special damages in excess of a million dollars in accordance with proof at trial, together with interest thereon at the legal rate;

AS TO THE THIRD CAUSE OF ACTION:

4. General and special damages in excess of a million dollars in accordance with proof at trial, together with interest thereon at the legal rate;

AS TO THE FOURTH CAUSE OF ACTION:

5. General and special damages in excess of million dollars in accordance with proof at trial, together with interest thereon at the legal rate;

6. *Exemplary and punitive damages in an amount according to proof at the time of*

trial;

AS TO THE FIFTH CAUSE OF ACTION:

7. General and special damages in excess of million dollars in accordance with proof at trial, together with interest thereon at the legal rate;

8. Exemplary and punitive damages in an amount according to proof at the time of trial;

AS TO THE SIXTH CAUSE OF ACTION:

9. For an accounting and distribution to the Plaintiffs of the full amount of all compensation due and owing to Plaintiffs from the world-wide distribution, sale, licensing and/or other exploitation of the Series, together with interest thereon at the legal rate;

10. Exemplary and punitive damages in an amount according to proof at the time of trial;

AS TO THE SEVENTH CAUSE OF ACTION:

11. General, special and treble damages in excess of a million dollars in accordance with proof at trial, together with interest thereon at the legal rate;

12. Exemplary and punitive damages in an amount according to proof at the time of trial;

AS TO THE EIGHTH CAUSE OF ACTION:

13. General and special damages in excess of a million dollars in accordance with proof at trial, together with interest thereon at the legal rate;

14. Exemplary and punitive damages in an amount according to proof at the time of trial;


AS TO THE NINTH CAUSE OF ACTION:

15. For a permanent preliminary injunction as requested herein;

AS TO ALL CAUSES OF ACTION:

16. For all costs of suit incurred herein;
17. For reasonable attorneys' fees as may be provided by law;
18. For interest as may be provided by law; and
19. For such other and further relief as the Court may deem to be just and appropriate.

CISA & DODDS, LLP



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

July 20th, 2006
Mt. Pleasant, SC

EXHIBIT B

29692/01500
Pleading

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

ANSWER AND COUNTERCLAIMS

TO: FRANK M. CISA, ESQ., ATTORNEY FOR PLAINTIFFS:

Defendants A&E Television Networks ("AETN") and Max Weissman Productions, Inc. d/b/a Departure Films (incorrectly sued, and referred to hereinafter, as "Departure

Films”) respond as follows to the Complaint of plaintiffs Trademark Properties, Inc. (“Trademark”) and Richard C. Davis:

ANSWER

1. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint.
2. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint.
3. Defendants deny the allegations contained in paragraph 3 of the Complaint, and aver that AETN is a general partnership duly organized and existing under the laws of the State of New York.
4. Defendants admit the allegations contained in paragraph 4 of the Complaint, except aver that, as noted above, the correct corporate name of Departure Films is Max Weissman Productions, Inc.
5. Paragraph 5 of the Complaint consists of legal conclusions to which no response is required. To the extent a response may be required, Defendants deny the allegations contained in paragraph 5.
6. Defendants deny the allegations contained in paragraph 6 of the Complaint, except admit that, in May 2004, Davis submitted to AETN a proposal for a television show and a rough video, of a kind referred to in the television industry as a “demo tape”; that “Flip This House” (the “Series”) is a popular television series airing on the A&E Network that focuses on buying,

renovating and selling residential properties; and that Trademark and Davis appeared in the first season of the Series.

7. Defendants deny the allegations contained in paragraph 7 of the Complaint, except admit that Plaintiffs submitted the demo tape to AETN and that a meeting took place afterwards.

8. Defendants deny the allegations contained in paragraph 8 of the Complaint, except admit that, in or around June 2004, representatives of AETN and Departure Films met with Davis and other representatives of Trademark.

9. Defendants deny the allegations contained in paragraph 9 of the Complaint.

10. Defendants deny the allegations contained in paragraph 10 of the Complaint, except admit that, as a result of Plaintiffs' refusal to honor the terms they negotiated and agreed to for a second season of the Series, Defendants are producing season two without Plaintiffs' participation.

11. Defendants deny the allegations contained in paragraph 11 of the Complaint, except admit that, on or about June 14, 2004, a meeting took place that included, among others, Charles Nordlander and Thomas Moody on behalf of AETN, Max Weissmann of Departure Films, and Davis and others on behalf of Trademark, at which no agreement was reached on the terms alleged in paragraph 11. Defendants aver that no such agreement was reached at any other time.

12. Defendants deny the allegations contained in paragraph 12 of the Complaint, except admit that, in August 2004, AETN and Departure Films signed an agreement pursuant to which Departure Films produced the Series.

13. Defendants deny the allegations contained in paragraph 13 of the Complaint.

14. Defendants deny the allegations contained in paragraph 14 of the Complaint.

15. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-14 as though fully set forth herein.

16. Defendants deny the allegations contained in paragraph 16 of the Complaint.

17. Defendants deny the allegations contained in paragraph 17 of the Complaint.

18. Defendants deny the allegations contained in paragraph 18 of the Complaint.

19. Defendants deny the allegations contained in paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in paragraph 20 of the Complaint.

21. Defendants deny the allegations contained in paragraph 21 of the Complaint.

22. Defendants deny the allegations contained in paragraph 22 of the Complaint.

23. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-22 as though fully set forth herein.

24. Defendants deny the allegations contained in paragraph 24 of the Complaint.

25. Defendants deny the allegations contained in paragraph 25 of the Complaint.
26. Defendants deny the allegations contained in paragraph 26 of the Complaint.
27. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-26 as though fully set forth herein.

28. Defendants deny the allegations contained in paragraph 28 of the Complaint.
29. Defendants deny the allegations contained in paragraph 29 of the Complaint.
30. Defendants deny the allegations contained in paragraph 30 of the Complaint.
31. Defendants deny the allegations contained in paragraph 31 of the Complaint.
32. Defendants deny the allegations contained in paragraph 32 of the Complaint.
33. Defendants deny the allegations contained in paragraph 33 of the Complaint.
34. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-33 as though fully set forth herein.

35. Defendants deny the allegations contained in paragraph 35 of the Complaint.
36. Defendants deny the allegations contained in paragraph 36 of the Complaint.
37. Defendants deny the allegations contained in paragraph 37 of the Complaint.
38. Defendants deny the allegations contained in paragraph 38 of the Complaint.

39. Defendants deny the allegations contained in paragraph 39 of the Complaint.

40. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-39 as though fully set forth herein.

41. Defendants deny the allegations contained in paragraph 41 of the Complaint.

42. Defendants deny the allegations contained in paragraph 42 of the Complaint.

43. Defendants deny the allegations contained in paragraph 43 of the Complaint.

44. Defendants deny the allegations contained in paragraph 44 of the Complaint.

45. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-44 as though fully set forth herein.

46. Defendants deny the allegations contained in paragraph 46 of the Complaint.

47. Defendants deny the allegations contained in paragraph 47 of the Complaint.

48. Defendants deny the allegations contained in paragraph 48 of the Complaint.

49. Defendants deny the allegations contained in paragraph 49 of the Complaint.

50. Defendants deny the allegations contained in paragraph 50 of the Complaint.

51. Defendants deny the allegations contained in paragraph 51 of the Complaint.

52. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-51 as though fully set forth herein.

53. Defendants deny the allegations contained in paragraph 53 of the Complaint.
54. Defendants deny the allegations contained in paragraph 54 of the Complaint.
55. Defendants deny the allegations contained in paragraph 55 of the Complaint.
56. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-55 as though fully set forth herein.

57. Defendants deny the allegations contained in paragraph 57 of the Complaint.
58. Defendants deny the allegations contained in paragraph 58 of the Complaint.
59. Defendants deny the allegations contained in paragraph 59 of the Complaint.
60. Defendants repeat and reallege the answers set forth in the preceding paragraphs 1-59 as though fully set forth herein.

61. Defendants deny the allegations contained in paragraph 61 of the Complaint.
62. Defendants deny the allegations contained in paragraph 62 of the Complaint.
63. Defendants deny the allegations contained in paragraph 63 of the Complaint.
64. Defendants deny the allegations contained in paragraph 64 of the Complaint.

Response to Prayer for Relief

65. Defendants deny that Plaintiffs are entitled to any of the relief requested or to any other relief.

First Affirmative Defense

66. The Complaint fails to state a claim for which relief may be granted.

Second Affirmative Defense

67. The claims contained in the Complaint are barred under the doctrines of waiver, estoppel and laches.

Third Affirmative Defense

68. The claims contained in the Complaint are barred by the doctrine of unclean hands.

Fourth Affirmative Defense

69. Plaintiffs fail adequately to plead their cause of action for fraud with particularity.

Fifth Affirmative Defense

70. Plaintiffs have failed to mitigate any damages that allegedly exist.

Sixth Affirmative Defense

71. Plaintiffs' claim for breach of contract is barred in whole or in part by their non-performance.

Seventh Affirmative Defense

72. Plaintiffs' breach of contract claim is barred due to their consent to, and ratification of, Defendants' conduct.

Eighth Affirmative Defense

73. Plaintiffs' equitable claim for promissory estoppel is barred by the contract between AETN and Plaintiffs, as described in the Counterclaims below.

Ninth Affirmative Defense

74. Any award of punitive damages under the facts alleged in Plaintiffs' Complaint would be in violation of the constitutional safeguards provided to Defendants under the constitutions of the United States of America and the State of South Carolina.

AETN'S COUNTERCLAIMS

Summary of Counterclaims

75. These counterclaims arise out of Richard Davis's failure to honor an agreement that he reached with AETN to participate in a second season of AETN's lifestyle reality show "Flip This House." The central allegations in Davis's complaint bear no relationship to reality because AETN and Davis never made any agreement that remotely resembles the terms he alleges. It has always been understood and agreed by all parties, including Davis and Trademark, that AETN exercises final creative authority over "Flip This House," owns all legal rights in the show, and receives and controls all revenues associated with the show. AETN and Davis reached only one agreement, and Davis broke it. They agreed that Davis would appear in a second season of "Flip This House," with AETN remaining in its position of creative, economic and legal ownership and control. Davis, however, walked away from this agreement without explanation and publicly announced that he was affiliating himself with a competing network. His conduct amounts to breach of contract or, in the alternative, breach of the duty of good faith.

Facts

76. The first season of “Flip This House” was produced under an agreement between AETN and Departure Films, an independent production company, and a separate agreement between Departure Films and Davis. Neither agreement provided Davis with any rights in the show, any control of the show or any compensation. Davis initially did not seek or receive any direct compensation for his participation in the show because he viewed “Flip This House” as a powerful form of advertising for Trademark, which he hoped to expand or franchise on a national basis.

77. “Flip This House” did well in the ratings, leading to a mutual desire among the parties to do a second season. At that point, Davis requested an agreement directly with AETN. Negotiations followed, resulting in a firm agreement (the “Season Two Contract”). The Season Two Contract provided, in relevant part, that Davis would participate as on-air talent in a second season of “Flip This House”; that AETN would continue to own and control the show in every sense; and that Davis for the first time would have the opportunity to receive certain compensation.

78. Davis acknowledged, (a) via email, (b) in phone conversations and (c) through his lawyer, that he had agreed to those terms and all that remained was to prepare and sign a written form of the Season Two Contract.

79. In reliance on Davis’s actions and statements, AETN proceeded to make arrangements for Season Two and actually began taping at AETN’s expense, all in the expectation that Davis would continue to participate as agreed.

80. Davis then refused to finalize a written contract or to explain his reasons for doing so. Instead, he broke off communications with AETN and announced that he would appear instead in similar programming on a competing cable network. AETN was forced to abandon the Season Two episode that it had begun taping, locate new talent and re-start the taping of Season Two.

81. On information and belief, Trademark is Davis's alter ego and under his exclusive personal control. All of Davis's actions relevant to this matter are for all intents and purposes the actions of Trademark, and vice versa.

First Counterclaim: Breach of Contract

82. Defendants repeat and reallege the allegations of the foregoing paragraphs as if fully set forth herein.

83. The Season Two Contract was a fully enforceable legal agreement between AETN, on the one hand, and Davis and Trademark, on the other.

84. The acts of Davis and Trademark, as described above, constitute a breach of that contract.

85. The acts of Davis and Trademark, as described above, have damaged and are damaging AETN in an amount that cannot be ascertained at this time but is in excess of \$75,000.00.

86. By reason of the foregoing, AETN is entitled to recover after trial the damages resulting from the aforesaid acts of breach of contract.

Second Counterclaim: Breach of Duty of Good Faith

87. Defendants repeat and reallege the allegations of the foregoing paragraphs as if fully set forth herein.

88. In the alternative, in the unlikely event that the Season Two Contract was not a fully enforceable legal agreement, then it was a binding preliminary agreement that obligated Davis and Trademark to negotiate in good faith with AETN any remaining open issues in an attempt to reach a final agreement.

89. The acts of Davis and Trademark, as described above, constitute a breach of their duty to negotiate with AETN in good faith.

90. The acts of Davis and Trademark, as described above, have damaged and are damaging AETN in an amount that cannot be ascertained at this time but is in excess of \$75,000.00.

91. By reason of the foregoing, AETN is entitled to recover after trial the damages resulting from Davis's and Trademark's aforesaid acts of breach of duty of good faith.

Prayer for Relief

WHEREFORE, Defendants respectfully request that the Court:

1. Dismiss the Complaint in its entirety with prejudice.
2. On AETN's counterclaims, award AETN damages, in an amount to be determined at trial, arising from Davis's and Trademark's acts of breach of contract and/or breach of duty of good faith.

3. Award AETN and Departure Films their costs, including reasonable attorneys' fees, in this action.
4. Award such other and further relief as the Court deems just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Motions for admission *pro hac*
vice to be filed

EXHIBIT C

received
12/11/06

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

286-92/1500

RHJ
Lynch

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.

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

**PLAINTIFFS' FIRST SET OF
INTERROGATORIES TO THE
DEFENDANTS/COUNTERCLAIM
PLAINITFF**

A&E TELEVISION NETWORKS,

Counterclaim Plaintiff,

vs.

TRADEMARK PROPERTIES, INC. and
RICHARD C. DAVIS,

Counterclaim Defendants.

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendants 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 Plaintiffs ("Plaintiffs")

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 Defendants' 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 Plaintiffs' 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 Plaintiffs' First Requests for Production of Documents and Things shall apply in responding to these Interrogatories.

2. Defendants 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 Plaintiffs 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, Defendants are asked to answer to the fullest extent possible and specify the reason for Defendants' inability to answer the remainder and state whatever information or knowledge Defendants have concerning the unanswered portion.

5. If Defendants withhold any information called for by an Interrogatory by reason of a claim of privilege or work product, Defendants 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.

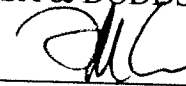
INTERROGATORIES

1. Identify all persons known to Defendants 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. Itemize all damages the Defendants seeks to recover in this lawsuit.
3. Itemize all revenues generated by each of the Defendants from the television series known as "Flip This House" during the first season including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales.
4. Itemize all revenues generated by each of the Defendants from the television series known as "Flip This House" during the second season including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales.
5. Itemize all expenses and costs incurred by each Defendant relative to the television series known as "Flip This House" for the first season.
6. Itemize all expenses and costs incurred by each Defendant relative to the television series known as "Flip This House" for the second season.
7. State the precise relationship between the Defendant A&E Television Networks and the Defendant Max Weissman Production, Inc.
8. Identify all persons who were present at any meetings, or who were on any telephone calls between Plaintiffs and Defendants either during which any firm agreement was reached as alleged in paragraph 77 of the Answer and Counterclaims.

9. Set forth the name of the individual or entity who was credited as being the creator of the television series know as "Flip This House" during the first season.
10. Set forth the name of the individual or entity who was credited as being the creator of the television series known as "Flip This House" during the second season.
11. 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 known as "Flip This House".

This 7th day of December, 2006
Mt. Pleasant, SC

CISA & DODDS, LLP



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

EXHIBIT D

received
12/11/06

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

28692/1572
R.H.J.
Lynch

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

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

vs.)

PLAINTIFFS' FIRST REQUESTS
FOR PRODUCTION OF DOCUMENTS AND
THINGS FROM THE DEFENDANTS

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.)

The Plaintiffs, Trademark Properties, Inc. and Richard C. Davis hereby requests that A&E Television Networks and Max Weissman Productions, Inc. d/b/a Departure Films 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 Defendants' 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, interoffice and intraoffice communications, e-mails, computer correspondences, notations of conversations, 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.

6. The term “Defendant A&E Television Networks” shall mean A&E Television Networks its 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 the Defendant, A&E Television Networks.

7. The term “Defendant Max Weissman Productions, Inc.” shall mean its principals and any and all agents, employees, servants, representatives or other persons or entities who have obtained information or acted for or non behalf of the Defendant, Max Weissman Production, Inc.

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 Defendants are unable to produce any documents called for by any portion of these requests, or if Defendants have no documents responsive to any portion of these requests, Defendants 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, Defendants are required to furnish all documents in Defendants' possession, custody or control that are known or available to them, regardless of whether those documents are possessed by Defendants or by any of their agents, attorneys, investigators, representatives, financial advisors, consultants or employees. Defendants 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. Defendants 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 Defendants 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 A&E Television Networks.

2. Documents sufficient to describe the corporate structure and organization of Max Weissman Production, Inc.

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

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

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

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

7. All documents and communications concerning communications between the Defendants A&E Television Networks and any other person or entity concerning the claims, counterclaims, or defenses asserted in this lawsuit.

8. Any documents and communications concerning any communications between the Defendant, Max Weissman Production, Inc. and any other person or entity concerning the claims, counterclaims, or defenses asserted in this lawsuit.

9. All documents and communications concerning communications between either or both of the Defendants and any other person or entity, other than Plaintiffs concerning the television series known as "Flip This House".

10. All documents and communications concerning Plaintiffs' claims in 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, requiring, refurbishing and selling houses."

11. All documents and communications concerning any television shows that have a concept or format similar to that of "Flip This House".

12. All documents and communications concerning the Defendants claim of ownership of the concept, format and treatment of the television series known as "Flip

This House”.

13. All documents and communications concerning the Defendants’ claim that the first season of “Flip This House” was produced under an agreement between the Defendants and a separate agreement between the Defendant, Max Weissman Production, Inc., and the Plaintiff Davis as alleged in paragraph 76 of the Answer and Counterclaims.

14. All documents and communications which concern the ratings of the television series known as “Flip This House” from the time that it was first televised until the present.

15. All documents and communications concerning the Defendants claim that Davis requested an agreement directly with A&E Television Networks as alleged in paragraph 77 of the Answer and Counterclaims.

16. All documents and communications concerning the Defendants claim that negotiations resulted in a firm agreement the (“Season Two Contract”) as alleged in paragraph 77 of the Answer and Counterclaims.

17. All documents and communications concerning the Defendants claim that the Plaintiff Davis acknowledged, a. via-email, b. in phone conversations and c. through his lawyer, that he agreed to those terms and all that remained was to prepare and sign a written form of the “Season Two Contract” as alleged in paragraph 78 of the Answer and Counterclaims.

18. All documents and communications concerning the Defendants claim that A&E Television Networks proceeded to make arrangements for season two and began taping

at A&E Television Networks' expense all in the expectation that Davis would continue to participate as agreed as alleged in paragraph 79 of the Answer and Counterclaims.

19. All documents and communications concerning the Defendant, A&E Television Networks' efforts to locate new talent and restart taping on season two of the series known as "Flip This House" as referred to in paragraph 80 of the Answer and Counterclaims.

20. All documents and communications concerning any damages claimed by the Defendant, A&E Television Networks, as referred to in paragraphs 85 and 90 of the Answer and Counterclaims.

21. All documents and communications concerning the negotiations between the Plaintiffs and either of the Defendants relative to an agreement with the Plaintiffs to produce and televise the television series known as "Flip This House".

22. All documents and communications concerning the Plaintiffs desire to enter into an agreement with either of the Defendants whereby the Plaintiffs would be equal 50/50 owners of the project known as the television series "Flip This House".

23. Any and all documents or communications concerning the "firm agreement" as referred to in paragraph 77 of the Answer and Counterclaims.

24. Any and all documents or communications concerning Charles Norlander's relationship with the Defendants during the year 2003 to the present.

25. Any all documents or communications by and between Charles Norlander and any of the Defendants' principals, agents, employees, servants and representatives concerning the Plaintiffs and/or the television series known as "Flip This House".

26. All business plans, financial models, risk analyses, financial pro formas, financial projections, business growth projections, marketing studies, marketing plans and/or market potential projections relation to the series known as "Flip This House".
27. All drafts of any agreements or contracts between the Plaintiffs and either of the Defendants.
28. Any and all documents or communications concerning the Defendant, A&E Television Networks, claim that the Plaintiffs conveyed any rights to the series known as "Flip This House" to the Defendant, A&E Television Networks.
29. Any and all documents or communications concerning the budget for each episode of the series known as "Flip This House".
30. Any and all documents or communications concerning all revenues generated from the series known as "Flip This House" including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales both for each episode and each season.
31. All documents and communications concerning all expenses and costs incurred by the Defendants relative to the series "Flip This House" both for each episode and for each season.
32. Any and all documents concerning the amount of money paid to the Plaintiffs concerning the television series known as "Flip This House".

CISA & DODDS, LLP



Frank M. Cisa
622 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464

This 7th day of December, 2006
Mt. Pleasant, SC

(843) 881-3700

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

CHARLESTON DIVISION

received
12/11/06

28692/1520

RHJ

Lynne

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.)

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

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 7th day of December, 2006 I mailed, postage prepaid via United States Mail, the Plaintiffs' First Set of Interrogatories and First Request for Production to the Defendants/Counterclaim Plaintiff in the above-captioned action to:

Robert H. Jordan, Esquire

Nelson Mullins Riley & Scarborough, LLP
P.O. Box 1806
Charleston, SC 29402



Ashley Pardee

EXHIBIT E

2007/1/20
JH

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

RESPONSES AND OBJECTIONS OF
DEFENDANT/COUNTERCLAIM
PLAINTIFF A&E TELEVISION
NETWORKS TO PLAINTIFFS' FIRST SET
OF INTERROGATORIES

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, A&E Television Networks ("AETN"), by its attorneys, hereby responds and objects to the First Set of Interrogatories ("Interrogatories") of plaintiffs Richard C. Davis and Trademark Properties, Inc. (collectively, "Plaintiffs"), dated December 7, 2006.

These responses are based on the information currently available to AETN. AETN reserves the right to amend, supplement or modify its responses and objections at any time in the event that it obtains additional or different information.

GENERAL OBJECTIONS

All of the General Objections set forth herein apply to and are incorporated into each of the specific responses to the Interrogatories set forth below and have the same force and effect as if fully set forth therein, whether or not expressly incorporated by reference in such specific responses. Without waiving any of these General Objections to the extent they apply to each of the Interrogatories, AETN may specifically refer to certain General Objections in responding to certain Interrogatories.

A. AETN objects to each Interrogatory to the extent it seeks information or documents protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Any inadvertent disclosure of information or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege, immunity or protection from disclosure is not intended and should not be construed to constitute a waiver of such privilege, immunity or protection.

B. AETN objects to each Interrogatory to the extent that it seeks information or the production of documents that are not in the possession, custody or control of AETN.

C. AETN objects to each Interrogatory to the extent that it is vague, ambiguous, confusing or otherwise incomprehensible.

D. AETN objects to each Interrogatory to the extent that it is overly broad or seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence.

E. AETN objects to each Interrogatory to the extent that it is unduly burdensome.

F. AETN objects to each Interrogatory to the extent that it is unreasonably cumulative or duplicative.

G. AETN objects to each Interrogatory to the extent that it seeks information or documents already in Plaintiffs' possession, custody or control.

H. AETN objects to each Interrogatory to the extent that it seeks information or documents to which Plaintiffs have equal or better access, or for which the burden on AETN is equal to, or greater than, that of Plaintiffs in obtaining the requested information or documents.

I. AETN objects to each Interrogatory to the extent that it is premature.

J. AETN objects to the Definitions and Instructions and each Interrogatory to the extent that they seek to impose duties and obligations on AETN in excess of those

imposed by the Federal Rules of Civil Procedure, the Local Civil Rules and decisional law construing such rules.

K. The failure of AETN to object to any specific Interrogatory on a particular ground shall not be construed as a waiver of its rights to object on any additional ground(s). AETN reserves the right to amend and/or supplement its objections and responses at any time consistent with further investigation and discovery.

L. AETN does not concede the relevance, materiality, or admissibility of any information or documents sought in these Interrogatories. AETN's responses are without waiver or limitation of its right to object on grounds of relevance, privilege, admissibility of evidence for any purpose, or any other ground to the use of any information or documents provided or referred to in its responses, in discovery or in any proceeding, or at the trial of this or any other action.

M. AETN objects to each Interrogatory to the extent that it seeks information beyond the time period relevant to this action.

N. AETN objects to each Interrogatory to the extent that it seeks information reflected in documents that have been requested by, and that will be produced in response to, Plaintiffs' First Requests for Production of Documents and Things.

SPECIFIC OBJECTIONS AND RESPONSES

INTERROGATORY NO. 1

Identify all persons known to Defendants 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.

RESPONSE TO INTERROGATORY NO. 1

AETN objects to Interrogatory No. 1 to the extent that it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Subject to and without waiving these and the foregoing General Objections, other than attorneys or legal assistants operating under the direction of an attorney, AETN has identified the following persons as those who have knowledge concerning the information sought in Interrogatory No. 1: Thomas Moody, AETN; Michael Morrison, AETN; Dina Ganz Traugot, formerly of AETN; Nancy Dubuc, AETN; Charles Nordlander, formerly of AETN.

INTERROGATORY NO. 2

Itemize all damages the Defendants seeks [sic] to recover in this lawsuit.

RESPONSE TO INTERROGATORY NO. 2

AETN objects to Interrogatory No. 2 on the grounds that it is premature. AETN's damages cannot be determined at this time, and will be established during the course of these proceedings.

INTERROGATORY NO. 3

Itemize all revenues generated by each of the Defendants from the television series known as "Flip This House" during the first season including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales.

RESPONSE TO INTERROGATORY NO. 3

AETN objects to Interrogatory No. 3 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Interrogatory No. 3 is not relevant unless and until Plaintiffs have proven that AETN is liable and that Plaintiffs have suffered damages. AETN also objects to Interrogatory No. 3 on the grounds that the information requested is confidential.

INTERROGATORY NO. 4

Itemize all revenues generated by each of the Defendants from the television series known as “Flip This House” during the second season including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales.

RESPONSE TO INTERROGATORY NO. 4

AETN objects to Interrogatory No. 4 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Interrogatory No. 4 is not relevant unless and until Plaintiffs have proven that AETN is liable and that Plaintiffs have suffered damages. AETN also objects to Interrogatory No. 4 on the grounds that the information requested is confidential.

INTERROGATORY NO. 5

Itemize all expenses and costs incurred by each Defendant relative to the television series known as "Flip This House" for the first season.

RESPONSE TO INTERROGATORY NO. 5

AETN objects to Interrogatory No. 5 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Interrogatory No. 5 is not relevant unless and until Plaintiffs have proven that AETN is liable and that Plaintiffs have suffered damages. AETN also objects to Interrogatory No. 5 on the grounds that the information requested is confidential.

INTERROGATORY NO. 6

Itemize all expenses and costs incurred by each Defendant relative to the television series known as "Flip This House" for the second season.

RESPONSE TO INTERROGATORY NO. 6

AETN objects to Interrogatory No. 6 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Interrogatory No. 6 is not relevant unless and until Plaintiffs have proven that AETN is liable and that Plaintiffs have suffered damages. AETN also objects to Interrogatory No. 6 on the grounds that the information requested is confidential.

INTERROGATORY NO. 7

State the precise relationship between the Defendant A&E Television Networks and the Defendant Max Weissman Production, Inc. [sic]

RESPONSE TO INTERROGATORY NO. 7

Subject to and without waiving the foregoing General Objections, AETN states that the relationship between AETN and Departure Films is contractual.

INTERROGATORY NO. 8

Identify all persons who were present at any meetings, or who were on any telephone calls between Plaintiffs and Defendants either during which any firm agreement was reached as alleged in paragraph 77 of the Answer and Counterclaims.

RESPONSE TO INTERROGATORY NO. 8

AETN objects to Interrogatory No. 8 to the extent that it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Subject to and without waiving these and the foregoing General Objections, other than attorneys or legal assistants operating under the direction of an attorney, AETN has identified the following persons as those who have knowledge concerning the information sought in Interrogatory No. 8: Dina Ganz Traugot, formerly of AETN; Nancy Dubuc, AETN.

INTERROGATORY NO. 9

Set forth the name of the individual or entity who was credited as being the creator of the television series known as "Flip This House" during the first season.

RESPONSE TO INTERROGATORY NO. 9

Subject to and without waiving the foregoing General Objections, AETN has

identified the following individuals or entities as those who received "created by" credits during the first season of the television series known as "Flip This House": Charles Nordlander (as to episodes 5-13), Departure Films (as to episodes 1-13) and Richard C. Davis (as to episodes 1-13).

INTERROGATORY NO. 10

Set forth the name of the individual or entity who was credited as being the creator of the television series known as "Flip This House" during the second season.

RESPONSE TO INTERROGATORY NO. 10

Subject to and without waiving the foregoing General Objections, AETN states that no individuals or entities have received "created by" credits during the second season of the television series known as "Flip This House."

INTERROGATORY NO. 11

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 known as "Flip This House".

RESPONSE TO INTERROGATORY NO. 11

AETN objects to Interrogatory No. 11 to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Subject to and without waiving these and the foregoing General Objections, other than attorneys or legal assistants operating under the direction of an attorney, AETN has identified the following persons as those who have knowledge concerning the information sought in Interrogatory

No. 11: Thomas Moody, AETN; Michael Morrison, AETN; Dina Ganz Traugot,
formerly of AETN; Nancy Dubuc, AETN; Charles Nordlander, formerly of AETN.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:


Robert H. Jordan

Federal Bar No. 6986

Liberty Building, Suite 600

151 Meeting Street

Post Office Box 1806 (29402)

Charleston, SC 29401

(843) 853-5200

Attorneys for Defendant/Counterclaimant AETN

Charleston, South Carolina

January 9, 2007

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


VERIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

Thomas Moody, being duly sworn, deposes and says that he is Vice President, Program Planning, of Defendant/Counterclaim Plaintiff A&E Television Networks ("AETN"); that he verifies the foregoing Responses and Objections of AETN to Plaintiffs' First Set of Interrogatories ("Interrogatories") for and on behalf of AETN; that he is duly authorized to do so; that he has personal knowledge of the facts, or that the facts stated therein are based upon information obtained from officers or employees, or upon the books and records of AETN; and to the best of his knowledge, information and belief, the answers to the Interrogatories are true and correct.


Thomas Moody

Sworn to and subscribed before me
this 4th day of January, 2007


Notary Public

DAVID MARTINEZ
Notary Public, State of New York
No. 02MA6003907
Qualified In Queens County
Commission Expires 3/1/11

CERTIFICATE OF SERVICE

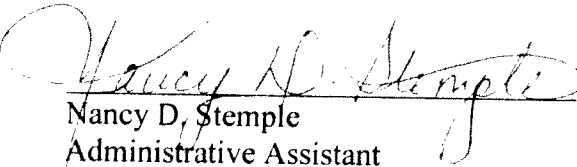
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendants A&E Television Networks ("AETN") and Max Weissman Productions, Inc. d/b/a Departure Films ("Departure Films"), do hereby certify that I have served all counsel in this action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

Pleadings:

**Responses and Objections of Defendant/Counterclaim Plaintiff
A&E Television Networks to Plaintiffs' First Set of
Interrogatories**

Counsel Served:

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


Nancy D. Stemple
Administrative Assistant

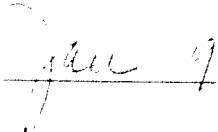
, 2007

EXHIBIT F

2-6-12/1303
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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.)

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

RESPONSES AND OBJECTIONS OF
DEFENDANT MAX WEISSMAN
PRODUCTIONS, INC. D/B/A DEPARTURE
FILMS TO PLAINTIFFS' FIRST SET OF
INTERROGATORIES

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

vs.)

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

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Max
Weissman Productions, Inc. d/b/a Departure Films ("Departure Films"), by its attorneys,
hereby responds and objects to the First Set of Interrogatories ("Interrogatories") of

plaintiffs Richard C. Davis and Trademark Properties, Inc. (collectively, "Plaintiffs"), dated December 7, 2006.

These responses are based on the information currently available to Departure Films. Departure Films reserves the right to amend, supplement or modify its responses and objections at any time in the event that it obtains additional or different information.

GENERAL OBJECTIONS

All of the General Objections set forth herein apply to and are incorporated into each of the specific responses to the Interrogatories set forth below and have the same force and effect as if fully set forth therein, whether or not expressly incorporated by reference in such specific responses. Without waiving any of these General Objections to the extent they apply to each of the Interrogatories, Departure Films may specifically refer to certain General Objections in responding to certain Interrogatories.

A. Departure Films objects to each Interrogatory to the extent it seeks information or documents protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Any inadvertent disclosure of information or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege, immunity or protection from disclosure is not intended and should not be construed to constitute a waiver of such privilege, immunity or protection.

- B. Departure Films objects to each Interrogatory to the extent that it seeks information or the production of documents that are not in the possession, custody or control of Departure Films.
- C. Departure Films objects to each Interrogatory to the extent that it is vague, ambiguous, confusing or otherwise incomprehensible.
- D. Departure Films objects to each Interrogatory to the extent that it is overly broad or seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence.
- E. Departure Films objects to each Interrogatory to the extent that it is unduly burdensome.
- F. Departure Films objects to each Interrogatory to the extent that it is unreasonably cumulative or duplicative.
- G. Departure Films objects to each Interrogatory to the extent that it seeks information or documents already in Plaintiffs' possession, custody or control.
- H. Departure Films objects to each Interrogatory to the extent that it seeks information or documents to which Plaintiffs have equal or better access, or for which the burden on Departure Films is equal to, or greater than, that of Plaintiffs in obtaining the requested information or documents.

I. Departure Films objects to each Interrogatory to the extent that it is premature.

J. Departure Films objects to the Definitions and Instructions and each Interrogatory to the extent that they seek to impose duties and obligations on Departure Films in excess of those imposed by the Federal Rules of Civil Procedure, the Local Civil Rules and decisional law construing such rules.

K. The failure of Departure Films to object to any specific Interrogatory on a particular ground shall not be construed as a waiver of its rights to object on any additional ground(s). Departure Films reserves the right to amend and/or supplement its objections and responses at any time consistent with further investigation and discovery.

L. Departure Films does not concede the relevance, materiality, or admissibility of any information or documents sought in these Interrogatories. Departure Films' responses are without waiver or limitation of its right to object on grounds of relevance, privilege, admissibility of evidence for any purpose, or any other ground to the use of any information or documents provided or referred to in its responses, in discovery or in any proceeding, or at the trial of this or any other action.

M. Departure Films objects to each Interrogatory to the extent that it seeks information beyond the time period relevant to this action.

N. Departure Films objects to each Interrogatory to the extent that it seeks information reflected in documents that have been requested by, and that will be

produced in response to, Plaintiffs' First Requests for Production of Documents and Things.

SPECIFIC OBJECTIONS AND RESPONSES

INTERROGATORY NO. 1

Identify all persons known to Defendants 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.

RESPONSE TO INTERROGATORY NO. 1

Departure Films objects to Interrogatory No. 1 to the extent that it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Subject to and without waiving these and the foregoing General Objections, other than attorneys or legal assistants operating under the direction of an attorney, Departure Films has identified the following persons as those who have knowledge concerning the information sought in Interrogatory No. 1: Max Weissman, Departure Films; Matt Levine, Departure Films; Liz Tracey, Departure Films; Steve Kantor, Departure Films.

INTERROGATORY NO. 2

Itemize all damages the Defendants seeks [sic] to recover in this lawsuit.

RESPONSE TO INTERROGATORY NO. 2

Departure Films is not seeking to recover damages in this lawsuit.

INTERROGATORY NO. 3

Itemize all revenues generated by each of the Defendants from the television series known as "Flip This House" during the first season including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales.

RESPONSE TO INTERROGATORY NO. 3

Departure Films objects to Interrogatory No. 3 on the grounds that it is unduly burdensome. Departure Films further objects to Interrogatory No. 3 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Interrogatory No. 3 is not relevant unless and until Plaintiffs have proven that Departure Films is liable and that Plaintiffs have suffered damages. Departure Films also objects to Interrogatory No. 3 on the grounds that the information requested is confidential.

INTERROGATORY NO. 4

Itemize all revenues generated by each of the Defendants from the television series known as "Flip This House" during the second season including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales.

RESPONSE TO INTERROGATORY NO. 4

Departure Films objects to Interrogatory No. 4 on the grounds that it is unduly burdensome. Departure Films further objects to Interrogatory No. 4 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically,

and without limitation, the information requested in Interrogatory No. 4 is not relevant unless and until Plaintiffs have proven that Departure Films is liable and that Plaintiffs have suffered damages. Departure Films also objects to Interrogatory No. 4 on the grounds that the information requested is confidential.

INTERROGATORY NO. 5

Itemize all expenses and costs incurred by each Defendant relative to the television series known as "Flip This House" for the first season.

RESPONSE TO INTERROGATORY NO. 5

Departure Films objects to Interrogatory No. 5 on the grounds that it is unduly burdensome. Departure Films further objects to Interrogatory No. 5 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Interrogatory No. 5 is not relevant unless and until Plaintiffs have proven that Departure Films is liable and that Plaintiffs have suffered damages. Departure Films also objects to Interrogatory No. 5 on the grounds that the information requested is confidential.

INTERROGATORY NO. 6

Itemize all expenses and costs incurred by each Defendant relative to the television series known as "Flip This House" for the second season.

RESPONSE TO INTERROGATORY NO. 6

Departure Films objects to Interrogatory No. 6 on the grounds that it is unduly burdensome. Departure Films further objects to Interrogatory No. 6 on the grounds that it

seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Interrogatory No. 6 is not relevant unless and until Plaintiffs have proven that Departure Films is liable and that Plaintiffs have suffered damages. Departure Films also objects to Interrogatory No. 6 on the grounds that the information requested is confidential.

INTERROGATORY NO. 7

State the precise relationship between the Defendant A&E Television Networks and the Defendant Max Weissman Production, Inc. [sic]

RESPONSE TO INTERROGATORY NO. 7

Subject to and without waiving the foregoing General Objections, Departure Films states that the relationship between AETN and Departure Films is contractual.

INTERROGATORY NO. 8

Identify all persons who were present at any meetings, or who were on any telephone calls between Plaintiffs and Defendants either during which any firm agreement was reached as alleged in paragraph 77 of the Answer and Counterclaims.

RESPONSE TO INTERROGATORY NO. 8

Departure Films objects to Interrogatory No. 8 to the extent that it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Subject to and without waiving these and the foregoing General Objections, other than attorneys or legal assistants operating under the direction of an attorney, Departure Films

has identified the following persons as those who have knowledge concerning the information sought in Interrogatory No. 8: Max Weissman, Departure Films.

INTERROGATORY NO. 9

Set forth the name of the individual or entity who was credited as being the creator of the television series known as “Flip This House” during the first season.

RESPONSE TO INTERROGATORY NO. 9

Subject to and without waiving the foregoing General Objections, Departure Films has identified the following individuals or entities as those who received “created by” credits during the first season of the television series known as “Flip This House”: Charles Nordlander (as to episodes 5-13), Departure Films (as to episodes 1-13) and Richard C. Davis (as to episodes 1-13).

INTERROGATORY NO. 10

Set forth the name of the individual or entity who was credited as being the creator of the television series known as “Flip This House” during the second season.

RESPONSE TO INTERROGATORY NO. 10

Subject to and without waiving the foregoing General Objections, Departure Films states that no individuals or entities have received “created by” credits during the second season of the television series known as “Flip This House.”

INTERROGATORY NO. 11

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 known as “Flip This House”.

RESPONSE TO INTERROGATORY NO. 11

Departure Films objects to Interrogatory No. 11 to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Subject to and without waiving these and the foregoing General Objections, other than attorneys or legal assistants operating under the direction of an attorney, Departure Films has identified the following persons as those who have knowledge concerning the information sought in Interrogatory No. 11: Max Weissman, Departure Films; Matt Levine, Departure Films.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

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Attorneys for Defendant Departure Films

Charleston, South Carolina
January 9, 2007

Of Counsel:

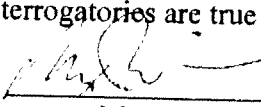
Bruce P. Keller
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New York, New York 10022
(212) 909-6000

Admitted Pro Hac Vice

VERIFICATION

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

Max Weissman, being duly sworn, deposes and says that he is President of Defendant Max Weissman Productions, Inc. d/b/a Departure Films ("Departure Films"); that he verifies the foregoing Responses and Objections of Departure Films to Plaintiffs' First Set of Interrogatories ("Interrogatories") for and on behalf of Departure Films; that he is duly authorized to do so; that he has personal knowledge of the facts, or that the facts stated therein are based upon information obtained from officers or employees, or upon the books and records of Departure Films; and to the best of his knowledge, information and belief, the answers to the Interrogatories are true and correct.



Max Weissman

Sworn to and subscribed before me
this 14th day of January, 2007



Notary Public

JUN JING LIU
Notary Public, State of New York
No. 0116102094
Qualified in New York County
Commission Expires November 24, 2007

CERTIFICATE OF SERVICE

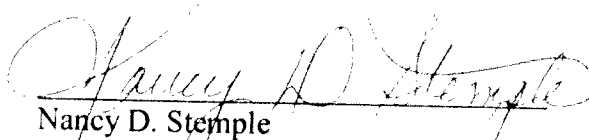
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendants A&E Television Networks ("AETN") and Max Weissman Productions, Inc. d/b/a Departure Films ("Departure Films"), do hereby certify that I have served all counsel in this action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

Pleadings:

Responses and Objections of Defendant Max Weissman Productions, Inc. d/b/a Departure Films to Plaintiffs' First Set of Interrogatories

Counsel Served:

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


Nancy D. Stemple
Administrative Assistant


 , 2007

EXHIBIT G

2006-2195-CWH
N/P

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

RESPONSES AND OBJECTIONS OF
DEFENDANTS/COUNTERCLAIM
PLAINTIFF TO PLAINTIFFS' FIRST
REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, A&E
Television Networks ("AETN") and Max Weissman Productions, Inc. d/b/a Departure
Films ("Departure Films") (collectively, "Defendants"), by their attorneys, hereby
respond and object to the First Requests for Production of Documents and Things

("Requests") of plaintiffs Richard C. Davis and Trademark Properties, Inc.

("Trademark") (collectively, "Plaintiffs"), dated December 7, 2006.

Subject to the following general and specific objections, and subject to the entry of an appropriate confidentiality order, Defendants will voluntarily produce documents in response to the Requests, at such time and place upon which counsel may mutually agree.

These responses are based on the information currently available to Defendants. Defendants reserve the right to amend, supplement or modify their responses and objections at any time in the event that they obtain additional or different information.

GENERAL OBJECTIONS

All of the General Objections set forth herein apply to and are incorporated into each of the specific responses to the Requests set forth below and have the same force and effect as if fully set forth therein, whether or not expressly incorporated by reference in such specific responses. Without waiving any of these General Objections to the extent they apply to each of the Requests, Defendants may specifically refer to certain General Objections in responding to certain Requests.

A. Defendants object to each Request to the extent it seeks information or documents protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Any inadvertent disclosure of information or documents protected by the attorney-client privilege, the work product doctrine or any other applicable privilege, immunity or

protection from disclosure is not intended and should not be construed to constitute a waiver of such privilege, immunity or protection.

B. Defendants object to each Request to the extent that it seeks information or the production of documents that are not in the possession, custody or control of Defendants.

C. Defendants object to each Request to the extent that it is vague, ambiguous, confusing or otherwise incomprehensible.

D. Defendants object to each Request to the extent that it is overly broad or seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence.

E. Defendants object to each Request to the extent that it is unduly burdensome.

F. Defendants object to each Request to the extent that it is unreasonably cumulative or duplicative.

G. Defendants object to each Request to the extent that it seeks information or documents already in Plaintiffs' possession, custody or control.

H. Defendants object to each Request to the extent that it seeks information or documents to which Plaintiffs have equal or better access, or for which the burden on

Defendants is equal to, or greater than, that of Plaintiffs in obtaining the requested information or documents.

I. Defendants object to each Request to the extent that it is premature.

J. Defendants object to the Definitions and Instructions and each Request to the extent that they seek to impose duties and obligations on Defendants in excess of those imposed by the Federal Rules of Civil Procedure, the Local Civil Rules and decisional law construing such rules.

K. The failure of Defendants to object to any specific Request on a particular ground shall not be construed as a waiver of their rights to object on any additional ground(s). Defendants reserve the right to amend and/or supplement their objections and responses at any time consistent with further investigation and discovery.

L. Defendants do not concede the relevance, materiality, or admissibility of any information or documents sought in these Requests. Defendants' responses are without waiver or limitation of their right to object on grounds of relevance, privilege, admissibility of evidence for any purpose, or any other ground to the use of any information or documents provided or referred to in their responses, in discovery or in any proceeding, or at the trial of this or any other action.

M. Defendants object to each Request to the extent that it seeks information beyond the time period relevant to this action.

SPECIFIC OBJECTIONS AND RESPONSES

REQUEST NO. 1

Documents sufficient to describe the corporate structure and organization of A&E Television Networks.

RESPONSE TO REQUEST NO. 1

Defendants object to Request No. 1 on the grounds that it seeks documents that are neither relevant to the subject matter of the Complaint nor reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to Request No. 1 on the grounds that the information requested is confidential. Subject to these and the foregoing General Objections, AETN states that it is a general partnership duly organized and existing under the laws of the State of New York, with its principal place of business located in New York, New York. The interests in the partnership are held by three entities -- Hearst Communications, Inc., Disney/ABC International Television, Inc. and NBC-A&E Holding, Inc. -- each of which is a citizen of Delaware and of New York, *i.e.*, a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business located in New York. Departure Films states that it has no documents or materials responsive to Request No. 1.

REQUEST NO. 2

Documents sufficient to describe the corporate structure and organization of Max Weissman Production, Inc. [sic]

RESPONSE TO REQUEST NO. 2

Defendants object to Request No. 2 on the grounds that it seeks documents that are neither relevant to the subject matter of the Complaint nor reasonably calculated to

lead to the discovery of admissible evidence. Defendants also object to Request No. 2 on the grounds that the information requested is confidential. Subject to these and the foregoing General Objections, Departure Films states that it is an S corporation organized and existing pursuant to the laws of the State of New York, with its principal place of business located in New York, New York. The sole shareholder of Departure Films is Max Weissman. AETN states that it has no documents or materials responsive to Request No. 2.

REQUEST NO. 3

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

RESPONSE TO REQUEST NO. 3

Defendants object to Request No. 3 on the grounds that it is overly broad and seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these and the foregoing General Objections, Defendants state that they have no documents or materials responsive to Request No. 3.

REQUEST NO. 4

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

RESPONSE TO REQUEST NO. 4

Defendants object to Request No. 4 on the grounds that it is overly broad and

seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these and the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 4.

REQUEST NO. 5

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

RESPONSE TO REQUEST NO. 5

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 5.

REQUEST NO. 6

All documents and communications concerning any communications by and between the Defendants and any other person or entity concerning the claims, counterclaims or defenses asserted in this lawsuit.

RESPONSE TO REQUEST NO. 6

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 6.

REQUEST NO. 7

All documents and communications concerning communications between the Defendants A&E Television Networks and any other person or entity concerning the claims, counterclaims, or defenses asserted in this lawsuit.

RESPONSE TO REQUEST NO. 7

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 7.

REQUEST NO. 8

Any documents and communications concerning any communications between the Defendant, Max Weissman Production, Inc. [sic] and any other person or entity concerning the claims, counterclaims, or defenses asserted in this lawsuit.

RESPONSE TO REQUEST NO. 8

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 8.

REQUEST NO. 9

All documents and communications concerning communications between either or both of the Defendants and any other person or entity, other than Plaintiffs concerning the television series known as "Flip This House".

RESPONSE TO REQUEST NO. 9

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 9.

REQUEST NO. 10

All documents and communications concerning Plaintiffs' claims in [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, requiring, refurbishing and selling houses.”

RESPONSE TO REQUEST NO. 10

Defendants object to the characterization 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, requiring, refurbishing and selling houses.” Subject to and without waiving this and the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 10.

REQUEST NO. 11

All documents and communications concerning any television shows that have a concept or format similar to that of “Flip This House”.

RESPONSE TO REQUEST NO. 11

Subject to the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 11.

REQUEST NO. 12

All documents and communications concerning the Defendants['] claim of ownership of the concept, format and treatment of the television series known as “Flip This House”.

RESPONSE TO REQUEST NO. 12

Subject to and without waiving the foregoing General Objections, Defendants will

produce non-privileged documents in their possession, custody or control, if any,
responsive to Request No. 12.

REQUEST NO. 13

All documents and communications concerning the Defendants' claim that the first season of "Flip This House" was produced under an agreement between the Defendants and a separate agreement between the Defendant, Max Weissman Production, Inc. [sic], and the Plaintiff Davis as alleged in paragraph 76 of the Answer and Counterclaims.

RESPONSE TO REQUEST NO. 13

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 13.

REQUEST NO. 14

All documents and communications which concern the ratings of the television series known as "Flip This House" from the time that it was first televised until the present.

RESPONSE TO REQUEST NO. 14

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 14.

REQUEST NO. 15

All documents and communications concerning the Defendants['] claim that Davis requested an agreement directly with A&E Television Networks as alleged in paragraph 77 of the Answer and Counterclaims.

RESPONSE TO REQUEST NO. 15

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 15.

REQUEST NO. 16

All documents and communications concerning the Defendants['] claim that negotiations resulted in a firm agreement the ("Season Two Contract") as alleged in paragraph 77 of the Answer and Counterclaims.

RESPONSE TO REQUEST NO. 16

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 16.

REQUEST NO. 17

All documents and communications concerning the Defendants['] claim that the Plaintiff Davis acknowledged, a. via-email, b. in phone conversations and c. through his lawyer, that he agreed to those terms and all that remained was to prepare and sign a written form of the "Season Two Contract" as alleged in paragraph 78 of the Answer and Counterclaims.

RESPONSE TO REQUEST NO. 17

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 17.

REQUEST NO. 18

All documents and communications concerning the Defendants['] claim that A&E

Television Networks proceeded to make arrangements for season two and began taping at A&E Television Networks' expense all in the expectation that Davis would continue to participate as agreed as alleged in paragraph 79 of the Answer and Counterclaims.

RESPONSE TO REQUEST NO. 18

Defendants object to Request No. 18 to the extent that it seeks information protected from disclosure by the attorney-client privilege, the work product doctrine or any other applicable privileges, immunities or protections from disclosure. Subject to and without waiving these and the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 18.

REQUEST NO. 19

All documents and communications concerning the Defendant, A&E Television Networks' efforts to locate new talent and restart taping on season two of the series known as "Flip This House" as referred to in paragraph 80 of the Answer and Counterclaims.

RESPONSE TO REQUEST NO. 19

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 19.

REQUEST NO. 20

All documents and communications concerning any damages claimed by the Defendant, A&E Television Networks, as referred to in paragraphs 85 and 90 of the Answer and Counterclaims.

RESPONSE TO REQUEST NO. 20

Defendant AETN objects to Request No. 20 on the grounds that it is premature. AETN's damages cannot be determined at this time, and will be established during the course of these proceedings. Departure Films is not claiming any damages in this lawsuit.

REQUEST NO. 21

All documents and communications concerning the negotiations between the Plaintiffs and either of the Defendants relative to an agreement with the Plaintiffs to produce and televise the television series known as "Flip This House".

RESPONSE TO REQUEST NO. 21

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 21.

REQUEST NO. 22

All documents and communications concerning the Plaintiffs[] desire to enter into an agreement with either of the Defendants whereby the Plaintiffs would be equal 50/50 owners of the project known as the television series "Flip This House".

RESPONSE TO REQUEST NO. 22

Defendants object to the characterization that "Plaintiffs would be equal 50/50 owners of the project known as the television series 'Flip This House.'" Subject to and without waiving this and the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 22.

REQUEST NO. 23

Any and all documents or communications concerning the “firm agreement” as referred to in paragraph 77 of the Answer and Counterclaims.

RESPONSE TO REQUEST NO. 23

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 23.

REQUEST NO. 24

Any and all documents or communications concerning Charles Norlander’s [sic] relationship with the Defendants during the year 2003 to the present.

RESPONSE TO REQUEST NO. 24

Defendants object to Request No. 24 on the grounds that it is overly broad and seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these and the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 24.

REQUEST NO. 25

Any [and] all documents or communications by and between Charles Norlander [sic] and any of the Defendants’ principals, agents, employees, servants and representatives concerning the Plaintiffs and/or the television series known as “Flip This House”.

RESPONSE TO REQUEST NO. 25

Subject to and without waiving the foregoing General Objections, Defendants will

produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 25.

REQUEST NO. 26

All business plans, financial models, risk analyses, financial pro formas, financial projections, business growth projections, marketing studies, marketing plans and/or market potential projections relation [sic] to the series known as “Flip This House”.

RESPONSE TO REQUEST NO. 26

Defendants object to Request No. 26 on the grounds that it is overly broad and seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to these and the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 26.

REQUEST NO. 27

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

RESPONSE TO REQUEST NO. 27

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 27.

REQUEST NO. 28

Any and all documents or communications concerning the Defendant, A&E Television Networks['], claim that the Plaintiffs conveyed any rights to the series known as “Flip This House” to the Defendant, A&E Television Networks.

RESPONSE TO REQUEST NO. 28

Defendants object to the characterization that “Plaintiffs conveyed any rights to the series known as ‘Flip This House’ to the Defendant, A&E Television Networks,” as Defendants dispute that Plaintiffs ever had any such rights to convey. Subject to and without waiving this and the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 28.

REQUEST NO. 29

Any and all documents or communications concerning the budget for each episode of the series known as “Flip This House”.

RESPONSE TO REQUEST NO. 29

Subject to and without waiving the foregoing General Objections, Defendants will produce non-privileged documents in their possession, custody or control, if any, responsive to Request No. 29.

REQUEST NO. 30

Any and all documents or communications concerning all revenues generated from the series known as “Flip This House” including but not limited to sponsorship revenues, product placement revenues, ad sales, syndication fees and video sales both for each episode and each season.

RESPONSE TO REQUEST NO. 30

Defendants object to Request No. 30 on the grounds that it is unduly burdensome. Defendants further object to Request No. 30 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated

to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Request No. 30 is not relevant unless and until Plaintiffs have proven that Defendants are liable and that Plaintiffs have suffered damages. Defendants also object to Request No. 30 on the grounds that the information requested is confidential.

REQUEST NO. 31

All documents and communications concerning all expenses and costs incurred by the Defendants relative to the series "Flip This House" both for each episode and for each season.

RESPONSE TO REQUEST NO. 31

Defendants object to Request No. 31 on the grounds that it is unduly burdensome. Defendants further object to Request No. 31 on the grounds that it seeks information that is not relevant to the subject matter of the pending action and is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, and without limitation, the information requested in Request No. 31 is not relevant unless and until Plaintiffs have proven that Defendants are liable and that Plaintiffs have suffered damages. Defendants also object to Request No. 31 on the grounds that the information requested is confidential.

REQUEST NO. 32

Any and all documents concerning the amount of money paid to the Plaintiffs concerning the television series known as "Flip This House".

RESPONSE TO REQUEST NO. 32

Subject to and without waiving the foregoing General Objections, Defendants will

produce non-privileged documents in their possession, custody or control, if any,
responsive to Request No. 32.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

Robert H. Jordan
Federal Bar No. 6986
Liberty Building, Suite 600
151 Meeting Street
Post Office Box 1806 (29402)
Charleston, SC 29401
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*Attorneys for Defendant/Counterclaimant AETN and Defendant
Departure Films*

Charleston, South Carolina
January 9, 2007

Of Counsel:

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Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

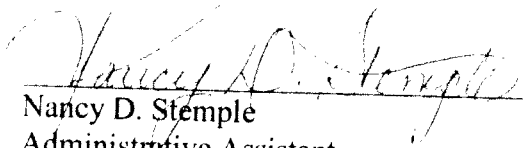
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Defendants A&E Television Networks ("AETN") and Max Weissman Productions, Inc. d.b.a Departure Films ("Departure Films"), do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

**Responses and Objections of Defendant/Counterclaim Plaintiff
A&E Television Networks to Plaintiffs' First Requests for
Production of Documents and Things**

Counsel Served:

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


Nancy D. Stemple
Administrative Assistant

, 2007

EXHIBIT H

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

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January 22, 2007

Via Facsimile

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:

Earlier this week, you mentioned to Robert that you disagreed with our objections to plaintiff's discovery requests calling for information and documents about the defendants' revenues and expenses for Seasons One and Two of "Flip This House." We believe the objections are proper in the circumstances of this case. We also are prepared to suggest a compromise.

There are two reasons for the objections:

First, there is a huge threshold issue as to whether A&E actually agreed with Davis on the extraordinary contract terms that he alleges in paragraph 11 of the complaint. Without proof of such an agreement, the cost and revenue data are simply not relevant to plaintiffs' case.

We fully expect to show on summary judgment that there was no such agreement. In particular, there was no agreement to share any revenues, much less split them 50/50. We have not seen anything in plaintiffs' documents to support plaintiffs' version of the alleged 50/50 agreement. Defendants' documents - which we will be delivering to you soon - also contain no support for plaintiffs' position.

Second, the type of documents and information that plaintiffs request is treated as highly confidential and sensitive by the television industry in general and by A&E in particular. Defendants would be concerned about producing this kind of data in any context. A&E is especially concerned in this context. Mr. Davis claims to be developing a new show with The

Frank M. Cisa, Esq.
January 22, 2007
Page 2

Learning Channel, a direct competitor of A&E. Mr. Davis and Ginger Alexander of Trademark have touted their new show, and attacked A&E, in public Internet postings about this case. See <http://www.flipthislawsuit.com/>.

Given these circumstances, defendants face a significant risk in producing any data on costs and revenues. Producing under the agreed confidentiality order would not solve the problem. Mr. Davis is an individual, and he owns and controls Trademark. He cannot "unlearn" what he learns in discovery when he is acting in non-litigation contexts, such as promoting his new show or dealing with The Learning Channel.

In short, A&E should not have to bear the burden or the confidentiality risk of damages discovery unless plaintiffs can survive summary judgment on liability. Nonetheless, we would like to help move the case forward. We propose that:

- The parties should promptly complete discovery and summary judgment on liability issues, according to the current schedule.
- If our motion for summary judgment on liability is denied, then we would agree to expedited discovery on damages issues. This would include production of documents and information, any expert reports, and making the appropriate fact and expert witnesses available for depositions on damages issues.
- All of this would have to be done under enhanced confidentiality protections, such as a two-tier order in which defendants' financial information is available only to plaintiffs' counsel and experts. We agree to negotiate in good faith to promptly put such protections in place when and if we get to damages discovery.
- A&E would defer damages discovery in support of its own counterclaims as part of this procedure.

I am available to discuss this proposal. I would also be happy to prepare a proposed consent order to implement it. Please let me know your views.

Very truly yours,


Richard A. Farrier, Jr.

RAFJR:dh

cc: Robert H. Jordan, Esq.
Jeremy Feigelson, Esq.
S. Zev Parnass, Esq.

EXHIBIT I

FLIP THIS LAWSUIT

TRADEMARK PROPERTIES V. A&E TELEVISION
NETWORKS

SEARCH

ARCHIVES

January 2007

December 2006

October 2006

September 2006

August 2006

July 2006

« The first hints... Season 2, Episode 3 »

Lawsuit Press Release

Following is a press release issued shortly after filing the lawsuit.

TRADEMARK PROPERTIES FILES MULTI-MILLION DOLLAR CIVIL ACTION AGAINST A&E OVER "FLIP THIS HOUSE"

Martin Singer of Lavelly & Singer Retained to Lead Case for Plaintiff

Charleston, SC (July 24, 2006) – Trademark Properties and its President/CEO Richard C. Davis have filed a multi-million dollar civil action against A&E Television Networks and Departure Films in connection with the reality television series "Flip This House," which aired on the network this past season.

Among nine causes of action, the complaint alleges fraud, breach of contract, misappropriation of trade secrets and unfair business practices by A&E, which failed to codify deal points into a written agreement, paid nothing to Trademark Properties for its original series concept and involvement, and is now launching a second season "without Plaintiffs' approval, participation, or otherwise providing any compensation." The civil action, which also requests a jury trial and an injunction restraining A&E from exploiting the series any further, was filed in the Court of Common Pleas, Ninth Judicial Circuit, State of South Carolina, County of Charleston by plaintiff's attorney Frank M. Cisa of Cisa & Dodds, LLP. Trademark Properties has retained well-respected entertainment attorney Martin Singer of Lavelly & Singer to lead the case.

"In my over 25 years of practicing entertainment

litigation, this case involves one of the most outrageous acts by a television network. My clients' television show that they have worked on for several years has been taken by A&E, and my clients have not been paid one penny by A&E. We are looking forward to the jury vindicating my clients in this matter."

According to the complaint, in April 2004 Davis and Trademark Properties created a digital video pilot originally titled "Worst To First," which featured Davis and certain Trademark staff members going through the process of locating, acquiring, refurbishing and selling houses. After a DVD of the pilot and written treatment were "enthusiastically" received by A&E, the network requested an in-person meeting, held in June 2004. At that time, A&E expressed interest in producing and televising the series, subsequently renamed "Flip This House." At this meeting, Davis stipulated that Trademark and A&E must be equal 50/50 owners of the project, that they share equally in all net revenues and proceeds, and that A&E pay for all production costs, among other discussed provisions. A&E explicitly agreed to these terms and, based on that agreement, Trademark permitted A&E to retain Departure Films to produce an initial 13 episodes of the reality series.

Trademark alleges that A&E promised to prepare a written agreement, yet despite repeated requests and assurances, no written agreement was ever prepared during the production and airing of the first season, nor did A&E provide any monetary compensation to Trademark. "A&E never intended to prepare or deliver to Plaintiffs a written agreement," according to the complaint, and willfully induced Trademark to allow A&E to use its "valuable concept and format." In effect, Trademark alleges, the network "misappropriated and stole Plaintiff's project for A&E's own use and benefit."

Trademark Properties is headquartered at 1175 Folly Road, Suite C, Charleston, South Carolina 29412.

*This entry was posted on Thursday,
August 3rd, 2006 at 11:36 AM and
filed under General.*

*Follow comments here with the RSS
2.0 (XML) feed. Post a comment or*

EXHIBIT J

FLIP THIS LAWSUIT

TRADEMARK PROPERTIES V. A&E TELEVISION
NETWORKS

SEARCH

Find

ARCHIVES

January 2007
December 2006
October 2006
September 2006
August 2006
July 2006

« Lawsuit Filed July 20, 2006 Flip This
Lawsuit Forum
»

From Richard C. Davis: Team Trademark No Longer On “Flip This House”

*The following is a mass email Richard C. Davis sent
on July 29, 2006 to those who have emailed him and
Trademark Properties messages of support.*

WOW!!!!!!!!!!!!!!!!!!!!

First of All, I want to personally thank you all for the
overwhelming show of support you guys have shown
us during season 1 of “Flip This House” and even
more so since the introduction of season 2 without
Team Trademark. TRULY HUMBLING and more
appreciated than I can ever put in words.

Many of you have taken the time out of your busy
lives to let the powers to be know how you feel, that
means more to me personally than any victory we
will have in court.

I can't comment on the lawsuit but I will tell you it is
the FIRST time in my life that I even contemplated
suing anyone. I don't believe in wasting good energy
chasing bad energy and truly believe you reap what
you sew but this time I wasn't going to be bullied by
a network and allow them to steal what is rightfully
mine.

http://news.yahoo.com/s/nm/20060725/tv_nm/house_dc_1

I want to clear up any question as to our association
with season 2, it's real simple....WE HAVE NONE!
A&E did a casting call to replace myself, Ginger,
Dawn, Lori, Vance, John and everyone else
associated with Trademark Properties. I wrote the

show, produced our pilot, shopped it to 3 networks, never sold it, still own it and somehow A&E “recast” a show that was never cast in the first place. We are real people, doing what we do every day, just with a camera capturing it for your amusement and hopefully you pick up some tips along the way, some how to and some how not to:)

We are filming as we speak for a new series on a new network. I want to assure you of one thing, we will not change for the sake of a network or production company or anyone for that matter. We are who we are, flaws and all and don't care to show you anything but who we really are, what we really do and how we really do it, success or failure.

It has been great meeting many of you at the airports, at our office and for many of you at The Crab House:) you guys have shown us nothing but support and even if I get in trouble with the lawyers, I felt the need to respond to your gracious support.

Everyone has brought it to my attention that the network has removed the website and discussion boards for your comments. I would ask that you all please go to www.imdb.com and utilize the “flip this house” discussion boards there. This is a television database for the industry that cannot be removed by the network. It means so much to Team Trademark that you continue to have a place to voice your concerns. This is the place that will get the most attention from network executives, production companies, and sponsors, as well. Please remember when you rate the show, it is about season 1 with Team Trademark. So if you like season 1 - rate it high, but put your comments about season 2 in the comment section.

Thank you so much – we could not ask for a more supportive group of people!

We will keep you up to date as we are allowed (and sometimes when we're not:))

Richard

*This entry was posted on Sunday,
July 30th, 2006 at 1:38 PM and filed
under General.*

EXHIBIT K

TRANSCRIPT

Richard Todd's Interview of Richard Davis

Comcast Channel 2 – August 15, 2006

RT: Richard Todd

RD: Richard Davis

RT: Hello and welcome again to another edition of Newsmakers here on Comcast C2. I'm your host Richard Todd from 1250 WTMA and today we're going to keep it among the Richards because we have from Trademark Properties the man behind the show "Flip This House" and one of the great businessmen of the Lowcountry Richard Davis and Richard thanks a lot for being here today.

RD: Glad to make it – I really appreciate you bringing us on today. That's very nice of you.

RT: Well I know how busy you are because I've seen the show so time is money – we're going to get to the conversation with Richard Davis from Trademark Properties coming up on Newsmakers next.

RT: And welcome back to Newsmakers as we have a conversation with Richard Davis from Trademark Properties and Richard, eh, how do you describe yourself – are you a businessman, an entrepreneur, a real estate mogul – I mean how would you describe yourself here in the Lowcountry?

RD: I'm, you know what, I'm a basketball coach. I'm a frustrated basketball player who didn't make it in the NBA and uh, no I mean you know to me life's all about life lessons and everything I've ever accomplished I learned in team sports and so you know I, I feel like everything I ever learned I try to apply that to whatever I'm in and you know from a young age 15 years old I knew I was sweeping out houses on Kiawah – I knew that's the game I wanted to get in to and so, you know I started researching and figuring out real estate and figuring out values and got a college degree in it – worked at the assessor's office got trained on value and then you know and a lot of people like to read about stuff and at some point you got to pull the trigger and at a young age I went ahead and risked it. I went ahead and bought a house. I bought it for \$27,000 when I was 24 years old – put \$10,000 in it and sold it for \$68,000. I was making \$16,161 a year at the county – great Charleston County Assessor's office – I mean to me it was like graduate school. I wouldn't change a day of my life, I surely wouldn't miss those days cause that trained me a lot on how to find deals and so you know all of a sudden I've got \$30,000 in the bank and I'm like wait – wow- maybe I'm pretty good at this game and I just started multiplying after that and next thing you look up and wow you got this incredible business and I haven't changed a thing other than back to the team sports – I'm the point

guard. You ever seen a basketball team ever win a game with one guy – it just doesn't happen and so you know I've gone out and gotten great people and I call them coordinators but you know you can call them forward, guard, you know, center, whatever – at the end of the day Dwyane Wade needs Shaq and Shaq needs Dwyane Wade to win the championship.

RT: Well a lot of people have gotten to know your team by watching Flip This House on A&E and seeing the team that you put together at Trademark Properties maybe another example to that list is TV host/producer/star whatever – are you, have you been surprised at the success or the response that you gotten from the show since it started?

RD: You want me to be honest...

RT: Absolutely.

RD: or you want me to humble? No I'm not surprised at all I wouldn't have wrote it if I knew – and the thing is I put it in writing and I did my homework and I did my research and I threw out to what I thought what kind of ratings we would get and I went out there and said – guys I think we could do a million viewers in the first episode and they sent me this lucky horseshoe afterwards and said how in the world did you know? To me it's like life's a math equation, sit down and figure it out and to me it was just something I felt like I would see shows on TV that I didn't feel like fairly represented what it really takes to make a dollar in the real world. The one show that came out if you remember – The Restaurant that came out on NBC?

RT: The Charleston Crab House

RD: Well the actual show "The Restaurant" came out – remember

RT: Oh the show, The Restaurant, yes, exactly

RD: And everybody was like gives you your first chance to see what it takes and I bought into it and I said okay I'm going to be able to see, America's actually going to be able to see how hard it is to make a dollar – everyone thinks its get rich quick – it's so easy and I watched two episodes of that show and realized that it was all scripted. That this wasn't it – I know enough through John Kenner and Joe Norton and those guys and my brother John Davis obviously you know brokers to all the restaurants around it. I knew that that business was a lot tougher than they made it look so I was just like, you know what, somebody needs to know, everyone wants to get into it, you want to know why businesses there's a 94% failure rate. People get into it without realizing how hard it really is so I say you know what, good, bad or ugly I want to show what it really takes and if you think at the end of the day what I do is easy – jump on in – if you think it's hard then sit on the sidelines – you can watch us every Sunday – you can watch through the comforts of your home and watch us do it.

RT: And by the way, now that I've mentioned the Charleston Crab House – it's obvious that I'm a fan of the show...

RD: Yeah.

RT: my wife and I watch it all the time and when you look at the show, I mean, what's the secret to its success – is it just – it's the warts and all view of what goes on?

RD: I think so. I really do. I mean obviously we're not actors – I mean and I think the thing where we really – you know the old phrase "keep it real" might be beaten a million times or it might be old but bottom line is that's my whole mantra is no scripts, don't make stuff up, don't enhance it and at the end of the day it is what it is and you know what, the thing about that if you're going to open yourself up and say – we're going to show the good, bad and ugly – obviously there are some, there are some things in there that if I was a very smart business person I would cut out, you know, but I mean, I don't think it's fair to the viewer if I cheat them and only make myself look good in a good light so we try to show everything and at the end of the day we either make a dollar or we don't and I can tell you this, you've seen the 13, you've seen the 13 properties we don't cherry pick – you've seen the good, bad and ugly. I mean whatever they film goes on TV.

RT: Is there one particular episode of Flip This House or one particular moment you remember that sort of stands out above the rest because I remember the Charleston Crab House episode I thought was outstanding but is there something that stands out in your mind?

RD: Yeah, honestly, that one to me, that one is very personal to me, that-that one to me – I had to really fight with the – with the network and that was my last episode with A&E and maybe it's a coincidence but they didn't want that, they thought it was too good of a feel good story, they thought that it had nothing to do with a house, they think the American viewer is, is, is basically not that smart and I differed with them and fortunately so does Discovery and TLC and you know it's not right or wrong, we just had creative differences and so I chose to move on and ...

RT: Well let me ask you about that because it was reported in the paper not too long ago about a lawsuit filed on your behalf or Trademark Properties against, I guess against A&E for the show and what, I know it's obviously pending litigation but what can you tell us about the lawsuit? What does the lawsuit claim?

RD: Well, I mean it's basically – let's say you and I are playing basketball and I block your shot and you get all mad and you take the ball and go home with my ball. You're at my house, it's my ball so you gotta come to my court and we'll figure out whose going to win.

RT: So basically this idea was yours and they're trying to take ownership of it?

RD: I mean I wrote the show, I registered with Writer's Guild, we spent about \$150,000 shooting the pilot, everybody who knows me knows I was out of town in Greenville for six months working on this and then I went and shopped it around the three networks and, uh, you know, at the end of the day I was told some things in a business that I wasn't familiar with, and you know what I'm all about, I've never sued anybody in my life, I'm not saying I don't believe in it because obviously here I am but this is just something where to me it's like David and Goliath – I'm not letting if you ever see my show – I'm very principled – I'm not letting someone intimidate me – I don't care who they are and I don't care who the daddy is – it's mine – you're not stealing it from me. You know we could sit down and we can talk about it but you're not stealing it from me and I'm not going away.

RT: Any kind of timetable on when that litigation sort of plays itself out?

RD: I've kind of handed it over to the lawyers – we went and got the best mackdaddy lawyer in Hollywood and I got out the way – he told me – Richard whatever you do – don't go on TV and talk about it so – here I am.

RT: Well that's it then we'll end that discussion on that. Speaking of timetable I know you are working on another show

RD: Yes.

RT: for another network – you got any kind of timetable on that?

RD: As we speak -- we're working right now, I think -- you know, again a season in TV is 13 episodes and we're a good way into those story lines. We're, as we speak, you know, my guys are filming you as we speak and so we're rolling, we're here, we didn't go away, we didn't tuck our tail and run, uh, we're going to be bigger and bolder and prouder than we ever were if that's possible but I can tell you this – I am so happy, I mean at the end of the day you're going to see if you liked our show on A&E you're gonna love it because it's the little things I had to fight for to keep them honest, you're gonna see. Again you might not agree with everything on there but if you, if you really want to see what it really takes you're really gonna, it's gonna be the enhanced version of the previous whatever the name of that show was that used to be on.

RT: Do you have a working title or networks that are interested already made the guilds [sic]....

RD: yes.

RT: the clipboard says untitled Richard Davis series but that's so boring...

RD: We're definitely getting rid of that.

RT: The untitled Richard Davis series.

RD: Right, we're getting rid of that, it only works... it will be um... oh, we're definitely on TLC for sure. We're home on Discovery... the president of Discovery Billy Campbell is an incredible guy. I am, I feel really fortunate that I got...that I got lined up with him – I was pretty aggressive chasing him down saying – look I'd really like to be a part of this. I just think Discovery is in a league of their own and um they want to put us on TLC to help the ratings more power to them. I mean, at the end of the day you know he's the coach and I'm the point guard. I'm just telling him put me in coach.

RT: Right now I'm just merely sitting on the bench but I got lots more questions to ask Richard Davis, Trademark Properties, big fan of the show "Flip this House" and yes, there are camera people in the studio right now filming us for his show while we're filming this show Newsmakers continuing with Richard Davis of Trademark Properties.

RT: And welcome back to Newsmakers as we continue our conversation with Richard Davis from Trademark Properties and reality television star, businessman of the Lowcountry and when you see the show and I'm a big fan of the show and it's well produced, well put together and it really makes Charleston and the State of South Carolina as a whole really look beautiful.

RD: Right, absolutely – I'm glad you said that because that was my big key was I said guys you know what - we're fair game- obviously there's a lot of stuff on there. You know what – it's, it's – my thing is take what you do seriously, take your client seriously, don't take yourself seriously and in this situation obviously on the show, we don't care what light you put us in, we're trying to achieve something. We either do it or we don't but the one thing that was non-negotiable to me was, look, we have a beautiful state and I want to show it off. In season 1 I tried to go all over the state and get as many towns and cities I could to show it off and it blows my mind how many people had a misconception of South Carolina even though we're the #4 most traveled city, it's amazing how many people have shown up now, do you know how many people, ask John Kenner at the Crab House, how many people come in there – it's unbelievable the power of a national TV show that the economic impact that it has. I had a phone call from somebody at the, either, I'm sorry if I'm getting this wrong the commissioner of business bureau or somebody but they said that of all the respondents that 44% of the reason that people are coming to Charleston is because they saw it on our show. That makes me feel good because if we weren't shown it in a good light they wouldn't be showing up here and that was, that's what the best about it is, we're absolutely – you and I are live here for a reason, I mean we know this is God's country, we know it's a unique place on the planet. Now we're able to show everybody else in America and in Canada, oh and by the way I got a email from Belgium so you know, we're worldwide now to show off how beautiful Charleston and the Lowcountry and oh by the way the whole State of South Carolina really is.

RT: Yeah, it sure really makes the Lowcountry look beautiful and it's a great advertisement...

RD: Absolutely

RT: ...on national television and now when you do the show, which was called Flip This House but a new one coming on TLC some time this year, beginning of next year....

RD: Yeah, January, they're going to...

RT: Okay.

RD: they're going to uh, uh we'll be done and they're going to promote it very heavily, you won't, there's no way you'll be able to miss it.

RT: Excellent. Now when you see the show there is a lot of tension, stress in getting this done in a certain amount of time.

RD: Right.

RT: Um, I guess explain to our viewers what is the impetus? Where does that tension come from if you can't flip the house in a certain amount of time...

RD: Right.

RT: explain where that comes from, that tension that exists there.

RD: Well it, it's pretty easy. Anybody that runs business realizes that capital, which is money, is the gas that fuels the engine so I've got to turn my money. You know, I wasn't born with a silver spoon, I don't have billions of dollars that I can just you know reach up and get it from, from my uncle so I've got to make money and I've got to keep it turning so we built a system that, that we know how to find deals. Well for me to be able to buy this month's deals, I've got to sell last month's deals so it, you know, it's not for TV. I mean the producers when we first showed up were like- oh my gaw – why do ya'll work so fast? You don't have to work that fast we can edit it on TV. I'm like no, no, no – you don't understand this ain't about TV this is my real business model – we have got to move them quickly. Now once we get that capital basically I've got to harvest that capital and put it into the next deal so it's real, we, it's as simple as I need that money to go onto another deal.

RT: So you can save literally tens of thousands of dollars by flipping that house in the matter of a week or avoiding say a loan payment ...

RD: Right.

RT: and....if you can turn it over that quick and that's where that comes from....

RD: Absolutely.

RT: When you see the show and it's finished product are you happy with the way that it's edited, do you have any...

RD: Yeah.

RT: do you have any role in that?

RD: Yeah, well except for all those cuss words that they make up – I've never cussed in my life.

RT: There's a lot of bleeping I've noticed in the show.

RD: It's – I don't know where it comes from – I mean they're just making that up. I don't know. I mean obviously a hundred and something hours of tape, sometimes, you know, you get down to 44 minutes and I feel like I have my good days and my bad days and the ugly ones, and trust me, the ugly ones will get on there. So do I feel like, do I feel like the whole season, if you looked at the whole season could you judge us on that – absolutely, yeah I do. If you look at one particular episode and that's all you looked at – I think you'd have a false perception sometimes, sometimes I look way too good, way too nice and sometimes we look way too mean and it probably is balanced, it probably is, I mean, at the end of the day if you watch all 13 episodes yeah I think that's a fair representation. What it takes to be successful. Now again, when I leave and I go coach basketball, I've coached basketball in the Lowcountry, Everett will tell you, for years and years and years those kids have never heard me cuss, it's you know, it's, there's a time and place for it but anybody thinks that you go on a construction when I'm motivating my sales people in a sales meeting, you use a whole different dialog. Anyone whose ever been on a construction site and that's where the bleeps start flying thinks you can motivate these guys, you can pat 'em on the back and feel good and, and, it's not gonna happen. I didn't create the industry, I just learned to adapt to it.

RT: Well it's not called reality TV for nothing.

RD: That's right.

RT: So reality and all, um, do you think you're a good boss to work for?

RD: Oh, absolutely, no doubt about it. I know, I can, I can, I can bring you a bunch of people who will run through that wall for me right now for you and it's got nothing to do with money. I never talk about money. I talk about accomplishments, I'm really good at holding up the mirror and making you accomplish something you never thought you could do before so yeah, I think I'm a really, really good co-worker. I don't like to say boss but yeah, I think people like working beside me, yes I do.

RT: You, you have a great staff, a great team at Trademark Properties, a lot of them are featured on the show whether it's Dawn or Laurie or Ginger who happens to be in the studio while we're taping this, so, um, and you know, and people get to know them...

RD: Absolutely.

RT: through the TV, I mean the people that you work with obviously are, are preeminent in importance in what you do in your job. Is that captured well on the show and what do they mean to your company?

RD: Yeah I do. I think, I think the thing you're going to see in this, in this new show, you're gonna get, you're gonna see a little bit more of, a little more depth in those people, I think people have been a little intoxicated by learning those personalities and I think we're gonna, we're gonna show you more of that I mean Dawn's an incredible woman and she's showing people how she's balancing motherhood and working. Laurie is like the, I always call her the mother hen, she's in charge of all the sales staff and she pats them all on the head and kicks them in the butt, whatever she's gotta do to keep them going and she's a true leader and, and then you know Ginger runs, what you saw on Flip This House, that's Ginger's division, so you know that's what she does and then what I do, whatever I do, I don't know what I do. I'm just kind of, you know, I kind of go and coach every little segment of it and my brother does the business so yeah, you're going to be able to see the different segments of the company, have a little more exposure to, you know, the company's a little more diverse than it would let you believe. We got people from all over the country to show up and we walk them through the office. I'll never tell anybody no. When they walk through, they're amazed at what all we do – how diverse we really are.

RT: What about Trademark Properties? Now, I know this is a company that you started a long time ago.

RD: Right.

RT: When words come now...I mean what was the origins of Trademark Properties and why the name Trademark?

RD: Yeah, I just felt like, you know, to me I wanted to put my stamp out there and I came up the name and, you know, I wanted to put my trademark on an industry that I felt I could do a better job. You know, a lot of people say, you know, you can't build a better mousetrap or ... you can't...I feel like I built a better mousetrap and the whole reason for writing the show was to say look – if you watch the show and you can be Richard Davis of Tupelo, Mississippi or Boise, Idaho call me up because I've got a system...I've got a system that can make you have a really good life if you know how to coach and manage a team and you can find the Gingers and the Dawns and the Lauries of the world then, you know, our whole philosophy is work hard play hard. It's doesn't... it's not a coincidence that we look like a dysfunctional family on the TV show because we really are...you know, we really...we really are a family and some people aren't comfortable with that. Some people like to separate work and play and you know you probably wouldn't fit in with Trademark.

RT: Well, then I mean you can get to know them a lot more on the show coming up on TLC starting in January of 2007 and of course they'll probably be showing reruns as well of that show on that network but we won't talk about that. But we will continue talking with Richard Davis of Trademark Properties. The conversation continues on Newsmakers next.

RT: And welcome back to Newsmakers as we continue our conversation with reality television star and local businessman from Trademark Properties, Richard Davis. And, uh, I guess one thing about Trademark and you in general here in the Lowcountry is a lot of civic involvement, a lot of involvement in organizations and you give a lot back to the community where you're from.

RD: Absolutely and you know at the end of the day sometimes your accountants look at you and say, you know, that line item doesn't fit – it's out of balance. I'm sorry, at the end of the day, I don't care about that. You know, I grew up in a community that I felt – I grew up with no dime, I felt I had a community that had a big hand in raising me. Everybody who ever coached me at the Y on James Island I felt like, you know, that was just something that is near and dear to me so anytime any sports team that ever hits us up, we always find a way to give them something and put some shirts on the back of the kids because to me if you invest in the community, you're making a difference and to me, that's what it's all about it's not about... You know what, so many people make a big mistake and come up and say 'wow - how do you make money'? I don't know – I never even sat down and thought about making money. I want to make a difference, and sometimes you've got to be able to... when you make a difference, when you accomplish something, money just starts rolling in. If you start to focus on the money, I think the accomplishments go by the wayside and, oh by the way, the money probably will too. I don't want to find out that answer.

RT: A lot of people can tell you about Trademark Properties here in the Lowcountry and the impact they've had on a number of civic organizations and, you know, obviously we've had...we've seen a housing boom...

RD: Yes.

RT: ...and now we're talking about a housing bubble...

RD: Yes.

RT: ...and there are billions of dollars spent every year by Americans on refurbishing and remodeling their house to try to add more value to it or whatever.

RD: Right.

RT: What's the biggest mistake or something that people overlook when they're looking at redoing their house because you do this now for a living...

RD: Right. Absolutely.

RT: So what about that?

RD: Well I think the biggest mistake, and this is... it will never change, people talk about the bubble bursting – what have you – you know, keeping up with the Joneses is the worst thing you could do. If you've got to keep up with the Joneses and you got to out do what they did, trust me, I'm going to end up with your house because the bottom line is you're going to end up handing the keys back in to the bank and I'm going to get a phone call because people... if people could just be satisfied when they come out of school and go 'God, if I just had this' if they really stuck to that, life would be really easy. But it's human nature – people want more and more and more and they want to keep up with the Joneses and that's what drives this bubble bursting. These people want to keep on climbing that ladder, keep on climbing that ladder and so, yeah, it's going – the bubble's not going to burst, the thing is we've had extreme appreciation ... it's going to slow down. But you've got a lot of people that sign contracts and they borrowed money and they did interest only and they borrowed 100 percent, it's just not prudent and, you know what, at some point you're going to meet your maker and here's the deal, when you and I go to sleep, interest doesn't sleep. It wakes up...you wake up the next day, interest already has been working all night long so you've got interest only when rates go up, it's going to really be hard to keep up.

RT: As an expert in the field, is this a buyer's market right now? I mean...

RD: Yes.

RT: If you look at this...what has driven this? Obviously, the Lowcountry is a beautiful place as evidenced by your TV shows and everybody seeing it – the secret is out...

RD: Right.

RT: But what is it that has driven these home prices to sky high.

RD: Yeah. I think a lot of it is, you know, the easy thing is water. Anytime you're close to water... We're in the Lowcountry because if I take you to Greenville, you're looking at a whole different market. It's still a good market, but it's not a Charleston market. Good, steady freddy – it's probably a safer market there. You're not going to have a bubble burst in Greenville, but in Charleston you know you're going to have people ... people get caught up in the frenzy and they start sliding and they think it's never going to go away and then, so when it flattens out, they think the market went bad. And it didn't go bad, it just went back to normal so I don't know ... I think you're going to see a lot of people. ... right now – my sales - I look at deeds. And my sales team is producing more than they ever have before. So, somebody is buying and somebody is selling. What I can't tell you is what percentage of someone's ... if someone expects to get \$150,000 for a house and they decide to it sell for \$120,000 ... well, if it was really worth \$120,000 is it a bad market or is it just a bad decision?

RT: Um, I know you're a big Clemson fan – anybody who hangs around you at all knows that as well and I've got to ask the question because my wife and other fans of the show I've talked to want me to ask this – what's with the helicopter. That's pretty cool.

RD: Yeah, the helicopter, yeah. You know honestly it's one of those deals where we look at 3,000 pieces of real estate every single month in the State of South Carolina and it just got to the point ... I get airsick. People think, I mean, I'm not the guy that goes out – I don't fly it myself, I've got a pilot. I don't like doing it. You know, it's one of those deals where I have to do it. I mean for us to be able to look at as many properties as we do every month, it's just a math equation so, and you know, it's just a need. Don't get me wrong, I'm in marketing business so if I've got a need, I'm going to...I'm going to put a Trademark logo on it, I'm going to paint it teal and I'm going to have it in the air and I'm going to make sure everybody sees it. If I got to pay for that thing, I might as well get some promotion out of it, right?

RT: And go Tigers, right? I'll say go Gamecocks and we agree to disagree on that.

RD: There you go.

RT: Richard, it was great to see you.

RD: It was great to meet you.

RT: And congratulations on the success...

RD: Thank you very much.

RT: It's well deserved and I can't wait to see the new show coming up.

RD: Thanks. And have us back any time.

RT: Absolutely. Looking forward to it. Richard Davis, Trademark Properties. The new show is coming on TLC starting in January and, yes, you'll be able to see reruns of Flip This House on A&E as well. Our thanks to Richard Davis and everybody, the whole gang over at Trademark Properties, for all the work that they do. And our thanks to you as well. Remember, if you know someone making news in the Lowcountry, or you want to comment on a previous edition of Newsmakers that you've seen, you can e-mail us: Newsmakers@comcastC2.com or call the Newsmakers hot line at 266-2828. I'm Richard Todd from 1250 WTMA thanking you for watching this edition of Newsmakers right here on ComcastC2.

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« A few good postsRichard & Trademark
Deny A&E's Counterclaim
»

From Ginger Alexander: Team Trademark Update

Hey Yall!



I cannot tell you how much your continued support means to everyone at Team Trademark! It has been unbelievable. I just wanted to update everyone! We are still filming and things are going great! The new show is still unnamed but we will let you all know the details the moment we get them. I just want to ask everyone to please continue to make your comments on <http://www.imdb.com/> under the "Flip This House" page (you can search for it on the homepage). This is where we are getting the word across with the most emphasis! All of the networks look here so it is where support is needed the most!

Ya'll have been awesome, we honestly have been speechless—which is hard for all of us—over the kindness and loyalty from each of you. We plan to repay you with lots of great entertainment in January!

Many of you have been to the Crab House or by our office, but I would like to make sure everyone knows to please stop by the office and say hello if you are ever in Charleston, it means the world to us when you do!

Thank you all so much and we will continue to send updates as we have them! See you soon!

Ginger

PS. Jack is doing great and actually listens to me now for those of you who are wondering! :)

This entry was posted on Saturday, August 19th, 2006 at 11:39 AM and filed under General.

Follow comments here with the RSS 2.0 (XML) feed. Post a comment or leave a trackback.

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« A&E Already Seeking New Cast Limited
Discovery
Available
Online »

Ginger: Hello To All of Our Friends and Future Partners Out There!

Ginger sent the following email today:

Hello Everyone!

I just wanted to thank all of you for your continued support. I cannot say much because of the lawsuit that is still pending against the network and production company, but I would like to say how much we appreciate that you are still sticking by us and not forgetting!

Many of you have shown great interest in becoming Area Partners throughout the country (and world) with Trademark Properties. I just wanted to let you know that we are working diligently on this and you will each be receiving a package from us by the end of the year with more details. The unexpected changes that we were going through when we announced the Area Partnerships have delayed things a little bit. We apologize for this delay and want you to know that we are very excited about the expansion of Trademark Properties!

I would like to stress that the new crews on "Flip this House" have absolutely nothing to do with Trademark Properties. These are not our Area Partners nor will they ever be. There has been a great deal of deception with the way the show is being marketed, and I want to assure you all that they have absolutely no association with us! Trademark Properties is a full service real estate machine and flipping houses is just a portion of what we do. I am

very excited to meet all of you and get the ball rolling on the most successful real estate roll out in history. Richard has worked for the past 20 years making sure he had the perfect system before he shared it with the world - we want to make sure all misconceptions are cleared up and each of you know we do not do the same type of business as these substitute crews.

We are almost finished with the new season which will air in January, so we will keep you posted on all the upcoming details, news, and events! We have the first 3 months of the year blocked off for choosing our Area Partners and plan to do Season 2 all over the country with our new partners! Again, I can't wait to meet you all and thanks for hanging tight--Trademark is definitely worth the wait! For those of you who are not familiar with the Area Partnerships, please visit www.trademarkareapartners.com to sign up for more information - we look forward to discussing it further with you! Please continue to visit the imdb.com website (<http://imdb.com/title/tt0476041>) and post your comments there - we love reading them! See you all soon and keep in touch! Corie keeps me up to date on everyone! :)

Thanks!

Ginger

*This entry was posted on Friday,
September 29th, 2006 at 9:21 PM
and filed under General.*

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leave a trackback.*

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Trademark Properties Holiday Update from Richard and Ginger

Thursday, December 14, 2006

The following are holiday updates from Richard and Ginger, sent out on December 12, 2006.

I hope everyone is having the best holiday season of their lives :) Team trademark had our annual friends, family and client holiday extravaganza this past Saturday with over 3000 attending and a great time was had by all! Jump castles, 4 story slides, face painting, Santa and Ms Claus were there for pictures with the kids, oyster roast, crab legs, Bar-B-Que and 2 live bands. It is our way to give back to our community and always feels like a reunion whether you're family or not :)

We have yet to announce the new series name but we are hard at work doing what we always do, just happen to have new cameras following us. Same REAL People, same REAL business, new REAL DEALS, new network and new name. Stay tuned for an upcoming announcement, as soon as the network releases the new name and time of the show, you will be the first to know!

I have to take this time to thank everyone who has taken the time to email your support, it is unbelievable how passionate you guys are about our little ole show about Trademark's daily adventures, it is still truly humbling. That being said, I have to be careful what I say, the big bad wolf has threatened to blow my house down if I talk about them in a public forum. Seems they just want me to go away, not tell the truth about their inner business dealings.

Obviously it was sweeps week because they did a marathon Saturday with most of the shows being our first season...wait a minute, I thought you told me I was replaceable with better people? :) then why not

take me off your network and let the scab replacements try to get you ratings? :)

They have threatened to crush me if I tell the truth in public about what really happened to us. You know me, I'm not backing down and will have my day in court, if not for me, for all the little people of the world who get stepped on, silenced and never have their story told. I don't understand how someone can steal something that was never theirs and tell me to go away and be quiet, not happening in this lifetime. However, my lawyers are asking me to let them handle it from here on. We have the best entertainment attorney on the planet in MARTY SINGER of Beverly Hills (represents Arnold Schwarzenegger, Bruce Willis, Wesley Snipes among other Hollywood elite...and he took on little ole Trademark as a client, hmmm, we must have something there :)) along with his partner Brian Wolfe and our local attorneys Robert Dodds and Frank Cisa, so for now, I must let them slay the beast while I do my REAL job and let the cameras roll for your education and entertainment :)

Thanks again and see you soon!

Richard

Hey Everyone!

I just want to start by saying thank you for your continued support. We are so excited about the new series and cannot wait for it to air. We have a lot going on around here to prepare for it, almost all of our episodes are finished! :) We still don't have a name yet, but y'all will be the first to know when we do! Hang in there, just a few more weeks of reruns and then we'll be back on in full force!

Just a reminder that if you have any comments the best place to voice them is www.imdb.com: under "flip this house"-that gets us the most eyeballs in the industry! If you liked Season One with Trademark please give it a 10, this score has zero to do with season 2 and the scripted cast replacements :)

Anyway, I hope you all have a fantastic holiday season and we can't wait to see you all again in January. Details coming soon!

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FEEL FREE TO CONTACT MARK LYON BY

EMAIL - MARK AT FLIPTHISLAWSUIT.COM

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Happy New Year from Trademark Properties!

Tuesday, January 2, 2007

*The following was sent by Trademark Properties on
January 2, 2007.*

Hello Everyone!

I hope that you all had a great holiday season and new year! Ours was wonderful and we're getting very excited about the things 2007 has in store for us!

For those of you who haven't heard yet, our premiere has been pushed back to early March. Sorry you have to wait, but I promise its worth waiting for!

In the meantime, one of our dearest friends and clients—who is going to be on an episode this season, has a new show airing on ABC Wednesday night! It is called “The Knights of Prosperity”. Donal Logue is the main character—so please tell everyone you know to watch and you'll see him again on our show in a few months!

Thanks again for the continued support—March cannot come quick enough for us! :).

Thanks!

Ginger

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March 31, 2006 Friday
Final Edition

SECTION: NATION; Pg. A2

LENGTH: 453 words

HEADLINE: Davis' real estate reality show flips to TLC

BYLINE: JIM PARKER, The Post and Courier

BODY:

The Charleston real estate owner who parlayed his company's business of buying and fixing up undervalued properties into a prime time show has switched allegiances to TLC cable network from A&E TV to assume greater creative control on the reality program.

Richard C. Davis, who grew up on James Island and is head of **Trademark Properties**, was a star of the A&E series "Flip This House," which he helped create. The hour-long show, launched last fall on late Sunday afternoons, moved to Mondays at 8 p.m. in the winter and reached more than 1.2 million viewers. It followed the exploits of Davis and other associates in Team Trademark.

But Davis has expressed concern that the series focused on the aspect of flipping, where homes are sold quickly at a profit, rather than taking a well-rounded, educational look at a 15-year-old \$250 million real estate business that's involved in a range of ventures including condominium conversions and property management.

Davis said TLC, an affiliate of Silver Springs, Md.-based Discovery Communications International, is more amenable to his plans. The first show, which is being taped this week and next, will show the transformation of baseball legend Shoeless Joe Jackson's childhood home in West Greenville into a museum to honor his legacy. A nine-person production crew is working on the series opener.

He said the new show should appear on TLC by July. The exact name hasn't been finalized, but he believes it will be similar to his original working title, "Worst to First." Davis shopped around his pilot a few years ago, first approaching the Discovery Channel before going with New York-based A&E - a joint venture of Hearst Communications, ABC and NBC.

The president of privately held Discovery Communications is Greenville native Billy Campbell. Davis met recently with the executive. "I was real upfront with him," he said. In response, the

broadcasting company "rolled out the red carpet; treated me like royalty," he said. Most importantly, "he (Campbell) is not going to script my life," Davis said, referring to his creative differences with A&E and its production crew.

"Richard has built a reputation as a real estate mastermind and TLC viewers will soon have the opportunity to learn from the best in this new series," said Sean Gallagher, senior vice president of development at TLC, in prepared remarks.

In a prepared statement, Davis said, "On behalf of everyone at Team Trademark, I am ecstatic and excited to be moving up to the "major leagues" with Discovery Communications and TLC, after just one season in spring training. TLC has the same feel and camaraderie that we value at **Trademark Properties.**"

Reach Jim Parker at 937-5542 or at jparker@postandcourier.com

LOAD-DATE: March 31, 2006

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.)

Declaration of Andrew Lemaire

Andrew Lemaire declares as follows:

1. I am Senior Vice President and Controller of defendant A&E Television Networks ("AETN"). I submit this declaration on personal knowledge in support of Defendants' Opposition to Plaintiffs' Motion to Compel and Defendants' Cross-Motion for a Protective Order.

2. AETN is a privately held partnership. AETN does not publicly disclose financial information. The three partners in AETN are Disney/ABC International Television, Inc., NBC A&E Holding, Inc., and Hearst Communications, Inc. Each of these three entities is privately held. None publicly reports financial information about AETN, either directly or through their ultimate parent companies.

3. AETN closely safeguards all financial information against any kind of disclosure. This includes financial information about AETN as a whole, and financial information about specific shows. In my experience, AETN's practices in this regard are consistent with the practices of its similarly situated peer companies.

4. Disclosure of financial information about AETN would put the network at a commercial disadvantage when dealing with producers, advertisers, talent and others. As an example, after AETN won a competitive bidding process and purchased the rights to reruns of the HBO show "The Sopranos," a number of press reports stated the approximate amount paid by AETN for the show. The independent production companies with whom AETN works, believing they now had a better sense of what AETN might be willing to pay for a show, began to ask for more money to produce shows for us.

5. Similarly, if AETN's gross margin information were released, it would provide other networks and talent with an indication of what a show or a star is worth to AETN. This would give competing networks information that they could use to outbid AETN for a program or for talent.

6. AETN's advertising rates also are confidential and disclosure could affect sales revenue. Networks are always trying to figure out what other networks are charging for advertising in a bid to stay competitive while at the same time maximizing profits.

7. I understand that Plaintiffs have requested information concerning costs and revenues specifically for the show "Flip This House." In the ordinary course, AETN only tracks this kind of information for specific shows using a rough methodology that, while useful on a business basis, I believe would be misleading and incomplete in the context of a litigation.

8. More specifically, we ordinarily measure direct expenses for a show, such as payments to the independent production company, against dollars earned through that show, such as through advertising sales or DVD sales. We do not ordinarily make any effort to factor in costs such as post-production (that is, the cost for A&E personnel to do final editing and revision of what we receive from the independent production company), uplinking fees, distribution costs, marketing costs, and the cost of selling advertising. Nor do we ordinarily allocate to a specific show any part of general overhead expenses such as the cost of office space and corporate support functions like legal and human resources. To do these calculations – which I believe would be necessary to get accurate

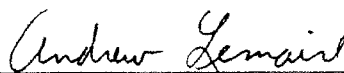
and reliable net cost data for "Flip This House" or any other show – would be very burdensome and time-consuming for me and my staff.

9. Some of the revenue data available to AETN is inherently inaccurate, as it is based on projections rather than actual data. Moreover, attributing revenue to a particular program is difficult because there are many different kinds of advertising deals. While some ad buys are tied to particular programs, others are not. For example, certain of our sponsors buy slots in our primetime or afternoon line-up generally. Yet others buy packages of shows that will allow them to place their ads in programs that have a certain demographic of viewers or that fall into a particular genre, such as reality. Some advertisers do not even know in advance when their advertisement will run.

10. These are just examples of the reasons why I believe the data requested by Plaintiffs would be difficult to develop in a reliable fashion and would not, without very substantial effort above and beyond the ordinary course, convey an accurate picture of the revenues and costs associated with "Flip This House."

I declare under penalty of perjury that the foregoing is true and correct.

Executed at New York, New York this 2nd day of February, 2007.



Andrew Lemaire

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.)	
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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.)	
)	
<hr/>		
A&E TELEVISION NETWORKS,)	
)	
Counterclaim Plaintiff,)	
)	
vs.)	
)	
TRADEMARK PROPERTIES, INC. and)	
RICHARD C. DAVIS,)	
)	
Counterclaim Defendants.)	

Declaration of Max Weissman

Max Weissman declares as follows:

1. I am the owner of defendant Max Weissman Productions, Inc. d/b/a Departure Films, a television production company ("Departure"). I submit this

declaration on personal knowledge in support of Defendants' Opposition to Plaintiffs' Motion to Compel and Cross-Motion for a Protective Order.

2. Departure's main business is producing television shows for cable television networks. My co-defendant in this case, A&E Television Networks ("AETN"), hired Departure to produce the real estate reality show "Flip This House" that originally starred plaintiff Richard Davis.

3. Departure's finances are confidential. It is a private company. I am the sole owner. In the ordinary course, I do not disclose any financial information about Departure to anybody else in the television industry.

4. Based on Mr. Davis' public statements, I understand that he is now preparing a competing real estate reality show for The Learning Channel. The Learning Channel is a competitor of AETN. I also understand that Mr. Davis' new show is being produced by Brainbox Entertainment ("Brainbox"). Like Departure, Brainbox is an independent production company that works with cable television networks to produce reality shows. Brainbox and Departure are competitors.

5. I would be very concerned about disclosing any documents or information about Departure's finances to any person. It is important to Departure's competitive position that I keep Departure's finances strictly confidential. In particular, confidentiality about Departure's finances preserves my ability to negotiate effectively with networks and talent and to run a successful business.

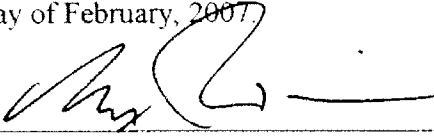
6. I would be especially concerned about disclosing financial documents or information in this case because of the risk that the documents or information would find

their way directly or indirectly to The Learning Channel or to Brainbox. That would be especially damaging to Departure's competitive position.

7. Finally, it would be difficult for me to determine what Departure's net costs are for "Flip This House" because we do not allocate overhead expenses to specific shows. It would take substantial effort on my part to accurately calculate these net costs.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at New York, New York this 2nd day of February, 2007.



Max Weissman