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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO**

11	DIGITAL CORNERSTONE, INC. f/k/a)	Case No.: 37-2008-00092383-CU-FR-CTL
12	LINSPIRE, INC, a Delaware corporation,)	
	Plaintiff,)	Hon. Timothy Taylor
13)	DECLARATION OF MICHAEL McEWEN IN
14	vs.)	SUPPORT OF DEFEDENTS' MOTION FOR
)	SUMMARY JUDGMENT/ADJUDICATION
15	WILLIAM LONG, an individual, KEVIN)	Date: December 18, 2009
16	CARMONY, an individual, CHAD OLSON,)	Time: 1:30 p.m.
	an individual, RANDY LINNELL, an)	Dept.: C-72
17	individual, THERESA BRENNAN, an)	Action Filed: September 23, 2008
	individual, CLIFFORD BESHES, an)	Trial Date: February 5, 2009
18	individual, and DOES 1 through 50, inclusive,)	
	Defendants.)	
19)	
20)	

21 I, Detective Michael McEwen, declare:

- 22 1. I have personal, first-hand knowledge of the matters set forth in this
- 23 declaration and could and would competently testify thereto.
- 24 2. I work as a Detective for the San Diego Police Department as part of the
- 25 Financial Crimes Group, which group is responsible for investigating all possible
- 26 embezzlements in the City of San Diego. All embezzlement cases come directly to my unit
- 27 for screening to determine if they are civil or criminal. If the elements of a crime are present,
- 28 the case is assigned to a detective and given a case number.

1 3. In or around September of 2007, the supervisor of the Financial Crimes Group
2 gave me the Linspire case to investigate. I reviewed the case and interviewed the contacts
3 that were included with the case submission and spoke with a representative of Linspire's
4 bank, Comerica. I reviewed additional documents, including employment agreements, that I
5 had asked for and that were provided by Linspire's Chairman, Michael Robertson. I also
6 spoke briefly with our District Attorney's office as an information resource as part of my
7 investigation.

8 4. Based on my review of the facts of the case, I determined no crime had been
9 committed and the issues discussed in Mr. Robertson's letter and case submission were civil
10 in nature. My conclusion was that the case involved a disagreement between the Chairman
11 and the CEO of the company, which CEO was an officer and agent of the company. This
12 disagreement did not constitute a crime.

13 5. I relayed my findings on to Mr. Robertson's representative and to Comerica
14 Bank. I specifically told them "no crime report was taken and no case number issued."

15 6. There is no current investigation being conducted by the Police Department
16 regarding this matter, nor has there been since the later part of 2007 when we notified
17 Linspire and Comerica Bank of our conclusion. The incident was never issued a case number.

18 7. The document Michael Robertson and Linspire referred to as a "police report"
19 was merely a letter they typed and presented to us and is not an official document or report of
20 the San Diego Police Department. A copy of the document I am referring to is attached
21 hereto as Exhibit A.

22 I declare under penalty of perjury under the laws of the State of California, that the
23 foregoing to true and correct. Executed this 1 day of October, 2009.

24
25 

26 Michael McEwen