

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

LAW OFFICE OF
William T. Pascoe
29970 TECHNOLOGY DRIVE, SUITE 218
MURRIETA, CA 92583
(951) 461-7800 Telephone
(951) 461-7884 Facsimile

William T. Pascoe, State Bar No. 133013

Attorney for: Defendant ROBERT DEL VALLE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF RIVERSIDE**

JOSE ROBERT DEL VALLE,

Plaintiffs,

vs.

**MICHAEL BUDENZ, GODADDY.COM,
and DOES 1 through 50, inclusive.**

Defendants.

CASE NO.: RIC541871

**FIRST AMENDED COMPLAINT FOR
DEFAMATION AND LIBEL; VIOLATION
OF CALIFORNIA BUSINESS AND
PROFESSIONS CODE 17525, 17526;
VIOLATION OF CALIFORNIA
PROFESSIONS CODE SECTION 17200**

**COMES NOW, the plaintiff, JOSE ROBERT DEL VALLE, who alleges the following
facts and circumstances supporting his Complaint for Damages and Injunctive Relief.**

**1. JOSE ROBERT DEL VALLE is an adult individual residing within the State of
California and within this judicial district.**

**2. Plaintiff, JOSE ROBERT DEL VALLE, is informed and believes and thereon alleges,
that the defendant MICHAEL BUDENZ, is an adult individual residing within the State of
Indiana but has significant and substantial contacts within the State of California, to wit,
MICHAEL BUDENZ has visited the State of California to perform private investigation services
without a license and has contacted various individuals involved in the State of California for**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

purpose of conducting a private investigation for California residents.

3. The facts and circumstances of this matter have arisen within the State of California and within this judicial district.

4. Plaintiff is informed and believes, and thereon alleges that DOES 1-50 are the agents, employees, representatives, clients, employers and co-conspirators, or partners of the defendant MICHAEL BUDENZ. Plaintiff is unaware of the true names or capacities of such DOE defendants, but when such true names and/or capacities of such defendants become known to Plaintiff, Plaintiff will amend this Complaint to allege their true names and capacities,

5. Plaintiff is informed and believes, and thereon alleges, that he has suffered special damages in the nature of loss profits and income, job opportunities, and offers as a result of the actions of MICHAEL BUDENZ. As a result thereof, plaintiff seeks immediate injunctive relief, and a temporary restraining order enjoining MICHAEL BUDENZ from using his name in a URL, a domain name, or any other internet based duplication intended to extort or retrieve money from plaintiff JOSE ROBERT DEL VALLE.

6. Plaintiff is informed and believes and thereon alleges, that the damages will exceed the minimum jurisdictional limits of this Court. Accordingly, plaintiff sues MICHAEL BUDENZ in the Superior Court with unlimited jurisdiction.

GENERAL FACTS IN SUPPORT OF THE COMPLAINT

7. Plaintiff realleges and incorporates by reference paragraphs 1 through 6 as if such paragraphs were fully set forth herein.

8. Plaintiff, ROBERT DEL VALLE is, and at all relevant times was, a licensed real estate agent and licensed real estate broker within the State of California.

9. Approximately 2 ½ years prior to the filing of this Complaint, plaintiff was contacted by Ralph Solis to assist in the lease and secondary sale of second trust deeds. Solis represented

1 to DEL VALLE that Solis had authority from various holders of second trust deeds to sell such
 2 deeds at a discount from the face value. Any prospective buyer of such second trust deeds would
 3 then receive the second trust deeds at a discount, with a correspondingly higher rate of return and
 4 a higher redemption value if the second trust deeds were eventually sold for their face value.
 5 Unbeknownst to Plaintiff, Solis misrepresented to Plaintiff the authenticity of such deeds. In so
 6 doing, Plaintiff is informed and believes, and thereon alleges, that Solis defrauded numerous
 7 investors, including Plaintiff himself and Plaintiff's immediate family, who all suffered financial
 8 losses exceeding hundreds of thousands of dollars.

10 10. SOLIS represented to DEL VALLE that the sale of the second trust deeds would be a
 11 proper, legal and a profitable enterprise. As a result, the plaintiff assisted in the sale of second
 12 trust deeds and plaintiff personally purchased such second trust deeds.

14 11. Unbeknownst to plaintiff, plaintiff's employees and associates, RALPH SOLIS
 15 submitted fraudulent and forged second trust deeds for sales to third parties. Plaintiffs at all
 16 times was unaware that the second trust deeds were forged and, in fact, plaintiff himself invested
 17 substantial retirement funds and substantial funds from his mother into the second trust deeds.

19 12. Subsequently, Plaintiff is informed and believes, and thereon alleges, that SOLIS has
 20 admitted to defendant BUDENZ, and to Defendant Budenz' counsel. William Cumming, that
 21 SOLIS had provided the forged deeds for clients contacted by DEL VALLE. Nevertheless,
 22 defendant BUDENZ has falsely accused Plaintiff of criminal conduct, to wit, involvement in a
 23 Ponzi scheme. In addition, Solis has admitted his misdeeds to other investors and has agreed in
 24 writing to repay such investors. Plaintiff is informed and believes, and thereon alleges, that
 25 Budenz and his counsel have actual knowledge or constructive knowledge of these facts.

27 13. At no time prior to selling any of the trust deeds did Plaintiff become aware that
 28 Ralph Solis was fabricating, forging or supplying forged second trust deeds to clients of Del

1 Valle and Del Valle's clients.

2 14. On or about June, 2009, Plaintiff is informed and believes, and thereon alleges that
3 Defendant BUDENZ, and other Doe Defendants undertook an investigation purportedly to
4 recover monies lost when invested in the forged second trust deeds. Sometime in approximately
5 July or August, 2009, Plaintiff is informed and believes, and thereon alleges, that Budenz, or one
6 of Budenz' agents, purchased from Godaddy.com a number of url's which url's include Jose
7 Robert Del Valle's name, and numerous variations of his name, for the express purpose of
8 soliciting private investigation clients by illegally cyber-squatting and using plaintiff's name, and
9 various derivations of his name.
10

11 15. At some time unbeknownst to Plaintiff, but within the last year, Defendant BUDENZ
12 acted as a private investigator for such clients and, in the process of acting as a private
13 investigator, BUDENZ conducted several interviews and solicited clients within the state of
14 California. Plaintiff Del VALLE is informed and believes, and thereon alleges, that such actions
15 were for the express purpose of making investigative fees from such clients.
16

17 16. Plaintiff is informed and believes, and thereon alleges that the defendant MICHAEL
18 BUDENZ, thereafter, immediately demanded payment for all losses and monies fraudulently
19 taken by RALPH SOLIS and the SOLIS parties, unless payment was made, but then threatened
20 and extorted Plaintiff by stating that he would report plaintiff to authorities for a crime which
21 plaintiff did not in fact commit.
22

23 17. Immediately thereafter, defendant BUDENZ then began, created, and caused a web
24 site to be created on godaddy.com. The website, amongst other things, seeks to defame and
25 formally accuse plaintiff of committing a crime, to wit, forgery, and fraud. In so doing,
26 defendant BUDENZ wrongfully misappropriated and used JOSE ROBERT DE VALLE's name,
27 ROBERT DEL VALLE, which Plaintiff has used in his personal and professional life as his
28

1 personal and professional identifier.

2 18. Plaintiff is informed and believes, and thereon alleges, that Defendant BUDENZ has
3 used multiple variations of Del VALLE'S name as a URL to cyber-squat and to create a spite site
4 using variations of JOSE ROBERT DEL VALLE'S name and reputation. This is in violation of
5 *California Business and Professions Code §§ 17525 and 17526.*
6

7 19. Plaintiff is informed and believes, and thereon alleges, that the defendant MICHAEL
8 BUDENZ, and DOES 1 - 5, have taken and appropriated Mr. DEL VALLE's name and various
9 derivatives of his name for purposes of cyber squatting, cyber piracy, and for purposes of
10 registering a cyber site.
11

12 20. Furthermore, plaintiff is informed and believes, and thereon alleges, that the
13 defendant MICHAEL BUDENZ has no legitimate purpose, has no purposes except to extort
14 money from the plaintiff ROBERT DEL VALLE.

15 21. Plaintiff is informed and believes, and thereon alleges, that the defendant MICHAEL
16 BUDENZ is using JOSE ROBERT DEL VALLE's name in a URL for purposes of soliciting
17 clients without the permission, implied or express, of JOSE ROBERT DEL VALLE.
18

19 22. Furthermore, plaintiff is informed and believes, and thereon alleges, that defendant
20 MICHAEL BUDENZ has no legitimate purpose for using Mr. DEL VALLE's name on a web
21 site in the State of California because Mr. BUDENZ is not a private investigator in the State of
22 California.
23

24 **FIRST CAUSE OF ACTION**

25 **(FOR VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONALS CODE §17526)**

26 23. Plaintiff realleges and incorporates by reference paragraph 1 - 22, as such paragraphs
27 were solely set forth herein.

28 24. Plaintiff is informed and believes and thereon alleges, that the defendant MICHAEL

1 BUDENZ had violated and will continue to violate *California Business & Professions Code §§*
2 *17525 and 17526* to the extent that the defendant MICHAEL BUDENZ has misappropriated and
3 unlawfully used the name of JOSE ROBERT DEL VALLE, and confusingly similar names, such
4 as ROBERT DEL VALLE, as a domain name for the improper purpose for profit and financial
5 gain by attracting, soliciting and contracting with other potential private investigation clients
6 within the state of California. Specifically, and without limitation, Budenz has created,
7 maintained and controlled a website and domain name which, when Plaintiff's names are used,
8 refers to a website specifically created to defame Plaintiff and others. Plaintiff is informed and
9 believes, and thereon alleges, that when Defendant and/or his agents or co-conspirators
10 purchased the domain name(s) which incorporate Plaintiff's name(s), defendant Budenz did so
11 with the specific intention of extorting money from Plaintiff, which intention is bad faith within
12 the meaning of California Business and Professions Code section 17526.

15 25. Plaintiff is informed and believes, and thereon alleges, that Defendant BUDENZ has
16 not obtained the permission of Plaintiff, has misused and mis-appropriated the names of other
17 individual, living persons, including Ralph Solis and Michael Lugo.

19 26. Plaintiff is informed and believes, and thereon alleges, that defendant Budenz either
20 owns directly, or owns indirectly through domains by proxy the offending url's and domain
21 names, or that Budenz has sufficient control, direction and management of the offending url's
22 and domain names that defendant Budenz is the actual / de facto owner of the url's and domain
23 names.

25 27. Accordingly, plaintiff seeks an immediate injunction enjoining the defendant
26 MICHAEL BUDENZ and Godaddy.com and others from using the URL or domain name for an
27 improper purpose. Plaintiff is informed and believes, and thereon alleges, that the improper use
28 of domain names includes the names Jose Robert Del Valle, Robert Del Valle, J. Robert Del

1 Valle and other domain names which are currently unknown to Plaintiff, but which have been
2 improperly purchased by defendant Budenz and/ or his agents, employees and co-conspirators.

3 28. Furthermore, plaintiff ROBERT DEL VALLE seeks a disgorgement of any profits,
4 fees, or commissions, earned by the defendant MICHAEL BUDENZ during his use of or
5 derivative from the use of ROBERT DEL VALLE's name on an improper website.
6

7 29. In addition, plaintiff seeks attorney's fees pursuant to *California and Business*
8 *Professions Code §17200* and *California Code of Civil Procedure 1021.5*.

9 **SECOND CAUSE OF ACTION**

10 **(FOR LIBEL AS AGAINST MICHAEL BUDENZ AND DOES 6-10)**

11 30. Plaintiff alleges and incorporates by reference Paragraphs 1-29, as if such paragraphs
12 were fully set forth herein.
13

14 31. Plaintiff is informed and believes, and thereon alleges, that the defendant MICHAEL
15 BUDENZ has created a website with ROBERT DEL VALLE's name. The website refers to
16 ROBERT DEL VALLE being involved in "a fraud" and "ponzi scheme". Such language is
17 defamatory and libelous per se because it intends to accuse Mr. DEL VALLE of criminal
18 conduct, to wit, fraud, and embezzlement.
19

20 32. Furthermore, plaintiff is informed and believes, and thereon alleges, that the
21 defendant MICHAEL BUDENZ has admitted that ROBERT DEL VALLE may not be a
22 criminal. Accordingly, defendant MICHAEL BUDENZ is aware that his allegations are false.
23 However, plaintiff is informed and believes that defendant MICHAEL BUDENZ has made such
24 allegations for purposes of being malicious to Plaintiff, for unlawfully coercing Plaintiff to pay
25 monies to BUDENZ and BUDENZ' clients, and for commercial profit and to solicit new clients
26 within the State of California.
27

28 33. Furthermore, plaintiff is informed and believes, and thereon alleges that the

1 defendant MICHAEL BUDENZ has acted maliciously and oppressively, all within the meaning
 2 of *California Civil Code §3294* and, accordingly, plaintiff seeks damages sufficient in nature to
 3 punish and deter defendant MICHAEL BUDENZ from similar such conduct in the future.
 4

5 34. Furthermore, plaintiff is informed and believes, and thereon alleges, that plaintiff has
 6 lost several job opportunities and offers due primarily to the fact that defendant MICHAEL
 7 BUDENZ, and others, have unlawfully used his name and libeled him on the internet. Plaintiff
 8 will amend this Complaint to allege such damages prior to the time of trial.
 9

10 35. Since the filing and service of this complaint, Plaintiff is informed and believes, and
 11 thereon alleges, that on or about January, 2010, defendant, Budenz, and his agents, employees or
 12 co-conspirators engaged in further libel and defamation by posting a statement on a website
 13 controlled, managed or administrated by Budenz. The statement is that "we need information to
 14 ascertain Robert Del Valle's and Michael Lugo's involvement in this *criminal* fraud." Based
 15 upon the content and context of the website, including the reference to police reports and a
 16 statement that there is an ongoing D. A. Investigation, Plaintiff is informed and believes that the
 17 plain meaning from the entire context, and that these statements in particular are defamatory per
 18 se.
 19

20 **THIRD CAUSE OF ACTION**

21 **(FOR VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**
 22 **CODE §17200 AND CALIFORNIA CODE OF CIVIL PROCEDURE 1021.5)**

23 36. Plaintiff realleges and incorporates by reference Paragraph 1 - 35, as if such
 24 paragraphs were fully set forth herein. Plaintiff is informed and believes, and thereon alleges,
 25 that at various times in June and November, 2009, the defendant MICHAEL BUDENZ has acted
 26 as a private investigator, interviewed witnesses, and others n the State of California, all within
 27 the meaning of *California Business and Professions Code §17200*.
 28

37. Plaintiff is informed and believes, and thereon alleges, that the defendant MICHAEL

1 BUDENZ is not a licensed private investigator within the State of California. Therefore, such
 2 activities are prohibited by regulation and law and the violation of those regulations constitutes a
 3 breach of *California Business and Professions Code §17200*.

4
 5 38. In addition, plaintiff is informed and believes, and thereon alleges, that the defendant
 6 MICHAEL BUDENZ has unlawfully taken fees, commissions, and monies from third parties in
 7 the State of California, all without being licensed to do so. Accordingly, plaintiff seeks
 8 restitution of such fees to those witnesses and persons.

9
 10 39. As an alternative theory and basis of liability for violation of California Business and
 11 Professions Code section 17200, Plaintiff is informed and believes that defendant Budenz and his
 12 agents, employees and/or co-conspirators have violated California Business and Professions
 13 Code sections 17525 and 17526.

14 40. Accordingly, plaintiff seeks attorney's fees pursuant to *California Code of Civil*
 15 *Procedure §1021.5*.

16 **FOURTH CAUSE OF ACTION AS AGAINST BUDENZ AND DOES 26-50**
 17 **FOR VIOLATION OF 15 U.S.C. 1125 (d) AND 15 U.S.C. 1125 (a).**

18
 19 41. Plaintiff re-alleges and incorporates paragraphs 1 through 40, as if such paragraphs
 20 were fully set forth herein.

21 42. Plaintiff is informed and believes, and thereon alleges, that Plaintiff has acquired
 22 rights, good will and commercial value in his names, Jose Robert Del Valle and Robert Del
 23 Valle, which plaintiff used in interstate commerce using telephone lines, the internet and the U.
 24 S. Mail.

25
 26 43. Plaintiff is informed and believes, and thereon alleges, that defendant Budenz and his
 27 agents, employees or co-conspirators have used Plaintiff's name(s) in a manner likely to deceive
 28 and confuse internet users as to the real identity and source of domains controlled, managed or

1 administrated by defendant Budenz and his agents and employees.

2 44. Plaintiff is informed and believes, and thereon alleges, that defendant Budenz and his
3 agents, employees or co-conspirators, have intentionally and in bad faith acquired and used
4 domain names including Plaintiff's names for unlawful commercial purposes, including the
5 solicitation and retention of private investigation clients in California when Budenz is not a
6 licensed California private investigator.
7

8 45. Accordingly, Plaintiff seeks and prays for damages, injunctive relief and reasonable
9 attorneys fees as provided by Title 15 U. S. C., 1120 et seq.
10

11 46. Plaintiff also prays for punitive and exemplary damages as allowed by Federal law.
12

13 WHEREFORE, plaintiff prays for the following:

14 1. Temporary and permanent injunction enjoining the defendant MICHAEL BUDENZ,
15 Godaddy.com and any other DOE defendants from using the name or similar names of JOSE
16 ROBERT DEL VALLE, including ROBERT DEL VALLE, J. ROBERT DEL VALLE, to create
17 a website, cyber squat or to create a spite site impugning and destroying the reputation of
18 ROBERT DEL VALLE;
19

20 2. Special damages for lost wages, lost job opportunities according to proof on the
21 Second Cause of Action;

22 3. Punitive damages on the Second Cause of Action according to proof;

23 4. Punitive damages on the Third Cause of Action;

24 5. An injunctive order prohibiting Budenz from further using Jose Robert Del Valle's
25 name, or any derivation of his name, for purposes of soliciting private investigation clients
26

27 6. An Order of Restitution on the Third Cause of Action;

28 7. Pre-judgment interest as allowed by law;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8. Reasonable attorneys fees on the Fourth Cause of Action;

9. Any or relief that the Court finds just and appropriate.

Dated: June 9, 2010

LAW OFFICE OF WILLIAM T. PASCOE

By: 

WILLIAM T. PASCOE

Attorney for Plaintiff

JOSE ROBERT DEL VALLE

