

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
Three Angels Broadcasting Network, Inc.,)	
an Illinois non-profit corporation, and)	
Danny Lee Shelton, individually,)	Case No.: 07-40098-FDS
)	
) Plaintiffs,)	
v.)	
)	
Gailon Arthur Joy and Robert Pickle,)	
)	
) Defendants.)	
_____)	

AFFIDAVIT OF ROBERT PICKLE

NOW COMES Robert Pickle of Halstad Township, Norman County, Minnesota, who deposes and testifies to the following under pain and penalty of perjury:

1. Attached hereto as **Exhibit A** is correspondence with Walter Thompson (hereafter “Thompson”) from October 2007. Thompson’s timeline is garbled since he indicates that I contacted him about my concerns about the child molestation allegations against Tommy Shelton (“serious allegations about 3ABN employees”) prior to Three Angels Broadcasting Network, Inc. (hereafter “3ABN”) asking ASI for assistance. In reality, 3ABN asked ASI for assistance on September 24, 2006, and I did not contact Thompson about my concerns until November 23, 2006. Thompson repeatedly demonstrates the unreliability of his statements.

2. Attached hereto as **Exhibit B** is Harold Lance’s surprise announcement of January 5, 2007, that ASI had pulled out of negotiations the previous evening.

3. I have on more than one occasion questioned why the Plaintiffs have never served

a written demand to settle upon Defendant Joy or myself, even though they stated in their Rule 26(f) Conference Report that they would do so by August 31, 2007. (Doc. 18 p. 6). On Friday, October 17, 2008, Attorney Gregory Simpson (hereafter "Simpson") called me and for the first time that I can recall explicitly stated that the Plaintiffs wanted to settle, and gave me a settlement proposal.

4. Simpson's verbal-only proposal was that all parties sign mutual releases without having to cease disparaging one another. I replied that I thought there should be some sort of compensation for the damages caused by this suit.

5. Simpson asserted that this would be the last opportunity to settle, since the next three months would involve a lot of expense due to discovery. Thus the stated motives for settling was to avoid expense and to avoid discovery. Simpson admitted later under my questioning that parties could settle up to trial, during trial, and even during appeal.

6. Simpson asserted that if the Defendants did not agree to settle, the Plaintiffs could move to dismiss, and there would be nothing that the Defendants could do to prevent such a dismissal.

7. After Simpson stated the above, I specifically asked him whether the Plaintiffs would move to dismiss, and Simpson explicitly asserted in the phone conversation of October 17 that no such motion to dismiss would be filed.

8. Simpson asked me if I was interested in settling, and I said I surely was. But of course a settlement needs to be on proper terms amenable to all parties.

9. Simpson asserted that the IRS investigation's conclusion has brought vindication to 3ABN, and we discussed yet again the 1998 real estate deal and the falsification by Danny Shelton (hereafter "Shelton") of a figure on his 2003 tax return. Simpson acknowledged that the IRS would not have looked at the 1998 real estate deal since it was too old. Simpson also

asserted that both the IRS and Gray Hunter Stenn LLP (hereafter “GHS”) had determined that there was nothing wrong with Danny Shelton’s reporting of a donation of horse(s) as cash on his 2003 IRS Schedule A, and nothing wrong with his failure to file IRS Form 8283 with appraisal(s). I indicated to Simpson that if the Plaintiffs were interested in settling, this kind of playing games had to stop.

10. Between October 17, 2008, and the filing of the motion for voluntary dismissal on October 23, there was no further verbal communication from Mr. Simpson concerning either settlement or dismissal, and there was no written communication at all. Simpson acknowledges such in an email of October 24, 2008. Attached hereto as **Exhibit C** is a series of emails between myself, Simpson, and Defendant Joy, which contains Simpson’s email of October 24 on pages 6–7. I find it odd, though, that Simpson seems to conveniently forget in this email that he told me in that October 17 conversation that he would not file a motion for voluntary dismissal, and that I told him that I was interested in settling.

11. Also in my conversation with Simpson on October 17, 2008, Simpson told me that he would negotiate with Defendant Joy separately, since we could arrive at settlement independently of each other. I told Simpson that I would still confer with Defendant Joy regarding the settlement proposal since we are co-defendants, even though we do not always have the same opinions. Simpson asked me to discuss the proposal with Defendant Joy.

12. In his email on pages 4–5 of Exhibit C, Simpson admits not having communicated with Defendant Joy prior to filing the instant motion.

13. The three emails in Exhibit C from Defendant Joy make it painfully clear that we now have a basis for claims of misuse of process and malicious prosecution, that Simpson never conferred with Defendant Joy before filing the instant motion, and that Simpson has knowingly misconstrued the meaning of Defendant Joy’s posts in his memorandum for the instant motion.

14. Attached hereto as **Exhibit D** is the October 7, 2008, email to me by Simpson, stating that I cannot make negative inferences in a memorandum about the Plaintiffs unless my comments are also filed under seal, if those negative inferences are based upon a sealed, confidential document.

15. Attached hereto as **Exhibit E** is an October 29, 2007, email by Thompson asserting that the law firm representing the Plaintiffs did a thorough review of the Plaintiffs' financial records before taking on this case.

16. Attached hereto as **Exhibit F** are relevant posts from a thread on AdventTalk.com. In these posts Defendant Joy put the Plaintiffs and their counsel on notice that we now have a basis for claims of misuse of process and malicious prosecution against them. "anyman," believed to be Thompson's son Gregory Scott Thompson, asserted that the documents from Remnant may have been produced under seal to Magistrate Judge Hillman, and Defendant Joy replied that they were not, and that they would be going to our experts for review.

17. Attached hereto as **Exhibit G** is a 3ABN brochure stating that 3ABN-produced programming is not copyrighted. Attached hereto as **Exhibits H-I** are transcripts of Mollie Steenson and Linda Shelton's testimony from 3ABN's September 2002 property tax case hearing, which testimony was a basis for 3ABN arguing that 3ABN-produced programming is not copyrighted. (Ex. I p. 8, Ex. J p. 24). Attached hereto as **Exhibits J-K** are relevant pages of legal briefs filed by 3ABN in the same case, which was still under appeal until March 31, 2008, which state that none of 3ABN's programming is copyrighted.

18. Attached hereto as **Exhibit L** is the search results page on the U.S. Copyright Office's website, which shows only one broadcast ever registered by 3ABN. That broadcast, the 2006 New Years' Eve Special, contained a 22-minute tribute to alleged pedophile Tommy Shelton, a tribute which is posted on the Save 3ABN websites. That tribute came so soon after

the announcement in early December 2006 of new allegations against Tommy Shelton, one retired church official told me he was outraged. 3ABN's registration of that broadcast, dated February 8, 2007, is attached hereto as **Exhibit M**.

19. We have previously filed a letter by Roger Clem accusing Tommy Shelton of molesting him. (Doc. 81-11 pp. 6-7). Some of the other statements we have published include those by Brad Dunning (allegedly propositioned as a minor), Vicki Barnard (whose son first came forward on January 24, 2007, claiming to have been molested around age 8), and Sherry Avery (who alleges that she caught Tommy Shelton in someone else's house with a boy). The statements that served as a basis for these articles are attached hereto as **Exhibits N-P**. We also have two letters written by Tommy Shelton to Duane Clem, who claims to have been victimized by Tommy Shelton at the age of 19. These letters are attached hereto as **Exhibits Q-R**.

20. Just a sampling of the documents pertaining to the egregious misconduct of Westphal will be referenced here. Westphal was accused by whistleblowers in the 3ABN Trust Services Department of rage, screaming at staff, non-staff, and potential clients, sexual harassment, racism (including in employment matters), poor job performance, padding his expense reports, falsifying timesheet(s), and private inurement. Attached hereto as **Exhibits S-Z** are documents alleging those allegations. The four whistleblowers were terminated in the spring of 2006, while Westphal was rewarded with a cover story in the June 2006 issue of 3ABN World. Relevant pages of that issue are attached hereto as **Exhibit AA**. Allegations of rage, racism, sexual harassment, and professional misconduct go back at least to 1992. A portion of a police report regarding Westphal's arrest on January 24, 1992, for felonious spousal assault is attached hereto as **Exhibit BB**. (The entire report could not be released without Westphal's authorization or a court order.) That spouse, Dr. Lou Westphal, asserts that the foot injury referred to in that police report was in actuality a fracture.

21. Attached hereto as **Exhibit CC** is the October 23, 2008, email by Simpson in which he states that he will not be responding to my revised Requests to Produce by October 27, 2008. Thus, he refused to comply with this Court's order of September 11, 2008. (Doc. 107 p. 4).

22. Attached hereto as **Exhibit DD** is the letter of September 13, 2007, by which Plaintiffs' counsel invoked the automatic stay of Defendant Joy's bankruptcy. It came to my attention this week that Docket entries 22, 28, and 88 of the instant case are not accessible, and I suspect that # 28 has something to do with a document the Plaintiffs filed under seal that pertains to this invocation.

23. Attached hereto as **Exhibit EE** is 3ABN's *sixth* motion to Extend Time to Object to Discharge or to Determine Dischargeability of a Debt filed on September 23, 2008, in Defendant Joy's bankruptcy, even though Defendant Joy owes 3ABN nothing.

24. Sources assert that 3ABN's donations are way down and that 3ABN is in deficit mode. I received information to this effect less than a week prior to the Plaintiffs filing the instant motion.

25. Simpson and I talked a number of times leading up to our conversation on October 17, 2008, so I don't recall for sure whether it was in that conversation or an earlier one when he told me that they had tried to keep Shelton's divorce out of the lawsuit. I replied that that is what ¶ 50 is all about.

26. Under ¶ 50(f), the Plaintiffs' complaint omits the name of Brandy Elswick Murray (hereafter "Murray") in referring to Shelton's allegedly inappropriate relationship that 3ABN's officers and directors were aware of. Sources allege that Murray discussed the topic of oral sex with co-worker Everlina Germany (hereafter "Germany") in connection with a relationship with Shelton. Sources allege that Germany out of concern later spoke with Shelton who laughed, and that Germany subsequently found herself terminated from her volunteer position.

27. Attached hereto as **Exhibit FF** is a series of emails between Shelton and Linda Shelton dated September 12, 2005. Linda Shelton states, “It’s a dreadful shame that you have sold out God’s worldwide network for sex,” and “OS, etc. is not being directed by God.” The date of these emails is close to the time that 3ABN Board member Nicholas Miller (hereafter “Miller”) found himself pressured to resign, after becoming “deeply concerned” about “personal” information regarding Shelton. (Doc. 63-33 p. 16). Though the similarity in timing may be coincidental as it relates to the specific concerns of Linda Shelton and Germany, Miller must have been concerned about the relationship since he told me that Shelton tried to transfer property to Murray before they were married, and that after the 3ABN Board had decided not to pay Murray, Shelton had funneled money to her anyway through another non-profit organization.

28. I was present at the telephonic hearing of October 22, 2008, in the Southern District of Illinois over which the Honorable Magistrate Judge Philip Frazier presided. After Simpson asserted that the allegations in the complaint concerned only specific transactions, I cited ¶ 46(g) of the complaint, and upon questioning Simpson admitted that my quotation was correct. Magistrate Judge Frazier then stated that that allegation was indeed broad.

29. On or about December 25, 2007, and January 12, 19, and 20, 2008, prior to 3ABN’s purchase of the domain names [Save3ABN.com](#) and [Save3ABN.org](#), the following domain names were obtained: [Save-3ABN.com](#), [Save-3ABN.info](#), [3ABNanalyzed.info](#), [3ABNcritiqued.info](#), [3ABNevaluated.info](#), [3ABNexamined.info](#), [3ABNinvestigated.info](#), [Analyzing3ABN.info](#), [Critiquing3ABN.info](#), [Evaluating3ABN.info](#), [Examining3ABN.info](#), [Investigating3ABN.info](#), [Rescue3ABN.info](#), [Rescuing3ABN.info](#), [Savedfrom3ABN.com](#), [Saving3ABN.info](#). From what I recall, all but perhaps one of these domain names pointed to functioning websites prior to the transfers of [Save3ABN.com](#) and [Save3ABN.org](#), transfers that were not initiated by the domain registrars until February 28 and March 3, 2008. Since

Save3ABN.org was never actually a website, there are now 16 times as many Save 3ABN websites than when the Plaintiffs first filed suit.

30. After I received documents pertaining to subpoenas served upon Glenn Dryden and Kathy Bottomley, Simpson demanded that I immediately send him copies or he would file a motion to compel. (I believe the incident occurred the first part of June 2008.) I thought that a bit rude given the fact that when I made a similar request to Jerrie Hayes, she responded that she had 30 days to comply, and given the fact that the Plaintiffs still had not produced document one in response to my Requests to Produce served in November and December 2007. I do not recall any other written requests other than the original interrogatories and requests to produce served on us on August 20, 2007.

31. In the Plaintiffs' productions of documents in June 2008 in alleged response to my requests to produce, I found but one invoice pertaining to 3ABN's purchases from D & L Publishing or DLS Publishing. This fact as well as the absence in production of any of the evidence that Shelton had claimed to have against Linda Shelton makes me think that Shelton did not contribute any documents in those productions. I certainly can't think of any documents that definitely came from him as an individual rather than from 3ABN.

32. Attached hereto as **Exhibits GG–HH** are the Defendants' articles about Shelton's reporting of donation(s) of horse(s) as cash, without filing the required Form 8283 or appraisal(s), at possibly inflated values. These were printed off of Saving3ABN.info and Investigating3ABN.info respectively, and were published about June or July 2007.

33. Attached hereto as **Exhibits II–JJ** are the Defendants' articles analyzing whether the 1998 house deal was correctly reported on 3ABN's 1998 Form 990, and raising the question of whether Shelton committed perjury by signing that Form 990. These were printed off of Critiquing3ABN.info and Examining3ABN.info respectively. Exhibit JJ was published probably

in September 2007, but the other stories on the house deal were published in June or July 2007.

34. Attached hereto as **Exhibits KK–MM** are three orders issued in the miscellaneous case in the Western District of Michigan.

35. I have for much of the time since being served on April 30, 2007, been working day and night on my defense. I figure that given the immense resources of the Plaintiffs, and the millions of dollars at their disposal, if I hired an attorney at typical rates I would end up broke and have to represent myself anyway before this case was concluded. That is a major reason why I am *pro se*. But all this investment of time has prevented me from engaging in adequate gainful employment, necessitating that our family put on hold our daughter's college plans, and our son's desperately needed orthodontic work. Such things cannot be put on hold forever.

36. After being served with this suit, I took stock of our situation and determined that we should be able to survive until 2010, which sounded realistic given the delays we anticipated due to the Plaintiffs' likely recalcitrance. But the disconcerting prospect of a voluntary dismissal without prejudice leaves our family's future a bit nebulous.

37. I made a fact finding trip to the 3ABN vicinity in southern Illinois, as well as elsewhere, in June 2007 and April 2008, collecting evidence and information to use in my defense. The distance between my home and 3ABN one way is almost 1,000 miles. On one of these trips I had to hire an assistant to go with me.

38. Examples of expenditures over the course of this litigation include roughly \$3,500 for MidCountry Bank's records, which we still haven't seen, and a special high-speed scanner/copier to handle the processing of the large number of pages of auditor's records at the Defendants' expense.

39. The Defendants have already retained the services of four accounting experts (two being auditors and one being a Certified Fraud Examiner).

40. Attached hereto as **Exhibit NN** is the subpoena served upon Defendant Joy for his Rule 2004 examination by 3ABN, which examination took place on September 9, 2008.

41. Attached hereto as **Exhibit OO** is an email by Thompson claiming that the State of Illinois “reviewed all of our financials” in order to deflect concern over the 1998 real estate deal. However, the property tax case only concerned the years 2000 and 2001, and opposing counsel in that case seemed unaware of this transaction when I spoke with him.

42. Attached hereto as **Exhibit PP** is Administrative Law Judge Barbara Rowe’s order denying 3ABN’s request for a rehearing in their property tax case. She notes on pages 3–4 that 3ABN refused to produce its Form 990’s when the intervenors requested them.

43. Jim Gilley was announced by Shelton as being the new president of 3ABN on September 6, 2007. Attached hereto as **Exhibit QQ** is an October 1, 2007, filing by 3ABN in the state of Michigan that still lists Shelton as president. Attached hereto as **Exhibit RR** is an April 16, 2008, filing by 3ABN in the state of Florida that still lists Shelton as president.

44. On October 7, 2008, Jim Gilley was reported to be through triple bypass and heart valve replacement surgery. Attached hereto as **Exhibit SS** is an October 8, 2008, email containing his request to folks to send in \$5 million by October 17.

45. The source that more than a year alleged document destruction at 3ABN connected that destruction with the name of 3ABN CFO Larry Ewing.

46. I have been told by sources close to 3ABN Board member May Chung that she is afflicted with Alzheimer’s Disease. Sources have also alleged that 3ABN Board member Merlin Fjarli can no longer speak due to a stroke he suffered earlier this year. Other witnesses on our witness list are either up in years or have health concerns. Thus, if litigation over the issues in the complaint is postponed too long, these witnesses may not be able to appear at trial due to death, senility, or incapacitation.

FURTHER DEPONENT TESTIFIES NOT.

Signed and sealed this 30th day of October, 2008.

/s/ Bob Pickle

Bob Pickle
Halstad, MN 56548
Tel: (218) 456-2568

Subscribed and sworn to me
this 30th day of October, 2008.

/s/ Perry W. Kolnes

Notary Public—Minnesota

My Commission Expires Jan. 31, 2010