

THE MCHATTIE LAW FIRM, LLC  
Christopher J. McHattie, Esq.  
(Bar No. 035251987)  
550 West Main Street  
Boonton, New Jersey 07005  
Telephone: 973-402-5505  
Facsimile: 973-400-4110  
*Attorneys for Plaintiff, 4C4 Media, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

4C4 MEDIA, LLC,

Plaintiff

v.

MARK HAEFELI; MARK HAEFELI  
PRODUCTIONS, INC.; JOHN DOES 1-10  
(name being fictitious for individuals whose  
identities are currently unknown); and ABC  
ENTITIES 1-10 (names being fictitious for  
corporate or other legal entities whose  
identities currently remain unknown),

Defendants.

Civil Action No.:

**COMPLAINT**

Plaintiff, 4C4 Media, LLC (hereinafter "Plaintiff," "4C4" or "Company"), by and through its counsel, hereby alleges as follows:

**THE PARTIES**

1. Plaintiff 4C4 Media, LLC is a Delaware limited liability company with its principal place of business at 550 West Main Street, Boonton, New Jersey. The Company is in the business of, *inter alia*, producing and distributing media content, and developing original films, television shows, and other forms of media through various distribution channels.

2. Defendant Mark Haefeli (“Mr. Haefeli”) is a resident of New Jersey and a former officer and member of 4C4 residing at 92 Elm Street, Montclair, NJ 07042.

3. Mr. Haefeli is also a principal of, or is otherwise associated with, defendant Mark Haefeli Productions, Inc. (“MHP”) and has caused it to commit the acts hereafter alleged. Upon information and belief, defendant MHP is a New York corporation whose principal place of business is 92 Elm Street, Montclair, NJ 07042.

4. John Does 1-10, being fictitious names, are individuals whose true identities have not yet been discovered that have acted in active concert with Haefeli or otherwise participated in the wrongful acts against Plaintiff that are set forth herein.

5. ABC Entities 1-10, being fictitious names, are entities whose true identities have not yet been discovered that have acted in active concert with Haefeli or otherwise participated in the wrongful acts against Plaintiff that are set forth herein. Collectively, Mr. Haefeli, MHP, John Does 1-10 and ABC Entities 1-10 will be referred to as the “Defendants.”

### **JURISDICTION AND VENUE**

6. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States, 17 U.S.C. § 101 et seq.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1338(a) (jurisdiction over copyright actions).

8. This Court has personal jurisdiction over each of the Defendants because each regularly does business in the state of New Jersey and the causes of action hereinafter alleged arise out of their transaction of business in the state of New Jersey.

9. Venue is properly situated in this District under 28 U.S.C. § 1391(b)-(c), and/or 28 U.S.C. § 1400(a). Specifically, Mr. Haefeli resides in the state of New Jersey and a substantial portion of the events giving rise to the claims have occurred in the state of New Jersey.

**STATEMENT OF THE CASE**

10. On or around July 21, 2016, Mr. Haefeli and Cove, LLC established 4C4.

11. From October 2016 until Mr. Haefeli's resignation from 4C4 on February 27, 2019, Mr. Haefeli's work for 4C4 consisted almost exclusively of developing, producing and directing a feature length documentary with the working title "A Billion Dollar Power Station" which documents a recording studio in New York City named the "Power Station" (the "Work" or the "Film").

12. Written agreements between the Company and Mr. Haefeli identified all work performed by Mr. Haefeli, including the Film, as a "work made for hire," with ownership vesting exclusively in 4C4.

13. Among his other responsibilities, Mr. Haefeli was the primary representative of the Company in connection with all negotiations with those individuals being interviewed for the Film, including Ian Hunter ("Hunter"), Max Weinberg ("Weinberg"), Charles Granata ("Granata"), Warren Zanes ("Zanes") and others (the "Interview Subjects").

14. In addition, Mr. Haefeli was primarily responsible for soliciting interest from potential distributors of the Film and opening discussions with them, including, but not limited to, representatives of Abramorama, Red Hawk Films, Vision Films, Submarine Entertainment, Eagle Rock Entertainment, and others ("Potential Distributors").



15. Until his suspension and subsequent resignation from the Company, Mr. Haefeli received monthly guaranteed payments as consideration for his services. These payments were reflected in the Company's K-1s provided to Mr. Haefeli for the years 2016, 2017, and 2018.

16. Mr. Haefeli executed an Exclusive License and Assignment Agreement ("IP Assignment") that included a "work for hire" provision related to all work performed by Mr. Haefeli during his tenure with the Company.

17. The IP Assignment additionally provided that Mr. Haefeli and all his predecessor entities, including, but not limited to MHP, Second Coming Productions, LLC, Mark Haefeli Productions, LLC, CenterSeat, LLC, and White Light Productions, Inc. exclusively licensed and assigned all right, title, and interest in, to and under contributed creative materials and any future works to be produced, including, but not limited to, the Film. A copy of the IP Assignment is attached hereto as Exhibit "A".

18. Other written agreements between the Company and Mr. Haefeli (an Offer Letter, a Unit Forfeiture Agreement and Operating Agreement) provided, *inter alia*, that certain pre-existing works were assigned to the Company as "Contributed Works", with ownership now having vested in 4C4.

19. Beginning in February 2019, Mr. Haefeli posted several negative comments on social media about a former vendor of 4C4. The result of those comments was an action filed in the Superior Court of New Jersey, Essex County, Docket No. ESX-C-045-19 for, *inter alia*, defamation and enforcement of a non-disparagement obligation set forth in the Settlement Agreement (the "Essex County Action"). Mr. Haefeli, along with 4C4, and other participants in 4C4 (whether by way of legal representation, active performance of services or indirect ownership) were also named in that action.



20. Notwithstanding repeated efforts by the Company to seek an amicable resolution with both Mr. Haefeli and the plaintiff in the Essex County Action, Mr. Haefeli never materially engaged in those efforts and the Essex County Action remains active.

21. Mr. Haefeli resigned as an officer and relinquished his member interest on February 27, 2019.

22. After his resignation, Mr. Haefeli adopted an increasingly adversarial posture toward 4C4 and the members of its remaining member, Cove, LLC.

23. Commencing on or about April 8, 2019, Mr. Haefeli began to publish social media comments, and communicated by text messages and email, negative comments about the Company and the others involved with the Company, which *inter alia* derogated the Company's rightful ownership of the Film, as set forth at length below.

24. The United States Copyright Office issued the Company Certificates of Copyright Registration for the Film, Copyright Registration Nos. Pau 3-962-880 and Pau 3-962-815, effective dates of April 1, 2019 and April 23, 2019 respectively, listing 4C4 as the copyright owner. A copy of the Certificates of Registration (the "Registrations") are attached as Exhibit "B".

#### **The Essex County Action**

25. Beginning on February 19, 2019 through February 20, 2019, Mr. Haefeli allegedly posted comments on social media about a former vendor of 4C4, Aciem, LLC d/b/a East Main Media ("Aciem"), and the vendor's owner Brian Brodeur ("Mr. Brodeur"), via the social media platforms Twitter and Facebook.

26. On February 19, 2019, 8:37AM, Mr. Haefeli tweeted:

I strongly suggest that you return my informational media which I copied into your Basecamp program. Also, Google Doc script. None of this information is yours. It is my informational property, you thief and incompetent. Brian, I am the wrong guy to cross. Mark Haefeli.

See Exhibit "C"

27. On or around February 19, 2019, 8:27AM, Mr. Haefeli tweeted:

Do not ever work with this low end company. They can't do anything other than three camera PBS shoots and local town tourism videos. Many people have been screwed by Brodeur's bullshit. He is currently holding all, of my information media.  
#Fraud

See Exhibit "C"

28. On or around February 19, 2019, 8:27AM, Mr. Haefeli tweeted:

Complete frauds these pretenders. There are countless individuals who Brodeur has screwed ...stay away

See Exhibit "C"

29. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

Just a bull shit company of incompetence. Brodeur is a talentless thief with lots of people coming after him. He's at best a local chamber of commerce video guy. Never has done anything of merit. I hired him for a high end project and was about as creative as an ant farm. #fraud

See Exhibit "C"

30. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

This company is so low end it is laughable. Amazing how someone as talentless As Brodeur is, is still doing any business, if you want to call local chamber of commerce videos work? Don't go near there. He's also a con man, liar and phony.  
#punkfraud

See Exhibit "C"

31. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

Piece of shit company @EastMainMedia

See Exhibit "C"

32. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

Such bull shit and scam. Do t [sic] fall for this carnival barkers bull shit.

See Exhibit "C"

33. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

Brodeur is a phony and these podcasts are bullshit. No one listens or cares. He is talentless piece of shit that fucked with the wrong guy. #fraud you will regret theday you met me scumbag.

See Exhibit "C"

34. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

@EastMainMedia piece of shot company. Brodeur is a liar, heat and incompetent. He will be brought Right down to his knees. #fraud#lawsuit

See Exhibit "C"

35. On or around February 19, 2019, Mr. Haefeli posted on Facebook:

Mark Haefeli A complete bullshit company; Brodeur has fucked his last client. Erased my intellectual property and script notesfor [sic] a 2 hour documentary! Should have known that this pretend production company could not handle anything as high end as a "real" documentary! Amateurs at best. cheats and incompetents at worst.

See Exhibit "C"

36. On or around February 19, 2019, Mr. Haefeli posted on Facebook:

This is a complete bullshit company. They cant [sic] do anything except local community travelogues and three camera PBS shoots that my 14 year can edit. Many former clients have been screwed by Brodeur the phony. (He is a con man), But I will be the last Promise!#pieceofshit

See Exhibit "C"

37. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

Hey Steve ...let's get together soon so I can fill you in on Brodeur and what a scum bag he is. Suggest you find another vendor because his ship is about to be sunk. You will not want to be associated with him when this gets out.

See Exhibit "C"



38. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

Hey Steve, just a heads up to get away from this fraud as soon as possible. We are filing a major law suit against this clown that will bankrupt his business and put him out of his house!:) he's fucked with the wrong guy this time. @EastMainMedia See Exhibit "C"

39. On or around February 25, 2019, two days before Mr. Haefeli resigned from 4C4, Mr. Haefeli engaged Corey Florin ("Mr. Florin"), on behalf of 4C4, to provide post-production film editing services for the Film, and thereafter instructed 4C4 to compensate Mr. Florin for his services.

40. On February 27, 2019, 4C4 suspended Mr. Haefeli for a period of two weeks pending further investigation of the matter.

41. As part of the terms of his suspension, Mr. Haefeli was prohibited from acting in any way on behalf of 4C4 or holding himself out in any way as an authorized representative of 4C4.

#### **Initial Threats of Copyright Infringement**

42. On February 27, 2019, at 1:45PM, Mr. Haefeli sent an email to a representative of 4C4 stating, in part:

***"The power station project is mine. I will not stop working on it."***

See Exhibit "D."

43. Also, on February 27, 2019, at 1:59 PM, Mr. Haefeli sent an email to a representative of 4C4 stating:

***"I am not longer a partner. I withdrawal immediately. And I'm taking everything that is mine and was mine."***

See Exhibit "D."

44. Also, on February 27, 2019 at 2:09 PM, Mr. Haefeli sent an email to a representative of 4C4 stating:

“I have officially resigned from foresee for MEDIA and I am no longer a part of that company. I also immediately will establish mark haefeli productions or MH P3 on all my signature pages at all of my emails to reinforce that I’m fucking done.”

See Exhibit “D.”

45. Also, on February 27, 2019 at 10:02 PM, Mr. Haefeli sent another email to a representative of 4C4 stating:

I have resigned and neither one of you would even know where to start to creat anything except bullshit.

See Exhibit “D.”

46. At some time after February 27, 2019, Mr. Haefeli contacted Mr. Florin, and falsely represented that he continued to be a representative of 4C4 and requested, and obtained, a copy of the Film and all ancillary materials.

47. At some time after February 27, 2019, Mr. Haefeli “redirected” [www.4c4media.com](http://www.4c4media.com) to a website or websites under the control of Mr. Haefeli.

48. At some time after February 27, 2019, Mr. Haefeli contacted Mr. Florin and, unbeknownst to 4C4, directed Mr. Florin to remove the Company’s name from the film, and place a copyright notice in the Film naming Mr. Haefeli as the copyright owner.

49. On Friday, March 1, 2019 at 9:39 AM, Mr. Haefeli sent an email stating: “Trust me, he will never get that film. *It is my film.*” See Exhibit “D.”

50. On or around March 5, 2019, 4C4 and Mr. Florin entered into an agreement governing Mr. Florin’s post-production film editing services, past and future, which included a

“work for hire” provision (the “Florin Post-Production Agreement”) and paid Mr. Florin as requested and required.

51. On Thursday, March 7, 2019 at 10:24 PM, Haefeli sent an email stating:

I ACTUALLY HAD MY EDITOR SIGN IN A FEW WEEKS AGO USING MY LOG IN. SAME INFO. HE WAS REVIEWING SEVERAL SPECIFIC “EXCLUSIVE” CLIPS FROM VARIOUS ARTISTS THAT I ISOLATED FOR USAGE IN MY RECENT PROJECT “ A BILLION DOLLAR POWER STATION”. I THINK WE TALKED ABOUT THIS DOCUMENTARY SEVERAL YEARS AGO. FUNNY HOW HE HAD NO PROBLEM...:)

WE HAD BEEN INCORPORATING A NUMBER OF CLIPS INTO THE DOCUMENTARY UNTILL THE WRONGFUL “EMPLOYEE TERMINATION” FILING WAS ISSUED TO ME. **THEY ARE TRYING TO TAKE THE “POWER STATION” DOC . . .**

See Exhibit “D.”

52. On Saturday, March 9, 2019 at 1:13 PM, Mr. Haefeli sent an e-mail to 4C4’s counsel stating, in part:

Also the Power Station film was a project originally developed and produced by Tony Bongiovi and Mark Haefeli beginning in 2014, well before 4c4media. ***This was meant to be and always was a separate project and is not mentioned in any agreement as a partnership entity except in an attempt to partner 4c4 with Tony Bongiovi’s company BPST.*** That deal is now null and void as far as Bongiovi is concerned and me as well.

See Exhibit “D.”

53. On April 8, 2019, the Company communicated with Mr. Florin concerning payment for post-production services.

54. At this time, the Company instructed Mr. Florin to not provide Mr. Haefeli with access to any of the assets associated with the Film.

55. On April 9, 2019 4C4 informed Mr. Florin via e-mail that:

Finally, so there are no further issues, nothing in your possession related to the project is to be made available to anyone else for download or copying. For clarity, the film and all related materials are 4C4’s property, not Mark’s or anyone else’s.



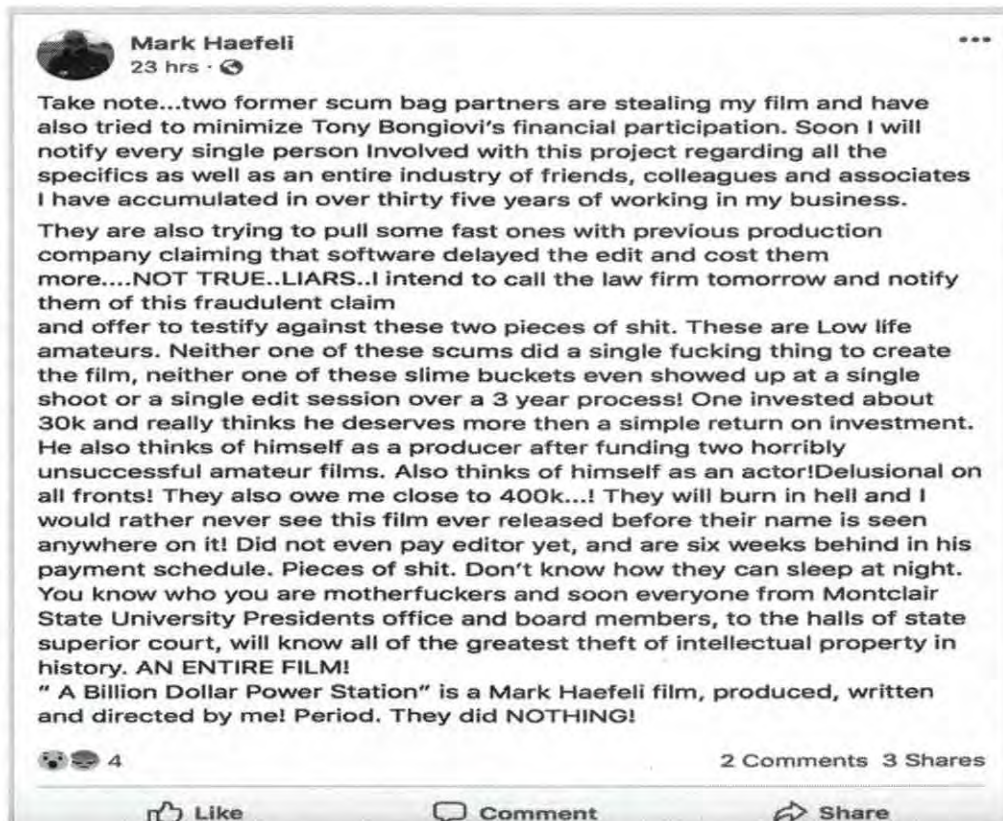
See Exhibit "D."

**Continuing False Assertions of Copyright Ownership**

56. Beginning on and around April 9, 2019, Mr. Haefeli began posting and circulating false, defamatory and damaging comments regarding 4C4 and its officers, representatives, and members and others merely associated with it.

57. Since that time, Mr. Haefeli has repeatedly held himself out as the rightful owner of the Film and has continuously threatened to infringe the Company's copyright rights in the Film.

58. On or around April 10, 2019, Mr. Haefeli posted the following on Facebook:



59. On or around April 10, 2019, Mr. Haefeli posted the following on the @powerstationdoc Twitter account, which is owned and run exclusively by Mr. Haefeli:



60. On April 11, 2019 at 8:28 PM, Haefeli sent a text message to a representative of Plaintiff stating:

... when it come to this film.... I am willing to flush eight years of my life down the toilet to make sure that neither one of you ever sees a dime. I am willing to do that you chicken shIt. I will fall on he the grenade to fuck you the way you have fucked Me...And you two run to my lawyer with all your little bits and pieces of truth that I post...**oh well be good live pretty soon! On the internet ...**  
**BTW...what would make you think I don't have a drive you fool! You're a bit slow on the draw.**

See Exhibit "D."

61. On April 12, 2019 at 9:27AM, Mr. Haefeli sent an e-mail stating, in part:

***You may know by now but robert has stolen my film, literally...*** So he is now in possession of seven years of my life claiming he owns this! I am sure you can not imagine how anyone could do such a thing..., please note that the film credits Mark Haefeli as producer and director and there is no mention of 4C4media anywhere on the film. The last credit roll is the copyright which reads Mark Haefeli Productions 2019 and I do not think you want to mess with some ones copywritten material....***BTW...I have a copy of the drive as well. Had the project cloned about two weeks ago...***

See Exhibit "D."

62. Mr. Haefeli knowingly induced Mr. Florin to breach Mr. Florin's obligations under the Florin Post-Production Agreement by holding himself out as a duly authorized representative of the Company and requesting and receiving from Mr. Florin a copy of the Film and other assets in Mr. Florin's possession.

63. On April 12, 2019 at 9:43AM, Mr. Haefeli sent an e-mail stating in part: "By the way I asked Corey two weeks ago, to make me a precautionary back up. This was well before you started your legal bullying routine." See Exhibit "D."



64. On April 13, 2019 at 9:49AM, Mr. Haefeli posted the following on his Facebook account:



See Exhibit "D."

65. Shortly thereafter, at 10:18AM, Haefeli posted the following on his Facebook account:



See Exhibit "D."



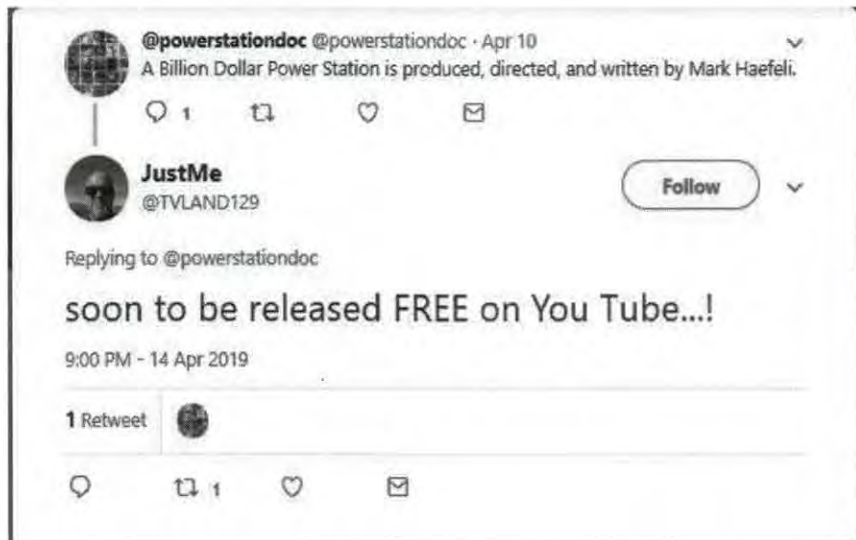
66. Shortly thereafter, on April 13, 2019, at 1:25PM, Mr. Haefeli sent the following text message stating, in part:

*Until this film is given back to me, and I'm not talking about the drive, I am taking about exclusive ownership, because as you know, I already have a copy of the drive, and you will have to spend tens of thousands of dollars to start over on the edit but won't even have enough material to do another edit! You can't afford it and god knows you can't raise money.*

*BTW, I have already started working with another editor late last week soon as I got the drive from Corey. We continue to make changes and alterations to finalize this so it will pass QC. .... I did tell you I would do anything I had to do to get this film done. I am relentless.*

See Exhibit "D."

67. On or around April 14, 2019, at 9:00PM, Mr. Haefeli posted the following on Twitter:



See Exhibit "D."

68. On or around April 16, 2019, Mr. Haefeli posted the following on Twitter:



See Exhibit "D."

69. Moreover, and in a final effort to avoid Court intervention, on April 25, 2019, Plaintiff sent a Notice and Demand Letter to Defendants' counsel demanding that Mr. Haefeli, through his counsel, withdraw all threats to copy, disseminate, edit, abridge, enhance and otherwise infringe Plaintiff's copyright in the Film.

70. Despite having sent the Notice and Demand Letter to Defendant's counsel on April 25, 2019, Mr. Haefeli has continued to infringe Plaintiff's copyright rights. Most recently, on or about April 29, 2019, at 9:39 pm, Mr. Haefeli posted on Facebook that he launched a website, [www.powerstationfilm.com](http://www.powerstationfilm.com).



See Exhibit "D."

71. On or about that same day, Mr. Haefeli launched [www.powerstationfilm.com](http://www.powerstationfilm.com) and proclaimed, "A Billion Dollar Power Station" - *A Mark Haefeli Film*".



**COUNT I**  
**Copyright Infringement Under the Copyright Act**

72. Plaintiff repeats and realleges the foregoing as if set forth at length.

73. The Film is the subject of Copyright Registration Nos. Pau 3-962-880 and Pau 3-962-815, effective date April 1, 2019 and April 23, 2019, respectively.

74. Plaintiff is the owner of the Copyright Registration Nos. Pau 3-962-880 and Pau 3-962-815 and the rightful owner of the creative works embodied in those Registrations.

75. Defendant had access to the copyrighted works.

76. By the wrongful conduct described above, Defendants have infringed upon Plaintiff's copyright.

77. The infringement of Plaintiff's copyrighted materials has been willful, intentional, and in total disregard of Plaintiff's copyright, in violation of 17 U.S.C. § 501 *et seq.*

78. Defendants did not have a license, prior authorization or the consent of Plaintiff to reproduce, distribute, publicly perform, or otherwise use the Film.

79. As a result of Defendants' infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to either disgorgement of profits and recovery of actual damages, or statutory damages pursuant to 17 U.S.C. § 504.

80. Plaintiff is further entitled to recovery of its attorneys' fees and costs pursuant to 17 U.S.C. § 505.

81. Additionally, Defendants' publication of the Work on the Internet has resulted in irreparable damage to Plaintiff by depriving Plaintiff of its first publication right and Plaintiff has no adequate remedy at law.

82. Defendants' infringement of Plaintiff's copyrights has damaged, and is continuing to damage, Plaintiff in an amount to be determined at trial.

83. Accordingly, Plaintiff seeks an order under 17 U.S.C § 502 enjoining Defendants' copyright infringement.

84. By reason of the foregoing, Plaintiff is entitled to injunctive relief, either actual or statutory damages, attorneys' fees and costs, and further relief as the Court deems just and proper.

**COUNT II**  
**Defamation – Libel**

85. Plaintiff repeats and realleges the foregoing as if set forth at length.

86. Mr. Haefeli made severely damaging and disparaging remarks and statements concerning Plaintiff on social media platforms and through electronic communications with thirdparties. Upon information and belief, these third parties include at least some of the Interview Subjects.

87. Mr. Haefeli's disparaging statements were at all times, and remain, demonstrably false and defamatory in nature.

88. The disparaging and defamatory statements made by Mr. Haefeli concern the personal, professional and business reputation and character of Plaintiff.

89. Furthermore, the statements made by Mr. Haefeli clearly and unmistakably vilified Plaintiff without any basis in fact.

90. At all times, Mr. Haefeli either: (i) knew the disparaging and defamatory statements were false when he communicated them; or (ii) communicated the statements with reckless disregard of their truth or falsity; or (iii) acted negligently in failing to ascertain the falsity of the statements before communicating them.

91. As a direct and proximate result of Mr. Haefeli's conduct, Plaintiff has been impaired in its ability to earn a living and maintain a business, thereby causing Plaintiff damages.



92. As a direct and proximate result of Mr. Haefeli's conduct, the reputation of Plaintiff has been damaged, and it has sustained and will continue to sustain damages.

**COUNT III**  
**Tortious Interference with Contractual Relations**

93. Plaintiff repeats and realleges the foregoing as if set forth at length.

94. Plaintiff and third parties, including Mr. Florin, entered into contractual agreements, written and oral, which governed various aspects of the Film.

95. Plaintiff reasonably expected that its contractual relationship with those third parties would continue into the future.

96. Defendants knew of the agreement between Plaintiff and those third parties.

97. By the wrongful conduct described above, Defendants intentionally and improperly interfered with the agreement with those third parties and did so with the intent and purpose of inducing those third parties to breach such agreement or otherwise act in a way to render performance impossible.

98. Defendants' interference caused those third parties to breach the agreement.

99. As a result of Defendants' actions, Plaintiff has been and continues to be damaged in an amount to be determined at trial.

100. Plaintiff has also suffered and will continue to suffer irreparable harm in the form of damage to its reputation as a result of Defendants' conduct described herein.

101. While an award of damages may be adequate to compensate Plaintiff for the loss of income, an award of damages will not be adequate to compensate Plaintiff for the damage to its reputation caused by Defendants. Plaintiff has suffered and will continue to suffer irreparable harm unless preliminary and permanent injunctive relief is granted.

**COUNT IV**

**Tortious Interference with Prospective Economic Advantage**

102. Plaintiff repeats and realleges the foregoing as if set forth at length.

103. Plaintiff and third parties, were actively involved in ongoing discussions, written and oral, regarding various aspects of the Film, including but not limited to securing a contract for the distribution rights in the Film.

104. There was a reasonable probability that Plaintiff and third parties would have entered into a contractual relationship.

105. Defendants knew of the third parties, the ongoing discussions, written and oral, regarding various aspects of the Film and that there was a reasonable probability that Plaintiff and third parties would have entered into a contractual relationship.

106. As a direct and proximate result of Defendants' conduct, Defendants have intentionally and wrongfully interfered the relationship between Plaintiff and those third parties and placed a cloud over the Film and effectively prevented the relationship between that Plaintiff and those third parties from developing further.

107. As a result of Defendants' actions, Plaintiff has been and continues to be damaged in an amount to be determined at trial.

108. Plaintiff has also suffered and will continue to suffer irreparable harm in the form of damage to its reputation as a result of Defendants' conduct described herein.

109. While an award of damages may be adequate to compensate Plaintiff for the loss of income, an award of damages will not be adequate to compensate Plaintiff for the damage to its reputation caused by Defendants. Plaintiff has suffered and will continue to suffer irreparable harm unless preliminary and permanent injunctive relief is granted.

**COUNT V**  
**Breach of Contract**

110. Plaintiff repeats and realleges the foregoing as if set forth at length.

111. Plaintiff and Mr. Haefeli entered into the IP Assignment, the Operating Agreement, the Offer Letter, and the Unit Forfeiture Agreement.

112. Plaintiff duly performed its obligations thereunder.

113. Mr. Haefeli has breached his obligations under and pursuant to, *inter alia*, the IP Assignment, the Operating Agreement, the Offer Letter, and the Unit Forfeiture Agreement.

114. Mr. Haefeli's conduct constitutes a material breach of Mr. Haefeli's contractual obligations to the Company.

115. As a direct and proximate result of Mr. Haefeli's conduct, and as set forth more fully above, Mr. Haefeli breached the IP Assignment, the Operating Agreement, the Offer Letter, and the Unit Forfeiture Agreement and Plaintiff has suffered, and will continue to suffer, damages and irreparable harm to its business reputation.

**COUNT VI**  
**Breach of the Implied Covenant of Good Faith and Fair Dealing**

116. Plaintiff repeats and realleges the foregoing as if set forth at length.

117. Plaintiff and Mr. Haefeli entered into the IP Assignment, the Operating Agreement, the Offer Letter, and the Unit Forfeiture Agreement.

118. Implied in each contract in New Jersey is a covenant of good faith and fair dealing, such that one contracting party shall not act to harm the other party.

119. By reason of the aforementioned conduct, Defendants breached the implied covenant of good faith and fair dealing with respect to, *inter alia*, the IP Assignment, the Operating Agreement, the Offer Letter, and the Unit Forfeiture Agreement by acting in bad faith with the



purpose of depriving Plaintiff of fruits and/or benefits it bargained for under the IP Assignment, the Operating Agreement, the Offer Letter, and the Unit Forfeiture Agreement.

120. As a consequence, Plaintiff was wrongfully deprived of the fruits and/or benefits of its bargain with Defendants, and Plaintiff has been, and will continue to be, severely damaged as a result.

**COUNT VII**  
**Common Law Fraud**

121. Plaintiff repeats and realleges the foregoing as if set forth at length.

122. Mr. Haefeli misrepresented a presently existing and past fact by telling members of Plaintiff that he:

- i. was a highly respected director and producer in the music, film, and entertainment industries with ready and willing contacts and relationships for ongoing production business;
- ii. had no prior circumstances that would bring into question his integrity or his likelihood of success in the production business;
- iii. had no prior disputes with prior partners that he had caused that would impact his likelihood of success in the production business;
- iv. had a successful production company with ongoing revenues;
- v. had a reasonable likelihood of continued success in his production company;
- vi. had a reasonable likelihood of continued revenue in his production company; and
- vii. was a talented and creative film producer (the “Representations”).

123. These Representations were material to Cove, LLC's decision to contract and partner with Mr. Haefeli and form Plaintiff.

124. Mr. Haefeli knew that the Representations were false when he made them and did so with the intent of misleading Cove, LLC into forming 4C4 with Haefeli.

125. Plaintiff reasonably relied on the Representations to its detriment.

126. As a result of such reasonable reliance, Plaintiff has suffered and will continue to suffer damages and irreparable harm to its business reputation.

### **COUNT VIII**

#### **Prohibited Officer Actions Under the Ultra Vires Doctrine**

127. Plaintiff repeats and realleges the foregoing as if set forth at length.

128. Mr. Haefeli undertook conduct which exceeded his authority.

129. Prior to his suspension and resignation, Company contacted Mr. Haefeli via e-mail and explicitly instructed him to "cease and desist from any activity on behalf of 4C4."

130. Shortly thereafter, Mr. Haefeli resigned from Plaintiff.

131. Accordingly, Mr. Haefeli was without authority to direct Mr. Florin to create a copy of the Work and provide him with such copy.

132. Plaintiff did not ratify Mr. Haefeli's action, and, as such, this action was *ultra vires* and is void.

133. As a result of such Mr. Haefeli's conduct, Plaintiff has suffered and will continue to suffer damages and irreparable harm to its business reputation.

### **COUNT IX**

#### **Breach of Member/Officer Duties**

134. Plaintiff repeats and realleges the foregoing as if set forth at length.

135. As a member and manager of 4C4, Mr. Haefeli owed Plaintiff standards of conduct.

136. Mr. Haefeli owed Plaintiff the duties of loyalty and care as a member and manager including, but not limited to, the fiduciary duty of loyalty to:

- a. account to the Company and to hold as trustee for it any property, profit, or benefit derived by the member;
  - i. in the conduct or winding up of the Company's activities;
  - ii. not misuse Company property; or
  - iii. misappropriate Company opportunities;
- b. refrain from dealing with the Company in the conduct or winding up of the Company's activities as or on behalf of a person having an interest adverse to the Company; and
- c. refrain from competing with the Company in the conduct of the Company's activities before the dissolution of the Company (the "Loyalty Duties").

137. Mr. Haefeli owed Plaintiff the duty of care to refrain from:

- a. engaging in grossly negligent or reckless conduct;
- b. intentional misconduct; or
- c. a knowing violation of law (the "Care Duties").

138. Mr. Haefeli breached each and every one of the Loyalty Duties and Care Duties owed to Plaintiff.

**COUNT X**

**Declaratory Relief Pursuant to 28 U.S.C. § 2201, *et seq.* (Declaratory Judgment Act)  
and the Copyright Act (Title 17 of the U.S. Code)**

139. Plaintiff repeats and realleges the foregoing as if set forth at length.

140. Plaintiff is entitled to and requests a Declaration of its ownership of the Film, the ancillary materials associated with the Film and the Contributed Work.



141. There is a real and actual controversy between Plaintiff and Defendants regarding the foregoing.

142. Such controversy has impacted Plaintiff's ability to work on the Film and forced Plaintiff to incur significant legal expenses in protecting its copyright in the Film.

143. The controversy between Plaintiff and Defendants is thus real and substantial and demands specific relief through a decree of a conclusive character.

144. Accordingly, Plaintiff is entitled to declaratory judgment that it owns the Film, the ancillary materials associated with the Film and the Contributed Work.

**COUNT XI**

Federal Unfair Competition and False Designation of Origin  
15 U.S.C. § 1125(a)

145. Plaintiff repeats and realleges the foregoing as if set forth at length.

146. Plaintiff has acquired the exclusive rights to reproduce and distribute the Film and to use the name and trademark a Billion Dollar Power Station and colorable variations thereof ("Plaintiff's Mark"), including the Power Station Film and alternate, abbreviated or reconstituted version of the Film and outtakes and unused source materials.

147. Pursuant to 15 U.S.C. § 1125(a), a non-registered trademark owner may be granted injunctive relief to prevent or restrain infringement of its well-known mark and may petition the Court to award damages, disgorgement of profits, and attorneys' fees as a result of the trademark infringement.

148. Defendant's acts described above have caused or are likely to cause confusion, mistake, deception, or misunderstanding as to the source, origin, sponsorship, affiliation, or approval of Defendant's goods and services, and constitutes infringement of Plaintiff's Mark and

unfair competition in violation of the Lanham Act, and common law trademark and unfair competition laws.

149. Further, Defendant's acts described above constitute materially false representations of fact that are likely to cause confusion, mistake, or deception as to the source, origin, sponsorship, affiliation, or approval of Defendant's goods and services, all in violation of 15 U.S.C. §1125(a).

150. Defendant's infringement of Plaintiff's Mark is willful.

151. Even after being placed on notice of Plaintiff's rights in April 2016, Defendant continues to use confusingly similar marks and trade dress in commerce.

152. Upon information and belief, Defendant is willfully offering for sale and selling goods and services that infringe Plaintiff's Trade Dress in order to benefit from Plaintiff's goodwill and reputation.

153. Furthermore, Defendant is falsely creating an association between Defendant's goods and Plaintiff and Plaintiff's products.

154. Defendant's actions have damaged Plaintiff's business, reputation, and goodwill and have interfered with Plaintiff's own use of Plaintiff's Mark and Trade Dress. Unless restrained and enjoined by this Court, Defendant will persist in its activities, causing irreparable harm and injury to Plaintiff.

155. Defendant should be preliminarily, and upon final hearing, permanently enjoined from using Plaintiff's Mark and Trade Dress, pursuant to 15 U.S.C. § 1116.

156. Plaintiff is entitled, under 15 U.S.C. § 1117(a), to recover from Defendant:

- a. Defendant's profits in providing its goods using Plaintiff's Mark and Trade Dress;

- b. damages sustained by Plaintiff due to Defendant's providing its goods and services using marks identical or confusingly similar to Plaintiff's Mark and Trade Dress; and
- c. the costs of this action.

157. Because this is an exceptional case, involving willful misconduct by Defendant, Plaintiff is also entitled, under 15 U.S.C. § 1117(a), to recover: (i) exceptional damages for intentional infringement, bad faith, and willful conduct equal to three times profits or damages, whichever is greater; and (ii) attorney fees and costs.

158. Defendant's conduct as described above has been intentional, willful, deliberate, malicious, and intended to injure Plaintiff, in clear disregard of Plaintiff's legal rights.

159. Defendant's acts described above greatly and irreparably damage Plaintiff and will continue to damage Plaintiff unless enjoined by this Court.

### **COUNT XII**

#### Common Law Unfair Competition

160. Plaintiff repeats and realleges the foregoing as if set forth at length.

161. Plaintiff is the owner of common law rights in Plaintiff's Mark.

162. Plaintiff has invested substantial time, labor, skill, and money in the development of Plaintiff's Mark.

163. Through its conduct described above, including the unauthorized use of Plaintiff's Mark and making false or misleading representations of fact in connection with the sale and offering for sale of Defendant's goods and services confusingly similar to Plaintiff's, Defendant has passed off their products as those of Plaintiff or being in connection or affiliation with Plaintiff, and has intentionally misappropriated.



164. Plaintiff's labors, investments, and expenditures and intentionally exploited Plaintiff's Mark and Plaintiff's reputation and goodwill associated therewith.

165. Defendant's conduct is intended and likely to cause confusion, deception, or mistake among consumers as to the source, origin, sponsorship, affiliation, or approval of Defendant's goods and services by Plaintiff.

166. Defendant has used marks and trade dress that are confusingly similar to Plaintiff, in relation to identical or highly similar goods as Plaintiff's and in competition with Plaintiff, all of which provided and continues to provide Defendant an unfair advantage, because Defendant bore little or no burden of the expense of development and promotion of those goods.

167. Defendant's conduct was made in bad faith, with full knowledge of Plaintiff's ownership of and/or exclusive right to use and license Plaintiff's Mark.

168. By knowingly competing against Plaintiff using confusingly similar marks for identical or highly similar goods and services, Defendant has misappropriated a commercial advantage belonging to Plaintiff.

169. Defendant's conduct is illegal and actionable under the common laws of the State of New Jersey.

170. Defendant's actions described above constitute unfair competition in violation of New Jersey common law.

171. Defendant's conduct as described above has been intentional, willful, deliberate, malicious, and intended to injure Plaintiff, in clear disregard of Plaintiff's legal rights.

172. Plaintiff has no adequate remedy at law inasmuch as money damages alone would not adequately compensate Plaintiff for the harm to its rights, goodwill, and business reputation.

173. Defendant's acts described above greatly and irreparably damage Plaintiff and will continue to damage Plaintiff unless enjoined by this Court.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that this Court:

- A. Enter judgment Declaring Plaintiff the owner of all right, title and interest in and to the Film;
- B. Enter judgment against Defendants and in favor of Plaintiff for violation of Plaintiff's rights under the Copyright Act (17 U.S.C. § 501 *et seq.*);
- C. Enter judgment against Defendants and in favor of Plaintiff for libeling and/or defaming Plaintiff;
- D. Enter judgment against Defendants and in favor of Plaintiff for breach of contract;
- E. Enter judgment against Defendants and in favor of Plaintiff for breach of the implied covenant of good faith and fair dealing;
- F. Enter judgment against Defendants and in favor of Plaintiff for tortious interference with contractual relations;
- G. Enter judgment against Defendants and in favor of Plaintiff for tortious interference with prospective contractual relations;
- H. Enter judgment against Defendants and in favor of Plaintiff for fraud;
- I. Enter judgment against Defendants and in favor of Plaintiff for conduct constituting *ultra vires* acts for which Defendants are individually liable;
- J. Enter judgment against Defendants and in favor of Plaintiff for breaching the Duties of Loyalty and Duties of Care;

K. Enter a judgment, permanently enjoining Defendants their respective agents, servants, employees, successors and assigns, and all other persons acting in concert with or in conspiracy with or affiliated with Defendants, from:

- a. editing, altering, reproducing, distributing, or otherwise publicly displaying: (i) the Film, or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and/or unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendants);
- b. offering for sale, selling, marketing or promoting: (i) the Film, or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendants);
- c. creating derivative works derived from: (i) the Film, or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendants);
- d. engaging in acts of interferences with Plaintiff's marketing and selling of (i) the Film, or (ii) any alternate, abbreviated or reconstituted version of the Film or the Film's outtakes and unused source materials, including, but not limited to, interfering with Plaintiff's work with existing or prospective vendors for the Film; and



- e. engaging in any other acts which puts a cloud on the ownership, development or distribution of: (i) the Film, or (ii) any alternate, abbreviated or reconstituted version of the Film or the Film's outtakes and unused source materials, including, but not limited to, Defendants holding themselves out as the owner of the Film.
- L. Plaintiff be awarded all losses of Plaintiff, the exact sum to be proven at the time of trial, as available under the Copyright Act, 17 U.S.C. § 101 et seq. and the Lanham Act 15 U.S.C. § 1051 et seq.;
- M. Plaintiff be awarded all profits of Defendants;
- N. Awarding Plaintiff reasonable attorneys' fees, costs and disbursements, as provided in, *inter alia*, the Copyright Act, 17 U.S.C. § 101 et seq. and the Lanham Act 15 U.S.C. § 1051 et seq.;
- O. Awarding Plaintiff statutory, enhanced and treble damages as provided in such applicable law and regulations, including reasonable attorneys' fees, costs and disbursements, as provided in, *inter alia*, the Copyright Act, 17 U.S.C. § 101 et seq. and the Lanham Act 15 U.S.C. § 1051 et seq.; and
- P. Enter such other and further relief to which Plaintiff may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

THE MCHATTIE LAW FIRM

By: /s/Christopher J. McHattie  
Christopher J. McHattie, Esq.  
550 West Main Street  
Boonton, NJ 07005  
*Attorneys for Plaintiff 4C4 Media, LLC*

Dated: May 6, 2019

THE MCHATTIE LAW FIRM, LLC  
Christopher J. McHattie, Esq.  
(Bar No. 035251987)  
550 West Main Street  
Boonton, New Jersey 07005  
Telephone: 973-402-5505  
Facsimile: 973-400-4110  
*Attorneys for Plaintiff, 4C4 Media, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

4C4 MEDIA, LLC,

Plaintiff

v.

MARK HAEFELI; MARK HAEFELI  
PRODUCTIONS, INC.; JOHN DOES 1-10  
(name being fictitious for individuals whose  
identities are currently unknown); and ABC  
ENTITIES 1-10 (names being fictitious for  
corporate or other legal entities whose  
identities currently remain unknown),

Defendants.

Civil Action No.:

**CERTIFICATION OF  
ROBERT S. GREGORY**

I, Robert S. Gregory, being duly sworn, upon this oath according to law, deposes and says:

1. I am a member of Cove, LLC (“Cove”), which is an owner/member of 4C4 Media, LLC (hereinafter referred to as “4C4” or “Company”), and I am the Cove member responsible for the day to day activities of 4C4. I am also an attorney-at-law of the State of New York. I am thoroughly familiar with the facts and circumstances of this action.

2. On or around July 21, 2016, Mark Haefeli (“Mr. Haefeli”) and Cove established 4C4. Mr. Haefeli was 4C4’s Creative Director, and his responsibilities included, but were not

limited to, seeking opportunities for 4C4 to provide video production services to third parties, and to develop new projects to be produced and owned by 4C4.

3. From October 2016 until Mr. Haefeli's resignation from 4C4 on February 27, 2019, Mr. Haefeli's work for 4C4 consisted almost exclusively of developing, producing and directing a feature length documentary with the working title "A Billion Dollar Power Station" which documents a recording studio in New York City named the "Power Station" (the "Work" or the "Film").

4. Written agreements between the Company and Mr. Haefeli, including, but not limited to the Exclusive License and Assignment Agreement ("IP Assignment") identified all work performed by Mr. Haefeli, including the Film, as a "work made for hire" with ownership vesting exclusively in 4C4. A copy of the IP Assignment is attached hereto as Exhibit "A". Moreover, Mr. Haefeli and the Company entered into agreements, including but not limited to the IP Assignment, the Offer Letter, the Unit Forfeiture Agreement and the Company's Operating Agreement, that identified certain pre-existing work which were assigned to the Company as "Contributed Works," with ownership having vested in 4C4.

5. The IP Assignment provided, in pertinent part: "[Mr. Haefeli] and all his predecessor entities, including, but not limited to MHP Productions, LLC, Mark Haefeli Productions, LLC, CenterSeat, LLC, Second Coming Productions, LLC, and White Light Productions, Inc. [...] exclusively license/assign to [4C4], all of his right, title, and interest in, to and, under said Contributed Work and Future Work."

6. Among his responsibilities, Mr. Haefeli was the primary representative of the Company in connection with all negotiations with those individuals being interviewed for the Film, including, but not limited to, Ian Hunter ("Mr. Hunter"), Max Weinberg ("Mr. Weinberg"),



Charles Granata (“Mr. Granata”), Warren Zanes (“Mr. Zanes”) and others (the “Interview Subjects”).

7. In addition, Mr. Haefeli was primarily responsible for soliciting interest from potential distributors of the Film and opening discussions with them, including, but not limited to, representatives of Abramorama, Red Hawk Films, Submarine Entertainment, Eagle Rock Entertainment (collectively, the “Potential Distributors”).

8. For time relevant hereto, Mr. Haefeli received monthly guaranteed payments as consideration for his services. These payments were reflected in the of K-1s provided by the Company to Mr. Haefeli for the years 2016, 2017, and 2018.

9. Beginning in February 2019, Mr. Haefeli posted several negative comments on social media about a former vendor of 4C4. The result of those comments was an action filed in the Superior Court of New Jersey, Essex County, Docket No. ESX-C-045-19 for, *inter alia*, defamation and enforcement of a contractual non-disparagement obligation (the “Essex County Action”). Mr. Haefeli, along with 4C4, and other participants in 4C4 (whether by way of legal representation, active performance of services or indirect ownership - including the undersigned) were also named in the Essex County Action.

10. Notwithstanding repeated efforts by the Company to seek an amicable resolution with both Mr. Haefeli and the plaintiff in the Essex County Action, Mr. Haefeli never materially engaged in those efforts and the Essex County Action remains active.

11. Mr. Haefeli resigned as an officer and relinquished his member interest in 4C4 on February 27, 2019.

12. Thereafter, the Company repeatedly attempted to engage with Mr. Haefeli, through his counsel, to seek an amicable resolution of the dispute between him and the Company.

13. After his resignation, Mr. Haefeli adopted an increasingly adversarial posture toward 4C4 and the members of Cove.

14. Commencing on or about April 8, 2019, Mr. Haefeli began to publish social media comments, and communicated by text messages and email, negative comments about the Company and the others involved with the Company, which *inter alia* derogated the Company's rightful ownership of the Film, as set forth at length below.

15. Consistent with its ownership rights in the Film, the Company proceeded to secure copyright registrations. Specifically, on March 29, 2019, Plaintiff filed a copyright application with the United States Copyright Office on the then current version of the Film. On April 17, 2019, Plaintiff filed a second expedited copyright application with the United States Copyright Office on the then current version of the Film.

16. On or about April 1, 2019 and April 29, 2019, the United States Copyright Office issued the Company Certificates of Copyright Registration for the Film, Copyright Registration Nos. Pau 3-962-880 and Pau 3-962-815, with the effective dates April 1, 2019 and April 28, 2019 respectively, listing 4C4 as the copyright owner. A copy of the Certificates of Registration are attached as Exhibit "B".

#### **The Essex County Action**

17. On or about September 7, 2018, the Company entered into an agreement with East Main Media, LLC ("East Main") for post-production services on the Film. East Main provided editing and other services to the Company until it terminated its relationship with the Company on January 5, 2019.

18. As part of the termination, on or about January 18, 2019 (and under what with the benefit of hindsight were peculiar circumstances), the Company entered into a Settlement and



Mutual General Release Agreement (the "Settlement Agreement"). Mr. Haefeli, and the undersigned, were also signatories to the Settlement Agreement.

19. The Settlement Agreement included mutual obligations of non-disparagement.

20. Beginning on February 19, 2019 through February 20, 2019, Mr. Haefeli allegedly posted comments on social media about East Main, and East Main's owner Brian Brodeur ("Mr. Brodeur"), via the social media platforms Twitter and Facebook.

21. On February 19, 2019, 8:37 AM, Mr. Haefeli tweeted:

I strongly suggest that you return my informational media which I copied into your Basecamp program. Also, Google Doc script. None of this information is yours. It is my informational property, you thief and incompetent. Brian, I am the wrong guy to cross. Mark Haefeli. [Exhibit C.]

22. On or around February 19, 2019, 8:27 AM, Mr. Haefeli tweeted:

Do not ever work with this low end company. They can't do anything other than three camera PBS shoots and local town tourism videos. Many people have been screwed by Brodeur's bullshit. He is currently holding all, of my information media. #Fraud [Exhibit C.]

23. On or around February 19, 2019, 8:27 AM, Mr. Haefeli tweeted:

Complete frauds these pretenders. There are countless individuals who Brodeur has screwed ...stay away [Exhibit C.]

24. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

Just a bull shit company of incompetence. Brodeur is a talentless thief with lots of people coming after him. He's at best a local chamber of commerce video guy. Never has done anything of merit. I hired him for a high end project and was about as creative as an ant farm. #fraud [Exhibit C.]

25. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:

This company is so low end it is laughable. Amazing how someone as talentless As[sic]<sup>1</sup> Brodeur is, is still doing any business, if you want to call local chamber of commerce videos work? Don't go near there. He's also a con man, liar and phony. #punkfraud [Exhibit C.]

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<sup>1</sup> Not all spelling and grammatical errors in the Haefeli communications are noted as such.



26. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:  
Piece of shit company @EastMainMedia [Exhibit C.]
27. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:  
Such bull shit and scam. Do t [sic] fall for this carnival barkers bull shit.  
[Exhibit C.]
28. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:  
Brodeur is a phony and these podcasts are bullshit. No one listens or cares. He is  
talentless piece of shit that fucked with the wrong guy. #fraud you will regret  
theday you met me scumbag. [Exhibit C.]
29. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:  
@EastMainMedia piece of shot company. Brodeur is a liar, heat and incompetent.  
He will be brought Right down to his knees. #fraud#lawsuit [Exhibit C.]
30. On or around February 19, 2019, Mr. Haefeli posted on Facebook:  
Mark Haefeli A complete bullshit company; Brodeur has fucked his last client.  
Erased my intellectual property and script notesfor [sic] a 2 hour documentary!  
Should have known that this pretend production company could not handle  
anything as high end as a "real" documentary! Amateurs at best. cheats and  
incompetents at worst. [Exhibit C.]
31. On or around February 19, 2019, Mr. Haefeli posted on Facebook:  
This is a complete bullshit company. They cant [sic] do anything except local  
community travelogues and three camera PBS shoots that my 14 year can edit.  
Many former clients have been screwed by Brodeur the phony. (He is a con man),  
But I will be the last Promise!#pieceofshit [Exhibit C.]
32. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:  
Hey Steve ...let's get together soon so I can fill you in on Brodeur and what a scum  
bag he is. Suggest you find another vendor because his ship is about to be sunk.  
You will not want to be associated with him when this gets out. [Exhibit C.]
33. On or around February 19, 2019, 11:27 AM, Mr. Haefeli tweeted:  
Hey Steve, just a heads up to get away from this fraud as soon as possible. We are  
filing a major law suit against this clown that will bankrupt his business and put

him out of his house!:) he's fucked with the wrong guy this time. @EastMainMedia [Exhibit C.]

34. On or around February 25, 2019, two days before Mr. Haefeli resigned from 4C4, Mr. Haefeli engaged Corey Florin (“Mr. Florin”), on behalf of 4C4, to provide post-production film editing services for the Film, and thereafter instructed 4C4 to compensate Mr. Florin for his services.

35. On February 27, 2019, 4C4 suspended Mr. Haefeli for a period of two weeks pending further investigation of the circumstances surrounding the Essex County Action.

36. As part of the terms of his suspension, Mr. Haefeli was prohibited from acting in any way on behalf of 4C4 or holding himself out in any way as an authorized representative of 4C4.

#### **Initial Threats of Copyright Infringement**

37. While previously discussed, the terms of Mr. Haefeli’s suspension were communicated to him in writing on February 27, 2019, at 10:46 AM. Not long after, Mr. Haefeli responded.

38. On February 27, 2019, at 1:45 PM, Mr. Haefeli sent an email to a representative of 4C4 stating, in part:

***“The power station project is mine. I will not stop working on it.”*** [Exhibit D (emphasis added).]

39. Also, on February 27, 2019, at 1:59 PM, Mr. Haefeli sent an email to a representative of 4C4 stating:

***“I am not longer a partner. I withdrawal immediately. And I’m taking everything that is mine and was mine.”*** [Exhibit D (emphasis added).]

40. Also, on February 27, 2019 at 2:09 PM, Mr. Haefeli sent an email to a representative of 4C4 stating:



“I have officially resigned from foresee for MEDIA and I am no longer a part of that company. I also immediately will establish mark haefeli productions or MH P3 on all my signature pages at all of my emails to reinforce that I’m fucking done.” [Exhibit D.]

41. Also, on February 27, 2019 at 10:02 PM, Mr. Haefeli sent another email to a representative of 4C4 stating:

“I have resigned and neither one of you would even know where to start to creat[sic] anything except bullshit. I will be up your asses with some serious litigation New York style.if yuh[sic] don’t already, you will be so sorry you ever met me. I have fried bigger fish then you[.]” . [Exhibit D.]

42. At some time after February 27, 2019, Mr. Haefeli contacted Mr. Florin, and falsely represented that he continued to be a representative of 4C4 and requested, and obtained, a copy of the Film and all ancillary materials.

43. At some time after February 27, 2019, Mr. Haefeli “redirected” [www.4c4media.com](http://www.4c4media.com) to a website or websites under the control of Mr. Haefeli.

44. At some time after February 27, 2019, upon information and belief (and the application of logic) Mr. Haefeli contacted Mr. Florin and, unbeknownst to 4C4, directed Mr. Florin to remove the Company’s name from the Film, and place a copyright notice in the Film naming Mr. Haefeli as the copyright owner.

45. On Friday, March 1, 2019 at 9:39 AM, Mr. Haefeli sent an email stating: “Trust me, he will never get that film. ***It is my film.***” [Exhibit D (emphasis added).]

46. On or around March 5, 2019, 4C4 and Mr. Florin entered into an agreement governing Mr. Florin’s post-production film editing services, past and future, which included a “work for hire” provision (the “Florin Post-Production Agreement”) and paid Mr. Florin as requested and required.

47. On Thursday, March 7, 2019 at 10:24 PM, Haefeli sent an email stating:



I ACTUALLY HAD MY EDITOR SIGN IN A FEW WEEKS AGO USING MY LOG IN. SAME INFO. HE WAS REVIEWING SEVERAL SPECIFIC "EXCLUSIVE" CLIPS FROM VARIOUS ARTISTS THAT I ISOLATED FOR USAGE IN MY RECENT PROJECT " A BILLION DOLLAR POWER STATION". I THINK WE TALKED ABOUT THIS DOCUMENTARY SEVERAL YEARS AGO. FUNNY HOW HE HAD NO PROBLEM...:)

WE HAD BEEN INCORPORATING A NUMBER OF CLIPS INTO THE DOCUMENTARY UNTILL THE WRONGFUL "EMPLOYEE TERMINATION" FILING WAS ISSUED TO ME. **THEY ARE TRYING TO TAKE THE "POWER STATION" DOC . . .** [Exhibit D (emphasis added).]

48. On Saturday, March 9, 2019 at 1:13 PM, Mr. Haefeli sent an e-mail 4C4's counsel stating, in part:

Also the Power Station film was a project originally developed and produced by Tony Bongiovi and Mark Haefeli beginning in 2014, well before 4c4media. ***This was meant to be and always was a separate project and is not mentioned in any agreement as a partnership entity except in an attempt to partner 4c4 with Tony Bongiovi's company BPST.*** That deal is now null and void as far as Bongiovi is concerned and me as well. [Exhibit D (emphasis added).]

49. On or around March 16, 2019, Mr. Haefeli posted the following on Twitter:



[Exhibit D.]

50. On April 8, 2019, the Company communicated with Mr. Florin concerning payment for post-production services.

51. At this time, the Company, instructed Mr. Florin to not provide Mr. Haefeli with access to any of the assets associated with the Film.

52. On April 9, 2019 4C4 informed Mr. Florin via e-mail that:

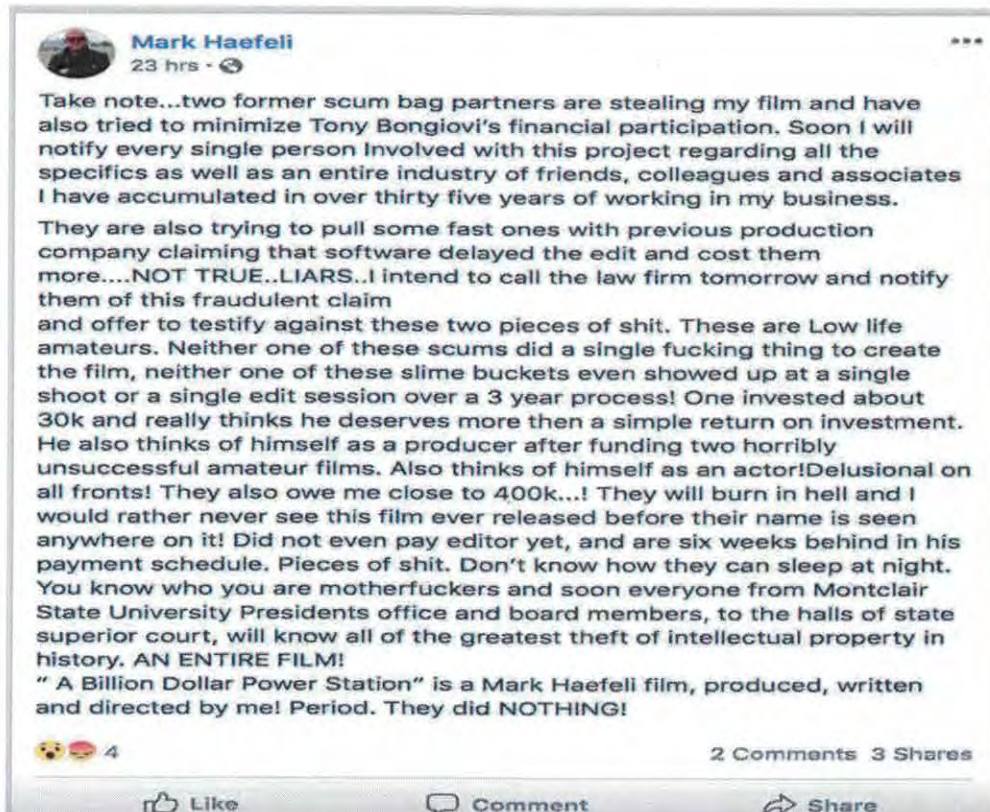
Finally, so there are no further issues, nothing in your possession related to the project is to be made available to anyone else for download or copying. ***For clarity, the film and all related materials are 4C4's property, not Mark's or anyone else's.*** [Exhibit D (emphasis added).]

**Continuing False Assertions of Copyright Ownership**

53. Beginning on and around April 9, 2019, Mr. Haefeli began posting and circulating false, defamatory and damaging comments regarding 4C4 and its officers, representatives, and members and others merely associated with it.

54. Since that time, Mr. Haefeli has repeatedly held himself out as the rightful owner of the Film and has continuously threatened to infringe the Company's copyright rights in the Film.

55. On or around April 10, 2019, Mr. Haefeli posted the following on Facebook:



[Exhibit D.]



56. On or around April 10, 2019, Mr. Haefeli posted the following on the @powerstationdoc Twitter account, *which is owned and run exclusively by Mr. Haefeli*:



[Exhibit D.]

57. On April 11, 2019 at 8:28 PM, Haefeli sent a text message to a representative of Plaintiff stating:

... when it come to this film.... I am willing to flush eight years of my life down the toilet to make sure that neither one of you ever sees a dime. I am willing to do that you chicken shIt. I will fall on he the grenade to fuck you the way you have fucked Me...And you two run to my lawyer with all your little bits and pieces of truth that I post...**oh well be good live pretty soon! On the internet ...**  
**BTW...what would make you think I don't have a drive you fool! You're a bit slow on the draw.**

[Exhibit D (emphasis added).]

58. On April 12, 2019 at 9:27AM, Mr. Haefeli sent an e-mail stating, in part:

***You may know by now but robert has stolen my film, literally...*** So he is now in possession of seven years of my life claiming he owns this! I am sure you can not imagine how anyone could do such a thing..., please note that the film credits Mark Haefeli as producer and director and there is no mention of 4C4media anywhere on the film. The last credit roll is the copyright which reads Mark Haefeli Productions 2019 and I do not think you want to mess with some ones copywritten material....***BTW...I have a copy of the drive as well. Had the project cloned about two weeks ago...***

[Exhibit D (emphasis added).]

59. Mr. Haefeli knowingly induced Mr. Florin to breach Mr. Florin's obligations under the Florin Post-Production Agreement by holding himself out as a duly authorized representative of the Company and requesting and receiving from Mr. Florin a copy of the Film and other assets in his possession.



60. On April 12, 2019 at 9:43 AM, Mr. Haefeli sent an e-mail stating in part: "By the way I asked Corey two weeks ago, to make me a precautionary back up. This was well before you started your legal bullying routine." [Exhibit D.]

61. On April 13, 2019 at 9:49AM, Mr. Haefeli posted the following on his Facebook account:



[Exhibit D.]

62. Shortly thereafter, at 10:18 AM, Mr. Haefeli posted the following on his Facebook account:



[Exhibit D.]

63. Shortly thereafter, on April 13, 2019, at 1:25 PM, Mr. Haefeli sent the following text message stating, in part:

*Until this film is given back to me, and I'm not talking about the drive, I am taking about exclusive ownership*, because as you know, I already have a copy of the drive, and you will have to spend tens of thousands of dollars to start over on the edit but won't even have enough material to do another edit! You can't afford it and god knows you can't raise money.

*BTW, I have already started working with another editor late last week soon as I got the drive from Corey. We continue to make changes and alterations to finalize this so it will pass QC.* .... I did tell you I would do anything I had to do to get this film done. I am relentless. [Exhibit D (emphasis added).]

64. On or around April 14, 2019, at 9:00 PM, Mr. Haefeli posted the following on Twitter:



[Exhibit D.]

65. In a final effort to avoid Court intervention, on April 25, 2019, Plaintiff sent a Notice and Demand Letter to Defendants' counsel demanding that Mr. Haefeli, through his counsel, that Mr. Haefeli withdraw all threats to copy, disseminate, edit, abridge, enhance and otherwise infringe Plaintiff's copyright in the Film.



66. Despite having sent the Notice and Demand Letter to Defendant's counsel on April 25, 2019, Mr. Haefeli has continued to infringe Plaintiff's copyright rights. Most recently, on or about April 29, 2019, at 9:39 pm, Mr. Haefeli posted on Facebook that he launched a website, [www.powerstationfilm.com](http://www.powerstationfilm.com).



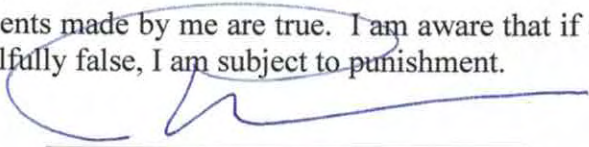
[Exhibit D.]

67. On or about that same day, Mr. Haefeli launched [www.powerstationfilm.com](http://www.powerstationfilm.com) and proclaimed, "A Billion Dollar Power Station" - *A Mark Haefeli Film*".



I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 5/6/19



Robert S. Gregory

# **EXHIBIT A**

## EXCLUSIVE LICENSE AND ASSIGNMENT AGREEMENT

This Exclusive License and Assignment Agreement (this "Agreement") is entered into as of July 21, 2014 by and between 4C4 Media, LLC, a Delaware limited liability company (the "Licensee," and with respect to Future Works as defined hereinafter, "Assignee" and/or the "Company"), and Mark Haefeli and all his predecessor entities, including but not limited to MHP Productions, LLC, Mark Haefeli Productions, LLC, CenterSeat, LLC, Second Coming Productions, Inc. and White Light Productions, Inc. and (collectively the "Licensor," and with respect to future Works as defined hereinafter, "Assignor" and/or the "Contractor" at times. With MHP Productions, LLC, Mark Haefeli Productions, LLC, CenterSeat, LLC and Second Coming Productions, Inc. and White Light Productions, Inc. collectively the "Predecessor Entities").

WHEREAS, the Licensor is the owner of certain rights in and to certain creative materials and the intellectual property rights associated therewith as more fully described hereinafter ("Contributed Work").

WHEREAS, the Assignor will, subsequent to the effective date of this Agreement, create certain creative materials and the intellectual property rights associated therewith as more fully described hereinafter ("Future Work").

WHEREAS, in connection with the formation of the Company and the issuance of Founder's Units to the Licensor, the Licensee/Assignee is desirous of acquiring, and the Licensor/Assignor has agreed to exclusively license/assign to Licensee/Assignee, all of his right, title and interest in, to and under said Contributed Work and Future Work (collectively "Work").

NOW THEREFORE, TO ALL WHOM IT MAY CONCERN, be it known that for good and valuable consideration, the receipt of which is hereby acknowledged, the Licensor/Assignor hereby grants and conveys to Licensee/Assignee a full and exclusive license in and to said Contributed Work and assigns said Future Work.

1. Licensor/Assignor, the sole and exclusive owner and creator of the Works, hereby:
  - a. for all purposes (including under the Copyright laws of the United States and throughout the world), in perpetuity (but in any event for not less than the period of copyright and any renewals, restorations and extensions thereof) and throughout the universe,
  - b. grants an irrevocable, perpetual, worldwide, transferable, sublicenseable, royalty free full and exclusive right and license in and to said Contributed Work in all territories worldwide, including the United States and all foreign countries, and throughout the universe, and
  - c. sells, assigns, transfers, grants and conveys to Assignee the full and exclusive right, title and interest in and to said Future Work,
  - d. including but not limited to all of the following:
    - i. from the moment of their creation, at every stage of their development, production, or completion, free of any liens, claims, encumbrances, limitations or restrictions of Licensor or anyone claiming by or through Licensor,
    - ii. All right, title and interest in and to the Work and the Results and Proceeds of the Work hereunder, all Future Work of which shall be a



"work made for hire" for Company prepared within the scope of Contractor's engagement hereunder as a work specially ordered or commissioned,

- iii. All right, title and interest in and to anything derived or created from the Work and all materials upon which the Work are based, including, but not limited to, the copyrights in and to the Work and such underlying materials and any renewals, restorations and extensions of such copyrights and all moral rights of authors with respect thereto,
  - iv. All distribution (including, without limitation, communication and making available), exhibition, exploitation, broadcast, cablecast, webcast, transmission, transcoding, allied, ancillary and/or subsidiary rights with respect to the Work and/or the results and Proceeds in any and all media, whether now or hereafter known, including, without limitation, theatrical, non-theatrical, pay-per-view, home entertainment formats (including, without limitation, video cassettes, DVDs, Blu-ray discs, and other formats), electronic sell-through, all forms of television (including pay, free, network, syndication, cable, satellite, digital and Internet), video-on-demand, and all forms of digital distribution and/or transmission (including, without limitation, online, wireless), and all forms of public or private communication or other form of point-to-point dissemination to an identifiable location or party, and
  - v. All other tangible and intangible rights of any nature relating to, and all proceeds and benefits of any nature derived from, the Work and/or the Results and Proceeds, as defined below.
- e. Without limiting the foregoing, in the event that any of the Work or the other Results and Proceeds are not deemed to be a "work made for hire" for Company, Contractor hereby irrevocably assigns to Company (or if any applicable law prohibits or limits such assignment, Contractor hereby irrevocably exclusively licenses to Company) all right, title and interest in and to such Work and other Results and Proceeds (including all copyrights therein and thereto and all renewals, restorations and extensions thereof), and all rights to exploit the same throughout the universe, in perpetuity (but in any event for not less than the period of copyright and any renewals, restorations and extensions thereof), in any and all media, whether now known or hereafter devised.
- f. Contractor, on Contractor's behalf and on behalf of Contractor's personnel, and their respective successors and assigns, hereby waives any so-called "moral rights of authors" and "droit moral" rights (and any similar or analogous rights under the applicable laws of any country of the world) which Contractor may have in connection with the Work or any of the results and proceeds of the Work, and to the extent such waiver is unenforceable, Contractor hereby covenants and agrees on Contractor's behalf, and on behalf of Contractor's Authorized Personnel and their respective successors and assigns, not to bring any claim, suit or other legal proceeding against Company or any of its affiliates, or any of their

respective successors, assigns or licensees claiming that such "moral rights" or "droit moral" rights have been violated.

- g. Contractor further hereby irrevocably assigns to Company (or if any applicable law prohibits or limits such assignment, Contractor hereby irrevocably exclusively licenses to Company), in perpetuity (but in any event for not less than the period of copyright and any renewals and extensions thereof) throughout the universe, all rights, if any, of Contractor and/or Contractor's personnel to authorize, prohibit and/or control the renting, lending, fixation, reproduction, importation and/or other exploitation of the Work in any media and/or by means now known or hereafter devised as may be conferred upon Contractor under applicable laws, regulations or directives, including, without limitation, any so-called "**Rental and Lending Rights**" pursuant to any European Union ("EU") directives and/or enabling or implementing legislation, laws or regulations enacted by the member nations of the EU.
- h. As used herein, "**Results and Proceeds**" shall mean all results and proceeds of Contractor's engagement and Work provided under this Agreement or otherwise relating to the Work or prepared at Company's direction (including ideas, concepts and/or other materials which may not subject to copyright protection with respect to any of the foregoing, and the right to make such uses thereof and/or changes therein and/or uses thereof as Company shall from time to time determine in its sole discretion, with no obligation to Contractor or any other person.

2. Ownership of Physical Materials. All property or material created, purchased or otherwise acquired by Contractor, or furnished by Company to Contractor, by reason of Company's engagement of Contractor hereunder, other than Contractor's accounting records and invoices, shall be, as and when such property comes into existence, the property of Company and shall not be destroyed or disposed of in any manner without Company's prior written approval. Contractor shall:

- a. Take reasonable care of all such property and materials,
- b. Provide Company with a written itemization thereof, and
- c. Deliver such properties and materials to Company simultaneously with the delivery of the Work, or earlier at the direction of Company.

3. Licensor/Assignor hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment and sale or any way interfere with the full use and enjoyment of the Work.

4. Licensor/Assignor further covenants that Licensee/Assignee will, upon its request, be provided promptly with all pertinent facts and documents relating to the Work as may be known and accessible to Licensor/Assignor, and Licensor/Assignor will testify as to the same in any litigation or proceeding related thereto and will promptly execute and deliver to Licensee/Assignee or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, defend and enforce the Intellectual Property rights associated with the Work which may be necessary or desirable to carry out the purposes hereof.



5. The license rights granted herein, shall revert to Haefeli (or its designee) in the event of the following:

- a. Failure of Cove to "Vest" as set forth in "Vesting of Rights," as those terms are used in that certain "Term Sheet" entered into between Licensor/Assignor and Cove, LLC;
- b. the bankruptcy, insolvency, dissolution or wind-up of 4C4 Media, LLC;
- c. 4C4 Media, LLC being materially inactive and/or dormant for a period of five (5) years.
- d. In the event none of the events set forth in a. through c. occurs, the exclusive "license" granted hereunder, shall, without further action, convert and thereafter be construed as terms of "assignment," vesting company with all right, title and interest in and to the Work and all other intellectual property encompassed hereunder.

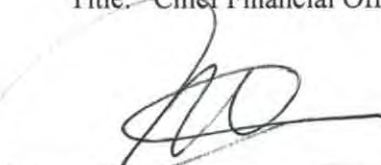
IN WITNESS WHEREOF, each of the parties has executed this Agreement as of the day and year first above written.

**4C4 Media, LLC**

By: 

Name: Robert Gregory

Title: Chief Financial Officer

  
Name: Mark Haefeli, individually, and as  
authorized representative of the Predecessor  
Entities



**Exhibit A**

The Contributed Works

[Insert inventory list]

82673948\IV-1

# **EXHIBIT B**





This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.



*Kary A. Lytle*

United States Register of Copyrights and Director

Registration Number

**PAu 3-962-815**

Effective Date of Registration:

April 23, 2019

**Title**

Title of Work: A Billion Dollar Power Station

**Completion/Publication**

Year of Completion: 2018

**Author**

- Author: 4C4 Media, LLC
- Author Created: entire motion picture
- Work made for hire: Yes
- Citizen of: United States
- Domiciled in: United States

**Copyright Claimant**

Copyright Claimant: 4C4 Media, LLC  
550 West Main Street, Boonton, NJ, 07005 United States

**Limitation of copyright claim**

Material excluded from this claim: preexisting footage, preexisting photograph(s), preexisting music, copyright case #1-7464991671

Previous registration and year: PAu003962880, 2019

New material included in claim: all other cinematographic material, additional new footage, revisions/additions to script

**Rights and Permissions**

Organization Name: The McHattie Law Firm  
Address: 550 West Main Street  
Boonton, NJ 07005 United States

**Certification**





This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.



*Kary A. Lesh*

United States Register of Copyrights and Director

Registration Number

**PAu 3-962-880**

Effective Date of Registration:

April 01, 2019

**Title**

Title of Work: A Billion Dollar Power Station

**Completion/Publication**

Year of Completion: 2018

**Author**

- Author: 4c4 Media, LLC
- Author Created: entire motion picture
- Work made for hire: Yes
- Domiciled in: United States

**Copyright Claimant**

Copyright Claimant: 4c4 Media, LLC  
550 West Main Street, Boonton, NJ, 07005, United States

**Limitation of copyright claim**

Material excluded from this claim: preexisting footage, preexisting photograph(s), preexisting music

New material included in claim: all other cinematographic material, additional new footage, production as a motion picture

**Rights and Permissions**

Organization Name: McHattie Law Firm  
Address: 550 West Main Street  
Boonton, NJ 07005 United States

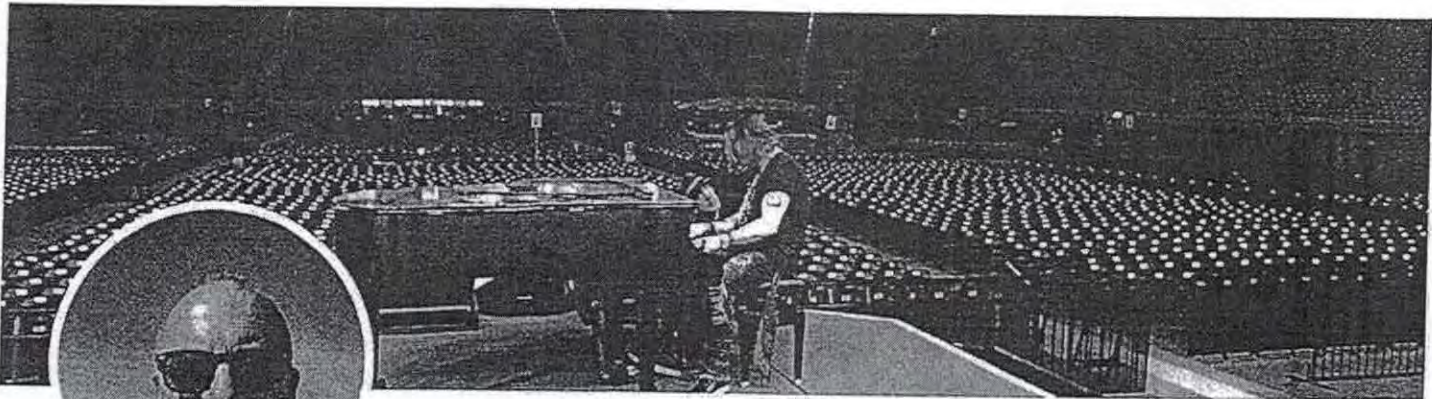
**Certification**

Name: Christopher J. McHattie  
Date: March 29, 2019



# **EXHIBIT C**





Tweets 6,897 Following 585 Followers 140 Likes 523 Lists 4

Follow

JustMe

@TVLAND129

Producer/Director of Many Years

new jersey

Joined April 2009

1,088 Photos and videos



Tweets Tweets & replies Media

JustMe Retweeted



JustMe @TVLAND129 · 9h

Brodeur is a phony and these podcasts are bullshit. No one listens or cares. He is talentless piece of shit that fucked with the wrong guy. #fraud you will regret the day you met me scumbag.



East Main Media @EastMainMedia

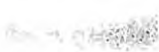
New #Podcast Episode: CD & Website designer, Jack Frisch, continues sharing stories with host @brian\_brodeur including meeting legendary Weather Report bassist Jaco Pastorius on a NYC basketball court...

1 retweet 1 reply



JustMe @TVLAND129 · 9h

Such bullshit and scam. Do t fall for this carnival barkers bullshit.



East Main Media @EastMainMedia

The future is bright! Check out our video press release announcing @TAPintoTV Learn more: ow.ly/7jdy30npq1T

0:57

1 retweet 1 reply



JustMe @TVLAND129 · 9h

Piece of shit company. @EastMainMedia



East Main Media @EastMainMedia

Great episode of One-on-One with @SteveAcubato featuring #LocationProduction and #editing by #EastMainMedia from the @NJE Convention in #AtlanticCity airing this weekend on @njtv, ...

1 retweet 1 reply



JustMe @TVLAND129 · 9h

Hey Steve, just a heads up to get away from this fraud as soon as possible. We are

@EastMainMedia



**Steve Adubato, PhD @SteveAdubato**  
Tune in to #1on1 Sunday at 11am on @njtv as I go on-location for part 2 of our special from the 2018 @NJEA Convention! I'll be sitting down w/ @SeanMSpiller + Ed Richardson of #NJEA, NJ Teacher of the Year Jennifer...



**JustMe @TVLAND129 · 9h**  
This company is so low end it is laughable. Amazing how someone as talentless as Brodeur is, is still doing any business, if you want to call local chamber of commerce videos work? Don't go near there. He's also a con man, liar and phony. #punkfraud



**East Main Media @EastMainMedia**  
By day, @Ammiratad is a mild-mannered #videoeditor ~ Head of #PostProduction for @EastMainMedia to be more specific ~ but by night, Dave sings lead in the award-winning #barbershop quartet @GimmeFour, an...



**JustMe @TVLAND129 · 9h**  
Hey Steve...let's get together soon so I can fill you in on Brodeur and what a scum bag he is. Suggest you find another vendor because his ship is about to be sunk. You will not want to be associated with him when this gets out.



**Steve Adubato, PhD @SteveAdubato**  
During my State Of Affairs #SoANJ interview with US Senator & Presidential Candidate @CoryBooker we discussed Political Discourse: "It's almost like this thin, narrow band of folks with bigoted ideals feel this..."



**JustMe @TVLAND129 · 9h**  
Just a bull shit company of incompetence. Brodeur is a talentless thief with lots of people coming after him. He's at best a local chamber of commerce video guy. Never has done anything of merit. I hired him for a high end project and was about as creative as an ant farm. #fraud

**TAPintoTV @TAPintoTV**

Ever wonder about the origins of #ValentinesDay? #TAPintoTV shares some history about the annual celebration of love: [ow.ly/xUgS50ImkOb](https://ow.ly/xUgS50ImkOb)  
#Valentines #AncientRome #ValentinesDay2019 #History #Origins #HappyValentinesDay #StValentine #Love #HappyValentinesDay2019 ...



**JustMe @TVLAND129 · 22h**  
complete frauds these pretenders. There are countless individuals who Brodeur has screwed....stay away.

**Great Mustachio @DWSchoner**

I can't say it how excited I am to be back producing projects again. Feels amazing.





**JustMe @TVLAND129 · 22h**  
Do not ever work with this low end company. They can't do anything other than three camera PBS shoots and local town tourism videos. Many people have been screwed by Brodeur's bullshit. He currently is holding all, of my informational media. #Fraud



**JustMe @TVLAND129 · 22h**  
I strongly suggest that you return my informational media which I copied into your Basecamp program. Also, Google Doc script. None of this information is yours. It is my informational property, you thief and incompetent. Brian, I am the wrong guy to cross. Mark Haefeli

**TAPintoTV @TAPintoTV**

Ever wonder about the origins of #ValentinesDay? #TAPintoTV shares some history about the annual celebration of love: [ow.ly/xUgS50ImkOb](http://ow.ly/xUgS50ImkOb)  
#Valentines #AncientRome #ValentinesDay2019 #History #Origins #HappyValentinesDay #StValentine #Love #HappyValentinesDay2019 ...



**JustMe @TVLAND129 · Feb 18**  
Go coach Sara and Nittany Lions! @MountieSB @SHUSoftball



**Big Ten Softball @B1Gsoftball**

A salute to our #B1GSoftball programs for their second win in the four-year history of the #ACCB1G Softball Challenge, winning this year by a 23-13 score! [bit.ly/2GsvzAa](http://bit.ly/2GsvzAa)



**JustMe @TVLAND129 · Feb 17**  
You go girl...@MountieSB @SHUSoftball

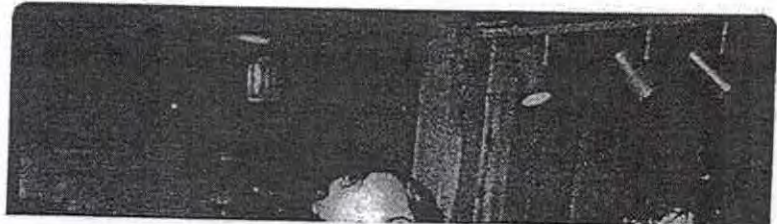
**Coach\_Haefeli @CoachHaefeli**  
Duke, Duke, Duke



JustMe Retweeted

**JustMe @TVLAND129 · Jan 25**  
@4C4Media Announces 2019 Developmnet Projects

- 1) "Phil Ramone, The Music Man" (pictured below)
- 2) " The Vegas Job" Biggest con in music history
- 3) "Archives of a Generation" Over twenty years of exclusive music performances, interview and never before released materials.



All

Mentions

you



JustMe @TVLAND129 · 7h

@EastMainMedia piece of shot company. Brodeur is a liar, heat and incompetent. He will be brought Right down to his knees. #fraud #lawsuit

TAPintoTV @TAPintoTV

@Acura VP & GM Jon Ikeda spoke to @TAPintoTV about the company's Protoype and GTD racing cars competing at the @Rolex24Hours at @DISupdates race this weekend. #Rolex24 #IMSA @imsa @NYAutoShow #daytona @jpmontoya Watch more videos and sign-up for enews: ow.ly/qBBO30nsSe3





All

Mentions



**JustMe @TVLAND129** · 7h

Hey Steve, just a heads up to get away from this fraud as soon as possible. We are filing a major law suit against this clown that will bankrupt his business and put him out of his house!:) he's fucked with the wrong guy this time. [@EastMainMedia](#)

**Steve Aduato, PhD @Ste...**

Tune in to #1on1 Sunday at 11am on @njtv as I go on-location for part 2 of our special from the 2018 @NJEA Convention! I'll be sitting down w/ @SeanMSpiller + Ed Richardson of #NJEA, NJ Teacher of the Year Jennifer Skomial @njstoy2019 + Global Conversation Cata Dave Ellis.



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@EastMainMediaGroup

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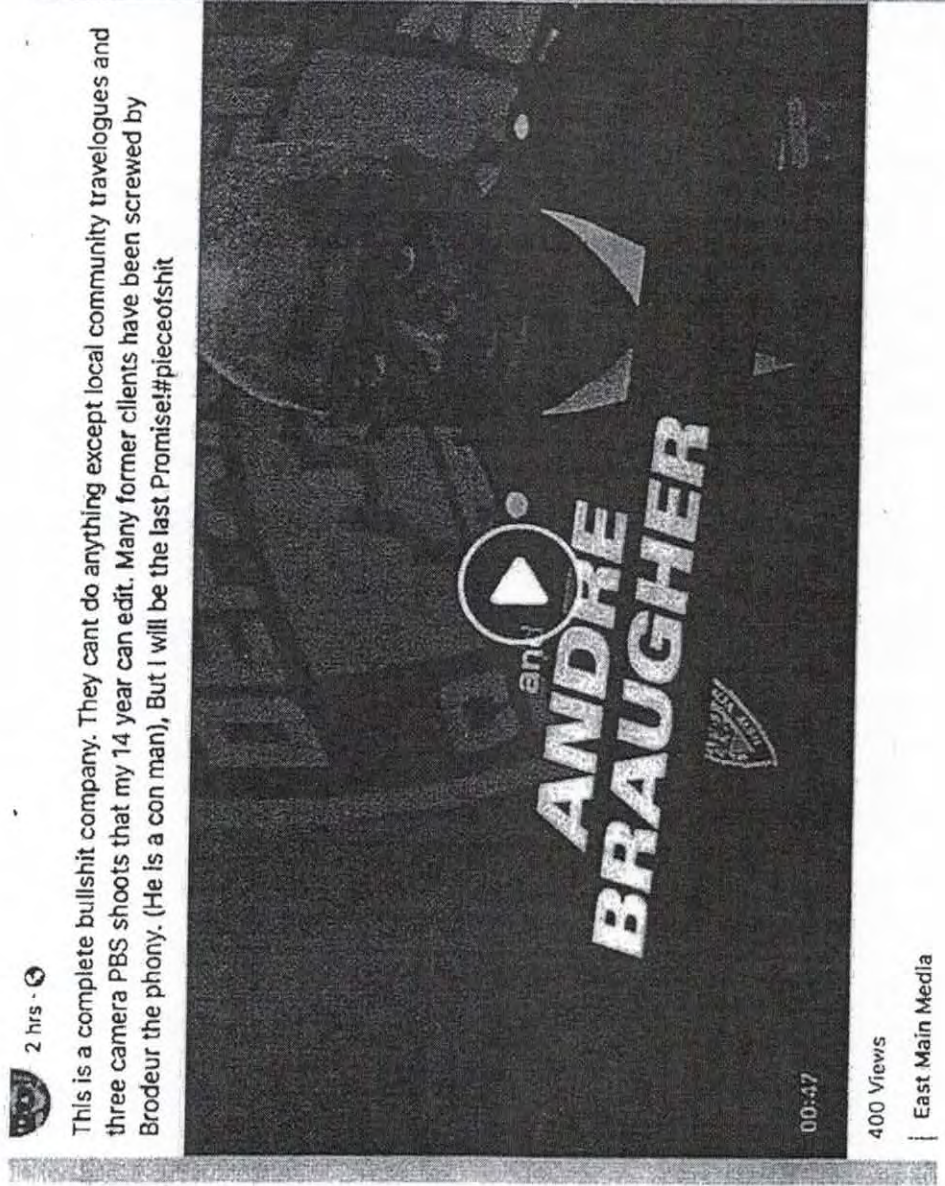
Most Relevant

Write a comment...

Mark Haefell A complete bullshit company. Brodner has fucked his last client. Eased my intellectual property and script notator a 2 hour documentary! Should have known that this pretend production company could not handle anything as high end as a "real" documentary! Amateurs at best, cheats and incompetents at worst.

Like · Reply · Message · 2h





2 hrs · 0

This is a complete bullshit company. They cant do anything except local community travelogues and three camera PBS shoots that my 14 year can edit. Many former clients have been screwed by Brodeur the phony. (He is a con man), But I will be the last Promise!#pieceofshit

ANDRE BRAUGHER

00:47

400 Views

East Main Media

# **EXHIBIT D**



From: Mark Haefeli <mark@4c4media.com>  
Sent: Wednesday, February 27, 2019 1:45 PM  
To: Chris McHattie <cmchattie@mchattielaw.com>  
Cc: Robert Gregory <robert@4c4media.com>; Michael Gattoni <mgattoni@mchattielaw.com>  
Subject: Re: 4C4 Media, LLC

This was all settled yesterday and for whatever reason yuh decided that was good enough for everyone was not good enough for you.

I am hereby resigning from 4c4 and will hire an attorney to see that all contract stipulations are adhered to.

The power station project is mine. I will not stop working on it.

Also....DO NOT SEND ANY INVOICES FOR THE Michael Jackson project. When I get the check I will pay back Robert as he extended the money obligation.

The judge basically told me that the matter was settled and that all I had to say was I would not do it again. I had every right to sign that document as CEO of 4C4 media.

My opinion for settlement was not taken into consideration nor was I ever asked. Who the fuck do you think you and Robert are now ask me.

As of today., all archives belong to me as stipulated in our project as is the Power Station Project. File a suit you fucking liar.

Mark Haefeli  
212 334 2164 office  
917 502 1096 mobile

---

From: Mark Haefeli <mark@4c4media.com>  
Sent: Wednesday, February 27, 2019 1:59 PM  
To: Chris McHattie <cmchattie@mchattielaw.com>  
Cc: Robert Gregory <robert@4c4media.com>; Michael Gattoni <mgattoni@mchattielaw.com>  
Subject: Re: 4C4 Media, LLC

Guess what..I am suspending the both of you. You did not even ask My position on the judges settlement offer. I was all in favor for it...clean and simple and he bent over backwards to get the case settled. I don't give a fuck about you. Both lawyers and Robert were all in favor of the agreement as was I. Then you called and rejected the settlement. Who the fuck are you to outweigh two board members, plus two lawyers opinions.

You want a war...I'll give you one and don't you fucking ever tell me how to handle my social media posts....and fuck you again. You were sent all passwords and sign in two years ago and they are im the same drawer as that bullshit party and marketing campaign you were going to produce! My entire company, what was, is now hopelessly lost because of your false promises and bullshit.

I am not longer a partner. I withdrawal immediately. And I'm taking everything that is mine and was mine. You, Chris, have done nothing for power Station or 4c4 for that matter.

My next post on Twitter with be today, when I get home about resigning and no longer part of your scam

Brooke was right.

Mark Haefeli  
212 334 2164 office

917 502 1096 mobile

---

**From:** Mark Haefeli <mark@4c4media.com>  
**Sent:** Wednesday, February 27, 2019 2:09 PM  
**To:** Chris McHattie <cmchattie@mchattielaw.com>  
**Cc:** Robert Gregory <robert@4c4media.com>; Michael Gattoni <mgattoni@mchattielaw.com>  
**Subject:** Re: 4C4 Media, LLC

I will also let Curcio know, today, that I have resigned as well. All 4c4 media related social media, including Facebook, You Tube, Twitter and more, will be immediately taken down. I will also send out a constant contact mailer tomorrow to all my cClients industry associates and others that I have officially resigned from foresee for MEDIA and I am no longer a part of that company. I also immediately will establish mark haefeli productions or MH P3 on all my signature pages at all of my emails to reinforce that I'm fucking done.

Mark Haefeli  
212 334 2164 office  
917 502 1096 mobile

---

**From:** Mark Haefeli <mark@4c4media.com>  
**Sent:** Wednesday, February 27, 2019 10:02 PM  
**To:** cmchattie@mchattielaw.com; Robert Gregory <robert@cove.ie>  
**Subject:** Facebook

You better get my image, my proprietary work, and likeness down from that Facebook sight. Right now you are misrepresenting that bullshit company 4C4 media..by having my work UO there. I have resigned and neither one of you would even know where to start to creat anything except bullshit. I will be up your asses with some serious litigation New York style.if yuh don't already, you will be so sorry you ever met me. I have fried bigger fish then you

Mark Haefeli  
212 334 2164 office  
917 502 1096 mobile

---

**From:** mhaefeli@markhaefeliprod.com <mhaefeli@markhaefeliprod.com>  
**Sent:** Friday, March 1, 2019 9:39 AM  
**To:** Chris McHattie <cmchattie@mchattielaw.com>  
**Cc:** Robert Gregory <robert@cove.ie>  
**Subject:** Re: 4C4

I get it and he would not know what to do with it (the film) anyway. I do have access to some pretty big guns that would be in my corner if push really comes to shove regarding anyone including Brodeur. I will not hesitate. Trust me, he will never get that film. It is my film.



Also I was in the room during the entire conference call. There was no request for anyone else's opinion coming from you. I am not paying a dime either way. And perhaps not disparaging and I never said that either. But you did say "Tell Mr. Curcio that I am not going anywhere." I don't believe that was disparaging, but don't really know. However it does sound like something I might say.

Do what you think is right. Just do not speak on my behalf or involve me in anyway. I will extend the same courtesy. I have no problem with the restraining order. If Brodeur wants to come after me, so be it. Mr. Curcio's head will swim! He had no idea what he was talking about the other day regarding technical issues and if I could unnerve him, as I did, wait until you see how trampled underfoot he'll be, by the firm I will retain. I will make that decision on Tuesday after my lunch date.

Mark Haefeli  
Creative Director/Founder



92 Elm Street  
Montclair, NJ 07042  
917 502 1096

<http://www.markhaefeliprod.com>



---

**From:** mark haefeli <mhaefeli@markhaefeliprod.com>  
**Sent:** Thursday, March 7, 2019 10:24 PM  
**To:** Ben Vaughn <benvonnyc@gmail.com>  
**Cc:** Robert Gregory <robert@cove.ie>; Chris McHattie <cmchattie@mchattielaw.com>; dsabourin@rabnerbaumgart.com  
**Subject:** Re: BOX

I ACTUALLY HAD MY EDITOR SIGN IN A FEW WEEKS AGO USING MY LOG IN. SAME INFO. HE WAS REVIEWING SEVERAL SPECIFIC "EXCLUSIVE" CLIPS FROM VARIOUS ARTISTS THAT I ISOLATED FOR USAGE IN MY RECENT PROJECT " A BILLION DOLLAR POWER STATION". I THINK WE TALKED ABOUT THIS DOCUMENTARY SEVERAL YEARS AGO. FUNNY HOW HE HAD NO PROBLEM...:)  
WE HAD BEEN INCORPORATING A NUMBER OF CLIPS INTO THE DOCUMENTARY UNTILL THE WRONGFUL " EMPLOYEE TERMINATION" FILING WAS ISSUED TO ME. THEY ARE TRYING TO TAKE THE "POWER STATION" DOC I HAVE BEEN WORKING ON FOR SIX YEARS.  
AGAIN, SORRY I GOT YOU INVOLVED AND THAT YOU GOT BURNED. ALSO, I WILL MAKE SURE YOU GET WHATS OWED. AS YOU'VE KNOWN ME AND WORKED WITH ME FOR NEARLY TWENTY YEARS, I AM A MAN OF MY WORD.  
Thanks Ben...you're a good man. And again, sorry you are taken advantage of.

---

**From:** "mhaefeli@markhaefeliprod.com" <mhaefeli@markhaefeliprod.com>  
**Date:** March 9, 2019 at 1:13:59 PM EST

**To:** Michael Gattoni <[mgattoni@mchattielaw.com](mailto:mgattoni@mchattielaw.com)>, <[dsabourin@rabnerbaumgart.com](mailto:dsabourin@rabnerbaumgart.com)>  
**Subject:** Brooke Sullivan

Can you please send Dennis the partnership agreement in which Brooke Sullivan is designated as a share holder in Cove. LLC as it relates to 4C4 media, as it was and as it remains, which includes all original corporate agreements, ( which has been previously requested and not delivered until her name was allegedly removed from all documents. If you don't produce them, Brooke has copies and is willing to cooperate in the delivery of all related materials, notes, etc. , which would also include the original partnership agreement and any and all agreements that she signed during the formation including banking information.

She has told me that she was sent a document requesting her resignation and participation after she quit working for McHattie. She never signed the document and still considers herself a participant in all things Cove as they relate to mark haefli productions.

Also the Power Station film was a project originally developed and produced by Tony Bongiovi and Mark Haefeli beginning in 2014, well before 4c4media. This was meant to be and always was a separate project and is not mentioned in any agreement as a partnership entity except in an attempt to partner 4c4 with Tony Bongiovi's company BPST. That deal is now null and void as far as Bongiovi is concerned and me as well.

Also any money that was part of my stipend never came from a 4C4 media checking account. There was never a corporate credit card and some expenditures were paid for from private credit card accounts. My stipend was drawn from a private checking account and never meant to be a contribution to anything involving the film. This was meant to off-set my living expenses so I could advance the agenda of 4c4 media as a production company, defined as "work for hire" and the creating of content produced from our archive. However this was impossible since they never contributed any development money to fund any work! Whatever money was paid to any entities was paid by private checking accounts or private credit cards, Even that was minimal. Any money regarding 4c4 expenditure was made from

Private funding sources is partners, Not even Cove, but Cove officers. Despite the terms of agreement, not a nickel was attempted to be raised and Cove never wrote a single PPM as there was no attempt at private funding.

. I spent a significant amount of my personal money, resources, and years of sweat equity equivalent to well over \$300,000 that has all been accounted for in records and line item responsibilities as well as bank records.

Neither of the former partners did a single thing as far as the creation of the film is concerned or the development. No one ever showed up at a meeting, a shoot or an edit. Nothing and no corporate money went to expenditures that were accrued.

Plus as we know, not a single milestone in the initial terms of agreement were ever met by Cove and there is no evidence to prove otherwise. Their allegations are false with regard to my alleged resignation. No formal process was ever requested, or implemented.

I look forward to receiving the requested documents as well as the financial ledgers, corporate bank records, tax returns and any other financial information and additional records as they relate to 4c4media and COVE.

Mark  
Mark Haefeli  
212 334 2164 office  
917 502 1096 mobile

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**From:** Robert Gregory  
**Sent:** Tuesday, April 9, 2019 10:12 AM  
**To:** Corey Florin <coreyflorin11@gmail.com>  
**Subject:** RE: Invoice 031919 - Video Editing

Corey:

Thanks for your reply and for your explanation of what you've done to date. Just so we are on the same page, I am again attaching a copy of the agreement you have with 4C4.

We want to make clear that our agreement with you contains no due dates for payments, nor does it provide that payments of invoices are due upon receipt. Strictly speaking, the payments we are to make are in consideration of the obligations in the Agreement, including the delivery of the back up at the conclusion of the project, so by the plain language of the contract we are not obligated to pay anything else until the back-up is delivered. Given our understanding that this was a 4 to 5 week project, that makes complete sense as it was to have concluded in a few weeks, and our assumption was that we would settle up upon delivery, which also reflects our understanding that Mark had negotiated what would have been an extremely brief deferral of the final payment until completion.

I have to admit to being more than a bit surprised that we are now at 8 weeks *without a completed project*. You and I should have a conversation about this and I may need specifics for our dispute with the previous post-production house.

In our email exchange on March 5, I specifically requested that you "copy me on all correspondence on the Project going forward." This was required to ensure that I could be kept in the loop and avoid the current situation – where we are now at 8 weeks and counting, when we originally only expected 4 to 5 weeks' of work. The agreement itself anticipates that additional weeks after the first 4 would be subject to request by 4C4 – meaning that my approval, as the signatory on the agreement - was required.

Moreover, I am unclear about the anticipated level of effort for the remaining work, and when it will be completed. I want to make certain that there is a budget for this and that we are not caught short.

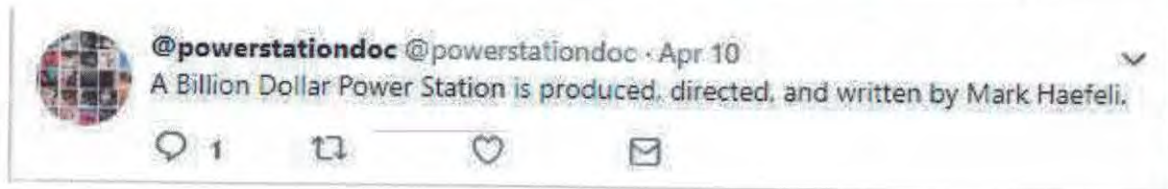
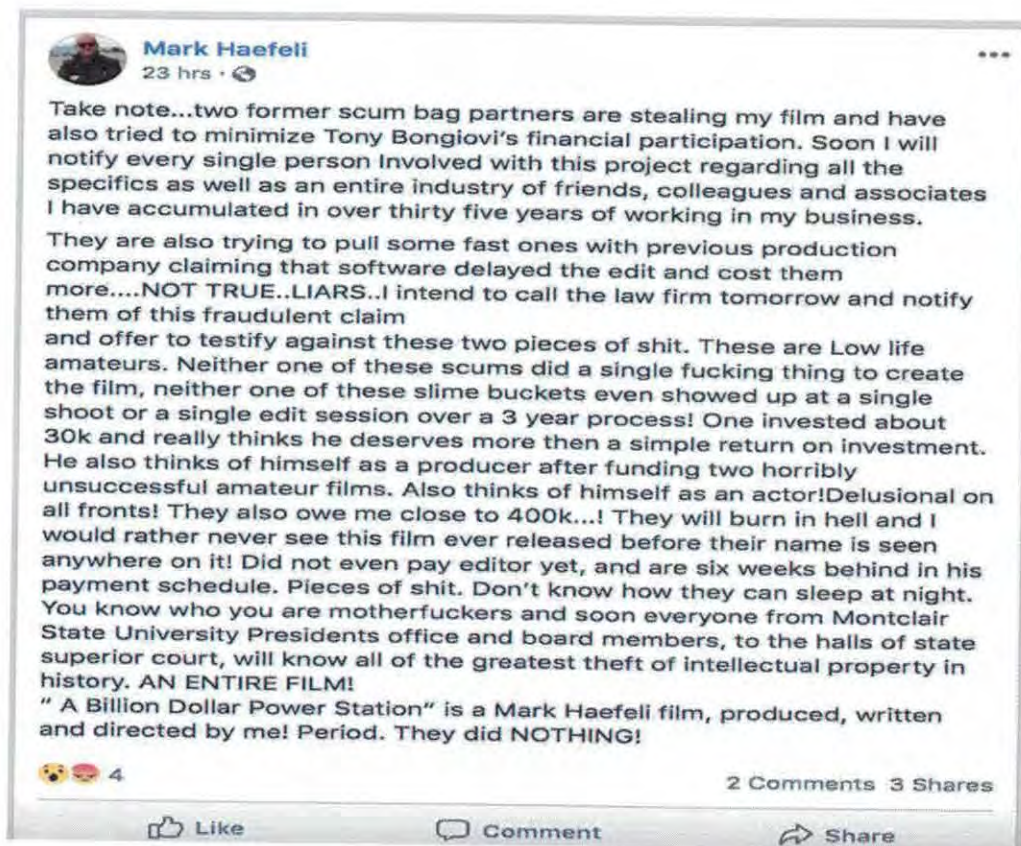
I don't mean to be argumentative, but I do want to make it clear that this is a business transaction, with a written agreement, and we do have reasonable concerns. That said, no one is out to stiff you. I will authorize payment for the two weeks outstanding immediately.

Further, we need a clear timeline and budget for the remaining effort (which needs to be appropriate and manageable on this end).

Finally, so there are no further issues, nothing in your possession related to the project is to be made available to anyone else for download or copying. For clarity, the film and all related materials are 4C4's property, not Mark's or anyone else's.

Thanks,  
Robert

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Text Message From Mark Haefeli to Robert Gregory

Date: Thursday 4/11 Time: 8:28PM

He hates you and did. I thing ever since you stared your candy ass bullshit. As young as he may be...he saw right through you...and you ask him.."if he said anything to me about you...." you are one sick mother fucker...I bet your son, dad and wife would have been so impressed to hear you and watch you action as the psychotic that you are. He laughs at you...laughs at you...and hates you for what you have done. Not just to me butx to him and everyone Connected to this project...really think anyone is going to but this from you two jerkoffs! What do you think Stephen Weber will think...how about Paul Schafer? No k e will want to talk to either one of you cheats especially a network or a distributor...even Tony's fiend would walk from this project...they all want to talk to the producer and director and you have no idea what either does! You fool. I will never ever do anything with either one of you low life scum bag frauds... when it come to this film.... I am willing to flush eight years of my life down the toilet to make



sure that neither one of you ever sees a dime. I am willing to do that you chicken sh!t. I will fall on he the grenade to fuck you the way you have fucked Me!

You know I was going to get a clone before the other day, but I didn't because I didn't really think you had it in you...but you fooled me, and the ironic thing is that I actually knew you would steal whatever you had too steal in your panic and I was right...how does it go...fool me once shame on me! Your fucked Robert and that jerk is making some big mistakes as are you.

I will never stop for the rest of your life! Trust me.

And you two run to my lawyer with all your little bits and pieces of truth that I post...oh well be good live pretty soon! On the internet ...

BTW...what would make you think I don't have a drive you fool! You're a bit slow on the draw.

---

From: mhaefeli@markhaefeliprod.com <mhaefeli@markhaefeliprod.com>

Sent: Friday, April 12, 2019 9:27 AM

To: Dan Simon <manhattanfilmworks@gmail.com>; dsabourin@rabnerbaumgart.com

Cc: Robert Gregory <robert@cove.ie>; coreyflorin11@gmail.com

Subject: Power Station

Dear Dan:

You may know by now but Robert has stolen my film, literally, and showed up at my editors studio yesterday to demand all drives. He bullied him with legal threats to do so.

As you are aware I'm sure, I have been developing and working on this project for nearly seven years, well before the unfortunate mistake I made by partnering with him and McHattie.

Can you imagine a person who did absolutely nothing ( which he did nothing to create, conceive, or develop the project) or anyone for that matter, show up one day at an independent editors place of business and demand that your film and all of its assets be turned over to him. Well this is exactly what he did.

So he is now in possession of seven years of my life claiming he owns this! I am sure you can not imagine how anyone could do such a thing! It is disgusting and appallingly shameful.

Since this is now turned into some very serious and heavy litigation, I am suggesting you do not get involved at this point and stay far away from even opening up the drive for him. I know you are the only person Robert can turn to with any editing ability or knowledge.

If you have seen any of what he has at this point, please note that the film credits Mark Haefeli as producer and director and there is no mention of 4C4media anywhere on the film. The last credit roll is the copyright which reads Mark Haefeli Productions 2019 and I do not think you want to mess with some ones copywritten material.

Also, if there are any changing of the credits, as you know, it will show on the time line that a copy-written work has been tampered with by an unauthorized individual.

Just wanted to warn you of these potential consequences because my guess is that due to Robert's lack of shame, he would not have been very forthcoming on this issue completely being aware of what you would think of such a person who would stoop so low.

BTW...I have a copy of the drive as well. Had the project cloned about two weeks ago and nothing has really been done since.

Hope all is well and moving forward for you. I am sorry involve you with this, but I don't like it when innocent people are taken advantage of.

All the best,  
Mark

Mark Haefeli  
212 334 2164 office  
917 502 1096 mobile

---

From: mhaefeli@markhaefeliprod.com <mhaefeli@markhaefeliprod.com>  
Sent: Friday, April 12, 2019 9:43 AM  
To: Dan Simon <manhattanfilmworks@gmail.com>; dsabourin@rabnerbaumgart.com  
Cc: Robert Gregory <robert@cove.ie>; coreyflorin11@gmail.com  
Subject: Re: Power Station

Robert:

By the way I asked Corey two weeks ago, to make me a precautionary back up. This was well before you started your legal bullying routine.

So this is not his fault that he made me drive, which would be a typical cautionary measure on these types of projects. ( not that you would even know)

I requested the clone and he did what any other editor would do.

From your first dealings with Corey you also falsely represented yourself by not telling him you had terminated me from 4C4media seven weeks ago pretending that all was well in your land of OZ and sending misrepresented emails that falsely alluded to all being well between us while you had already terminated me!

Not to mention the fact that you knew he never had a lawyer look at the contract you forced on him! I am suggesting to Corey that he immediately return all assets to you via mail and not do anymore work on this project, as it might be directed by you, without becoming part of this legal entanglement. Your behavior and cross examination of Corey yesterday was a disgrace. You should be ashamed of yourself, but people like you have no shame.

Mark Haefeli  
212 334 2164 office  
917 502 1096 mobile

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Text Message from Mark Haefeli to Robert Gregory  
Date: Saturday 4/13 Time: 1:25PM

How are you today. I am sure it occurred to you after you confiscated my film, that everyone in that movie is a friend of mine except but a very few.. even Nile has seen clips and really liked where it was going. All of the other friends or colleagues are either musicians or music producers. They hate false claims of creativity and fight for their publishing rights to not be plagiarized. They all get creative ownership and intellectual property and not the bullshit that the your partner claims to practice. Most have already, and the balance will all be returning a document of denial regarding their participation due to false pretense. They did not do these interviews for you or your partner! They did them for me.

I have been a pretty close friend of Max Weinberg for about 25 years now! He has already told me, on the phone, that he is out! (Document forthcoming)

He was in my wedding party when I married Tricia and we celebrated at Mayfair Farms!

Same goes for about 40% of the music which is original or produced by friends both in and out of power station!

You are just digging yourself a deeper and deeper hole. Until this film is given back to me, and I'm not talking about the drive, I am taking about exclusive ownership, because as you know, I already have a copy of the drive, and you will have to spend tens of thousands of dollars to start over on the edit but won't even have enough material to do another edit! You can't afford it and god knows you can't raise money.

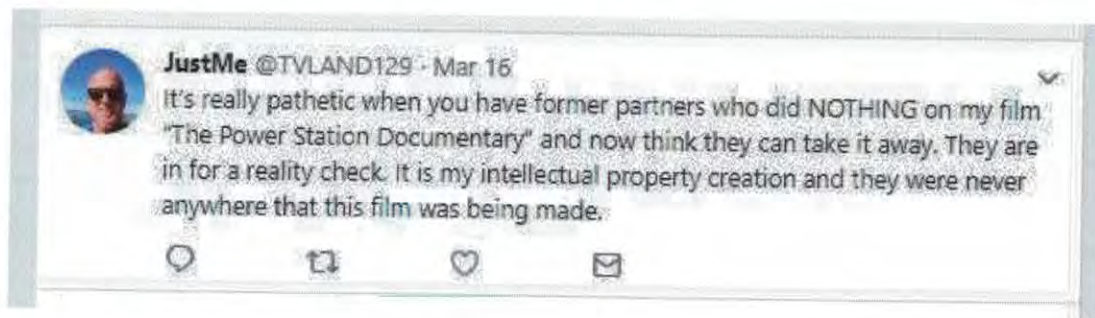
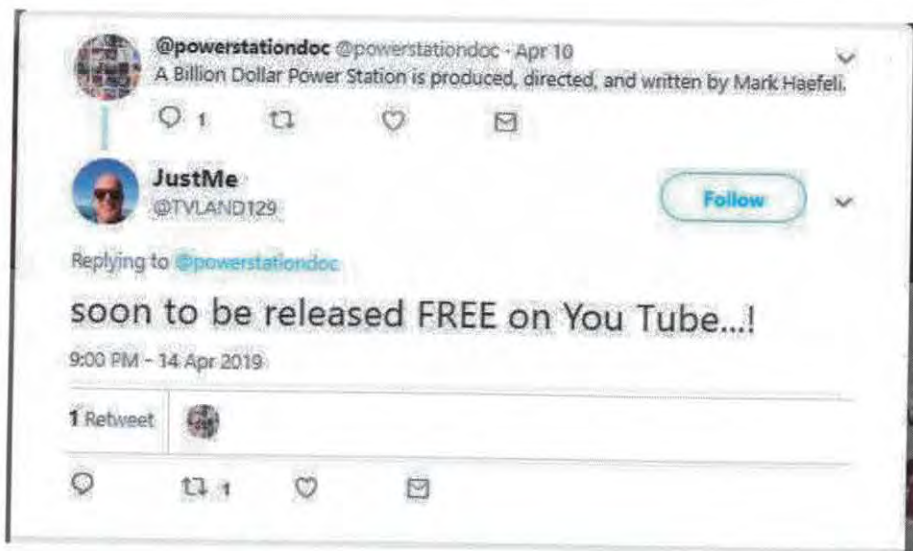
BTW, I have already started working with another editor late last week soon as I got the drive from Corey. We continue to make changes and alterations to finalize this so it will pass QC. FYI,,,I have also sold my house in Cape Cod, closing May 15th and I'll have lots of money to edit and to cover legal and court costs. This was the primary purpose behind me selling it. I did tell you I would do anything I had to do to get this film done. I am relentless.

Get out while you have a chance or this could really go up in flames for you . I am willing to give you a decent return on the few dollars you actually put out which were paid directly to sources that had something do with the film, IE: Corey, etc. it will probably be more then the 20% piece of Coves 50% that the clown carved out for you!

I am a fair man unlike you and the clown who have shown true colors.

Already people in the industry know what you two thieves have done!

Think about it and I'd be glad to talk to you off the record at a location of your choice.





Power Station New York "A Billion Dollar Power Station" A Music Documentary  
Public group

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Mark Hasko  
Apr 29 at 9:26 PM  
PowerStationNY.com

DESCRIPTION  
A Billion Dollar "Power Station" is the story of the STICK SPARKS...

LOCATION  
New York, New York

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RECENT GROUPS



THE MCHATTIE LAW FIRM, LLC  
Christopher J. McHattie, Esq.  
(Bar No. 035251987)  
550 West Main Street  
Boonton, New Jersey 07005  
Telephone: 973-402-5505  
Facsimile: 973-400-4110  
*Attorneys for Plaintiff, 4C4 Media, LLC*

2019 MAY - 7 A 9 32  
U.S. DISTRICT COURT  
DISTRICT OF NEW JERSEY  
RECEIVED

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

4C4 MEDIA, LLC,

Plaintiff,

v.

MARK HAEFELI; MARK HAEFELI  
PRODUCTIONS, INC.; JOHN DOES 1-10  
(name being fictitious for individuals whose  
identities are currently unknown); and ABC  
ENTITIES 1-10 (names being fictitious for  
corporate or other legal entities whose  
identities currently remain unknown),

Defendants.

Civil Action No.

**ORDER TO SHOW CAUSE FOR A  
TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

**THIS MATTER** having been brought before the Court by Plaintiff, through its counsel, by Order to Show Cause, on Notice to the Defendants via counsel, seeking a temporary restraining order and preliminary injunction pursuant to Federal Rule of Civil Procedure 65 and L.Cv.R.65.1, and upon the Complaint, Certification of Robert S. Gregory and Memorandum of Law submitted herewith, the Court having determined that good and sufficient reasons exist to proceed by way of Order to Show Cause, and for good cause shown;

IT IS on this 8<sup>th</sup> day of May, 2019,

**ORDERED** that the Defendants appear and show cause on the 15<sup>th</sup> day of May, 2019, before the United States District Court for the District of New Jersey,



Hon. Susan D. Wigenton, USDJ, at the Martin Luther King Jr. US Courthouse, located at NEWARK, New Jersey 07101, at 11 o'clock in the fore noon, or as soon thereafter as counsel can be heard, why an Order should not be entered:

1. Temporarily Restraining Defendants from editing, altering, reproducing, distributing, or otherwise publicly displaying: (a) the film, with the working name "A Billion Dollar Power Station" (the "Film"), or (b) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);

2. Temporarily Restraining Defendants from offering for sale, selling, marketing or promoting: (a) the Film, or (b) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);

3. Temporarily Restraining Defendants from creating derivative works derived from: (a) the Film, or (b) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including, but not limited to, one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);

4. Temporarily Restraining Defendants from engaging in acts of interferences with Plaintiff's marketing and selling of: (a) the Film, or (b) any alternate, abbreviated or reconstituted version of the Film or the Film's outtakes and unused source materials, including, but not limited to, interfering with Plaintiff's work with existing or prospective vendors for the Film; and

5. Temporarily Restraining Defendants from engaging in any other acts which put a cloud on the ownership, development or distribution of: (a) the Film, or (b) any alternate,

abbreviated or reconstituted version of the Film or the Film's outtakes and unused source materials, including, but not limited to, Defendants holding themselves out as the owner of the Film.

And it is further **ORDERED** that:

1. Pending further hearing on this Order to Show Cause, Defendants are temporarily enjoined and restrained from:

- a. editing, altering, reproducing, distributing, or otherwise publicly displaying: (i) the Film, or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);
- b. offering for sale, selling, marketing or promoting: (i) the Film or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);
- c. creating derivative works derived from: (i) the Film or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);
- d. engaging in acts of interferences with Plaintiff's marketing and selling of: (i) the Film, or (ii) any alternate, abbreviated or reconstituted version of the Film or the Film's outtakes and unused source materials, including, but not limited



to, interfering with Plaintiff's work with existing or prospective vendors for the Film; and

- e. engaging in any other acts which puts a cloud on the ownership, development or distribution of: (a) the Film, or (b) any alternate, abbreviated or reconstituted version of the Film or the Film's outtakes and unused source materials, including, but not limited to, Defendants holding themselves out as the owner of the Film.

2. A copy of this Order to Show Cause, and to the extent not already served, a copy of the Complaint, Certification of Robert S. Gregory and Memorandum of Law submitted in support of this application, together with a summons, shall be served upon the Defendants personally within 3 days of the date hereof, in accordance with FRCP 4.

3. The Plaintiff must file with the Court its proof of service of the pleadings on the Defendants no later than three (3) days before the return date.

4. Defendants shall file and serve a written response to this Order to Show Cause and proof of service by Mon., May 13, 2019, <sup>at 4 PM.</sup> You must send a courtesy copy of your opposition papers directly to Judge Wigenton, whose address is: 50 Walnut St., Courtroom 5C, New Jersey \_\_\_\_\_.

5. The Plaintiff must file and serve any written reply to the Defendants' opposition to the Order to Show Cause by Tues, May 14, 2019, <sup>at 4 PM.</sup> A courtesy copy of the reply papers must be sent directly to the chambers of Judge Wigenton.

6. If the Defendants do not file and serve opposition to this Order to Show Cause, the application will be decided on the papers on the return date and relief may be granted by default,

provided that the Plaintiff files a proof of service and a proposed form of Order at least three (3) days prior to the return date.

7. If the Plaintiff has not already done so, a proposed form of Order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court no later than three (3) days before the return date.

8. The Court will notify the parties whether it will entertain argument on the return date of the Order to Show Cause in accordance with Local Civil Rule 78.1.

**SO ORDERED.**

  
The Honorable Susan D. Wigenton  
United States District Court Judge



## RABNER BAUMGART BEN-ASHER & NIRENBERG, P.C.

Harold Rabner  
Elliot M. Baumgart  
David H. Ben-Asher  
Jonathan I. Nirenberg<sup>o</sup>  
Eugenie F. Temmler  
Teresa Boyle-Vellucci<sup>o</sup>  
S. Robert Allcorn<sup>\*</sup>  
Joseph S. Fine<sup>o\*</sup>  
Fredda Katcoff<sup>o\*</sup>  
Omar A. López<sup>o\*</sup>  
David Owen<sup>o\*</sup>  
Dennis H. Sabourin<sup>o\*</sup>  
Jerome E. Sharfman<sup>o\*</sup>

Main Office  
52 Upper Montclair Plaza  
Upper Montclair, NJ 07043  
Tel: (973) 744-4000, Ext. 117  
Fax: (973) 783-1524

New York Office  
122 West 27th Street, 10th Floor  
New York, NY 10001  
Tel: (646) 822-6703  
Please reply to our Main Office

[www.rabnerbaumgart.com](http://www.rabnerbaumgart.com)

Dennis H. Sabourin  
dsabourin@rabnebaumgart.com  
Direct Dial: (973) 842-4974

<sup>o</sup> Admitted in NJ & NY  
 Master of laws (LLM) in Taxation  
<sup>\*</sup> Of Counsel

May 20, 2019

The Honorable Susan D. Wigenton, U.S.D.J.  
50 Walnut Street Court Room MLK 5C  
Newark, New Jersey 07101

Re: 4D4 Media, LLC v. Mark Haefeli et al, Docket No. 2:19-cv-12288

Dear Judge Wigenton,

Please accept this letter memorandum in lieu of a formal brief in opposition to the injunctive relief requested in the Order to Show Cause for a Temporary Restraining Order and Preliminary Injunction.

### Preliminary Statement

First, and unusually, the relief should not be granted because this litigation has not been authorized by 4C4 Media, LLC ("4C4"). Since 4C4 did not authorize the filing of this litigation, it is not properly a plaintiff in this litigation and, as such, has no chance of prevailing on the merits in this litigation.

Second, if the Court wishes to assume for the moment that this litigation has properly been brought by 4C4, the phrasing of the injunctive relief is overbroad. Mark Haefeli ("Haefeli") continues to be a Manager and the CEO/President of 4C4 and, as such, should not be restrained from acting on behalf of 4C4. While the restraints appear appropriate as applicable to Mark Haefeli Productions, Inc. ("MHP") and as to Haefeli individually, acting on his own behalf, they

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are not appropriate as to Haefeli acting as the President, CEO, and Creative Director of 4C4. It is properly Haefeli's job at 4C4 to edit, distribute, display and promote the Film on behalf of 4C4 and this unauthorized litigation (purportedly brought by 4C4 but in reality brought by The McHattie Law Firm without authority from the Board of 4C4) is actually wrongfully interfering with Haefeli's performance of his duties on behalf of 4C4. Also interfering with those duties is the supposed "suspension" of Haefeli as a Manager and as the Creative Director, President and CEO of 4C4, again an action which could be taken (if at all) only by the Board and no such action was taken by the Board.

Third, it is not actually clear that the Film, to the extent that it includes work product contributed by Haefeli to 4C4, continues to belong to 4C4 as, by contract, ownership of the work product contributed by Haefeli to 4C4 is to revert to Haefeli if 4C4 fails to achieve its essential purpose. At this point in time it would appear that 4C4 has failed to achieve its essential purpose in which case it is not clear that the Film actually continues to be owned by 4C4.

#### Statement of Facts

Respectfully, the Defendants incorporate by reference the facts set forth in the Declaration of Mark Haefeli in Opposition to Plaintiff's Order to Show Cause (the "Haefeli Dec") and the Supplemental Declaration of Mark Haefeli in Opposition to Plaintiff's Order to Show Cause (the "Sup. Haefeli Dec."). Notwithstanding that inclusion, we will set forth a number of key facts here.

4C4's Operating Agreement (the "Operating Agreement," See Haefeli Dec. Ex. A) was drafted by The McHattie Law Firm (the "McHattie Firm") and Haefeli was not represented by independent counsel in connection with the negotiation and execution of the Operating Agreement. (Haefeli Dec. ¶¶9 &10) In accordance with the terms of the Operating Agreement,



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Haefeli was a 50% Member of 4C4 and Cove, LLC ("Cove") was a 50% Member of 4C4. (Haefeli Dec. ¶¶11 & 14) Haefeli has never sold or disposed of his 50% ownership interest in 4C4. (Haefeli Dec. ¶14) In addition, the Operating Agreement specifically provides in §4.5 that a Member cannot resign prior to the dissolution and winding up of 4C4, stating as follows:

So long as a Member continues to own or hold any Units, such Member shall not have the ability to resign as a Member prior to the dissolution and winding up of the Company and any such resignation or attempted resignation by a Member prior to the dissolution or winding up of the Company shall be null and void. (Haefeli Dec. ¶16 and Ex. A at p. 17)

The Operating Agreement provided for a 2 person Board of Managers. (Haefeli Dec. Ex. A §3.1(a) and (c) at p. 9) Under the Operating Agreement, Haefeli was a founding member of 4C4 and a "Founder" under the terms of the Operating Agreement. (Haefeli Dec. ¶20 and Ex. A at p. 4) Haefeli was also one of 2 original Managers of the Board and the Founder Board Designee for himself as a Founder under the Operating Agreement. (Haefeli Dec. ¶22 and Ex. A §3.1(a) and (c) at p.9) Robert Gregory, Esq. ("Gregory") was the second member of the Board. (Haefeli Dec. ¶23) Haefeli has never been removed as a Manager on the Board by the Board. (Haefeli Dec. ¶28)

In addition to his position on the 2 person Board as a Founder's designee, Haefeli is the original President and Chief Executive Officer ("CEO") of 4C4. (Haefeli Dec. ¶17) Haefeli is also the Creative Director of 4C4. (Supplemental Haefeli Dec. ¶5) The only other officers of 4C4 are Gregory as the Chief Financial Officer and Brooke Sullivan as the Vice President and Secretary. (Haefeli Dec. ¶¶18 and 19 and Ex. A Schedule A) Although Christopher J. McHattie ("C. McHattie") executed the Operating Agreement as the President of Cove (Haefeli Dec. ¶12 and Ex. A final page), he had no office or other position as an officer, manager or Board member of 4C4. (Haefeli Dec. ¶24)

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The Operating Agreement is somewhat unusual in that it severely restricts the power of each of the individual Managers of 4C4, stating in pertinent part:

1. Establishment. There is hereby established a committee (the "Board" or the "Board of Managers") comprised of natural persons (the "Managers") having the authority and duties set forth in this Agreement. Except as otherwise provided herein (including Section 3.6), any decisions to be made by the Board shall require the approval of a Majority of the Board. Except as provided in the immediately preceding sentence, no Manager acting alone, or with any other Manager or Managers, shall have the power to act for or on behalf of, or to bind the Company. Each Manager shall be a "manager" (as that term is defined in the Delaware Act) of the Company, but, notwithstanding the foregoing, no Manager shall have any rights or powers beyond the rights and powers granted to such Manager in this Agreement. Managers need not be residents of the State of Delaware.

2. Powers. Except as otherwise provided herein (including Section 3.6), the business and affairs of the Company shall be managed by or under the direction of the Board. All actions outside of the ordinary course of business of the Company to be taken by or on behalf of the Company shall require the approval of a Majority of the Board.

3. Number of Managers; Term of Office. The authorized number of Managers shall initially be 2 and, hereafter, the authorized number of Managers may, subject to the limitations set forth in this Section, be increased or decreased by either (i) the vote of a Majority of the Board, or (ii) the vote or consent of Members holding a Majority in Interest. The Managers shall be elected by the vote or consent of Members holding a Majority in Interest and shall hold office until their respective successors are elected and qualified or until their earlier death, resignation or removal; provided that each Founder shall have the right to designate one Member to the Board (each a "Founder Board Designee") until such time as such Founder (together with its affiliates and family members) holds of record less than 15,000 Units (such number subject to adjustment for Unit splits and similar events in respect of the Units after the date hereof), after which such Founder shall no longer have the right pursuant to this subsection (c) to designate a Founder Board Designee. Notwithstanding the foregoing, in the event a Founder becomes a Breaching Service Provider, such Founder shall no longer have the right to designate a Board Member pursuant to this Section 3.1(c). Members holding a Majority in Interest may remove, with cause, any Manager and any vacancy, whether due to resignation, removal or death, shall be filled by the vote or consent of Members holding a Majority in Interest, subject to the right of any Founder to designate a replacement as provided in this Section 3.1(c). A Manager may resign at any time by giving written notice to that effect to the Board. Any such resignation shall take effect at the time of the receipt of that notice or any later effective time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be



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necessary to make it effective. Notwithstanding the foregoing, the other Members of Cove shall be permitted to attend and participate as non-voting participants.

[Emphasis Supplied. Haefeli Dec. ¶25 and Ex. A §3.1 at p. 9]

Sullivan has never resigned from her position as the Secretary of 4C4. (Haefeli Dec. ¶26)

Sullivan has also never been removed from her position as the Secretary of 4C4 by the Board. (Haefeli Dec. ¶27)

The Operating Agreement specifically sets forth the requirements of any notices or other communications and the requirements for the delivery of such notices and communications under the Operating Agreement (which requirements would apply to any resignation either as a Manager or as an officer of 4C4) stating:

(a) All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally against written receipt or by facsimile transmission against facsimile confirmation or mailed by internationally recognized overnight courier prepaid, to (i) any Member, at such Member's last known address as set forth on the Company's books and records, and (ii) the Company, to the Company's Secretary at the Company's principal place of business (or in any case to such other address as the addressee may from time to time designate in writing to the sender).

(b) All such notices, requests and other communications will (i) if delivered personally to the address as provide in Section 12.1(a) be deemed given upon delivery, (ii) if delivered by facsimile transmission to the facsimile number as provided for in Section 12.1(a), be deemed given upon facsimile confirmation and (iii) if delivered by overnight courier to the address as provided in Section 12.1(a), be deemed given on the earlier of the first business day following the date sent by such overnight courier or upon receipt (in each case regardless of whether such notice, request or other communication is received by any other person to whom a copy of such notice is to be delivered pursuant to this Section 12.1).

[Emphasis Supplied. Haefeli Dec. ¶29 and Ex. A at p. 36]

Haefeli never gave a written notice of my resignation as a Manager and as a member of the Board to the Board. (Haefeli Dec. ¶30) Haefeli certainly never delivered a written notice of my resignation as a Manager or a member of the Board to Sullivan as required for notices or

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other communications with the Company under the provisions of §12.1 of the Operating Agreement, quoted above. (Haefeli Dec. ¶31)

Out of an abundance of caution, on May 10, 2019 Haefeli hand delivered to Sullivan, as the Secretary of 4C4 a protective written designation of his Founder Board Designee stating as follows:

Please be advised that I have not resigned as a Manager of the Board of 4C4 Media, LLC ("4C4"). Nor, for that matter, have I resigned as the President and CEO of 4C4 or withdrawn as a Member of 4C4. Notwithstanding the fact that I have not resigned, and out of an abundance of caution, I am hereby notifying 4C4 that, if I should be viewed or found to have resigned, I hereby designate myself as a Manager on the Board of Managers pursuant to §3.1(a) and (c) of the Operating Agreement of 4C4 Media, LLC.

(Haefeli Dec. ¶32 and Ex. K)

Haefeli never provided written notice of his resignation as the President and CEO of 4C4 to Sullivan as the Secretary of 4C4 in accordance with the notice requirements of §12.1 of the Operating Agreement nor did he ever provide written notice of his resignation as the President and CEO of 4C4 to the Board. (Haefeli Dec. ¶33) Haefeli has never been removed as the President and CEO of 4C4 by the Board. (Haefeli Dec. ¶34) Haefeli has never received a notice from the Board that his position as the President and CEO of 4C4 is terminated. (Haefeli Dec. ¶35)

In anticipation of entry into the Operating Agreement a "Term Sheet" was entered into between Haefeli, Mark Haefeli Productions, Inc. ("MHP") and Cove in June of 2016. (Haefeli Dec. ¶36 and Ex. B) Though titled as a Term Sheet, the Term Sheet was a binding contract between the parties which was to remain in force despite the entry into the additional agreements, such as the Operating Agreement, contemplated under the Term Sheet. (Haefeli Dec. ¶37) Again, the Term Sheet was drafted by the McHattie Firm. (Haefeli Dec. ¶38) MHP



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and Haefeli were not separately represented by counsel in connection with the preparation of the Term Sheet. (Haefeli Dec. ¶39)

The Term Sheet provided that Haefeli was to have the "right to recover ownership of the Contributed Works in the event [the] venture fails of its essential purpose." (Haefeli Dec. ¶40 and Ex. B pp 1-2) The purpose of 4C4 as described in the Term Sheet was set forth under the heading "Business Purpose" on the first page of the Term Sheet and included the business plan attached as Exhibit "B" to the Term Sheet. (Haefeli Dec. ¶41 and Ex. B p.1 and pp. 14-16) 4C4 has failed of its "essential purpose" entitling Haefeli and MHP to recover the intellectual property transferred to 4C4 under the License Agreement. (Haefeli Dec. ¶42)

The "Exclusive License and Assignment Agreement" (the "License Agreement") was entered into in accordance with the provisions of the Term Sheet (page 1, Structure). (Haefeli Dec. ¶43 and Exhibit C) The Term Sheet further provided that the entity to be formed and to which Haefeli and MHP were to contribute certain intellectual property rights (4C4) would lose those rights and that the rights would "revert to Haefeli" if Cove failed to vest in its rights to 4C4 pursuant to the "Vesting of Rights" provisions contained in the Term Sheet. (Haefeli Dec. ¶44 and Ex. B p.3)

The Vesting of Rights provisions in the Term Sheet at pp. 3-8 set forth a series of benchmarks to be met by Cove or Cove's designees if the intellectual property rights transferred to 4C4 pursuant to the License Agreement if the intellectual property rights were not to revert to Haefeli and MHP. (Haefeli Dec. ¶45) Almost none of those benchmarks have been met to date. (Haefeli Dec. ¶45)

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Despite the fact that C. McHattie held no office or any other position with 4C4, Attached hereto as is a true and correct copy of an e-mail sent to me on February 27, 2019 at 10:46 a.m. by C. McHattie purporting to suspend me from 4C4 stating, in part:

Second, you are and have been suspended, please "enjoy" your "garden leave" as best you can, but Cease and Desist from any activity on behalf of 4C4 Media until you are reinstated.

(Haefeli Dec. ¶46 and Ex. D at p.1)

Without the benefit of counsel, Haefeli believed that this suspension was legally effective under the Operating Agreement to terminate, indefinitely, all his rights and authority both as a Manager and member of the Board of 4C4 and as the President and CEO of 4C4, all in his view in direct breach of his rights in connection with 4C4. (Haefeli Dec. ¶47) In response to this breach of his rights as a founder and member of 4C4 and in response to his perception of C. McHattie's wrongful exercise of control over the actions and affairs of 4C4, still without benefit of counsel, after receipt of C. McHattie's 2/27/19 10:46 a.m. e-mail, Haefeli issued a series of ill considered e-mails in which he noted his intent to resign his positions with 4C4. (Haefeli Dec. ¶48) None of those e-mails were sent to Sullivan and none of those e-mails complied with the notice requirements of the Operating Agreement. (Haefeli Dec. ¶49)

Attached to Haefeli's Dec. in chronological order as Exhibits E, F, G, H, and I are copies of a number of such e-mails. (Haefeli Dec. ¶50) All of these e-mails were over the course of 3 days and none of them were issued prior to C. McHattie's wrongful and unauthorized assertion or attempt to indefinitely terminate Haefeli's positions with 4C4. (Haefeli Dec. ¶50) Among those e-mails was an e-mail on February 28, 2019 at 5:58 p.m. in which Haefeli specifically noted: "I am removing myself from any relations with the company **and need to execute the exit strategy in the partnership agreement to make it official I suppose.**" (Haefeli Dec. ¶51 Ex. H, Emphasis Supplied) This language clearly indicated that Haefeli understood and was taking the



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position that His resignations by e-mail were not, and were not intended to be, official. (Haefeli Dec. ¶51) In other words, notwithstanding the language of the various e-mails, Haefeli understood and communicated that the resignations were not official, were not legally effective, yet and he would have to comply with the Operating Agreement. (Haefeli Dec. ¶51)

In addition, at the conclusion of this short period of ill advised e-mails, and in response to an inquiry from an attorney at the McHattie Firm as to what Haefeli meant when he asserted in his e-mail that he was resigning, Haefeli stated as follows: "

**Below is my email ragged[1]y a resignation. I [U]ntil I deliver an officially documented and executed document which I fully intend to exploit all of my rights as CEO and 59% share holder in 4c4. You will also need my approval for any decisions that effect this company."**

(Haefeli Dec. ¶52 and Ex. I p.1, Emphasis Supplied)

Consistent with his February 28, 2019 e-mail, the e-mail on March 1, 2019 at 1:16 p.m. therefore specifically noted that Haefeli's "resignations" were not official and were not intended to be official but, rather, he intended to resign only after reviewing his rights under the Operating Agreement and only in compliance with the Operating Agreement. (Haefeli Dec. ¶53) Haefeli never proceeded with such a resignation. (Haefeli Dec. ¶53)

Notwithstanding those statements establishing that Haefeli's resignation(s) were not yet effective and not official, within minutes of his clarification of his intent to the McHattie Firm (Haefeli Dec. Ex. I), C. McHattie (who held no position with 4C4 and was only an indirect owner of 4C4 through the membership held by Cove), took the position that Haefeli's resignation(s) were legally effective. (Haefeli Dec. ¶54 and Ex. J p.1)

This litigation is outside of the ordinary course of business of 4C4 Media, LLC ("4C4"). (Supplemental Haefeli Dec. ¶2) No Board meeting of has been duly noticed to consider or

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authorize this litigation. (Supplemental Haefeli Dec. ¶3) The Board has not authorized this litigation. (Haefeli Dec. ¶4)

#### Argument

For purposes of brevity, we will not restate the principles of law applicable to granting or denying the injunctive relief purportedly sought by the Plaintiff. We note, however, that in order for the relief to be sought by the Plaintiff, 4C4 (and specifically 4C4's Board) must have authorized the McHattie Firm to file this litigation on 4C4's behalf. This litigation is not in the ordinary course of 4C4's business. As such, the litigation could only have been authorized by the Board. As noted above, no such authorization was issued by the Board. Moreover, for the Board to take such action, a majority of the Board would have been required under §3.1 of the Operating Agreement. (Haefeli Dec. Ex. A at p.9) Furthermore, under the same Section of the Operating Agreement, though each of the Managers on the Board is a Manager, the individual Managers did not have the authority (with limited exceptions not applicable here) to act alone and even the Board did not have the normal breadth of authority one would expect for managers of a limited liability company, the Board's role being much more that we equate with the Board of Directors of a typical corporation with the day to day ordinary course of business being in the control of 4C4's President and CEO - Haefeli. Such a delegation of authority by members or managers to officers of a Delaware limited liability company is specifically allowed by and envisioned by the Act. 6 Del. C. §18-407.

As noted in the Operating Agreement and in the complaint 4C4 is a Delaware limited liability company and the governing law applicable to the Operating agreement is the law of Delaware. (Haefeli Dec. Ex. A §12.2 at p.36) The applicable Delaware law with regard to the Operating Agreement is the Delaware Limited Liability Company Act (the "Act"). Under the



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Act, it is the specific policy "to give the maximum effect to the principle of freedom of contract and to the enforceability of limited liability company agreements." 6 Del. C. §18-1101(b).

As noted above in the Statement of Facts, the Operating Agreement sets forth the only methods by which a notice, such as the asserted resignations by Haefeli by e-mail from his positions with 4C4, could be given. Since the purported resignations of Haefeli were not given in the only manner allowed under the Operating Agreement they were not legally effective as notices of resignation under the Operating Agreement. To hold otherwise would be in violation of the specifically stated principle of the Act quoted above.

In addition, it is clear from the e-mails themselves that Haefeli did not mean the e-mails to be legally effective resignations of his positions with 4C4. He noted that fact not once but twice and, specifically, when his attention was focused on what exactly he meant when he was e-mailing about resigning he noted that until he formally documented and delivered his resignation he would continue to act as an owner and CEO of 4C4 and that his approval would be needed for company actions. (Haefeli Dec. ¶52 and Ex. I p.1) Having already noted in an earlier e-mail that he would "**need to execute the exit strategy in the partnership agreement to make it official**" it is clear that though Haefeli then intended to resign the e-mails were not of themselves sufficient to cause his resignation and Haefeli intended to abide by the terms of the Operating Agreement and retain his rights under that agreement. (Haefeli Dec. ¶51 Ex. H

Further, despite the assertion by Gregory and the McHattie Firm to the contrary, Haefeli could not resign or withdraw as a member of 4C4. In fact §4.5 of the Operating Agreement specifically bars such a resignation and states that any such resignation "shall be null and void. (Haefeli Dec. ¶16 and Ex. A at p. 17) Again, in fact, even without this provision, the Act generally bars a member from resigning as a member of a limited liability company unless upon

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the occurrence of an event specified in the operating agreement and then only in accordance with that agreement. 6 Del. C. §18-603. Consequently, Haefeli could not "resign" his position as a founding member of 4C4 even if you wanted to and his position as a Board Manager was inextricably tied to his position as a Founder, an attribute of his status as a Member of 4C4.

Given these factors, Haefeli rightfully remains as an officer and Manager on the Board of 4C4. Given that the Board did not authorize 4C4 to proceed with this litigation (and could not do so without the consent of Haefeli as one of only 2 members of the Board), this litigation is unauthorized and, being unauthorized, 4C4 cannot prevail in this litigation.

The actual first and continuing wrongful conduct in this matter is C. McHattie's original action, purportedly on behalf of 4C4, supposedly suspending Haefeli from all of his roles with 4C4 and advising him to "Cease and Desist from any activity on behalf of 4C4 Media until you are reinstated." (Haefeli Dec. ¶46 and Ex. D p.1) McHattie had no position with 4C4 and no authority under the Operating Agreement to take such an action on behalf of 4C4.

In addition to the facts that this litigation was not authorized by 4C4 and that Haefeli continues as a Board member and officer of 4C4, there is the additional problem with the likelihood of 4C4's success on the merits that under the terms of the License Agreement and the Term Sheet a substantial portion of the intellectual property represented by the Film should revert to Haefeli at this point due to the failure of 4C4 to achieve its essential purpose and, as a matter of substance, the failure of Cove to comply with its obligations in order to vest its interest in 4C4 and prevent the reversion to Haefeli of the intellectual property rights transferred under the Operating Agreement. Though stated in order to be sure that they are preserved, these issues need not be reached at this point as without regard to these arguments this litigation is unfounded as not having been authorized by the Board and inappropriate in any case as Haefeli should



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rightfully be allowed to act on behalf of 4C4 as its President and CEO as well as 4C4's Creative Director.

Conclusion

For the reasons set forth above, the injunctive relief requested in the Order to Show Cause should be denied.

Respectfully Submitted:

Rabner, Baumgart, Ben-Asher & Nirenberg, P.C.

A handwritten signature in blue ink that reads "Dennis H. Sabourin". The signature is written in a cursive style.

Dennis H. Sabourin, Esq. (DS 6254)

Dennis H. Sabourin, Esq. (DS 6254)  
Rabner Baumgart Ben-Asher & Nirenberg, P.C.  
52 Upper Montclair Plaza  
Montclair, NJ 07043  
(973) 744-4000  
dsabourin@rabnerbaumgart.com  
Attorneys for Mark Haefeli and Haefeli Productions, Inc.

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

	)	<b>Civil Action No. 19-12288 (SDW) (SCM)</b>
4C4 MEDIA, LLC	)	
	)	
Plaintiff,	)	<b>DECLARATION OF MARK HAEFELI IN</b>
	)	<b>OPPOSITION TO PLAINTIFF'S ORDER TO</b>
-v-	)	<b>SHOW CAUSE</b>
	)	
MARK HAEFELI; MARK HAEFELI	)	
PRODUCTIONS, INC.; JOHN DOES 1-10	)	
(names being fictitious for individuals whose	)	
Identities are currently unknown); and ABC	)	
ENTITIES 1-10 (names being fictitious for	)	
Corporate or other legal entities whose	)	
identities currently remain unknown),	)	
	)	
Defendants.	)	

MARK HAEFELI, OF FULL AGE AND PURSUANT TO 28 U.S.C. §1746, declare under penalty of perjury as follows:

1. I have direct personal knowledge of all facts stated in this declaration.
2. 4C4 Media, LLC's principal place of business is in New Jersey.
3. I am a resident of the State of New Jersey.
4. Attached hereto as Exhibit A is a true and correct copy of the Operating Agreement (the "Operating Agreement") of 4C4 Media, LLC, a Delaware limited liability company ("4C4").
5. The Operating Agreement was entered into on or about July 16, 2016.
6. Prior to the drafting and entry into the Operating Agreement in 2016, Christopher J. McHattie ("C. McHattie") and The McHattie Law Firm, LLC (the "McHattie Firm") acted as my attorney, providing me with legal advice on one or more legal issues.



7. The McHattie Firm continued to provide me with legal advice through February 19, 2019.
8. The McHattie Firm represented me individually with regard to the negotiation and execution of the agreement entered into between 4C4, me, Robert Gregory, Esq. ("Gregory"), and East Main Media, LLC ("East Main") on or about September 18, 2019.
9. The McHattie Firm drafted the Operating Agreement.
10. I was not separately represented by counsel in connection with the negotiation and execution of the Operating Agreement.
11. In Schedule B of the Operating Agreement Cove, LLC ("Cove") is recognized as a 50% Member of 4C4 owning 50,000 units.
12. C. McHattie executed the Operating Agreement as the President of Cove.
13. It is my understanding and belief that at all times since the creation of 4C4, C. McHattie has owned 45% of Cove, Gregory has owned 45% of Cove, and Brooke Sullivan (a/k/a Brooke Troisi, an employee of the McHattie Firm at the time the Operating Agreement was executed) has owned 10% of Cove.
14. From the inception of 4C4 to date I have been the other 50% Member of 4C4 with 50,000 Units which I have not sold or otherwise disposed of. (Ex. A, Schedule B)
15. 4C4 has not been dissolved.
16. The Operating Agreement specifically provides in §4.5 that a Member cannot resign prior to the dissolution and winding up of 4C4, stating as follows:

So long as a Member continues to own or hold any Units, such Member shall not have the ability to resign as a Member prior to the dissolution and winding up of the Company and any such resignation or attempted resignation by a Member prior to the dissolution or winding up of the Company shall be null and void.
17. I am the original President and Chief Executive Officer ("CEO") of 4C4. (Ex. A, Schedule A)
18. Robert Gregory, Esq. ("Gregory") was the original Chief Financial Officer ("CFO") of 4C4. (Ex. A, Schedule A)
19. Brooke Sullivan ("Sullivan") was the original Secretary and Vice President of 4C4. (Ex. A, Schedule A)
20. I was a founding member of 4C4 and I was a "Founder" under the terms of the Operating Agreement. (Ex. A p. 4)

21. Cove was a founding member of 4C4 and a "Founder" of 4C4 under the terms of the Operating Agreement. (Ex. A p.4)
22. I was one of 2 original Managers of the Board of Managers of 4C4 (the "Board") and I was the Founder Board Designee for myself as a Founder under the Operating Agreement. (Ex. A §3.1(a) and (c) p.9)
23. Gregory was the 2nd original Manager on the Board of Managers of 4C4.
24. C. McHattie has never held a position with 4C4 as either an officer, as a Manager, or as a member of the Board.
25. The Operating Agreement severely restricts the power of each of the individual Managers of 4C4, stating in pertinent part:

(a) Establishment. There is hereby established a committee (the "Board" or the "Board of Managers") comprised of natural persons (the "Managers") having the authority and duties set forth in this Agreement. Except as otherwise provided herein (including Section 3.6), any decisions to be made by the Board shall require the approval of a Majority of the Board. Except as provided in the immediately preceding sentence, no Manager acting alone, or with any other Manager or Managers, shall have the power to act for or on behalf of, or to bind the Company. Each Manager shall be a "manager" (as that term is defined in the Delaware Act) of the Company, but, notwithstanding the foregoing, no Manager shall have any rights or powers beyond the rights and powers granted to such Manager in this Agreement. Managers need not be residents of the State of Delaware.

(b) Powers. Except as otherwise provided herein (including Section 3.6), the business and affairs of the Company shall be managed by or under the direction of the Board. All actions outside of the ordinary course of business of the Company to be taken by or on behalf of the Company shall require the approval of a Majority of the Board.

(c) Number of Managers; Term of Office. The authorized number of Managers shall initially be 2 and, hereafter, the authorized number of Managers may, subject to the limitations set forth in this Section, be increased or decreased by either (i) the vote of a Majority of the Board, or (ii) the vote or consent of Members holding a Majority in Interest. The Managers shall be elected by the vote or consent of Members holding a Majority in Interest and shall hold office until their respective successors are elected and qualified or until their earlier death, resignation or removal; provided that each Founder shall have the right to designate one Member to the Board (each a "Founder Board Designee") until such time as such Founder (together with its affiliates and family members) holds of record less than 15,000 Units (such number subject to adjustment for Unit splits and similar events in respect of the Units after the date hereof), after which such Founder shall no longer have the right pursuant to this subsection (c) to designate a Founder Board Designee.



Notwithstanding the foregoing, in the event a Founder becomes a Breaching Service Provider, such Founder shall no longer have the right to designate a Board Member pursuant to this Section 3.1(c). Members holding a Majority in Interest may remove, with cause, any Manager and any vacancy, whether due to resignation, removal or death, shall be filled by the vote or consent of Members holding a Majority in Interest, subject to the right of any Founder to designate a replacement as provided in this Section 3.1(c). A Manager may resign at any time by giving written notice to that effect to the Board. Any such resignation shall take effect at the time of the receipt of that notice or any later effective time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Notwithstanding the foregoing, the other Members of Cove shall be permitted to attend and participate as non-voting participants.

(Ex. A p.9)

26. Sullivan has never resigned from her position as the Secretary of 4C4.
27. Sullivan has never been removed from her position as the Secretary of 4C4 by the Board.
28. I have never been removed as a Manager by the Board.
29. The Operating Agreement specifically sets forth the requirements of any notices or other communications and the requirements for the delivery of such notices and communications under the Operating Agreement (which requirements would apply to any resignation either as a Manager or as an officer of 4C4) stating:
  - (a) All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally against written receipt or by facsimile transmission against facsimile confirmation or mailed by internationally recognized overnight courier prepaid, to (i) any Member, at such Member's last known address as set forth on the Company's books and records, and (ii) the Company, to the Company's Secretary at the Company's principal place of business (or in any case to such other address as the addressee may from time to time designate in writing to the sender).
  - (b) All such notices, requests and other communications will (i) if delivered personally to the address as provide in Section 12.1(a) be deemed given upon delivery, (ii) if delivered by facsimile transmission to the facsimile number as provided for in Section 12.1(a), be deemed given upon facsimile confirmation and (iii) if delivered by overnight courier to the address as provided in Section 12.1(a), be deemed given on the earlier of the first business day following the date sent by such overnight courier or upon receipt (in each case regardless of whether such notice, request or other communication is received by any other person to whom a copy of such notice is to be delivered pursuant to this Section 12.1).

(Ex. A p.36)

30. I never gave a written notice of my resignation as a Manager and as a member of the Board to the Board.

31. I certainly never delivered a written notice of my resignation as a Manager or a member of the Board to Sullivan as required for notices or other communications with the Company under the provisions of §12.1 of the Operating Agreement, quoted above.

32. Out of an abundance of caution, on May 10, 2019 I hand delivered to Sullivan, as the Secretary of 4C4 a written designation of my Founder Board Designee stating as follows:

Please be advised that I have not resigned as a Manager of the Board of 4C4 Media, LLC ("4C4"). Nor, for that matter, have I resigned as the President and CEO of 4C4 or withdrawn as a Member of 4C4. Notwithstanding the fact that I have not resigned, and out of an abundance of caution, I am hereby notifying 4C4 that, if I should be viewed or found to have resigned, I hereby designate myself as a Manager on the Board of Managers pursuant to §3.1(a) and (c) of the Operating Agreement of 4C4 Media, LLC. (Copy attached as Ex. K)

33. I never provided written notice of my resignation as the President and CEO of 4C4 to Sullivan as the Secretary of 4C4 in accordance with the notice requirements of §12.1 of the Operating Agreement nor did I ever provide written notice of my resignation as the President and CEO of 4C4 to the Board.

34. I have never been removed as the President and CEO of 4C4 by the Board.

35. I have never received a notice from the Board that my position as the President and CEO of 4C4 is terminated.

36. Attached hereto as Exhibit B is a true and correct copy of the "Term Sheet" as entered into between me, Mark Haefeli Productions, Inc. ("MHP") and Cove in June of 2016 in anticipation of entry into the Operating Agreement.

37. Though titled as a Term Sheet, the Term Sheet was a binding contract between the parties which was to remain in force despite the entry into the additional agreements, such as the Operating Agreement, contemplated under the Term Sheet.

38. The Term Sheet was drafted by the McHattie Firm.

39. MHP and I were not separately represented by counsel in connection with the preparation of the Term Sheet.

40. The Term Sheet provided that Haefeli was to have the "right to recover ownership of the Contributed Works in the event [the] venture fails of its essential purpose." (Ex. B pp 1-2)



41. The purpose of 4C4 as described in the Term Sheet was set forth under the heading "Business Purpose" on the first page of the Term Sheet and included the business plan attached as Exhibit "B" to the Term Sheet. (Ex. B p.1 and pp. 14-160)
42. 4C4 has failed of its "essential purpose" entitling me and MHP to recover the intellectual property transferred to 4C4 under the License Agreement.
43. The "Exclusive License and Assignment Agreement" (the "License Agreement," attached hereto as Exhibit C) was entered into in accordance with the provisions of the Term Sheet (page 1, Structure).
44. The Term Sheet further provided that the entity to be formed and to which Haefeli and MHP were to contribute certain intellectual property rights (4C4) would lose those rights and that the rights would "revert to Haefeli" if Cove failed to vest in its rights to 4C4 pursuant to the "Vesting of Rights" provisions contained in the Term Sheet. (Ex. B p.3)
45. The Vesting of Rights provisions in the Term Sheet at pp. 3-8 set forth a series of benchmarks to be met by Cove or Cove's designees if the intellectual property rights transferred to 4C4 pursuant to the License Agreement if the intellectual property rights were not to revert to Haefeli and MHP. Almost none of those benchmarks have been met to date.
46. Attached hereto as Exhibit D is a true and correct copy of an e-mail sent to me on February 27, 2019 at 10:46 a.m. by C. McHattie purporting to suspend me from 4C4 stating, in part:  
  
Second, you are and have been suspended, please "enjoy" your "garden leave" as best you can, but Cease and Desist from any activity on behalf of 4C4 Media until you are reinstated.  
  
(Ex. D p.1)
47. Without the benefit of counsel, I believed that this suspension was legally effective under the Operating Agreement to terminate, indefinitely, all my rights and authority both as a Manager and member of the Board of 4C4 and as the President and CEO of 4C4, all in my view in direct breach of my rights in connection with 4C4.
48. In response to this breach of my rights as a founder and member of 4C4 and in response to my perception of C. McHattie's wrongful exercise of control over the actions and affairs of 4C4, still without benefit of counsel, after receipt of C. McHattie's 2/27/19 10:46 a.m. e-mail, I issued a series of ill considered e-mails in which I noted my intent to resign my positions with 4C4.
49. None of these e-mails were sent to Sullivan and none of these e-mails complied with the notice requirements of the Operating Agreement.
50. Attached hereto in chronological order as Exhibits E, F, G, H, and I are true and correct copies of a number of such e-mails. All of these e-mails were over the course of 3 days and

none of them were issued prior to C. McHattie's wrongful and unauthorized assertion or attempt to indefinitely terminate my positions with 4C4.

51. Among those e-mails was my e-mail on February 28, 2019 at 5:58 p.m. in which I specifically noted: "I am removing myself from any relations with the company and need to execute the exit strategy in the partnership agreement to make it official I suppose." (Ex. I) This language clearly indicated that I understood and was taking the position that my resignations by e-mail were not, and were not intended to be, official. In other words, notwithstanding the language of the various e-mails, I understood and I communicated that the resignations were not official, were not legally effective, yet and I would have to comply with the Operating Agreement.
52. In addition, at the conclusion of this short period of ill advised e-mails, and in response to an inquiry from an attorney at the McHattie Firm as to what I meant when I asserted in my e-mail that I was resigning, I stated as follows (and with regrets as to my sloppy typing): "Below is my email ragged[l]y a resignation. I [U]ntil I deliver an officially documented and executed document which I fully intend to exploit all of my rights as CEO and 59% share holder in 4c4. You will also need my approval for any decisions that effect this company." (Ex. E p.1)
53. Consistent with my February 28, 2019 e-mail, the e-mail on March 1, 2019 at 1:16 p.m. therefore specifically noted that my "resignations" were not official and were not intended to be official but, rather, I intended to resign only after reviewing my rights under the Operating Agreement and only in compliance with the Operating Agreement. I never proceeded with such a resignation. (Ex. F)
54. Notwithstanding those statements establishing that my resignation(s) were not yet effective and not official, within minutes of my clarification of my intent to the McHattie Firm in Exhibit F, C. McHattie (who holds no position with 4C4 and is only an indirect owner of 4C4 through the membership held by Cove), took the position that my resignation(s) were legally effective. (Ex. J p.1)

I declare under penalty of perjury that the foregoing statements are true. I am aware that if the foregoing statements made by me are willfully false I am subject to punishment.

DATED THIS 15TH DAY OF MAY, 2019.

BY:   
MARK HAEFELI



**EXHIBIT A**

**OPERATING AGREEMENT**

**OF**

**4C4 MEDIA, LLC**

**A DELAWARE LIMITED LIABILITY COMPANY**

**Dated as of July 21, 2016**

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OPERATING AGREEMENT  
OF  
4C4 Media, LLC

This OPERATING AGREEMENT (this "Agreement") dated as of July 21, 2016 of 4C4 Media, LLC (the "Company"), a Delaware limited liability company, is by and among each of the Persons who is a party to or otherwise bound by this Agreement as a Member hereunder.

WHEREAS, in connection with the formation of the Company, the Initial Members were issued Units in the Company.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein made and other good and valuable consideration, the Members hereby agree as follows:

ARTICLE I  
Definitions

**1.1 Definitions.** The following terms used in this Agreement shall have the following meanings (unless otherwise expressly provided in this Agreement):

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Taxable Year, after giving effect to the following adjustments:

(i) Crediting to such Capital Account any amount which such Member is obligated to restore or is deemed to be obligated to restore pursuant to Treasury Regulation Sections 1.704-1(b)(2)(ii)(c), 1.704-2 (g)(1), and 1.704-2(i); and

(ii) Debiting to such Capital Account the items described in Treasury Regulation Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

"Adjusted Taxable Income" of a Member for a Fiscal Year (or portion thereof) with respect to Units held by such Member means the federal taxable income (or alternative minimum taxable income, as the case may be) allocated by the Company to the Member with respect to such Units (as adjusted by any final determination in connection with any tax audit or other proceeding) for such Fiscal Year (or portion thereof); provided that such taxable income (or alternative minimum taxable income, as the case may be) shall be computed (i) as if all excess taxable losses and excess taxable credits allocated with respect to such Units were carried forward (taking into account the character of any such loss carryforward as capital or ordinary), and (ii) taking into account any special basis adjustment with respect to such Member resulting from an election by the Company under Code Section 754.

"Affiliate" shall mean (i) in all cases, any Person or entity that, directly or indirectly, controls, is controlled by or is under common control with such Member or the Company, and (ii) in the case of a Member who is a natural person, his spouse, his issue, his

estate and any trust entirely for the benefit of his spouse and/or issue. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with") as used with respect to any Person or entity, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person or entity, whether through the ownership of voting securities, by contract or otherwise.

"Available Cash" shall have the meaning set forth in Section 7.1(a).

"Bankruptcy" means, with respect to a Member, that (i) such Member has (A) made an assignment for the benefit of creditors; (B) filed a voluntary petition in bankruptcy; (C) been adjudged bankrupt or insolvent, or had entered against such Member an order of relief in any bankruptcy or insolvency proceeding; (D) filed a petition or an answer seeking for such Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation or filed an answer or other pleading admitting or failing to contest the material allegations of a petition filed against such Member in any proceeding of such nature; or (E) sought, consented to, or acquiesced in the appointment of a trustee, receiver or liquidator of such Member or of all or any substantial part of such Member's properties; (ii) 120 days have elapsed after the commencement of any proceeding against such Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation and such proceeding has not been dismissed; or (iii) 90 days have elapsed since the appointment without such Member's consent or acquiescence of a trustee, receiver or liquidator of such Member or of all or any substantial part of such Member's properties and such appointment has not been vacated or stayed or the appointment is not vacated within 90 days after the expiration of such stay.

"Board" means the Company's Board of Managers as constituted from time to time in accordance with Article III hereto.

"Book Value" means, with respect to any Company asset, the adjusted basis of such asset for federal income tax purposes, except as follows:

(a) The initial Book Value of any Company asset contributed by a Unitholder to the Company shall be the gross Fair Market Value of such Company asset as of the date of such contribution;

(b) The Book Value of each Company asset shall be adjusted to equal its respective gross Fair Market Value, as of the following times: (i) the acquisition of an additional interest in the Company by any new or existing Unitholder in exchange for more than a *de minimis* Capital Contribution; (ii) the distribution by the Company to a Unitholder of more than a *de minimis* amount of Company assets (other than cash) as consideration for all or part of its Units unless the Board determines that such adjustment is not necessary to reflect the relative economic interests of the Unitholders in the Company; and (iii) the liquidation of the Company within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g); provided that an adjustment described in clauses



(i) and (ii) of this paragraph shall be made only if the Board reasonably determines that such adjustment is necessary to reflect the relative economic interests of the Members in the Company;

(c) The Book Value of a Company asset distributed to any Unitholder shall be the Fair Market Value of such Company asset as of the date of distribution thereof;

(d) The Book Value of each Company asset shall be increased or decreased, as the case may be, to reflect any adjustments to the adjusted basis of such Company asset pursuant to Section 734(b) or Section 743(b) of the Code, but only to the extent that such adjustments are taken into account in determining Capital Account balances pursuant to Treasury Regulations Section § 1.704-1(b)(2)(iv)(m); provided, that Book Values shall not be adjusted pursuant to this subparagraph (d) to the extent that an adjustment pursuant to subparagraph (b) above is made in conjunction with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (d); and

(e) If the Book Value of a Company asset has been determined or adjusted pursuant to subparagraphs (a), (b) or (d) above, such Book Value shall thereafter be adjusted to reflect the Depreciation taken into account with respect to such Company asset for purposes of computing Profits and Losses.

"Breaching Service Provider" shall mean any Service Provider who, as determined in good faith by the vote or consent of a majority of the Board (excluding for this purpose the vote or consent of the potentially Breaching Service Provider or his designee if such person is a member of (or has a designee to) the Board), is deemed to have breached the Performance Requirements applicable to such Member, following notice thereof and, if any such breach is capable of being cured, a reasonable opportunity (as determined by such Board vote) to cure such breach.

"Capital Account" means the capital account maintained for a Member pursuant to Section 6.2.

"Capital Contribution" means any contribution to the capital of the Company in cash or property by a Member, whenever made.

"Certificate" means the Certificate of Formation of the Company under the Delaware Act.

"Code" means the United States Internal Revenue Code of 1986, as amended from time to time.

"Company Minimum Gain" has the meaning set forth for "partnership minimum gain" in Treasury Regulation Section 1.704-2(d).

"Contributing Member" shall have the meaning set forth in Section 6.1(c).

"Delaware Act" means the Delaware Limited Liability Company Act, as the same may be amended from time to time.

"Depreciation" means for each Taxable Year, an amount equal to the depreciation or other cost recovery deduction allowable with respect to an asset for such Taxable Year, except that (i) with respect to any asset whose Book Value differs from its adjusted tax basis for federal income tax purposes and which difference is being eliminated by the "remedial method" defined in Treasury Regulation Section 1.704-3(d), Depreciation for such Taxable Year shall be the amount of book basis recovered for such Taxable Year under the rules prescribed by Treasury Regulation Section 1.704-3(d)(2), and (ii) with respect to any other asset whose Book Value differs from its adjusted tax basis at the beginning of such Taxable Year, Depreciation shall be the amount which bears the same ratio to such beginning Book Value as the federal income tax depreciation, amortization or other cost recovery deduction for such Taxable Year bears to such beginning adjusted tax basis, provided, however, that if the adjusted tax basis of an asset at the beginning of such Taxable Year is zero, Depreciation shall be determined with reference to such beginning Book Value using any reasonable method selected by the Tax Matters Partner.

"Estimated Tax Amount" of a Member for a Fiscal Year means the Member's Tax Amount for such Fiscal Year as estimated in good faith from time to time by the Board. In making such estimate, the Board shall take into account amounts shown on Internal Revenue Service Form 1065 filed by the Company and similar state or local forms filed by the Company for the preceding taxable year and such other adjustments as in the reasonable business judgment of the Board are necessary or appropriate to reflect the estimated operations of the Company for the Fiscal Year.

"Fair Market Value" of any asset or the Units as of any date means the purchase price which a willing buyer having all relevant knowledge would pay a willing seller for such asset or Units in an arm's-length transaction, as determined in good faith by the Board based on such factors as the Board, in the exercise of its reasonable business judgment, considers relevant.

"Field" means any and all development of entertainment and media production and all ancillary and derivative opportunities flowing therefrom, including but not limited to creating and deriving works based upon the existing archive of Mark Haefeli and new content created and generated by Company, but not currently contemplating works created by others.

"Fiscal Year" means the Company's Taxable Year.

"Founder" means Mark Haefeli and Cove, LLC.

"GCL" means the General Corporation Law of the State of Delaware, as the same may be amended from time to time.

"Initial Members" means the persons listed on the signature page hereto under the heading "Initial Members."

"Losses" means items of loss and deduction of the Company determined according to Section 6.2.

"Major Holder" shall mean each Member (including its affiliates and family members) who holds not less than 15,000 Units (such number subject to adjustment for Unit splits and similar transactions in respect of the Units occurring after the date hereof).

"Majority in Interest" means, at any time, the vote or consent of Members then entitled to vote holding of record not less than a majority of the total outstanding Units.

"Majority of the Board" means, at any time, a combination of any of the then Managers constituting a majority of the votes of all of the Managers who are then elected and qualified.

"Member" means the Initial Members and each Person who may hereafter be admitted as a Member (each an "Additional Member") in accordance with the terms of this Agreement. The Members shall constitute the "members" (as that term is defined in the Delaware Act) of the Company.

"Member Minimum Gain" with respect to each Member Nonrecourse Debt, means the amount of Company Minimum Gain (as determined according to Treasury Regulation Section 1.704-2(d)(1)) that would result if such Member Nonrecourse Debt were treated as a nonrecourse liability, determined in accordance with Treasury Regulation Section 1.704-2(i)(3).

"Member Nonrecourse Debt" has the meaning set forth in Treasury Regulation Section 1.704-2(b)(4), substituting the term "Company" for the term "partnership" and the term "Member" for the term "partner" as the context requires.

"Member Nonrecourse Deduction" has the meaning set forth in Treasury Regulation Section 1.704-2(i), substituting the term "Member" for the term "partner" as the context requires.

"Members Schedule" shall have mean the schedule of all Members maintained pursuant to Section 5.1 hereunder setting forth the name of each Member, their respective Percentage Interest, the number of Units held by them and the Capital Account balance associated therewith.

"Membership Interest" means the interest acquired by a Member in the Company, including such Member's right (based on the type and class and/or series of Unit or Units held by such Member), as applicable, (A) to a distributive share of Profits, Losses, and other items of income, gain, loss, deduction and credits of the Company, (B) to a distributive share of the assets of the Company, (C) to vote on, consent to or otherwise participate in any decision of the Members, and (D) to any and all other benefits to which such Member may be entitled as provided in this Agreement or the Delaware Act.



"Nonrecourse Deductions" has the meaning set forth in Treasury Regulation Section 1.704-2(b) (substituting the term "Company" for the term "partnership" as the context requires).

"Percentage Interest" with respect to a Member means, at any time, such Member's ownership interest in the Company expressed as a percentage based upon the number of Units held by such Member as it relates to the total outstanding Units. Each Member's Percentage Interest shall be reflected on the Member's Schedule, as amended from time to time in accordance herewith.

"Performance Requirements" applicable to a Service Provider shall mean (i) all material obligations applicable to such Service Provider under this Agreement, and (ii) the amount of time, and individual performance requirements, such Service Provider shall be required to devote to Company matters during the Vesting Period as set forth in the agreement pursuant to which such Service Provider was issued Units in the Company.

"Person" means any individual, corporation, partnership, limited liability company, trust, joint venture, governmental entity or other unincorporated entity, association or group.

"Profits" means items of income and gain of the Company determined according to Section 6.2.

"Quarterly Estimated Tax Amount" of a Member for any calendar quarter of a Fiscal Year means the excess, if any of (i) the product of (A)  $\frac{1}{4}$  in the case of the first calendar quarter of the Fiscal Year,  $\frac{1}{2}$  in the case of the second calendar quarter of the Fiscal Year,  $\frac{3}{4}$  in the case of the third calendar quarter of the Fiscal Year, and 1 in the case of the fourth calendar quarter of the Fiscal Year and (B) the Member's Estimated Tax Amount for such Fiscal Year over (ii) all distributions previously made during such Fiscal Year to such Member.

"Restricted Period" means, with respect to the applicable Member, the period during which such Member is a member in the Company and continuing until the expiration of the one-year period immediately after such Member ceases to be a member in the Company.

"Service Provider" shall mean any Member who (i) is granted Units in the Company and is obligated to perform future services to the Company, whether as a Member, consultant or otherwise, and (ii) pursuant to such agreement such Member agrees to be deemed a Service Provider subject to Performance Requirements hereunder.

"Super Majority" shall mean, at any time, the vote or consent of Members then entitled to vote holding of record not less than seventy-five percent (75%) of the total outstanding Units.

"Tax Advances" means any distributions made by the Company pursuant to Section 7.3 hereof.

"Tax Amount" of a Member for a Fiscal Year means the product of (A) the Tax Rate for such Fiscal Year and (B) the Adjusted Taxable Income of the Member for such Fiscal Year with respect to its Units.

"Tax Matters Partner" has the meaning set forth in Code Section 6231 and the Treasury Regulations thereunder.

"Tax Rate" of a Member for any period means the highest marginal blended federal, state and local income tax rate applicable to any Member of the Company for the applicable period, taking into account for federal income tax purposes, the deductibility of state and local taxes.

"Taxable Year" means the Company's taxable year ending on or about December 31 (or part thereof in the case of the Company's first and last taxable year), or such other year as is (i) required by Section 706 of the Code or (ii) determined by the Board (if no year is so required by Section 706 of the Code).

"Transfer" means any direct or indirect sale, transfer, conveyance, assignment, pledge, hypothecation, gift, delivery or other disposition.

"Treasury Regulations" means the final or temporary regulations that have been issued by the U.S. Department of Treasury pursuant to its authority under the Code, and any successor regulations.

"Unit" means a unit representing a fractional part of the Membership Interests of all of the Unitholders and shall include all types and classes and/or series of Units; provided that any type or class or series of Unit shall have the designations, preferences and/or special rights set forth in this Agreement and the Membership Interests represented by such type or class or series of Unit shall be determined in accordance with such designations, preferences and/or special rights.

"Unitholder" means with respect to any Unit, the record holder thereof as evidenced on the Members Schedule.

"Vesting Period" means the period which Units granted to a Service Provider are subject to vesting under an agreement between the Company and the applicable Service Provider.

1.2 **Other Definitional Provisions.** Capitalized terms used in this Agreement which are not defined in this Article I have the meanings contained elsewhere in this Agreement. Defined terms used in this Agreement in the singular shall import the plural and vice versa.

## ARTICLE II Organization of the Company

### 2.1 **Formation.**

(a) This Agreement shall constitute the "limited liability company agreement" (as that term is used in the Delaware Act) of the Company. The rights, powers, duties, obligations and liabilities of the Members shall be determined pursuant to the Delaware Act and this Agreement. To the extent that the rights, powers, duties, obligations and liabilities of any Member are different by reason of any provision of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Delaware Act, control.

(b) Any officer of the Company as an "authorized person" within the meaning of the Delaware Act, is hereby authorized, at any time that the applicable Member(s) have approved an amendment to the Certificate in accordance with the terms hereof, to promptly execute, deliver and file such amendment in accordance with the Delaware Act.

(c) The Company shall, to the extent permissible, elect to be treated as a partnership for federal, state and local income tax purposes, and each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment and no Member shall take any action inconsistent with such treatment. The Company shall not be deemed a partnership or joint venture for any other purpose.

2.2 **Name.** The name of the Company is "4C4 Media, LLC" or such other name or names as the Board may from time to time designate; provided, that the name shall always contain the words "Limited Liability Company", "LLC" or "L.L.C."

2.3 **Registered Office; Agent.** The Company shall maintain a registered office and agent in the State of Delaware as determined by the Board.

2.4 **Term.** The term of existence of the Company shall be as stated in the Certificate, unless the Company is dissolved in accordance with the provisions of this Agreement.

2.5 **Purposes and Powers.** The purposes and character of the business of the Company shall be to transact any or all lawful business for which limited liability companies may be organized under the Delaware Act. The Company shall have any and all powers which are necessary or desirable to carry out the purposes and business of the Company, including the ability to incur and guaranty indebtedness, to the extent the same may be legally exercised by limited liability companies under the Delaware Act. Notwithstanding anything herein to the contrary, nothing set forth herein shall be construed as authorizing the Company to possess any purpose or power, or to do any act or thing, forbidden by law to a limited liability company organized under the laws of the state of its organization.



**ARTICLE III**  
**Management of the Company**

**3.1 Board of Managers.**

(a) Establishment. There is hereby established a committee (the "Board" or the "Board of Managers") comprised of natural persons (the "Managers") having the authority and duties set forth in this Agreement. Except as otherwise provided herein (including Section 3.6), any decisions to be made by the Board shall require the approval of a Majority of the Board. Except as provided in the immediately preceding sentence, no Manager acting alone, or with any other Manager or Managers, shall have the power to act for or on behalf of, or to bind the Company. Each Manager shall be a "manager" (as that term is defined in the Delaware Act) of the Company, but, notwithstanding the foregoing, no Manager shall have any rights or powers beyond the rights and powers granted to such Manager in this Agreement. Managers need not be residents of the State of Delaware.

(b) Powers. Except as otherwise provided herein (including Section 3.6), the business and affairs of the Company shall be managed by or under the direction of the Board. All actions outside of the ordinary course of business of the Company to be taken by or on behalf of the Company shall require the approval of a Majority of the Board.

(c) Number of Managers; Term of Office. The authorized number of Managers shall initially be 2 and, hereafter, the authorized number of Managers may, subject to the limitations set forth in this Section, be increased or decreased by either (i) the vote of a Majority of the Board, or (ii) the vote or consent of Members holding a Majority in Interest. The Managers shall be elected by the vote or consent of Members holding a Majority in Interest and shall hold office until their respective successors are elected and qualified or until their earlier death, resignation or removal; provided that each Founder shall have the right to designate one Member to the Board (each a "Founder Board Designee") until such time as such Founder (together with its affiliates and family members) holds of record less than 15,000 Units (such number subject to adjustment for Unit splits and similar events in respect of the Units after the date hereof), after which such Founder shall no longer have the right pursuant to this subsection (c) to designate a Founder Board Designee. Notwithstanding the foregoing, in the event a Founder becomes a Breaching Service Provider, such Founder shall no longer have the right to designate a Board Member pursuant to this Section 3.1(c). Members holding a Majority in Interest may remove, with cause, any Manager and any vacancy, whether due to resignation, removal or death, shall be filled by the vote or consent of Members holding a Majority in Interest, subject to the right of any Founder to designate a replacement as provided in this Section 3.1(c). A Manager may resign at any time by giving written notice to that effect to the Board. Any such resignation shall take effect at the time of the receipt of that notice or any later effective time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Notwithstanding the foregoing, the other Members of Cove shall be permitted to attend and participate as non-voting participants.

(d) Meetings of the Board. The Board shall meet at such time and at such place (either within or outside of the State of Delaware) as the Board may designate. Special meetings of the Board shall be held on the call of the Chairman (as herein defined) or any one Manager upon at least two days (if the meeting is to be held in person) or one (1) day (if the meeting is to be held by telephone communications or video conference) oral or written notice to the Managers, or upon such shorter notice as may be approved by all of the Managers. Any Manager may waive such notice as to himself. A record shall be maintained by the Secretary of the Company of each meeting of the Board.

(i) Conduct of Meetings. Any meeting of the Board may be held in person, telephonically or by video conference.

(ii) Quorum. A Majority of the Board at a properly noticed meeting shall constitute a quorum of the Board for purposes of conducting business. At all times when the Board is conducting business at a meeting of the Board, a quorum of the Board must be present at such meeting. If a quorum shall not be present at any meeting of the Board, then the Managers present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. A Manager may vote or be present at a meeting either in person, telephonically or by proxy.

(iii) Attendance and Waiver of Notice. Attendance of a Manager at any meeting shall constitute a waiver of notice of such meeting, except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting.

(iv) Actions Without a Meeting. Notwithstanding any provision contained in this Agreement, any action of the Board may be taken by written consent without a meeting. Any such action taken by the Board without a meeting shall be effective only if the consent or consents are in writing, set forth the action so taken, and are signed by a Majority of the Board.

(e) Compensation of the Managers. Managers, as such, shall not receive any stated salary for their services, but shall receive such compensation for their services as may be from time to time agreed upon by a majority of the disinterested members of the Board. In addition, Managers shall be entitled to reimbursement for the reasonable out-of-pocket expenses, if any, incurred in attending all Board and any committee meetings; provided, that nothing contained in this Agreement shall be construed to preclude any Manager (including the Chief Executive Officer) from serving the Company or any of its subsidiaries in any other capacity and receiving compensation for such service approved by a majority of the disinterested members of the Board and the Members as required hereunder.



(f) Chairman of the Board. A Majority of the Board may elect any one of the Managers to be the Chairman of the Board (the "Chairman"). At any time, the Chairman, if any, can be removed from his or her position as Chairman by a Majority of the Board. The Chairman, in his or her capacity as the Chairman of the Board, shall not have any of the rights or powers of an officer of the Company. The Chairman shall preside at all meetings of the Board and at all meetings of the Members at which he or she shall be present.

### 3.2 Officers.

(a) Appointment of Officers. The Board may appoint individuals as officers ("officers") of the Company, which may include a President, a Chief Financial Officer, a Secretary and such other officers (such as a Chief Operating Officer, a Treasurer or any number of Vice Presidents) as the Board deems advisable. No officer need be a Member. An individual may be appointed to more than one office. No officer of the Company shall have any rights or powers beyond the rights and powers granted to such officer in this Agreement. The officers of the Company as of the date hereof are listed on the attached Schedule A.

(b) Duties of Officers Generally. Under the direction of and, at all times, subject to the authority of the Board, the officers shall have the discretion to manage the day-to-day business, operations and affairs of the Company in the ordinary course of its business, to make all decisions, except those expressly reserved or requiring the approval of the Board hereunder, affecting the day-to-day business, operations and affairs of the Company in the ordinary course of its business and to take all such actions as they deem necessary or appropriate to accomplish the foregoing, in each case, unless the Board shall have previously restricted (specifically or generally) such powers. In addition, the officers shall have such other powers and duties as may be prescribed by the Board or this Agreement. The President shall have the power and authority to delegate to any agents or employees of the Company rights and powers of officers of the Company to manage and control the day-to-day business, operations and affairs of the Company in the ordinary course of its business, as the President may deem appropriate from time to time, in each case, unless the Board shall have previously restricted (specifically or generally) such powers. Notwithstanding the foregoing, no officer shall enter into or consummate any of the following transactions without the prior approval of the Board: (i) any transaction outside of the ordinary course of the Company's business consistent with past practice; (ii) the issuance of any Units or other security of the Company; including any security convertible into any security; (iii) any sale of or exclusive license to any material asset (whether by asset purchase, stock purchase, merger, exclusive license or otherwise), except in the ordinary course of the Company's business; (iv) declare or pay any dividend or make any other distributions in respect of any Units; (v) redeem or purchase or otherwise acquire any Units; (vi) incur any liabilities, obligations, including guarantees, or indebtedness in excess of \$50,000 individually or in any series of related transactions; (vii) approve any material deviation from the then current operating budget as approved by the Board; (viii) the hiring or firing of any employee with compensation in excess of \$50,000 or (x) any other acts requiring the consent or approval of the Board under this Agreement.



(c) Authority of Officers. Subject to Section 3.2(b), any officer of the Company shall have the right, power and authority to transact business in the name of the Company or to act for or on behalf of or to bind the Company. With respect to all matters within the ordinary course of business of the Company, third parties dealing with the Company may rely conclusively upon any certificate of any officer to the effect that such officer is acting on behalf of the Company.

(d) Removal, Resignation and Filling of Vacancy of Officers. The Board may remove any officer, for any reason or for no reason, at any time, subject to the terms of any then-existing employment agreement. Any officer may resign at any time by giving written notice to the Board, and such resignation shall take effect at the date of the receipt of that notice or any later time specified in that notice; provided, that unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any such resignation shall be without prejudice to the rights, if any, of the Company or such officer under this Agreement or any employment or unit repurchase agreement then in effect. A vacancy in any office because of death, resignation, removal or otherwise shall be filled in the manner prescribed in this Agreement for regular appointments to that office.

(e) Compensation of Officers. The officers shall be entitled to receive compensation from the Company as determined by the Board.

(f) President. Under the direction of and, at all times, subject to the authority of the Board and the limitations imposed by Section 3.2(b), the President shall have general supervision over the day-to-day business, operations and affairs of the Company and shall perform such duties and exercise such powers as are incident to the office of president under the GCL. The President shall have such other powers and perform such other duties as may from time to time be prescribed by the Board.

(g) Chief Financial Officer. The Chief Financial Officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Company, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital and Units, and, in general, shall perform all the duties incident to the office of the chief financial officer of a corporation organized under the GCL. The Chief Financial Officer shall have the custody of the funds and securities of the Company, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Company. The Chief Financial Officer shall have such other powers and perform such other duties as may from time to time be prescribed by the Board and/or the President, subject to the limitations imposed by Section 3.2(b).

(h) Secretary. The Secretary shall (i) keep the minutes and resolutions of any meetings of the Members and of the Board in one or more books provided for that purpose; (ii) see that all notices to be given by the Company are duly given in accordance with the provisions of this Agreement and as required by law; (iii) be custodian of the company records; (iv) keep a register of the addresses of each Member which shall be furnished to the Secretary by such Member; (v) have general charge of the Members Schedule; and (vi) in general perform all duties incident to the office of the secretary of a corporation organized under the GCL. The Secretary shall have such other powers and perform such other duties as may from time to time be prescribed by the Board and/or the President, subject to the limitations imposed by Section 3.2(b).

(i) Other Officers. All other officers of the Company shall have such powers and perform such duties as may from time to time be prescribed by the Board and/or the President, subject to the limitations imposed by Section 3.2(b).

3.3 Fiduciary Duties. The Board, in the performance of its duties as such, shall owe to the Members duties of loyalty and due care of the type owed by the directors of a corporation to the stockholders of such corporation under the laws of the State of Delaware and shall discharge such duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Board reasonably believes to be in the best interests of the Company. Notwithstanding anything contained herein to the contrary, and providing such opportunity does not derive, directly or indirectly, from Confidential Information, no member of the Board shall have any duty or obligation to bring any "corporate opportunity" to the Company or any of its subsidiaries. The officers, in the performance of their duties as such, shall owe to the Members duties of loyalty and due care of the type owed by the officers of a corporation to the stockholders of such corporation under the laws of the State of Delaware.

3.4 Performance of Duties; Liability of Board and Officers. In performing his, her or its duties, each Manager and the officers shall be entitled to rely in good faith on the provisions of this Agreement and on information, opinions, reports, or statements (including financial statements and information, opinions, reports or statements as to the value or amount of the assets, liabilities, Profits or Losses of the Company or any facts pertinent to the existence and amount of assets from which distributions to Members might properly be paid), of the following other Persons or groups: (A) one or more officers or employees of the Company; (B) any attorney, independent accountant, or other Person employed or engaged by the Company; or (C) any other Person who has been selected with reasonable care by or on behalf of the Company, in each case as to matters which such relying Person reasonably believes to be within such other Person's professional or expert competence. The preceding sentence shall in no way limit any Person's right to rely on information to the extent provided in Section 18-406 of the Delaware Act. No person who is a Manager or an officer of the Company, or any combination of the foregoing, shall be personally liable under any judgment of a court, or in any other manner, for any debt, obligation, or liability of the Company, whether that liability or obligation arises in contract, tort, or otherwise, solely by reason of being a Manager or an officer of the



Company or any combination of the foregoing, except to the extent of their gross negligence or willful misconduct.

**3.5 Indemnification.** Notwithstanding Section 3.3, no Manager nor any officer shall be liable, responsible or accountable for damages or otherwise to the Company, or to the Members, and, to the fullest extent allowed by law, the Managers and each officer shall be indemnified and held harmless by the Company, including advancement of reasonable attorneys' fees and other expenses from and against all claims, liabilities, and expenses arising out of any management of Company affairs; provided that (A) such person's course of conduct was pursued in good faith and believed by him or it to be in the best interests of the Company and was reasonably believed by him or it to be within the scope of authority conferred on such person pursuant to this Agreement and (B) such course of conduct did not constitute gross negligence or willful misconduct on the part of such Manager or officer and otherwise was in accordance with the terms of this Agreement. The rights of indemnification provided in this Section are intended to provide indemnification of the Managers and the officers to the fullest extent permitted by the GCL regarding a corporation's indemnification of its directors and officers and will be in addition to any rights to which the Managers or officers may otherwise be entitled by contract or as a matter of law and shall extend to his heirs, personal representatives and assigns. The absence of any express provision for indemnification herein shall not limit any right of indemnification existing independently of this Section. Each Manager's and each officer's right to indemnification pursuant to this Section may be conditioned upon the delivery by such person of a written undertaking to repay such amount if such person is determined pursuant to this Section or adjudicated to be ineligible for indemnification, which undertaking shall be an unlimited general obligation.

**3.6 Special Voting Rights.** Notwithstanding the foregoing, either the vote or written consent of Members holding a Majority In Interest shall be required for: (i) the liquidation, dissolution or winding-up of the Company, or the raising of capital by the Company or the issuance by the Company of any additional membership interest or other equity-linked securities for consideration in excess of \$1,000,000; (ii) the Company to incur or have outstanding at any time any indebtedness (including any guaranty) for borrowed money greater than \$1,000,000; (iii) the Company to enter into any transaction or incur any obligation with a potential exposure to the Company of in excess of \$1,000,000 individually or in the aggregate; (iv) the hiring, firing or change in the compensation of any employee or consultant with aggregate annual compensation in excess of \$150,000; (v) enter into any transaction, agreement or other commitment with any Manager or any of their affiliates or family members or relatives; or (vi) the repurchase or redemption by the Company of Units or any of its other equity securities for an amount in excess of \$100,000, other than repurchases from employees or consultants upon termination of their service to the Company.

**3.7 Transactions Requiring A Super Majority Members' Consent.** The COMPANY shall not undertake any of the following actions, without the prior written consent of a Super Majority Vote of the Members:



(a) except as provided in Article XII, Section 12.5, Amendments, of this Agreement, amend this Agreement;

(b) except as provided in Article XI, Transfer of Units, of this Agreement, Transfer, or issue any COMPANY Interest to a party who is not an existing Member;

(c) take any action to reconstitute, dissolve or wind-up the COMPANY in the event of the dissolution of the COMPANY;

(d) sell or otherwise dispose of all or substantially all of the COMPANY's property or enter into a sale of the majority of the Membership Interests, except for a liquidating sale of the COMPANY's assets in connection with the dissolution of the COMPANY;

(e) merge or consolidate the COMPANY into another or reorganize the COMPANY, provided however this provision shall not encompass corporate planning reorganizations that have no material impact on the Members;

(f) or incur, assume or guarantee any indebtedness for borrowed money if any such incurrence, assumption or guarantee would materially impact upon the prospects of the Company or likely result in the COMPANY becoming insolvent.

3.8 Notwithstanding anything in this Agreement to the contrary, no Member shall be obligated to undertake any of the following actions without such member's prior written consent:

(a) personally guarantee any obligation of the COMPANY.

#### ARTICLE IV

##### Members: Voting Rights

#### 4.1 Meetings of Members.

(a) Generally. Meetings of the Members may be called by (i) the Board or (ii) by a Member or Members holding 10% or more of the then outstanding Units. All meetings of the Members shall be held telephonically or at the principal office of the Company or at such other place within or without the state of the Company's organization as may be determined by the Board. A record shall be maintained by the Secretary of the Company of each meeting of the Members.

(b) Notice of Meetings of Members. Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting of the Members, describing the purposes for which the meeting is called shall be delivered not fewer than five days, but not more than sixty days, before the date of the meeting, either personally or by any written method by which it is reasonable to expect that the Members would receive such notice not later than three business days prior to the date of the meeting, to each holder of Units (with a copy to the Secretary of the Company), by or at the direction of the Member(s) calling the meeting or the Board, as the case may be. Such notice may, but need not, specify the purpose or purposes of such meeting and may, but need not, limit the business to be conducted at such meeting to such purpose(s).

(c) Quorum. Except as otherwise provided herein or by applicable law, at any time, Units representing not less than a Majority in Interest, represented in person or by proxy, shall constitute a quorum of Members for purposes of conducting business. Once a quorum is present at the meeting of the Members, the subsequent withdrawal from the meeting of any Member prior to adjournment or the refusal of any Member to vote shall not affect the presence of a quorum at the meeting. If, however, such quorum shall not be present at any meeting of the Members, the Members entitled to vote at such meeting shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until Members which own Units representing not less than a Majority in Interest shall be present or represented. Except as otherwise required by applicable law or as required herein, resolutions of the Members at any meeting of Members shall be adopted by the affirmative vote of Members holding not less than a Majority in Interest.

(d) Actions Without a Meeting. Unless otherwise prohibited by law, any action to be taken at a meeting of the Members may be taken without a meeting if a consent or consents in writing, setting forth the action so taken, shall be signed by a Member or Members holding not less than a Majority in Interest, or such higher percentage of Units as is expressly required hereunder to take such action. A record shall be maintained by the Secretary of the Company of each such action taken by written consent of a Member or Members.

4.2 Voting Rights. Except as specifically provided herein or otherwise required by applicable law, for all purposes hereunder, including for purposes of Article III hereof, each Member shall be entitled to one vote for each Unit held by such Member. A Member which owns Units may vote or be present at a meeting either in person or by proxy.

4.3 Registered Members. The Company shall be entitled to treat the owner of record of any Units as the owner in fact of such Unit for all purposes, and accordingly shall not be bound to recognize any equitable or other claim to or interest in such Unit on the part of any other person, whether or not it shall have express or other notice of such claim or interest, except as expressly provided by this Agreement or applicable law.

4.4 Limitation of Liability. Unless otherwise agreed to in a separate writing, no Member will be obligated personally for any debt, obligation or liability of the Company or of any of its subsidiaries or other Members by reason of being a Member, whether arising in contract, tort or otherwise. Except as otherwise provided under applicable law or expressly in this Agreement, no Member, in his or its capacity as such, will have any fiduciary or other duty to another Member with respect to the business and affairs of the Company or of any of its subsidiaries. No Member will have any responsibility to restore any negative balance in his or her Capital Account or to contribute to or in respect of the liabilities or obligations of the Company or of any of its subsidiaries or return distributions made by the Company.



4.5 **Withdrawal; Resignation.** A Member shall not cease to be a Member as a result of the Bankruptcy of such Member or as a result of any other events specified in § 18-304 of the Delaware Act. So long as a Member continues to own or hold any Units, such Member shall not have the ability to resign as a Member prior to the dissolution and winding up of the Company and any such resignation or attempted resignation by a Member prior to the dissolution or winding up of the Company shall be null and void. As soon as any Person who is a Member ceases to own or hold any Units, such Person shall no longer be a Member.

4.6 **Death of a Member.** The death of any Member shall not cause the dissolution of the Company. In such event the Company and its business shall be continued by the remaining Member or Members and the Units owned by the deceased Member shall automatically be transferred to such Member's heirs (provided that, within a reasonable time after such transfer, the applicable heirs shall sign a joinder to this Agreement acceptable to the Board).

4.7 **Authority.** No Member, in its capacity as a Member, shall have the power to act for or on behalf of, or to bind the Company.

4.8 **Outside Activities.** Subject to the terms of any written agreement by any Member to the contrary (including the non-competition agreements with employees of the Company or any of its subsidiaries), a Member may have business interests and engage in business activities in addition to those relating to the Company, including business interests and activities which may compete with the Company, and no Member shall have any duty or obligation to bring any "corporate opportunity" to the Company except as provided above. Subject to the terms of any written agreement by any Member to the contrary, neither the Company nor any other Member shall have any rights by virtue of this Agreement in any business interests or activities of any Member.

4.9 **Confidentiality.**

(a) Each Member agrees, and agrees to cause its Affiliates, officers, directors (in their capacity as such), and its employees, attorneys, accountants, consultants, and other agents and advisors (collectively, "Agents") to keep secret and maintain in confidence all confidential and proprietary information and data of the Company disclosed to it or any Agent (in each case "Receiving Party") in connection with the formation of the Company and the conduct of its business ("Confidential Information") and shall not, and shall cause their respective Agents not to, disclose Confidential Information to any Person other than the Members and their Agents who have a need to know Confidential Information to perform their respective duties. Each Member further agrees that neither it nor any of its Agents shall use Confidential Information for any purpose other than monitoring and evaluating its investment, determining and performing its obligations and exercising its rights under this Agreement. The Company and each Member shall take all reasonable measures necessary to prevent any unauthorized disclosure of the Confidential Information to any person.



(b) The obligations under this section shall survive for a period of two (2) years from (i) as to all Members, the date of the termination of this Agreement; and (ii) as to any Member who withdraws as a Member, the date of such Member's withdrawal. However, any such obligations with respect to any trade secret or similar information which is proprietary to the Company and provides the Company with an advantage over its competitors shall continue indefinitely.

(c) In the event that any Receiving Party (i) must disclose Confidential Information in order to comply with applicable law, including the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated by the Securities and Exchange Commission thereunder, or (ii) becomes legally compelled, by a court of competent jurisdiction to disclose any Confidential Information, the Receiving Party shall provide the disclosing party with prompt written notice so that in the case of clause (i), the disclosing party can work with the Receiving Party to limit the disclosure to the greatest extent possible consistent with legal obligations or otherwise protect such disclosures, or in the case of (ii), the disclosing party may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. In the case of (ii), (A) if the disclosing party is unable to obtain a protective order or other appropriate remedy or if the disclosing party so directs, the Receiving Party shall and shall cause its Agents to, exercise all commercially reasonable efforts to obtain a protective order or other appropriate remedy at the disclosing party's reasonable expense, and (b) failing the entry of protective order or other appropriate remedy or receipt of a waiver hereunder, the Receiving Party shall furnish only that portion of the Confidential Information which it is commercially reasonable efforts to obtain reliable assurance that confidential treatment shall be accorded such Confidential Information, it being understood that such reasonable efforts shall be at the cost and expense of the disclosing party.

(d) Non-Competition. Each Member agrees that while a Member, director, officer or employee of the Company and for a period of one (1) year after ceasing to be a Member, director, officer or employee of the Company, the Member will not, solely or jointly with others: (i) undertake, plan, organize or be involved in any way with any business or any business activity in the Field that competes with the current or anticipated business of the Company in the geographic area in which the Company carries on its usual business; (ii) be directly or indirectly involved with a business that is in direct competition in the Field with the business of the Company in the geographic area in which the Company carries on its usual business; or (iii) divert or attempt to divert from the Company any business the Company enjoyed, solicited, or attempted to solicit from its customers, prior to the Member ceasing to be a Member. Notwithstanding the foregoing, a Member shall be free to acquire stock or other security listed on a national securities exchange or traded on a daily basis in the over-the-counter market not in excess of 2% of the company whose stock or other securities are being acquired.

(e) Non-Solicitation. Each Member agrees that while a Member, director, officer, or employee of the Company and for a period of one (1) year after ceasing to be a Member, director, officer, or employee of the Company, the Member will not in any way, directly or indirectly, induce any Member, director, officer, or employee of the Company to leave their position with the Company or to compete in any way with the Company and will not

interfere with the Company's relationship with its other Members, directors, officers, or employees. Each Member agrees that such enticement or interference would be harmful and damaging to the Members and to the Company.

(f) If a court of competent jurisdiction should declare this Section, or any provision of this Agreement, unenforceable because of any unreasonable restriction of duration and/or activity, then each Member hereby acknowledges and agrees that such court shall have the express authority to reform this Agreement to provide for reasonable restrictions and/or grant the Company such other relief, at law or in equity, reasonably necessary to protect the interests of the Company. Each Member specifically acknowledges that a breach of this Section would cause the Company and its Members to suffer immediate and irreparable harm, which could not be remedied by the payment of money. In the event of a breach or threatened breach by any Member of any of the provisions of this Agreement, the Company and its Members shall be entitled to injunctive relief to end such breach, without the requirement to post bond, and shall be entitled to recover reasonable attorneys' fees and expenses. If the Company shall commence an action pursuant to this Agreement and a court shall make a final determination denying the injunctive relief sought, the applicable Member shall be entitled to recover reasonable attorneys' fees and expenses from the Company in defense of such action if the court determines the Company's action had no justifiable basis in law. Nothing herein shall be construed as prohibiting the Company from pursuing any other remedies available to it for such breach or such threatened breach, including the recovery of damages.

## ARTICLE V Units; Membership

5.1 Units Generally. The Membership Interests of the Members shall be represented by issued and outstanding Units, which may be divided into one or more types, classes or series, with each type or class or series having the rights and privileges, including voting rights, if any, set forth in this Agreement. As of the date hereof, the Members and the outstanding Units of the Company are as set forth on the Members Schedule (as defined below). The Secretary of the Company shall maintain a schedule of all Members from time to time, their respective Percentage Interest, the Units held by them and the Capital Account balance associated therewith (as the same may be amended, modified or supplemented from time to time, the "Members Schedule" and attached hereto as Schedule B). Ownership of a Unit (or fraction thereof) shall not entitle a Member to call for a partition or division of any property of the Company or for any accounting.

5.2 Issuance of Units. (a) Subject to the limitations contained in this Agreement, including Sections 3.6, 5.4 and 11.5 hereof, the Company (with the approval of the Board) shall have the right from time to time to issue additional Units to such persons on such terms and for such consideration as the Board shall determine in its discretion. Notwithstanding the foregoing, the Company shall not issue any Units to any Person unless such Person has executed and delivered to the Company the documents described in Section 5.3 hereof. Upon the issuance of Units, the Board shall adjust the Capital Accounts of the Members as necessary in accordance with Section 6.2 and the Members Schedule shall be adjusted accordingly.



(b) (i) Any Units issued hereunder may, at the Board's discretion, be issued as equity incentive intended to constitute "profits interests" (as such term is used for purposes of the Code) and the rules and regulations promulgated thereunder, including Rev. Proc. 93-27 and Rev. Proc. 2001-43. All such profits interests shall entitle its record owner to share in the appreciation in the fair market value of Company property from the date of issuance and not in any fair market value of Company property accrued prior to the issuance of such Units. Immediately prior to the issuance of each such Unit, the Capital Accounts of the Members shall be adjusted and all Company property shall be revalued pursuant to the definition of Gross Asset Value. No such Units shall not be entitled to any retroactive allocation of the Company's income, gains, losses, deductions, credits, or other items. To the extent consistent with Section 706(d) of the Code and the Treasury Regulations promulgated thereunder, the Company's books may be closed at the time any Member is issued such profits interests (as though the Company's tax year had ended) or the Company may credit to the Member being issued such Units his or its pro rata allocations of the Company's income, gains, losses, deductions, credits and items for that portion of the Company's fiscal year after the effective date of the issuance of such Units.

**5.3 New Members from the Issuance of Units.** In order for a Person to be admitted as a Member of the Company pursuant to the issuance of Units to such Person, such Person shall have executed and delivered to the Company a counterpart signature page hereto signed as an Additional Member or some other written undertaking to be bound by the terms and conditions of this Agreement in a form acceptable to the Company. Upon the amendment of the Members Schedule by the Company and the satisfaction of any other applicable conditions, including, if a condition, the receipt by the Company of payment for the issuance of the applicable Units, such Person shall be admitted as a Member and deemed listed as such on the books and records of the Company and thereupon shall be issued his or its Units. The Board shall also adjust the Capital Accounts of the Members as necessary in accordance with Section 6.2.

**5.4 Preemptive Rights.** (a) The COMPANY hereby grants to each Member the right of first refusal to purchase its Pro Rata Share of New Interests (as defined in this Section 5.4) which the Company or any Subsidiary may, from time to time, propose to sell and issue. "Pro Rata Share" for purposes of this Agreement, is equal to the ratio of (a) the Membership Interest that would be held by the Member assuming all outstanding securities, rights, options and warrants convertible in to exercisable or exchangeable for Membership Interest, directly or indirectly, held by the Member have been converted into Membership Interest or otherwise exercised or exchanged for Membership Interest, in each case in accordance with the terms thereof, prior to the issuance of the New Interests to (b) the total Membership Interest outstanding assuming all outstanding securities, rights, options and warrants convertible in to exercisable or exchangeable for Membership Interest, directly or indirectly, have been converted into Membership Interest or otherwise exercised or exchanged for Membership Interest, in each case in accordance with the terms thereof, prior to the issuance of the New Interests. The closing of the sale of New Interests by the Company or any Subsidiary to the Member upon exercise of its rights under this Section 5.4: (a) shall take place simultaneously with the closing of the sale of New Interests to third parties. For purposes hereof, "New Interests" means any equity securities (including Membership Interest) of the Company or any Subsidiary whether now authorized or not, and rights, convertible securities, options or warrants to purchase such equity securities, and



securities of any type whatsoever that are, or may become, exercisable, exchangeable or convertible into equity securities; provided, however, that Interests issued upon exercise, exchange or conversion of any such securities shall not constitute New Interests. Any purchaser or Transferee of a New Interests shall, as a condition to such purchase or Transfer of such New Interests, be required to agree in writing to be bound by the provisions of this Agreement.

(b) In the event the Company or any Subsidiary proposes to undertake an issuance of New Interests, it shall give each Member written notice of its intention, describing the type of New Interests and their price and the specific terms upon which the Company or any Subsidiary proposes to issue the same. Each Member shall have twenty (20) days after any such notice is mailed or delivered (the "Election Period") to notify the Company that it will exercise its right to purchase its Pro Rata Share of such New Interests. The election by a Member not to exercise the Member's rights under this Section 5.4 in any one instance shall not affect the Member's right as to any subsequent proposed issuance of New Interests subject to this Section 5.4.

## ARTICLE VI

### Capital Contributions and Capital Accounts

#### **6.1 Capital Contributions; Capital Calls.**

(a) Prior to or promptly following the date hereof, each Person who is a Member as of the date hereof has made or shall make a Capital Contribution to the Company as set for in such Member's agreement pursuant to which such Units were issued, and as of the date hereof is deemed to own the number, type and class of Units in the amounts set forth opposite such Member's name on the Members Schedule.

(b) Except as provided in a separate agreement with such Member, no Member shall be required to make any additional contributions to the Company with respect to such Member's Units. Except as expressly provided herein, no Member, in its capacity as a Member, shall have the right to receive any cash or any other property of the Company.

#### **6.2 Capital Accounts.**

(a) Maintenance Rules. The Company shall maintain for each Member a separate capital account (a "Capital Account") in accordance with this Section 6.2(a). Each Capital Account shall be maintained in accordance with the following provisions:

(i) Such Capital Account shall be increased by the cash amount or Book Value of any property contributed by such Member to the Company pursuant to this Agreement, such Member's allocable share of Profits and any items in the nature of income or gains which are specially allocated to such Member pursuant to Section 8.2 or

Section 8.3, and the amount of any liabilities of the Company assumed by such Member or which are secured by any property distributed to such Member.

(ii) Such Capital Account shall be decreased by the cash amount or Book Value of any property distributed to such Member pursuant to this Agreement, such Member's allocable share of Losses and any items in the nature of deductions or losses which are specially allocated to such Member pursuant to Section 8.2 or Section 8.3, and the amount of any liabilities of such Member assumed by the Company or which are secured by any property contributed by such Member to the Company.

(iii) If all or any portion of a Unit is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred Unit (or portion thereof).

(iv) If a new or existing Member contributes money or property to the Company (other than a *de minimis* amount as determined by the Board) as consideration for the issuance by the Company of any Units after the date hereof, the Capital Accounts of the Members shall, subject to Section 5.1(b), be adjusted in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(f).

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b) of the Treasury Regulations and shall be interpreted and applied in a manner consistent with such Treasury Regulations. If the Board determines that it is prudent to modify the manner in which the Capital Accounts, or any increases or decreases to the Capital Accounts, are computed in order to comply with such Treasury Regulations, the Board may authorize such modifications.

(b) Definition of Profits and Losses. "Profits" and "Losses" mean, for each Taxable Year or other period, an amount equal to the Company's taxable income or loss, respectively, for such Taxable Year or other period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(i) The computation of all items of income, gain, loss and deduction shall include tax-exempt income and those items described in Treasury Regulation Section 1.704-1(b)(2)(iv)(i), without regard to the fact that such items are not includable in gross income or are not deductible for federal income tax purposes.

(ii) If the Book Value of any Company property is adjusted pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(e) or (f), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property.

(iii) Items of income, gain, loss or deduction attributable to the disposition of Company property having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the Book Value of such property.

(iv) Items of depreciation, amortization and other cost recovery deductions with respect to Company property having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the property's Book Value in accordance with Treasury Regulation Section 1.704-1(b)(2)(iv)(g).

(v) To the extent an adjustment to the adjusted tax basis of any Company property pursuant to Code Sections 732(d), 734(b) or 743(b) is required, pursuant to Treasury Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

**6.3 Negative Capital Accounts.** If any Member has a deficit balance in its Capital Account, such Member shall have no obligation to restore such negative balance or to make any Capital Contributions to the Company by reason thereof, and such negative balance shall not be considered an asset of the Company or of any Member.

**6.4 No Withdrawal.** No Member will be entitled to withdraw any part of his or its Capital Contribution or Capital Account or to receive any distribution from the Company, except as expressly provided in this Agreement.

**6.5 Loans From Members.** Loans by Members to the Company shall not be considered Capital Contributions.

**6.6 Status of Capital Contributions.**

(a) No Member shall receive any interest, salary or drawing with respect to its Capital Contributions or its Capital Account, except as otherwise specifically provided in this Agreement.

(b) Except as otherwise provided herein, no Member shall be required to lend any funds to the Company or to make any additional Capital Contributions to the Company. No Member shall have any personal liability for the repayment of any Capital Contribution of any other Member.



**ARTICLE VII**  
**Distributions**

**7.1 Generally.**

(a) Subject to Sections 3.6, 7.2 and 7.3, the Board shall have sole discretion regarding the amounts and timing of distributions to Members, in each case subject to the retention and establishment in good faith of reserves of, or payment to third parties of, such funds as it deems reasonably necessary with respect to the reasonable business needs of the Company which shall include the payment or the making of provision for the payment when due of the Company's obligations, including the payment of any management or administrative fees and expenses or any other obligations (the amount of cash on hand in excess of such reserves at any given time being referred to herein as the "Available Cash").

(b) Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any distribution to Members (x) if such distribution would violate Section 18-607 of the Delaware Act or other applicable law, or (y) to the extent that, immediately following such distribution, such Member's Capital Account would be negative.

**7.2 Mandatory and Discretionary Distributions.** Subject to Sections 3.6, 7.1(b) and 7.3, Available Cash or other assets (taking such other assets into account at their Fair Market Value at the time of distributions) shall be distributed, at such times and in such amounts as the Board determines in its sole discretion, to the Members pro rata based upon their respective Percentage Interests.

THE MCHATTIE LAW FIRM, LLC  
Christopher J. McHattie, Esq.  
(Bar No. 035251987)  
550 West Main Street  
Boonton, New Jersey 07005  
Telephone: 973-402-5505  
Facsimile: 973-400-4110  
*Attorneys for Plaintiff, 4C4 Media, LLC*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

4C4 MEDIA, LLC,

Plaintiff

vs.

MARK HAEFELI; MARK HAEFELI  
PRODUCTIONS, INC.; JOHN DOES 1-10  
(name being fictitious for individuals whose  
identities are currently unknown); and ABC  
ENTITIES 1-10 (names being fictitious for  
corporate or other legal entities whose  
identities currently remain unknown),

Defendants.

Civil Action No.: *19-cv-12288*

**ORDER GRANTING PLAINTIFF'S  
PRELIMINARY INJUNCTION**

**THIS MATTER HAVING BEEN** opened to the Court by the McHattie Law Firm, LLC, attorneys for the plaintiff 4C4 Media, LLC, by way of an Order to Show Cause with Temporary Restraints, for an Order granting Preliminary Injunctive Relief against Defendant Mark Haefeli and Mark Haefeli Productions, Inc., on notice to Defendants' and Defendants' attorney Dennis Sabourin, Esq., attorney for Defendant, and the Court having considered the matter and for good cause showing.

IT IS on this *29<sup>th</sup>* day of *May*, 2019;

**ORDERED**, as follows:

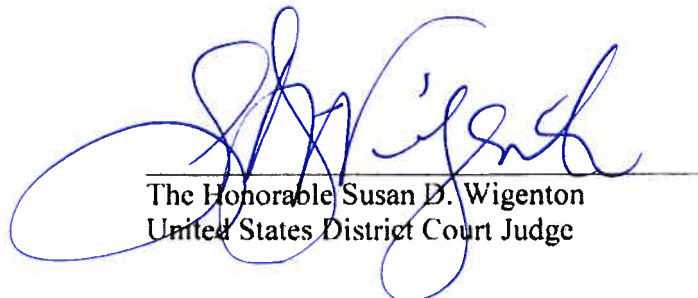
1. The Temporary Restraining Order entered May <sup>8</sup>~~13~~, 2019, is hereby made permanent pending resolution of this action on the merits; and
2. The Defendants, Mark Haefeli and Mark Haefeli Productions, Inc., or anyone of them, or any other entity under Mr. Haefeli's control, and those in active concert with them (the "Defendants"), or receiving instructions and requests from them, including but not limited to Facebook, Twitter, Instagram, LinkedIn, Vimeo, Kicktraq, Filmfreeway, Flickr, receiving notice of this Order are preliminarily enjoined, pending resolution of this action on the merits, from:
  - A. editing, altering, reproducing, distributing, or otherwise publicly displaying: (i) the Film, or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);
  - B. offering for sale, selling, marketing or promoting: (i) the Film or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);
  - C. creating derivative works derived from: (i) the Film or (ii) any adulterated, alternate, abbreviated or reconstituted copy of the Film or the Film's outtakes and unused source materials, including one that lists Defendants as the copyright owner (or otherwise attributes ownership to Defendant);
  - D. engaging in acts of interferences with Plaintiff's marketing and selling of: (i) the Film, or (ii) any alternate, abbreviated or reconstituted version of the Film or the



Film's outtakes and unused source materials, including, but not limited to, interfering with Plaintiff's work with existing or prospective vendors for the Film; and

- E. engaging in any other acts which puts a cloud on the ownership, development or distribution of: (a) the Film, or (b) any alternate, abbreviated or reconstituted version of the Film or the Film's outtakes and unused source materials, including, but not limited to, Defendants holding themselves out as the owner of the Film; and
- F. communicating or publicly disseminating any claim or assertion of:
- a. ownership of the Film,
  - b. attributing the Film a work of the Defendants, (through use of words such as "A Mark Haefeli Film", "A Mark Haefeli Productions Film", "An MHP Production", etc., and
  - c. misrepresenting the extent of his creative involvement (sole creator, "100%" written, produced or directed by Mark Haefeli, etc.);
- G. communicating or publicly disseminating any claim or assertion that misrepresents or exaggerates the creation, funding, origin, writing of, producing, financing for or copyright ownership of the Film; and
- H. the Defendants are affirmatively ordered to immediately take down any prior materials, posts, tweets, photos, video, film or other communications violative of the foregoing.

**SO ORDERED.**



The Honorable Susan D. Wigenton  
United States District Court Judge