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ENDORSED
FILED
Superior Court of California
County of San Francisco

FEb 07 2013

CLERK OF THE COURT
BY MICHAEL RAYRAY
Deputy Clerk

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7 SUPERIOR COURT OF CALIFORNIA
8
8 COUNTY OF SAN FRANCISCO
9

10 JOSEPH CONNELLY,

11 Plaintiff,

12 v.

13 COLLEEN HOLLAND, and DOES 1
14 through 20, inclusive,

15 Defendants,

16 COLLEEN HOLLAND,

17 Cross-complainant,

18 v.

19 JOSEPH CONNELLY, and ROES 1
20 through 20, inclusive,

21 Cross-defendants.

No. CGC-12-523731

DECLARATION OF AL WHALEY IN
SUPPORT OF MOTION FOR
ISSUANCE OF A PRELIMINARY
INJUNCTION AND APPOINTMENT
OF A RECEIVER

Date: March 7, 2013

Time: 9:30 a.m.

Dept.: 302

Judge: Hon. Marla J. Miller

Complaint Filed: August 27, 2012

22 I, Al Whaley, declare:

23 1. I have personal knowledge of the facts set forth in this declaration. If called as a
24 witness in this action, I could competently testify as follows:

25 2. I am a retired computer professional. After obtaining a bachelor's degree and
26 Ph.D. in electrical and computer engineering, and computer science, respectively, I spent my

1 career in computer design, engineering, and consulting, the development of e-commerce web
2 platforms and working in web related start-ups. A true copy of a summary version of my resume
3 is attached hereto, as Exhibit A.

4 3. I first met Joe Connelly in 2002, when I was on assignment as a photographer at
5 a conference in San Jose, California having to do with the vegetarian lifestyle. Joe was at the
6 convention as an active member of the vegan and vegetarian community. At the same
7 convention, Joe introduced me to Colleen Holland. He introduced her as the "co-founder and
8 partner of VegNews," which is the organization that Colleen and Joe were representing at the
9 convention. That introduction began a friendship with both Joe and Colleen that has lasted
10 through the present. I would also say that our relationship involved more than friendship: Over
11 the years, Colleen and Joe met and talked with my partner, Davy Davidson, and me, on a wide
12 variety of issues related to their business, VegNews. I believe they both felt comfortable talking
13 to Davy and me because of our success in business matters, and our involvement in the
14 vegetarian lifestyle. It is a fair summary to say that Colleen and Joe relied on both Davy and
15 me, and each of us independently, for business advice and counsel, as well as socializing with
16 us.

17 4. Over the years these discussions about VegNews would include personnel and
18 business planning matters, their disagreements over business decisions involving their business,
19 VegNews, and financial issues. In fact, I was asked to make them a loan of about \$3,100 to help
20 finance some ancillary business, which I understood would be established as a non-profit adjunct
21 to VegNews. The loan was paid back, but I did not ever hear what became of the proposed
22 entity. Colleen and Joe shared with us their early planning strategies involving VegNews,
23 including how they were organizing their respective roles in the business (Colleen focusing on
24 advertising relationships and Joe focusing on the editorial side, although neither excluded the
25 other) and their mutual decision not to take large salaries from the business. Over time, my
26 discussions with Joe included matters over which he had disagreements with Colleen. As an

1 example, Joe seemed upset that his role in the business focused on writing copy, as opposed to
2 Colleen's role in managing the advertising relationships. Joe complained that he did not know
3 what was going on because Colleen was handling the advertising and the income it generated.
4 His concerns about this subject, however, were not consistent because on other occasions he
5 would praise the financial health of VegNews due to the efforts of Colleen in establishing and
6 maintaining these relationships. I recall, as an example, a conference in Los Angeles, California
7 involving the vegetarian community when Joe lauded Colleen to a group of us as the one who
8 was so good at managing these necessary relationships, and that his strengths lay elsewhere.

9 5. In all of our discussions, through all of these years, I was always told by Joe, and
10 always understood from observing how they made business decisions, that Colleen and Joe were
11 equal partners in the ownership and operation of VegNews. I have never heard either one of
12 them say anything inconsistent with this. When I learned that Joe is claiming that he is the sole
13 founder and owner of VegNews, I was surprised, to say the least. Such a claim is entirely
14 inconsistent with the overwhelming impression I have had over the years, from my
15 conversations with both of them and my observations of their business behavior and decision-
16 making, that VegNews is a partnership between Colleen and Joe, operating as equals. Davy and
17 I have either individually or jointly met with and talked on the telephone with Joe and Colleen
18 numerous times since 2002 (and longer for Davy, who has known Colleen since approximately
19 1998), and most of those conversations involved business issues related to VegNews, which they
20 have always shared with us for the reasons mentioned above. They always presented these issues
21 as equals trying to achieve consensus, without any suggestion that one had veto or hierarchical
22 authority over the other.

23 6. An example of our involvement arose in 2009. Davy and I were with Colleen and
24 Joe, discussing a variety of matters when they revealed that Colleen had separately purchased a
25 business named VegWeb. Colleen told us that she and Joe had discussed Colleen's interest in
26 acquiring this business and that Joe was against it, thinking it was a distraction from VegNews.

1 Colleen on the other hand thought it was complementary and wanted to go forward. They told us
2 that Colleen had gone forward and purchased the business (a recipe website) with funds she
3 borrowed from her mother. Joe complained about this to me, and he was unhappy about it, and
4 did not think it was a good idea. Their respective thoughts about VegWeb's role vis-à-vis
5 VegNews were in conflict. They agreed that it would not be an activity VegNews pursued, and
6 that Colleen would pursue the acquisition on her own, with money borrowed from her mother.
7 Colleen has never involved me in the operation of VegWeb, and I really do not know much
8 about it, beyond hearing them discuss it with Davy and me on that occasion, after the fact. I
9 have seen a copy of Joe's lawsuit in which he alleges that he thought VegWeb would be very
10 complimentary to VegNews and that VegNews agreed to purchase the business. This is entirely
11 inconsistent with what Joe and Colleen told Davy and me when Colleen purchased VegWeb. I
12 am not aware of any current relationship between VegNews and VegWeb.

13 7. As I think back on my relationship with Colleen and Joe, and the numerous times
14 they have shared their business questions with Davy or me, I feel that Joe's claim that he is the
15 sole founder and owner of the business is a rewriting of history. On only one occasion that I am
16 aware of was there a suggestion that Joe was a sole founder of VegNews, and it did not make
17 him look good in the eyes of his community of friends and business contacts. In about 2007 Joe
18 was given a lifetime achievement award from an organization, which I believe was the Humane
19 Society. In the press releases related to that award, Joe was characterized as the founder,
20 without mention of Colleen. Joe never corrected this record. I know that many of his friends and
21 associates, including Davy and me, were disturbed that he did not act to correct this mis-
22 impression. Never have I witnessed one making unilateral decisions about the business. Even the
23 VegWeb purchase by Colleen was not unilateral - they discussed it and disagreed, and Colleen
24 pursued it on her own, outside of VegNews.

25 8. On more than several occasions over the years Joe has acknowledged to me that
26 Colleen is his business partner and co-founder. My observation of their decision making related

1 to VegNews is entirely consistent with this. I have loaned money to VegNews on this basis.

2 9. I have read the declaration that my partner, Davy Davidson, has submitted and to
3 the extent I am personally aware of facts and events she recites, I am in agreement with the
4 contents.

5 I declare under penalty of perjury that the foregoing is true and correct, and this
6 declaration is executed by me on Feb 4, 2013, in Los Altos Hills, California.

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Al Whaley

EXHIBIT A

Al Whaley, Ph.D.

PO Box 60
Palo Alto, CA 94302

650 947 6542

Higher Education	Ph.D. in Computer Science – May 1984 B.S. in Electrical / Computer Engineering – May 1974
Work History	
1966 – 1984	Professional Research Staff + Manager Computer Science Department University of Illinois Urbana Illinois • Designed and built campus timesharing facility • Designed fault tolerant multi volume file store / database • Designed graphic hardware • Designed expandable large scale I/O infrastructure
1986 – 1988	Consulting, Corporate Software Contracts Included designing printer products under contract to Canon
1988 – 1989	Protocol Engines, Inc. Lead for software engineering
1990 – 1994	More Consulting
1994 – 1995	Efficient Networks, Inc. Led design for breakthrough high speed networking chip
1994 – 1995	Develop Web Platform for ecommerce with son
1995 – 1999	Internet Travel Network, renamed GetThere.com Co-founder – early Internet company – sold to Sabre 2000
	1999 – present – retired