

IN THE SUPREME COURT OF FLORIDA

ELIOT I. BERNSTEIN and P. STEPHEN)	
LAMONT)	
)	
Petitioners)	
)	
v.)	Case No. SC04-1078
)	
THE FLORIDA BAR)	
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Respondents.)	
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REBUTTAL TO RESPONSE OF THE FLORIDA BAR

COME NOW, Eliot I. Bernstein (“Bernstein”) and P. Stephen Lamont (“Lamont”), collectively, (“Petitioners”) to rebut the response (“Response”) of The Florida Bar (“Bar” or “Respondent” used interchangeably) to Petitioners’ July 28th 2004 petition (“Petition”) and state as follows:

REBUTTAL RESPONSE

1. That Bar in replying to the Response ordered by The Supreme Court of the State of Florida (“This Court”) fails to address substantive issues contained in the Petition. Instead, the Response is no more than another work product that continues a subterfuge of Petitioners’ complaints, as Bar remains mired in conflict of interests, appearances of impropriety, abuse of public offices and a myriad of unethical behavior both under the Rules Regulating The Florida Bar (“Bar Rules”) and the Rules of Professional Conduct (“Rules”). Where Bar only provides a review of the bar complaint filed against Christopher Clark Wheeler (“Wheeler”) the Bar File No. 2003-51 109 (15c) (“Wheeler Complaint”) a review process that had been tainted by conflicts caused by his

partner, Matthew H. Triggs (“Triggs”) who acted as attorney for the Wheeler Complaint, in violation of his public office position with Bar. Thus, no matter how good the reviews were and whether or not they followed the Bar chain of command is irrelevant since the reviews are fundamentally flawed by the prejudice of the Triggs conflicts from start to finish. Although Triggs’ conflicts and abuse of public office are reasons to disregard all prior reviews, Petitioners will address why the reviews are in fact not only flawed but suggest a conspiratorial role by certain members of Bar in perpetrating the crimes alleged in the Wheeler Complaint through a cover-up in the review process. It appears the Bar strategy here is that it is better not to confirm or even deny the allegations contained in the Petition but to say nothing and hope that no one, including This Court, notices that they failed to respond as ordered by This Court.

2. That Bar in the Response, puts forth only a defense to the Petition’s request for injunctive relief as stated in the COMES NOW statement. Bar therefore, fails to assert defense or explanation to the following; MOTION FOR EMERGENCY HEARING TO: BLOCK DESTRUCTION OF FILES BY FLABAR; AND, SECURE FILES FROM FLABAR; DECLARATORY RELIEF; BEGIN IMMEDIATE INVESTIGATION OF FLORIDA BAR COMPLAINTS AGAINST CHRISTOPHER C. WHEELER, FILE NO: 2003-51 109 (15c); CHRISTOPHER C. WHEELER 2, FILE NO: PENDING CASE NO. ASSIGNMENT; MATTHEW H. TRIGGS, NO: PENDING CASE NO. ASSIGNMENT; ERIC M. TURNER, FILE NO: PENDING CASE NO. ASSIGNMENT; MOVE COMPLAINTS TO THE NEXT HIGHEST LEVEL OF REVIEW, VOID OF CONFLICT OF INTEREST AND APPEARANCE OF IMPROPRIETY; BEGIN IMMEDIATE INVESTIGATION OF CONFLICTS OF

INTEREST AND APPEARANCES OF IMPROPRIETY IN THE REVIEW OF ALL NAMED RESPONDENTS AS CHARGED AND IN THE ATTACHED COMPLAINT AGAINST MATTHEW H. TRIGGS.

3. That in regards to the Petition's paragraphs identified below, Bar failed to put forth a defense or response to the following paragraphs;

- i. Paragraph 1 – Bar failed to respond, therefore This Court should prevent the destruction of the file and secure the file from Bar.
- ii. Paragraph 2 – Bar failed to respond therefore, This Court should prevent Bar from destroying the file.
- iii. Paragraph 3 – Bar failed to respond therefore, This Court should grant declaratory relief for all information requested.
- iv. Paragraph 4 – Bar failed to respond therefore This Court should move the complaints for immediate investigation to the next highest level (perhaps the United States Supreme Court) void of conflict. In addition, This Court should have conflict waivers signed from any participant in these matters going forward.
- v. Paragraph 5 – 31 – Bar, put forth no response or defense and therefore all statements contained therein are taken to be statements of facts in these matters, which contradict Bar review letters and determinations. Therefore, This Court should strike all prior reviews of the Wheeler Complaint as flawed and inaccurate and discard them from further review or investigation, other than to show the dubious nature of such reviews.
- vi. Paragraph 32-33 – Default by Bar, no response or defense.

- vii. Paragraph 34 – Neither Bar, nor Boggs, nor Triggs put forth a defense or response to the allegations that Triggs was conflicted in responding for Wheeler in the Wheeler Complaint. Therefore, This Court should begin immediate sanctions against Triggs and Wheeler for abuse of public office and conflict of interest.
- viii. Paragraph 34-40 - Default by Bar, no response or defense.
- ix. Paragraph 41 – Default by Bar, no response or defense. Therefore, admissions that all statements in the Wheeler Complaint are correct and that Wheeler has committed professional misconduct according to the Rules regulated by Bar.
- x. Paragraph 42 – Default by Bar and Hoffman, no response or defense. Therefore, This Court should take immediate action since Hoffman was influenced by the Triggs conflict.
- xi. Paragraph 43 – Default by Bar and Hoffman, no response or defense. That This Court grants relief to Petitioners due to Hoffman’s unfounded delay causing damages to Petitioners.
- xii. Paragraph 44 – Default by Bar and Turner, no response or defense. That This Court grant relief due to the damages inflicted by the inappropriate review and biased conclusion put forth by Turner, open an immediate Bar complaint against Turner for violation of the Bar Rules, strike all Turner’s prior work, notify the Virginia Bar (“Vbar”) and New York Supreme Court Appellate Division: First Department Departmental Disciplinary Committee (“First Department”) of the flaws contained in Turner’s opinion. Grant relief to

Petitioners for damages caused by Turner's failure to perform his duties and admitted influence caused through the Triggs conflict.

- xiii. Paragraph 45-48 - Default by Bar, Turner and Marvin, no response or defense.

Therefore, This Court should remove from the record any statements made in favor of Wheeler without formal investigation and charge Turner for such violations of Bar Rules. That Turner and Triggs should be cited for abuse of public office and improper influencing of the Wheeler Complaint.

- xiv. Paragraph 49 – Default by Bar and Bartmon, no response or defense.

Therefore, This Court should begin immediate sanctions against Bartmon through a formal bar complaint and strike Bartmon's review as tendered in conflict and influenced by the Triggs conflict. This Court should further grant relief to Petitioners for damages caused by Bartmon and Turner.

- xv. Paragraph 50 – Default by Bar, Marvin and Turner, no response or defense.

Therefore, This Court should demand retraction of all opinions tendered without formal investigation, and notify all tribunals (Vbar and First Department) involved in investigation of these matters, that such opinions and conclusions were false and misleading and finally begin prosecution of Marvin, Hoffman and Turner for failing their duties and violating Bar Rules. This Court should also grant relief to Petitioners for damages caused by these actions and notify all Bar's insurance carriers of the liabilities resulting from these actions.

- xvi. Paragraph 51 – Default by Bar, Marvin, Turner and Hoffman, no response or defense. That This Court should begin prosecution against these attorneys for conflict of interest and abuse of public offices.
- xvii. Paragraph 52 –Default by Bar and Turner, no response or defense. Therefore, This Court should enter an order preventing the destruction of Bar’s files.
- xviii. Paragraph 53 – Default by Bar, no response or defense. Therefore, This Court should enter and order to immediately investigate the whole of the Wheeler Complaint and discard all prior Bar work, other than to show that Bar was conflicted in prior work.
- xix. Paragraph 54 – Default by Bar, no response or defense.
- xx. Paragraph 55 – Default by Bar, no response or defense. That This Court should demand production of all production requests contained in the Petition from all parties mentioned in the Petition.
- xxi. Paragraph 56 – Default by Bar, no response or defense. That This Court should demand the requested disclosures necessary to follow the threads of the conflicts and discover any other people involved in conflict.
- xxii. Paragraph 57 - Default by Bar, no response or defense.
- xxiii. Paragraph 58 - Default by Bar, no response or defense. That This Court should grant damages to Petitioners for all actions that have caused bias against them, influencing other tribunals improperly, and notify all insurance carriers of the liabilities caused by Bar.
- xxiv. Paragraph 59 - Default by Bar, no response or defense. That This Court should take immediate steps to prosecute Proskauer Rose LLP (“Proskauer”)

and Bar for abuse of public office and grant Petitioners relief and damages for conflicts that have already caused damages and loss of constitutionally protected rights of inventors.

- xxv. Paragraph 60 - Default by Bar, no response or defense. That This Court should enter orders to return stolen intellectual properties to Iviewit, “Iviewit” defined in the Petition, (i.e. patents in Raymond A. Joao (“Joao”) and Brian G. Utley’s (“Utley”) names) and issue cease and desist orders to Proskauer patent pools controlled by Proskauer and Proskauer NDA violators. Such relief by This Court to prevent further damages to Petitioners caused by Bar conflicts, Bar involvement as a conspirator and failure of Bar to perform their duties under the Bar Rules.
- xxvi. Paragraph 61 - Default by Bar, no response or defense.
- xxvii. Paragraph 62 - Default by Bar, no response or defense.
- xxviii. Paragraph 63 - Default by Bar, no response or defense.
- xxix. Paragraph 64 - Default by Bar and Turner, no response or defense. That This Court should enter relief for damages caused by Turner’s failure to uphold the Bar Rules and the resulting damages to Petitioners.
- xxx. Paragraph 64 - Default by Bar, no response or defense. That This Court should enter an order granting relief for all damages asserted in this paragraph caused by Bar’s failure to uphold the Bar Rules and notify Bar’s insurance carriers and all other participants’ insurance carriers of the damages caused Petitioners.
- xxxi. Paragraph 66 - Default by Bar, no response or defense.

- xxxii. Paragraph 67 - Default by Bar and Triggs, no response or defense. Therefore, This Court should immediately sanction Triggs for abuse of public office.
- xxxiii. Paragraph 56 should be 68 but is an error in Petition - Default by Bar, Triggs and Proskauer, no response or defense.
- xxxiv. Paragraph 57 should be 69 but is an error in Petition – Default by Bar, no response or defense. Therefore, because Bar has admitted conflict and appearance of impropriety through default, that This Court should mandate Bar to seek independent, unbiased, non-conflicted third-party representation in these matters going forward. Bar should have done this in the Response, for the Response tendered by Turner in conflict, further compounds the liability to Bar and others who are at risk.
- xxxv. Paragraph 58 should be 70 but is an error in Petition – Default by Bar, no defense or response and no intervening response by Wheeler. Wherefore, This Court should begin immediate investigation of the Wheeler Complaint 2.
- xxxvi. Paragraph 59 should be 71 but is an error in Petition – Default by Bar, no defense or response and no intervening response by Wheeler. Therefore, This Court should begin immediate disciplinary sanctions against all named participants in the Petition.
- xxxvii. Paragraph 60 should be 72 but is an error in Petition – Default by Bar, no defense or response. That This Court enter orders to discover all threads of the conflicts and prevent further loss of inventor constitutionally protected rights
- xxxviii. Paragraph 61 should be 70 but is an error in Petition – Default by Bar, no defense or response. That This Court should begin immediate investigation of

the First Department for collusion in denying due process and causing loss of constitutionally protected inventor rights.

xxxix. Paragraph 62 should be 71 but is an error in Petition – Default by Bar, no defense or response. That This Court should run a conflicts check on anyone at This Court handling these matters, to prevent This Court from being directly involved in the matters, now affirmed through it’s agency Bar and to prevent any earlier conflicts which may have been planted by Proskauer that could cause damage to the esteemed reputation of This Court. Petitioner again reiterates that this is not an accusation of This Courts involvement directly but that it is merely a precautionary step to prevent the appearance of impropriety, an appearance to be avoided at all costs.

xl. Exhibit “F” of the Petition – Triggs Florida Bar Complaint (“Triggs Complaint”) and Proskauer Florida Bar Complaint (“Proskauer Complaint”).

1. Corporate Structure - Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate investigation and proper procedural docketing of the Triggs Complaint and Proskauer Complaint demanding explanation of the corporate malfeasances and crimes.

2. Paragraph 1 (i-xvi)- Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate investigation of all crimes stated therein, as no defense by any named party is admission of the allegations.

3. Bar Rule Violation 1 – Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate prosecution of Triggs, Bar and Proskauer for violation of Bar Rule 3-7.11
4. Bar Rule Violation 2 - Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate prosecution of Triggs, Bar and Proskauer for violation of Bar Rules; CONFLICT OF INTEREST, CONFLICT AS A MEMBER OF THE SUPREME COURT OF FLORIDA; RULES OF DISCIPLINE; JURISDICTION TO ENFORCE RULES; GRIEVANCE COMMITTEES; GENERAL RULES OF PROCEDURE; SUCCESSIVE GOVERNMENT AND PRIVATE EMPLOYMENT; 3 RULES OF DISCIPLINE; 3-3 JURISDICTION TO ENFORCE RULES; RULE 3-3.4 GRIEVANCE COMMITTEES; RULE 3-7.11 GENERAL RULES OF PROCEDURE; 4-1.11 SUCCESSIVE GOVERNMENT AND PRIVATE EMPLOYMENT.
5. Bar Rule Violation 3 - Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate prosecution of Triggs, Bar and Proskauer for violation of Bar Rules; RULE 4-1.8 CONFLICT OF INTEREST; PROHIBITED AND OTHER TRANSACTIONS

6. Bar Rule Violation 4 - Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate prosecution of Triggs, Bar and Proskauer for violation of Bar Rules;
RULE 4-1.9 CONFLICT OF INTEREST; FORMER CLIENT
7. Bar Rule Violation 5 - Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate prosecution of Triggs, Bar and Proskauer for violation of Bar Rules;
RULE 4-1.11 SUCCESSIVE GOVERNMENT AND PRIVATE EMPLOYMENT; 4-6 PUBLIC SERVICE; RULE 4-6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATION
8. Bar Rule Violation 6 - Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate prosecution of Triggs, Bar and Proskauer for violation of Bar Rules;
MAINTAINING THE INTEGRITY OF THE PROFESSION; REPORTING PROFESSIONAL MISCONDUCT; 4-8 MAINTAINING THE INTEGRITY OF THE PROFESSION; RULE 4-8.3 REPORTING PROFESSIONAL MISCONDUCT
9. Bar Rule Violation 7 - Default by Bar, Triggs and Proskauer, no defense or response. Wherefore, This Court should begin immediate prosecution of Triggs, Bar and Proskauer for violation of Bar Rules;
VIOLATION OF RULES; MAINTAINING THE INTEGRITY OF THE PROFESSION; MISCONDUCT; 4 RULES OF

PROFESSIONAL CONDUCT - 4-8 MAINTAINING THE INTEGRITY OF THE PROFESSION; RULE 4-8.4 MISCONDUCT

10. Wherefore, all Violations of 1-7 above mandate that Bar, Triggs and Proskauer immediately report all violations to their respective insurance carriers. As no party defended these conflicts in the Response, default moves the allegations from potential liabilities to absolute liabilities to the insurance carriers and proper procedures must be followed to avoid the risk of insurance fraud. Under Bar Bar Rules in the Bylaws as stated in Violation 7;

2 BYLAWS OF THE FLORIDA BAR; 2-9 POLICIES AND RULES; BYLAW 2-9.7 INSURANCE FOR MEMBERS OF BOARD OF GOVERNORS, OFFICERS, GRIEVANCE COMMITTEE MEMBERS, UPL COMMITTEE MEMBERS, CLIENTS' SECURITY FUND COMMITTEE MEMBERS, AND EMPLOYEES

11. Paragraphs 2-75 - Default by Bar, Triggs, Proskauer and any other named party, no defense or response. Wherefore, This Court should begin immediate prosecution of Triggs, Bar, Proskauer and any other named party for violation of the entirety of disciplinary, criminal and civil violations cited and grant all equitable relief or any other relief This Court finds worthy for the multitudes of crimes cited therein.

4. That, as in paragraph 2 of the Petition, mention is made of the conflicts of interest in the complaint against Wheeler, and a subsequent complaint filed against

Wheeler the (“Wheeler Complaint 2”) which was filed and not docketed, wherein Bar, by letter of John Anthony Boggs (“Boggs”) acknowledges such a conflict of interest and abuse of public office by Triggs. Bar provides no response or defense to this factual allegation of conflict, abuse of public office and appearance of impropriety in the Response to This Court.

5. That, as in paragraph 12 of the Petition, mention is made of Wheeler and others “conspir[ing] to undertake a deliberate course of action to deprive...Petitioners the beneficial use of such Technology for their own gains.” In the Response, Bar fails to respond to these factual allegation of ethical misconduct, conspiracy, conflicts of interest by Wheeler, Proskauer, Bar and all those accused herein, known or unknown at this time, whom have aided, abetted or committed any of the crimes heretofore presented to This Court. Bar’s Response to This Court stands as a failure to defend the allegations contained in the Petition of Bar’s conspiratorial role in such events. By failure to assert a defense, admission through default, relief should be immediate for failure to respond.

6. That, as in paragraph 42 of the Petition, mention is made of “the lack of an adequate review...by Counsel Lorraine Christine Hoffman, Esq. (“Hoffman”), in July 2003, wherein she dismissed the Wheeler Complaint without investigation, as a result of ongoing litigation by and between Iviewit and Proskauer, a billing dispute case... That Hoffman’s delay may have been caused by the conflict of interest [of Triggs],” wherein Bar or Hoffman provide no response to this factual allegation of ethical misconduct in the Response. Again by failure to respond or assert a defense, admission through default, where relief should be immediate for failure to respond.

7. That, as in paragraph 44 of the Petition, mention is made of “That upon review by Turner, Chief Branch Discipline Counsel...Turner dismisses the Wheeler complaint and further makes an incorrect determination and endorsement on behalf of Wheeler in his response, whereby Turner claimed that Proskauer did NO patent work”. Bar provides no response to this factual allegation of ethical misconduct and failure to follow procedural Bar Rules in the Response. Again by failure to respond by Bar or Eric Montel Turner (“Turner”) or assert a defense, admission through default, where relief should be immediate for failure to respond.

8. That, as in paragraph 45 of the Petition, mention is made of “Turner stated that he was the final review for Bar and therefore the case was permanently closed and he was moving to destroy the file” where it was discovered he had lied in his claim, despite the Response’s admission, penned by Turner, of THREE higher levels of review. Turner in fact also states that This Court has no jurisdiction over the actions of the Bar. He further states that approaching This Court would be futile, which apparently is untrue in this matter. Again by failure to respond or assert a defense, admission through default, where relief should be immediate for failure to respond.

9. That, as in paragraph 48 of the Petition, mention is made that “Turner...regurgitates on behalf of the Chair, his prior determination that Wheeler’s firm, Proskauer had done no patent work.” A determination made in endorsement of Wheeler’s position...that may have been influenced by the conflict of interest [of Triggs],” such opinion (without investigation) of Turner’s was then submitted to Vbar and First Department to paint a picture favorable to Proskauer, a biased and unfounded picture. According to Bar Rules, no side can be taken unless a formal investigation is

undertaken and therefore Bar was unable to advance such opinion on a review. Again by failure to respond or assert a defense, admission through default, where relief should be immediate for failure to respond.

10. That, as in paragraph 53 of the Petition, mention is made of “That Petitioner has discovered a conflict of interest and appearance of impropriety by Wheeler and his attorney Triggs, whereby the entirety of the Wheeler response comes into question...” Again by failure to respond or assert a defense, admission through default, where relief should be immediate for failure to respond.

11. That, as in paragraph 58 of the Petition, mention is made of “[T]he missteps and miscues by Hoffman, Turner, and Marvin was the genesis of a series of events, that protect Proskauer and Wheeler, using Bar as a shield and to further influence other investigatory bodies, with false and misleading information...who may have further been influenced by the Triggs\Wheeler conflict of interest.” Again by failure to respond or assert a defense by Bar, Hoffman, Turner or Kenneth L. Marvin (“Marvin”), admission through default, where relief should be immediate for failure to respond.

12. That, as in paragraph 58 of the Petition, mention is made of “Petitioner alleges that this coordinated series of attempts to stave off and delay the investigation of the complaints against Wheeler emanates from the very highest levels at Proskauer and across to Bar through the conflict of interest with Triggs...” Again by failure to respond or assert a defense, admission through default, where relief should be immediate for failure to respond.

13. That, as in paragraph 65 of the Petition, mention is made, “Where the specific factual allegations of Petitioner have been deflected by Proskauer through the

misuse of Bar... such conflict...aided Wheeler in alluding formal investigation...” Again by failure to respond or assert a defense, admission through default, where relief should be immediate for failure to respond.

14. That, as in paragraph 67 of the Petition, mention is made of “Triggs, who has violated his public office position of Grievance Committee Member, whereby he was prohibited from acting as a counselor for any party, in any matter before Bar...” Bar provides no defense to this factual allegation of ethical misconduct, conflict of interest, abuse of public office, impropriety and failure to follow procedural Bar Rules and where relief should be immediate.

15. That, as in paragraph 61 of the Petition, mention is made that, Petitioner has apprised This Court of similar conflicts at the First Department in regards to Steven C. Krane (“Krane”) caught simultaneously responding for Kenneth Rubenstein (“Rubenstein”) and himself while holding First Department positions. Krane is another Proskauer partner in conflict with his Supreme Court of New York public office position. Where as an ethics professor with national recognition, former New York Bar President and past Clerk to Chief Judge of New York Supreme Court, Judith Kaye (“Kaye”) there can be no excuse for violations of public office and ethics violations. Krane is currently under investigation, caught in a conflict of interest and abuse of public office that has caused complaints against Wheeler’s partners, Rubenstein, and Krane to be transferred by five Justices of The New York Supreme Court Appellate Division: First Department. Orders have been issued for immediate “investigation” by these five Justices, in ordering the complaints of Krane, Joao and Rubenstein to be moved outside of the conflicts at the First Department. The Justices in New York ruled to move them to the Supreme Court of

New York Appellate Division: Second Department Departmental Disciplinary Committee (“Second Department”) where they await investigation.

16. That these abuses of the New York Supreme Court with planted and conflicted Proskauer partners at state bar agencies is similar to what has happened at Bar, all in an effort to quash the complaints against Wheeler, Rubenstein, Joao and Krane through the abuse of Supreme Court public office positions. Petitioners in Petition were unaware at the time that such conflicts now elevate to Kaye, who recent information has it is married to Proskauer partner Stephen R. Kaye (“S. Kaye”). Wherein, through the Proskauer stock (2.5%) owned in Iviewit, Kaye has a vested interest in her husband’s share of the stock. Further, since Proskauer partners, including her husband, are the ones accused of stealing such intellectual properties, and where her husband is now partner in the newly formed Proskauer intellectual property group, a group that derives income from patent pools maintained by and profiting Proskauer from the misuse of Petitioners’ technologies, the appearance of impropriety is overwhelming. Kaye stands to benefit from such stolen intellectual properties that without doubt, conflict with Petitioners and the shareholders of Iviewit’s positions. Where Kaye has a vested interest in not seeing her husband and all Proskauer partners lose the profits from the stolen technologies created through anti-competitive patent pools that Proskauer and the Kaye’s have vested interests in, therefore Kaye and the entire judicial system of New York that Kaye oversights appear to have conflict. That the complaints against Krane, Rubenstein and Joao have been railroaded instead of elevated beyond the conflict is not surprising, since to elevate out of the conflict, New York should reclude itself entirely from the matters.

Again by failure to respond or assert a defense, admission through default, where relief should be immediate for failure to respond.

17. That most bothersome, although all members of the First Department knew of these conflicted parties relationships, not one person in the entire First Department noticed Petitioners of such glaring conflict over the two years of the complaints. Nor did anyone mention that Krane was responding as counsel for Rubenstein and pro-se for himself, while he simultaneously held positions at the First Department, until Clerk of the Court, Catherine O'Hagan Wolfe ("Wolfe") exposed the conflict. Where everyone, at every level of review, knew of this incestuous relationship between Kaye and S. Kaye and Krane, her stock interest in Iviewit, her interest in the intellectual properties, her interest in keeping her husband and his partners from fair and impartial review of the conflicts they were caught in, and no one said a word. Where it appears the New York courts are incapable of moving the matters entirely out of the reach of the conflicts that emanate to highest levels of the New York courts. Where the Kaye's and Krane's conflicts give the appearance of impropriety and further evidence how due process has again been skirted through manipulation of the legal system, preventing constitutionally protected fair and impartial due process and precluding inventors from their constitutionally protected rights. Further, The New York Supreme Court through its subdivision disciplinary agencies appears to have aided and abetted Proskauer, to further perpetrate the crimes through covering-up. Such cover-up now veiled in judicial robes, with undisclosed conflicts that penetrate to Kaye who has vested interest opposite Petitioners. Wherein Bar, nor any other accused in the Petition, including but not limited to Proskauer, Wheeler, Triggs, Krane, Rubenstein, Joy A.

Bartmon (“Bartmon”), Kelly Overstreet Johnson (“Johnson”) President of Bar, Boggs, Turner, Hoffman or Joao even dares attempt to provide a response to This Court, even Amicus Curie, to explain or defend their positions and the allegations against them. Does the New York situation sound familiar to the set of circumstances unfolding here in Florida, now emanating to the executive offices, Johnson, of Bar, absolutely!

18. Failure to respond with defenses to the alleged conflicts of Bar members, should cause This Court to take immediate actions to remove all conflicted individuals from these proceedings. Further, This Court should take corrective actions immediately to preserve constitutionally protected due process and inventors’ rights to their inventions by mandating the filing of all secondary complaints.

19. That, as in Exhibit F - Triggs Complaint, of the Petition, mention is made of;

- i. “Triggs was planted to spearhead the diversion of any complaints filed in This Court, and further evidence that through Wheeler’s brother, James Wheeler (“J. Wheeler”), a partner at Broad and Cassel, there may be further evidence of such planted individuals reaching the Executive offices of Bar...” Where Bar, Wheeler, J. Wheeler and Johnson assert no defense to these factual allegations of ethical misconduct, conflict of interests, appearances of impropriety, abuse of public offices by Proskauer, Triggs, Bar and Broad & Cassel partners in the Response, is cause for immediate relief by This Court.
- ii. “Complainant cites that what motivated Triggs was that Triggs had obvious personal interest in the outcome of both proceedings [Wheeler Complaint and the billing dispute case] which would bias him towards Complainant and give

him access to Complainant private and confidential case files and Complaint cites...” Where Bar and Triggs provides no defense to this factual allegation of ethical misconduct, conflict of interest, appearance of impropriety, abuse of public office in the Response.

- iii. “That Proskauer must no longer represent themselves individually or as the firm Proskauer, in any further Iviewit matters and must be compelled by This Court and Bar to seek third-party independent counsel from this point forward.” Where Bar provides no defense to this request for unbiased counsel, This Court should grant Petitioners request.
- iv. “[C]onflict may have permeated even to the offices of the recently elected President of Bar, Kelly Overstreet Johnson, whereby at her private practice law firm, Broad & Cassel, she is directly oversighted by James Wheeler who acts on the firm's Executive Committee and further as Chairman of the Firm's New Partner Committee. James Wheeler, who is brother of Wheeler of the Wheeler Complaint...” Where Bar, Johnson, J. Wheeler, etc. provide no defense to this factual allegation of ethical misconduct, conflict of interest, appearance of impropriety, abuse of public office by Broad and Cassel partners and Bar President Johnson in the Response. Failure to respond should be cause for immediate relief by This Court.
- v. “Finally, this is an action against a Member Triggs and further notice to This Court of a complaint filed against Turner, and as such the Bylaws of the Bar mandate that it is cause for reporting to the carrier, whom must be noticed of these actions against Triggs and now Turner, as such insurance disclosure is

called for. 64. That such claim should be filed immediately on behalf of the Iviewit shareholders and further file the matters contained in this complaint to any other insurance carrier or insurance fund who may have additionally have liability, such as the client security fund.” Where Bar provides no defense to this factual allegation and refuses to acknowledge if they have complied with state insurance regulatory laws in reporting the Seventeen Billion Dollar (\$17,000,000,000.00) liability, as reserves must be met and proper reporting is mandated for the coverage provided in the Bylaws of Bar. Wherein, Bar provides no response to this factual allegation of ethical misconduct, conflict of interest, appearance of impropriety, abuse of public office, possible insurance fraud and concealment of potential claims from insurers in the Response. Again, failure to respond or assert defense should be cause for immediate relief from This Court and filing of a claim on behalf of Iviewit with Bar insurance policies and the client security fund.

- vi. “That Bar appears to have potential liability for all of the following, including but not limited to [i to ix],” wherein Bar provides no defense to these factual allegations in the Response and where relief should be immediate for failure to respond to This Court’s order for a response to the Petition.

20. That as in every instance not herein mentioned contained in the original Petition to This Court, that Bar has failed to respond to or assert a defense, Petitioners state that Bar has defaulted on each and every one of these issues with no defense to the allegations. All such other matters contained in the Petition where response was due by order of This Court, and none was asserted are taken to be no longer objectionable by Bar

members. That This Court should grant all relief within its power to Petitioners as requested in the Petition and other relief that This Court deems just and fitting to secure constitutionally protected inventor rights and ensure due process going forward.

21. That as stated in the Petition, the conflict of interest and abuse of public office by Triggs, acknowledged by Boggs, gives the appearances of impropriety and that all other matters alleged within the Petition have denied Petitioners due process and loss of constitutionally protected intellectual property rights. All allegations were left unaddressed by Bar in the Response and no defense asserted where explanation was proffered, therefore, immediate relief should be granted by This Court to ensure due process and protect inventors constitutionally protected rights to their inventions.

22. That as stated in the Petition, the conflict of interest caused by Triggs responding as counsel for his partner Wheeler and other Triggs conflicts stemming from Triggs' public office position, was also not addressed in the Response.

23. Bar Rules state that Triggs may not respond on behalf of anyone for one year after service on a Committee and the Petition asserts that this violation by Triggs of the Rules was cause for an entire review of the Wheeler Complaint, not addressed in the Response.

24. That the Petition states that subsequent charges against both Triggs and Wheeler should be filed for knowingly violating Bar Rules and Rules, yet again, the Response does not address this assertion.

25. That the Petition states conflicts of Triggs occur in a multiplicity of ways as outlined in detail in the complaint filed against in the Triggs Complaint attached to the Petition. Where Triggs is representing a party while in a blackout period and proceeds

without express consent of the Bar Board, approval of which Triggs failed to seek, causing an appearance of impropriety that taints and influences the Wheeler Complaint rendering all reviews null and void, was again not addressed in the Response.

26. That the Petition states conflicts by Triggs, allowed access to private government Bar files and caused further loss of due process to Petitioners and further violations of the Bar Rules, again not addressed in the Response.

27. That the Petition states conflicts by Triggs in that he simultaneously represents his firm, Proskauer in a private civil litigation against Iviewit, while responding to the Wheeler Complaint, again not addressed in the Response.

28. That the Petition states that members of Bar were involved directly and knowingly in the nexus of events, evidenced by their aiding and abetting Wheeler from confronting the evidence submitted against him in the Wheeler Complaint. These alleged actions are all in violation of the Bar Rules, Rules and criminal codes that deny Petitioners due process and have caused loss of constitutionally protected inventor rights to their intellectual properties, yet again, not addressed in the Bar Response.

29. That Bar in the Response illustrates the inability of Bar to demonstrate that all reviews were not tainted by the conflicted response on behalf of Wheeler by Triggs (“Triggs Response”), Bar fails to assert a defense in the Response.

30. That as stated in the Petition, even after notification of such conflicts, Bar fails to follow proper procedure in this matter. Procedure would have it that Bar administer discipline to Triggs and Wheeler under the Bar Rules for conflicts and abuse of public office. That the conflicts and abuse of public office would be cause to re-examine the Wheeler Complaint in light of the conflict, discarding the prior tainted

responses and opening an immediate investigation into the conflict, the entire Wheeler complaint and all subsequent complaints filed by Petitioners, again not addressed in the Response.

31. That the Petition requests that the re-examination process be conducted by a disinterested third-party oversight, not addressed in the Response.

32. That the Petition states that Bar should have sought outside counsel to represent them in filing the Response, as they are named participants in the conflicts, and where outside counsel would have prevented the Response from continuing the subterfuge. The Response is mired in conflict due to Turner, a named Respondent, tendering the Response in conflict to This Court where outside counsel would have removed Turner from the proceedings instead of allowing the conflicts to continue.

33. That in responding to Petitioners' petition, Bar presents a distorted view of the issues by submitting only their final response letters but not any Bar work product (as none could exist that would not reveal the conflicts). The Bar further conceals the facts that no investigation and no analysis were undertaken by Bar. The Petition requested Bar to submit all of their materials for review by This Court, as a way to expose the subterfuge contained in their reviews, as the materials would then contain both sides of the story exposing the Bar's failure in review to do anything more than continue the subterfuge. Whereby such failure to respond with full disclosure of the materials again appears in violation of This Courts order to respond to the Petition.

34. That Bars conduct and actions are presumed to be done intentionally to cover up Bars' tracks and that the conclusion was forgone and the controlling individuals at Bar are part and parcel of the "team" and "scheme" to deprive Petitioners' of the

technologies and their constitutional rights. Also compelling is Bar's implicit intent to obstruct justice demonstrated by Bars repeated attempts to destroy Bar files prior to This Court, or other investigatory bodies having a chance to review such files and prior to such time as is mandated by law, and their own rules, as to which to the Bar feigns ignorance.

35. That as stated in the Petition, without such files, This Courts review of the matters could not be addressed with fair and impartial due process. Therefore, This Court must preserve or cause Bar and all aforementioned entities and individuals to preserve all evidence and provide This Court and Petitioners with the entire file and all other requested information as stated in the Petition. Failure to comply with the production of the entire file further constitutes a failure to respond substantively to the This Courts order. Principles of fair play and substantive due process would require Bar to present the requested materials or have This Court rule in favor of Petitioners. The documents should have been all inclusive.

36. That Turner authors the Response, identified as a conflicted party in the Petition yet both Bar and Turner fail to respond to Petitioners allegations of conflicts of interest that would have precluded Turner from further involvement. Certainly, Turner cannot be reviewing the matters in the Petition that specifically deal with the Turner Complaint were this would prejudice the Response.

37. That Petition alleged that Bar members acted as conspirators in the cover-up of the crimes alleged in the Wheeler Complaint, including but not limited to, crimes of fraud on the United States Patent & Trademark Office ("USPTO") and crimes against the federally backed Small Business Administration ("SBA"). The Bar asserted no defense of a conspiratorial role by certain members.

38. That This Court should be skeptical that Bar, cognizant of the conflict with Turner and that he is a named Respondent in the Petition, should know the old adage “only a fool represents himself in court.” Where such self-representation is understandable in Petitioners’ case where they come *In Forma Pauperis* due to financial losses directly caused by the many crimes committed against them by the legal community. Yet Petitioners ask themselves what is Bar’s rationale for self-representation in light of the nature of the charges against them (e.g. conflicts of interests and abuse of public office) and having an unlimited number of disinterested lawyers registered with the Bar to choose from that are free of conflict. That Petitioners request that due to the potential for further appearances of impropriety and conflicts of interest in responses tendered by Bar, that This Court prohibit Bar from self-representation in these matters.

39. That where the court docket SC04-1078 initially reflected a false author of the Response, Boggs, and whereupon request by Petitioners, the docket has now changed to properly reflect that Turner, is in fact, the author of the Response, a sophomoric attempt to disguise the continuing conflicts and bias.

40. That Bar attempted to treat the Turner Complaint as not a bar complaint, although Petitioners filed a formal bar complaint under Bar Rules. This refusal to docket or file the Turner Complaint, a denial of due process. Boggs instead considered the Turner Complaint an internal employee investigation in an attempt to avoid the ongoing conflict of interest issues. Where it is unclear if Boggs followed any procedural guidelines in making his determination and if a formal internal affair employee misconduct charge was opened or if Boggs threw it under the rug.

41. That Response is fraught with misleading statements, attempting to state that Petitioners were using Bar to pursue a civil action, rather than to review and investigate the unethical conduct cited against Wheeler. Ironically, no civil action has been filed by Petitioners (although Bar repeatedly tries to avoid their duties citing such non-existent civil cases), and yet the Response suggests that Bar review led them to conclude that civil exposure existed from the attorney misconduct.

42. A few examples of the Rules violated and cited by code in the Wheeler Complaint, explained in detail in the rebuttals and where review after review fails to address them are, including but no limited to; Rule Violation(s) 4 -1.1, 4-1.3, 4-1.4, 4-1.4, 4-1.6, 4-1.7, 4-1.8, 4-1.10 as cited in the original complaint. The following paragraphs from the original complaint, show the Rules alleged violated with explanation:

- malfeasances with Mr. Utley's former employer Diamond Turf products. Mr. Dick subsequently aided and abetted Mr. Utley in writing patents into his own name of the Company's technologies, without assignment to the Company, sent to his home address and filed fraudulently with the US Patent and Trademark office.
12. Mr. Wheeler transacted stock to Tiedemann/Prolow, another referral friend of Mr. Wheeler, without proper documentation, nor Board approval.
 13. Knowing and willful destruction of Company records
 14. Failure to file Copyrights on behalf of I View It when billed for such
 15. Failing to list proper inventors of the technologies on the patents, and thereby submitting false and fraudulent patents to the US Patent and Trademark office based on improper legal advise by Wheeler that foreign inventors could not be listed until their immigration status was adjusted leading to further erroneous billings by Proskauer Rose for frivolous immigration work. This resulted in the failure of the patents to include their rightful and lawful inventors; and,
 16. Violation 4-1.1 - Lack of competence in all matters pertaining to patent and copyrights, in some instances outright lack of filing documents that were billed for
 17. Violation 4-1.3 - Lack of diligence in representing the Company - Failure to file copyrights and failure to secure protection for patents
 18. Violation 4-1.4 - Failure to communicate with Company to the detriment of the Company, and in certain instances communication of false materials to the Company. Submission of executive resumes with knowingly false information for MR. Brian Utley a close personal friend of Mr. Wheeler. Failure to communicate proper information regarding attorney's handling patents for Company.
 19. Violation 4-1.4 - Withholding of information to the detriment of the Company, examples would be failure to secure Copyright protection and adequate patents based on withholding either partial or entire pertinent information from both client company and the United States Patent and Trademark Offices
 20. Violation 4-1.6 - Violated Company Confidentiality of Information in multiple instances for the benefit of his firm and his firm clients and patent pools overseen by firm.
 21. Violation 4-1.7 - Violated Company in multiple conflicts of Interest between Company and firm clients and firm patent pools overseen by firm
 22. Violations of RULE 4-1.8 - CONFLICT OF INTEREST; PROHIBITED AND OTHER TRANSACTIONS - Accepted Company stock for his firm knowing of potential conflicts that were never revealed to the Company
 23. Violations of RULE 4-1.10 - IMPUTED DISQUALIFICATION - Quit working for Company because he was being investigated by Company in several of the above allegations and then filed frivolous lawsuit against the Company in an attempt to claim a large claim against the Company holding the patents when he has no billing records to pursue such actions against these companies
 24. Lastly, the negligent actions of Wheeler and Proskauer resulted in and were the proximate cause of loss to the Company; true copies of exhibits and witnesses are available on request and/or I will, on behalf of the Company, presented them

43. That Bar has erroneously suggested in the Response that Petitioners have used Bar to further civil disputes, when in fact Petitioners have never filed any civil suit against Wheeler/Proskauer; and in the civil dispute against Iviewit filed by Proskauer, none of the issues contained in the Wheeler Complaint were heard or allowed by the civil court. In fact, the civil case was final when Iviewit requested Bar, at Bar's request, to re-open the file for review after the conclusion of the wholly **non-relevant** civil case. That Bar as stated in the Petition, by delaying review of the Wheeler Complaint for months, citing the civil dispute as an excuse, knowing that this diversion aided and abetted Wheeler and others in remaining cloaked from legal sanctions, followed a course that denied Petitioners due process and led in part to further loss of constitutionally protected inventor rights. That This Court in lieu of a defense by Bar of such allegations should grant all relief necessary to Petitioners to secure inventors constitutional rights and rights to due process.

44. Months of delay caused inventors to lose constitutionally protected rights to their intellectual properties, under Article 1, Section 8, Clause 8, and further, had due process (i.e. disbarment or reporting of alleged attorney crimes to proper tribunals) been applied, such actions might have prevented such losses, and, prevented additional individuals and institutions from becoming involved in the attempted cover-up of such alleged crimes. Bars failure to respond to the allegation that the delays in investigating the bar complaints caused loss of constitutionally protected inventor rights is an admission of damages caused to Petitioners by Bar members and employees who acted in a conspiratorial role. No longer, does this appear a potential or contingent liability where failure by Bar to assert a defense to This Court makes these claims a liability.

45. That Bar attempts to respond to This Court as if each reviewer had reviewed the matters in entirety and whereby the Response exposes that certain letters of review were never sent to Petitioners and names of such reviewers were concealed from Petitioners, as in the case of reviews by Bartmon and Jerald S. Beer (“Beer”). Instead, of letters from the reviewers, Petitioners received letters from Turner with his unintelligible interpretations of Bartmon’s (the “chair”) memorandum and Beer’s review. The following letter best illustrates this point, as shown below, whereby due to the incomplete sentence structure one cannot understand the meaning of the letter.



THE FLORIDA BAR

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EXECUTIVE DIRECTOR

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May 21, 2004

PERSONAL/FOR ADDRESSEE ONLY

Eliot I. Bernstein
Ivewit Holdings, Inc.
10158 Stonehenge Circle, Suite 801
Boynton Beach, FL 33437

Incomplete sentence, who is the committee chair and why lower case as in a wooden chair of the committee. Who is the chair and since it not defined or capitalized is it again a chair or the Chair.

RE: Complaint against Christopher Wheeler
The Florida Bar File No. 2003-51,109(15C)

Who found the prior claims of unethical conduct not unethical, Wheeler or the chair??? What does sentence mean and either way it is read it makes no sense.

Dear Mr. Bernstein:

Why is he in a hurry to destroy the file especially after notification of the new events uncovered at the patent office and the other crimes we have been notifying Turner of??

I am writing to advise you the review by the committee chair. The chair found there was no conflict of interest and Mr. Wheeler's firm did not agree to handle your patent work. Further, the chair found the referral to other counsel for patent work, without disclosing his prior claims of unethical conduct, was not unethical.

→ This file remains closed. It will be destroyed in accordance with our records policy on July 1, 2004.

Does he mean with our or without records policy

Sincerely yours,

Eric Montel Turner
Chief Branch Discipline Counsel

Where is Joy Bartmon signature or carbon copy to her. No one is copied. Turner stated that the chair would reply directly and then he sends this. According to Flabar Rules and procedure this is not a proper review by a Grievance Committee Chair.

EMT/es

G:\CBDC REVIEW\cbdc chair review\berstein wheeler close.wpd

46. That in addition, the July 1st 2004 record destruction seems odd, since it appears that less than a month from Bartmon's letter, and with further review by the Board of Governors available, that Turner is attempting violation of record retention rules

which claim one year after final disposition according to Bar. That the Judicial Branch Records Retention Schedule for Administrative Records, that Bar cites in the Response as their reason to request This Court destroy the file, clearly states in the General Applications section that “The retention period should be calculated from the time that the record is completed.” This indicates that with full knowledge of the record retention rules and knowledge of the final determination resting with the Board of Governors, that Bar has been attempting to destroy such file in violation of the record retention rules which would make the earliest destruction one year from completion. Since final review, according to the Response, as exhibited in Beer’s review in the Response Exhibit E, does not occur until June of 2004, any attempt at destruction before June of 2005, which Petitioners will prove herein should actually be June of 2009, is a violation of the record retention rules. Petitioners state that Bar members, fully knowledgeable of the record retention rules, in an attempt to obstruct justice, a felony, did such violations with intent to cover up their involvement in aiding and abetting Wheeler. That further, in the Judicial Branch Records Retention Schedule that Turner refers to, it states the following in regard to Disciplinary Case Files;

DISCIPLINARY CASE FILES

This record series consists of both sustained formal or informal disciplinary cases investigated that allege employee misconduct or violations of department regulations and orders, and state/federal statutes.

Retention: 5 years.

Where the Wheeler Complaint file consists of "...formal disciplinary cases investigated that allege...violations of department regulations and orders, and state/federal statutes." and therefore the file destruction should not occur for a period of not less than five years. This would put the date of destruction at earliest June of 2009.

47. That further, the Turner Complaint file consists of "...formal or informal disciplinary cases investigated that allege employee misconduct [as Boggs refers to the Turner Complaint] or violations of department regulations and orders, and state/federal statutes." Therefore, the Turner Complaint file destruction should not occur for a period of not less than five years and where the entirety of the Wheeler Complaint is necessary to review the Turner Complaint. Where further, Bar was requested to add the Wheeler Complaint as an exhibit in the Turner Complaint, This Court should find that both the Wheeler Complaint and Turner Complaint files should remain secured for a minimum five years.

48. That the Petition requests a twenty-year hold on the files, as they are pertinent to patent pending applications and may prove essential in securing inventors constitutionally protected rights. This Court should see that no matter how one interprets the record retention rules, even using the Bars equation, that destruction of the Wheeler Complaint should not have taken place at the time Bar makes such attempt in July and August of 2004. Perhaps, the reason Bar is willing to destroy files against the rules, is to cover up their involvement and prevent review of the work product mired in violations of the Bar Rules and attempt violation of record retention rules to hide such conflicts and abuses of public offices.

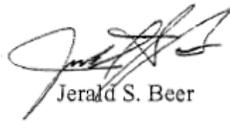
49. That this type of biased and flawed review is perpetuated in the review letter from Beer contained in the Response to This Court, in the review for the Board of Governors. Beer freely admits that his response was based on an incomplete review of unknown documents submitted to him for review by Bar, as illustrated in his statement from the review below.

Eric Montel Turner, Esq.
June 9, 2004
Page 2

In conclusion, I concur with the results previously reached. If there is information that I have somehow misperceived and you feel that I need to review the entire file, please let me know.

Best regards.

Sincerely,



Jerald S. Beer

Certainly, had Beer been informed of or presented with such evidence as the Triggs conflicts or evidence against Wheeler, it would have necessitated a complete review of the entire file.

50. That the Bartmon memorandum, in substitution of a formal review, appears to make baseless conclusions in favor of Wheeler, again opposite Bar Rules. Further, Turner paraphrases the inaccurate memorandum from Bartmon, further compounding the unintelligible conclusions of Bartmon, again supported by no facts or review of the facts. In fact, Bartmon refuses to re-review the file, even after Triggs' conflicts were exposed to her. Where Bartmon's memorandum to Hoffman in substitution of a formal review reeks of further possible violations of Bar Rules.

51. That the Petition states that so obvious is the conflict of Johnson, that she later recluses herself from the matters but only after the conflicts of Triggs were exposed and related to her. Only after receiving months of highly confidential files of Petitioners without disclosure -- submissions that contained private and confidential evidence against Wheeler. The Petition further states that months of emails sent to Johnson may have been forwarded to J. Wheeler for further transfer to Wheeler, further causing conflict and the appearance of impropriety. This factual allegation of conflict is left unaddressed by Bar or Johnson, without defense, in the Response.

52. That conflicts and access to private files continues to expose Petitioners' private government files to conflict, as Wheeler or J. Wheeler may still have access to such correspondence marked private and confidential through any of the named conflicted individuals that as yet have not been removed from further involvement in these matters. Petitioner request that This Court require each conflicted individual to reclude themselves of these matters to prevent further the appearance of impropriety and preclude further the potential for private files to be at risk, obviously, Bar members in control will not do so on their own.

53. That Bar attempts to mislead This Court again in the Response, as Bar again claims that Petitioners requested maintenance of Bar files for future civil suits. When in fact, the email attached by Kenneth Marvin ("Marvin"), as a Bar exhibit in the Response to This Court, proves contradictory to Turner's claims in the Response that the request was made so Petitioners could file future civil cases. Marvin's email states that the request to retain the files was so that investigatory bodies investigating these matters, including the new criminal allegations of conflicts and abuses of Bar offices, would have

the evidence to review the allegations. Marvin's email states that Bar does not care about other investigatory bodies and is moving ahead with the destruction of the files. Finally, that the destruction of Bar files cited in the Marvin email is in violation of the record retention rules and thus constitutes another attempt of obstruction of justice and as such should demand relief by This Court.

54. That additionally, Petitioners apprised Marvin of the current patent office investigations into several of the same attorneys named in the Wheeler Complaint, that have led to suspension of the patents pending, pending investigation into attorney misconduct at the USPTO. That Bar was noticed that charges of fraud on the USPTO were levied by Iviewit and Crossbow Ventures (the largest investor) with the Commissioner of Patents and are pending investigation, and, that evidence contained in Bar file could prove invaluable to such investigations into already lost constitutionally protected inventor rights caused by former counsel.

55. Where the file is critical to ongoing investigations and complaints of conflicts in violation of public offices, that such file-pruning rule as cited by Bar would have absolutely no bearing on instances where such file destruction could cause obstruction of justice and loss of constitutionally protected inventor rights and due process rights.

REBUTTAL OF RESPONSE POINT BY POINT

56. That, as in paragraph 1 of the Response, mention is made that Petitioners seek to require Bar to institute disciplinary proceedings against their former attorney, Wheeler. Where this statement is false in that it fails to include disciplinary proceedings against others requested in the Petition. Complaints against Triggs, Turner, Johnson,

Marvin, Boggs, Bartmon and all Florida Proskauer Rose LLP Partners, Associates and Of Counsel. That the Petition requests Bar file such complaints and where Bar fails to assert a defense in the Response, This Court should grant relief to Petitioners and have all subsequent complaints opened by Bar.

57. That, as in paragraph 3 of the Response, Bar states found “insufficient evidence” of misconduct. Where this statement is false and that the case was deferred due to the civil case in which Proskauer had sued Iviewit.com, Inc. (“Proskauer v. Iviewit”). Further, Hoffman’s determination letter states that the matters presented to Bar were sufficiently similar to the matters in Proskauer v. Iviewit and the case would be closed until the end of the civil litigation when Petitioners could re-open the case. From Hoffman’s letter we quote:

Accordingly, the matter you present is a civil dispute which may not be resolved by the intervention of The Florida Bar. This is not to say that The Florida Bar has considered and determined the veracity of Mr. Wheeler's position as to the validity of your specific charges. Rather, because Mr. Wheeler has advanced a viable position, the Bar has deferred its consideration of the matter until a determination has been made, on the merits, by the civil court before which the matter is currently pending.

Based on the foregoing, and absent any basis for further ethical inquiry, I have dismissed your complaint and directed that The Florida Bar's file on this matter be closed. This determination does not preclude you from refiling this matter for further bar consideration, after the civil trial is concluded.

Based on a time technicality the counter-complaint OF Iviewit was never heard or tried by Judge Jorge Labarga (“Labarga”) and thus none of the criminal, civil and ethical misconduct cited in the Wheeler Complaint or the counter-complaint, were being tried or heard by the civil court. The civil case had been limited to allow only billing issues and all misconduct issues were precluded from being entered into the proceedings. This diversionary tactic constitutes knowing intent to bury the Wheeler Complaint, as stated in the Petition, and where Bar failed to put forth a defense in the Response.

58. That Petitioners had hired competent attorneys who filed the counter-complaint after two year's of painstaking research uncovering the conspiracy. Since competent attorneys had reviewed the evidence in support of the counter-complaint allegations, even had Labarga dismissed it based on a technicality, he should have been obligated under Judicial Canons to report the criminal activity. Especially, since the alleged fraud upon the United States Patent and Trademark Office was against the very attorneys involved in the billing case before him, Labarga closed his eyes instead. That Labarga in fact told Iviewit to take the other matters up with criminal authorities and Bar and where this should be cause for This Court to review the Labarga Complaint for Labarga's unethical conduct in violation of the Judicial Canons and failure to report criminal activity of attorney's practicing before him.

59. That such ping-pong game of the parties reviewing the matters left Petitioners with neither the civil court or Bar reviewing any of the ethical misconduct of the attorneys. Both stating the other should review the allegations and where Hoffman's deferment, left Petitioners waiting months for the civil billing case to end, before the ethical misconduct could again be brought before Bar for review. This diversionary tactic constitutes another knowing delay that again cost inventors constitutionally protected rights to their intellectual property, an allegation made in the Petition and which the Response fails to address. That This Court should order all relief for Petitioners in order to preserve constitutionally protected inventor rights and ensure constitutionally protected due process.

60. That Hoffman whether deferring the issues until the billing dispute was final should have notified the proper authorities of possible criminal activity by Wheeler

and all those named in the Wheeler Complaint. Fully apprised of the allegations against the attorneys occurring before any civil case was filed by Proskauer against Iviewit, Hoffman should have reported such allegations to the proper tribunals and law enforcement agencies, and instead, she turned a blind eye. Such failure to report the misconduct or even possible misconduct of the attorneys constitutes further violations of Bar Rules and the Rules, whereby Hoffman is required to report even perceived crimes of attorneys to the proper tribunals and/or law enforcement agencies.

61. That where had such delay and avoidance not existed and proper procedures followed, Bar actions (i.e. disbarment and reporting to proper tribunals the allegations of the heinous crimes alleged), could have prevented Wheeler and others from continuing to use the legal system, or shall we say abuse the legal system, to cause further loss of constitutionally protected inventor rights.

62. That the only explanation that one can ascertain is that these delays were intentional, as Hoffman knew the rules. This strengthens Petitioners position that Bar employees and members were knowingly involved in aiding and abetting Wheeler, and therefore, equally culpable. Whether such aid was due to acceptance of payola or through planted individuals by Proskauer will be determined through a full investigation of the conflicts.

63. That once the civil case concluded, through one of the greatest denials of due process in recent history, a default judgment granted to Proskauer for Iviewit's failure to retain replacement counsel. Labarga then against all procedural court rules, allowed two counselors representing Iviewit to withdraw from the case at the time of trial leaving Petitioner without representation. In a complaint filed against Labarga with the

Judicial Qualifications Commission, Docket #03352 (“Labarga Complaint”) the judicial canons violated were stated, Petitioners request This Court review the Labarga Complaint for evidence of further malfeasance that directly relates to these matters. That Petitioners ask This Court to repeal the civil billing case entirely, as Triggs represented Proskauer against Iviewit as lead counsel and simultaneously was representing Wheeler in the Wheeler Complaint in violation of his public office. That such conflict led to a more disturbing conflict whereby Triggs had access to Iviewit’s private bar files for use in his civil proceedings, together these conflicts should invalidate both cases (the civil billing and The Wheeler Complaint), in which Triggs acted with conflicts.

64. That at such time as the billing case was concluded, Bar was requested by Petitioners to re-examine the Wheeler Complaint, as suggested by Hoffman in her first dismissal letter. At which time Hoffman refused to re-open the matter unbelievably stating;

Finally, should a court of competent jurisdiction make a finding of ethical misconduct against any of the attorneys involved in your civil cases, you are invited and indeed, encouraged, to bring such findings to the immediate attention of The Florida Bar.

This statement is factually incorrect since Hoffman states that she now is not reviewing the Wheeler Complaint citing “civil cases” where no civil case or “cases” existed, where the billing case had ended, and wherefore Hoffman denies Petitioners due process yet again based on baseless conclusions. Whereby through such devious actions in violation of Bar Rules and the Rules, both Labarga and Bar had completely denied Petitioners the right to expose, or bring forth in any forum (Bar or Labarga’s court), the ethical misconduct and crimes of Wheeler and others. All denials of due process that cost the loss of constitutionally protected inventor rights.

65. That, as in paragraph 5 of the Response, Turner claims that a case is not final until the Board of Governors review is completed. That such knowledge of when a case is final, shows that Turner and Bar are knowledgeable of the time of completion of the case file being after review by the Board of Governors. This Court should take disciplinary measures on the Bar members involved, since with full knowledge, they attempted through false and misleading statements, to have This Court further order destruction in violation of the records rules.

66. That, as in paragraph 6 of the Response, mention is made to the review process and at such time that Hoffman concluded her review, Petitioners sought proper procedures to elevate the review and requested Turner to review the matters. That at this next level of review, Turner began a series of letters that seemed to imply biased statements affirming Wheeler's position that Proskauer did no patent work, such opinion is against Bar policy under Bar Rules which prohibit Bar from siding with either party when no investigation has taken place. Yet, this is exactly Turner's course of action, Turner's conclusions favoring Wheeler's position are illustrated in the following conclusion letter of Turner's initial review without investigation;

Dear Mr. Bernstein:

Your request to reopen the investigation against Christopher Wheeler is denied for the following reasons. Your complaint was essentially an action for malpractice. The Florida Bar does not determine civil claims. The violation of any ethical rule does not and should be assumed to demonstrate the violation of any legal duty. Your failure to fully prosecute your civil claim does not require The Florida Bar to otherwise consider your complaint.

The evidence before us indicates your company was represented by patent attorneys from Meltzer, Lippe, Goldstein & Schlissel and Foley and Lardner, not Mr. Wheeler or other Proskauer Rose attorneys, to state your claims to patents for the technology. Mr. Wheeler and his firm may have acted as general counsel, however, the ethical duty imposed upon them did not include filing the patent applications.

This file remains closed.

Turner obviously did not review the evidence presented, which showed, including but not limited to:

- i. that Proskauer not only did the patent work but was retained patent counsel,
- ii. where Proskauer patent attorney Kenneth Rubenstein was an Advisor to the Board and retained patent counsel,
- iii. where Wheeler pens an opinion letter regarding the Iviewit technologies based on Proskauer's patent counsel's review of the patents stating that the technologies were novel and superior to anything Proskauer had ever seen,
- iv. where such Wheeler opinion letter on behalf of Rubenstein and the Proskauer patent department was used to secure funding from investors,
- v. where Proskauer billings for patent work was submitted to Bar with Rubenstein's name contained throughout a three year period,
- vi. where evidence is submitted that shows Wheeler sending entire patent portfolios of Iviewit patents to Rubenstein,
- vii. where sworn witness statements from investors state that Rubenstein and Proskauer's opinion was the major factor in their decision to invest,
- viii. where a Wachovia Private Placement Memorandum ("PPM") which was reviewed, co-authored, disseminated and billed for by Proskauer states that Proskauer and Rubenstein are retained patent counsel and that Rubenstein is "Iviewit patent counsel",
- ix. where evidence submitted shows that Rubenstein is receiving invention disclosures from inventors and Wheeler, and,

- x. where letters from Warner Bros. senior advanced technology employees in charge of the Iviewit relationship state that they spoke to Rubenstein who opined favorably on the technologies.

67. That upon receiving Turner's biased and baseless opinion, Petitioners responded immediately and challenged the ability of Turner to make conclusions in favor of Wheeler's position without formal investigation into the claims and the mounds of evidence submitted to Turner, in diametric opposition to his opinion in favor of Wheeler's position. Evidence that contradicted Turner and Wheeler's statements that Proskauer did no patent work were presented to Turner, illustrated in Exhibit "A" – [Letter to Turner](#).

68. That upon request for a further review of the Wheeler Complaint and to request a retraction of Turner's opinion in favor of Wheeler, Turner told Petitioners there was no further review process after his review. Turner stated that the case was closed and that Petitioners could NOT have any files back, as illustrated in numerous communications between Bar and Turner, that Bar has failed to produce in Response to Petition requests. No defense to the assertion that Turner's opinion was biased and inapposite the Bar Rules was in the Response and therefore taken as a default admission.

69. That Marvin, who Petitioners spoke to at Bar headquarters and whom a copy of the original Wheeler Complaint had been initially sent, then apprised Petitioners that there were several levels of review that Turner should have advised Petitioners of, and, to contact Turner with such requests to move the complaint to the next highest level of review. Bar should have removed Turner from these matters at this point, for giving out false information regarding the review process and hoping to steer Petitioners from

further review. That failure to advise Petitioners of the proper review process contradicts Turner's admitted knowledge of the review process that he now states in the Response to This Court. This knowledge of the review process shows that Turner was fully aware of the procedural review steps and lied to Petitioners in an intentional effort to have Petitioners give up the Wheeler Complaint based on false and misleading information that he was the final reviewer and then rush to file destruction before proper record retention procedures would allow. Bar and Turner assert no defense in the Response to these allegations.

70. That the misstatements of Turner are further illustrated in Turner's letters attempting to clarify the false and misleading statements he was caught telling Petitioners regarding the review process, illustrated in Exhibit "B" and Exhibit "C" [Turner Letter – Turner Letter 2](#). These letters show that Turner stated the Chair would be corresponding directly with Petitioners, which never has happened with regard to the Bartmon and Beer reviews. These exhibits also show that Turner cites some public policy issue for refusing copies of the Bar files at that point.

71. As for the Response stating that the complaint was of malpractice, this again is false and misleading, as the Wheeler Complaint complained of ethical misconduct and cited each rule of the Bar Rules and Rules violated. That Bar ignored all such ethics violations cited, in all reviews, and instead attempted to claim a "malpractice" or "civil case" had been asserted for them to review, this is another attempt by Bar to wiggle out of their duties. This new claim of malpractice being asserted, another way for Bar to skirt investigation and again a clever attempt to bury the Wheeler Complaint without due process. When in fact, repeatedly Petitioners told Bar in the rebuttals and

correspondence that ethical misconduct only was to be investigated by Bar and that any civil, criminal or non-ethical issue was added as evidence in support of the ethics violations.

72. That Turner was also noticed that the statements he advanced regarding the Wheeler Complaint were being advanced with false and misleading statements of Bar's conclusions to other tribunals such as Vbar and First Department. Where Turner was obligated under Bar Rules once notified of such conduct unbecoming an attorney, such as presenting false Bar conclusions to a tribunal, to notify the tribunals, the Vbar and First Department, of the misinformation provided by Dick, Rubenstein and Krane. Failure to report the misconduct of another attorney a violation of Bar Rules and the Rules and where Bar asserts no defense, This Court should grant immediate relief to Petitioners and begin prosecution of Turner and others for Bar Rules and Rules violations.

73. That what appears a violation of the Bar Rules is that Turner's unintelligible interpretation of the Bartmon memorandum, fails to copy any required parties, as required by the Bar Rules.

74. That Petitioners have been requesting proof of delivery to all necessary parties and proof that Bartmon ever reviewed such file, through a series of letters, emails and facsimile to all members of Bar named in the Petition. Simple requests for explanations, that have been ignored entirely, denying due process and proper procedure to Petitioners/Complainant and inapposite the Bar Rules which state that an explanation of the review decision is to be tendered to Complainant and where certainly such rule does not mean unintelligible letters may act as explanations.

75. That, as in paragraph 8 of the Response, mention is made to “Tyson v. Bar, 826 So.2d565 (Fla. 2003) and that the complaining witness can not demand The Bar file charges.” That this claim is false and misleading as Petitioners have not demanded that Bar file charges, but instead demanded Bar re-review the Wheeler Complaint due to the conflicts and void of further conflicts. Due process and proper procedure are all that have ever been requested.

76. That Petition requested that the conflicted response from Triggs, mainly an attack on inventor Bernstein, a veiled attempt to hide the failure to address any of the evidence or witness statements put forth in Petitioners’ rebuttal, be stricken from the record. Further, that the Triggs response tendered in violation of public office rules should be cause for immediate investigation for violations of ethical and perhaps criminal behavior. Where Bar and Triggs assert no defense to these factual allegations, This Court should grant relief to Petitioners.

77. That Petitioners upon finding the conflicts, requested Bar to file formal complaints filed by Petitioners, against Triggs and Wheeler for such conflicts, and whereby opposite Bar Rules, Bar did absolutely nothing. That Petition states that Bar failed to follow procedural rules and file the Triggs Complaint and Wheeler Complaint 2 properly, or docket them properly, and where no defense was asserted in the Response. Such failure by Bar to defend the allegations is cause for This Court to demand immediate filing and docketing, fair and impartial due process, as The Constitution and law would have it. Due to the denial of proper procedure, neither Triggs nor Turner has been compelled to put forth an answer to complaints filed against them and This Court

should consider failure to assert a defense in the Response as failure to assert a defense to the complaints.

78. That the statements in rebuttal to paragraph 8 are again a “best guess” by Petitioners due to lack of proper grammatical etiquette. The paragraph starts with a mention to “This court” and where the lowercase “court” seems to address This Court or this Court improperly, and where it leaves Petitioners unclear as to which “This court” references. As the confusion and lack of purpose make this paragraph useless, it should be stricken as non-responsive and failure to follow This Court’s decorum in properly addressing This Court by Bar should be cause to dismiss the entire Response.

79. That, as in paragraph 9 of the Response, mention is made of “petitioners requested the Bar to review their civil lawsuit.” That this is false and misleading, as illustrated in the statement by Lamont to Bar;

In closing, Ms. Hoffman, and contrary to the contradictions and feints of Respondent, it should be apparent that by filing this Complaint and the Motion of Exhibit T, a motion of which stems from that certain Litigation that is still wholly irrelevant to the Complaint, but is instructive for purposes of the Company’s Complaint, the Company, nor Mr. Bernstein, nor myself were acting unilaterally, but on the advice of competent counsel in the State of Florida and his associate Ms. Rogers who have levied these charges against Respondent, the ferocious attack on Mr. Bernstein is a not so well concealed attempt to ignore and deny some very damning facts, facts of which competent and licensed attorneys, who have reviewed the case and the evidence, have urged the filing of this Complaint. Moreover, it is the fiduciary responsibility of the Company and its officers and directors to call upon additional investigatory bodies to protect the Company and its stakeholders.

80. That the Response states, “...petitioners requested the Bar to review their civil lawsuit as they did not have funds for an attorney to press their claim.” What civil lawsuit is Turner referring to that Petitioners asked Bar to review when Petitioners, Lamont and Bernstein, have no civil lawsuit personally, nor have ever had such lawsuit in these matters. Where Iviewit is not a Petitioner in these matters, and further, at the time

the statement was written, the billing civil case had ended. Again, the civil case was wholly dissimilar to the Wheeler Complaint and despite Turner's claims, Iviewit had two counselors to press their claims and therefore had no need for Bar to replace the work of multiple counselors or review the work of counsel. Turner fails to provide any evidence of this false claim in his Response and again twists the facts to This Court, as there was no civil case that Petitioners or Iviewit were unable to pay for legal counsel for.

81. That for illustrative purposes, so This Court may understand the intent of Petitioners, ethical misconduct was cited against Wheeler in the Wheeler Complaint, wherein Wheeler aided and abetted the misappropriation and conversion of funds from Iviewit. Such misappropriation and conversion had incomplete transactional documents for loans secured by Wheeler/Proskauer, from a referral of Wheelers. The crime had elements of ethical misconduct regulated by Bar and were cited as such violations of the Rules. Whereby such incomplete transactional documents violated a number of ethical misconducts by Wheeler and Proskauer and to date incomplete documentation exists and the accounting is non-existent. Once such loans were transacted, without Iviewit Board or investor approval, employee witness statements state that Wheeler\Proskauer referred management, Michael Reale, and on information and belief, Utley, had stolen corporate funds in briefcase of cash and further attempted to bribe employees to aid and abet in stealing highly proprietary computers, patent pending processes and trade secrets. Such stolen funds included monies received through Crossbow Ventures for investment in Iviewit, obtained through the federally backed Small Business Administration ("SBA"). Evidence that was submitted to the SBA by Utley for due diligence requested by the SBA, includes a request for management and board members and for compliance the

management and Board sections sent were from the Wachovia PPM, showing Rubenstein as “Iviewit patent counsel” and listed as a member of the Iviewit Advisory Board. Both Utley and Rubenstein under direct deposition now state that Rubenstein was not patent counsel and that he was never on an advisory board member contradicting the information Utley transmitted in response to SBA loan request materials. This makes either the statements to the SBA at the time of the loans a fraud, or, the statements in deposition by Rubenstein, Wheeler and Utley and the statements by Krane and Triggs to Bar and First Department, perjured.

82. True, that these allegations constitute violations of criminal codes (currently under investigation by The Boca Raton Police Department (“Boca PD”), the Federal Bureau of Investigation (“FBI”), the American Institute of Certified Public Accountants (“AICPA”), the SBA, the Securities and Exchange Commission (“SEC”) and other state and federal agencies) but this does not limit the crimes from being ethical misconducts as well. That repeatedly Petitioners stated to Bar that only the ethical misconducts involved in such loan and converted funds be reviewed by Bar, and therefore such claims by Bar that they were asked to do anything but investigate the ethical violations against Wheeler are baseless and opposite the correspondence regarding these matters. Again, Bar failed to respond with the truth to This Court.

83. That paragraph 9 should be stricken as non-responsive. Where Petitioners, Lamont and Bernstein, have never had a civil lawsuit personally presented to anyone in these matters and where Iviewit is not a Petitioner.

84. That, as in paragraph 10 of the Response, that Bar appears to state that Petitioners requested that disciplinary actions be substituted for private civil actions and

where the Petitioners requested only that the elements of ethical misconduct be reviewed and disciplined by Bar, wherefore all cases cited by Bar in this paragraph have no bearing on these particular matters.

85. That in paragraph 10 Bar cites cases but has no claim as to why such cases are applicable or not applicable to the Petition, and as such, they are cases cited without reason or purely educational and should be stricken as non-responsive.

86. That further, Petitioners retain all rights to file civil procedures in these matters and in no way would have ever lost such rights or replaced them with Bar actions that could only have yielded attorney sanctions such as disbarment. To replace Bar remedies in favor of civil actions, actions that may yield returns in the billions of dollars once patents and royalties are returned to the shareholders, would put Petitioners sacrificing their shareholders rights and interests and opposite their fiduciary responsibilities to shareholders. In fact, Petitioners apprised Bar that civil actions would be taken after appropriate investigation into the ethical misconduct by Bar was investigated and the proper authorities investigated the criminal misconduct, again where Petitioners only requested Bar to review the ethical misconduct as cited in the complaints.

87. That as in paragraph 11 and 12 of the Response, mention is made of “[P]etitioners requested The Bar maintain their file for five years so that they might bring their civil action later”. Where such a statement is a complete falsification of the record, in that Petitioners request was directed at preserving the file for the investigations of other state and federal agencies, as expressed in letters to Marvin, Boggs, Johnson, Bartmon and Turner. Marvin was repeatedly noticed that such files were necessary and essential to investigate the conflicts of interest inherent in the Triggs Complaint, the

Turner Complaint, the re-review of the Wheeler Complaint and the Wheeler Complaint 2, and that Bar should hold the files for these reasons. Petitioners further apprised Bar that any destruction in light of all these reasons would equate to Bar becoming involved in obstruction of justice. That This Court has ruled once to stop such destruction of the file and any change in that ruling would surely have to come after due process is afforded to the Wheeler Complaint, Wheeler Complaint 2, Turner Complaint, Triggs Complaint, the Petition, free of further conflict and impropriety. The file maintenance and purging rules were not intended for situations such as these and Bar acts as if they are unaware of these reasons. Further, Bar has claimed they have run out of space to store the file and that without such destruction, that they will have to acquire larger offices. Why one asks, at every turn, is Bar so desperate to destroy the evidence that will prove them guilty or set them free.

88. That in responding to This Court, Bar submits as Exhibit “G” correspondence to Petitioners from Marvin, that reflect only a partial part of a chain email, the other part left out intentionally as the removed parts explain in detail the request to hold files to investigate the conflicts and not for a future civil case. Bar in an attempt to misdirect This Court claims that Petitioners are using Bar as some kind of keeper of documents necessary for a civil dispute and this is just plain fabrication, supported by no evidence but a partial email which intentionally hides the whole story. Petitioners reiterate that a destruction of the files was intended to shield Triggs, Wheeler, Marvin, Boggs, Johnson, Turner, Bar and all those accused herein whom either have stolen intellectual properties or aided and abetted such crimes by attempting to get rid of the evidences against them contained in the file. Petitioners thank the esteemed Justices

of This Court for the order for Bar members to cease and desist in the scheduled destruction of the files on August 1, 2004, almost nine months ahead of the earliest date as stated in the record retention rules. Bar's behavior in repeatedly trying every trick, including misleading This Court to grant orders for destruction based on false and misleading record retention rules cited or civil cases in five years seems highly suspect and casts a specter over those involved in these matters at Bar.

89. That Turner, a named respondent in the Petition, responding as counsel on behalf of Bar furthers the conflicts alleged and creates an ever increasing appearance of impropriety. Strange to note, that Boggs in the Court Docket SC04-1078 somehow replaces Turner's name as the attorney named in the Response to This Court. Where Turner penned the Response while charged with conflict in the Petition, may have seemed a bit inappropriate and had the appearance of impropriety having Turner listed publicly on the docket. Petitioners wonder if this may have been intentional, to hide the fact that Turner who has a formal bar complaint lodged against him with Bar directly relating to these matters, is responding with a glaring conflict of interest, and further stands accused of aiding and abetting the crimes and therefore the docket fails to list him and hide the conflict. Certainly, Bar has a large staff of lawyers to choose from that are removed from the matters and a large Rolodex of licensed attorney's to provide the safest measure to avoid further conflict, outside counsel.

90. That, as in paragraph 13 of the Response, mention is made of "[P]etitioners filed this proceeding seeking to obtain attorney work product," where it is factually incorrect. Initially, no files were going to be returned per Turner, and Marvin and Boggs reinforced such refusal. Then, Petitioners called This Court to notice This

Court of conflicts ignored by Bar and that Bar was going to destroy the evidence and obstruct due process and justice to hide the conflicts. Where This Court then intervened through Debbie Yarbrough (“Yarbrough”) and Thomas D. Hall (“Hall”), esteemed Clerks of This Court, to halt the destruction.

91. That Yarbrough contacted Bar and they told her that they were willing to return the file and Yarbrough called Petitioners to inform them that they could get the original files without fee. Yet, when Petitioners called Marvin and Boggs, it became clear that only partial bits of the files were being offered to be returned and not the part that would be necessary to review the recently discovered conflicts, namely the work product of Bar and all correspondence contained therein. After Bar had refused to return the entire file, they then offer only part of the file that Petitioners already had, in an attempt to snow Yarbrough that they were willing to return the entire file to Petitioner. Upon hearing this news, Petitioners again called Yarbrough to explain that critical file elements necessary to evaluate the confirmed conflicts were going to still be destroyed making due process impossible and that Bar refused to turn over the entire file to Petitioners as they had stated.

92. That what Turner fails to state in the Response to This Court is that Bar did not intend to return the work product files of Bar, essential to the review of the conflicts and abuses of public office, which would have contained valuable evidence to discover the threads of the conflicts. That such destruction of Bar file records would have precluded full investigation, obstructed justice and acted as a shield only to Wheeler, Triggs, Johnson, Boggs, Marvin, Proskauer, Turner and all those named in the conflicts. That after speaking to Yarbrough (a hero) and fully disclosing all the facts, she

saw that the entire file, especially Bar's work product, was essential to investigating the conflicts discovered. Yarbrough then called Bar and ordered them to hold the records until This Court could review the Petition that was being drafted at the time, which Yarbrough had suggested Petitioners submit as an absolute measure that would ensure that Bar retained the files. Do not let Bar members deceive the Justices of This Court, the files were not an attempt by Petitioners to gain attorney work product, they were an attempt to preserve evidence and prevent obstruction of justice.

93. That Yarbrough had successfully prevented the July 1, 2004 destruction of the file, yet another plot was brewing by Bar to attempt to destroy the file on August 1, 2004, in violation of Yarbrough's order. In what appears again an intentional act by Bar to rid the evidence that will be used against them, even after being told to hold the file by an esteemed and honored Clerk of This Court, seems to point to Bar having something to hide. Bar then sent a letter to Petitioners stating that they were going to proceed with the destruction of the file on August 1, 2004, where the letter did not reach Petitioners until the day before such destruction was to take place, and such letter stood in diametric opposition to Yarbrough's verbal order a month earlier. The letter stated that Bar was again intending to destroy the file, whereby when Petitioners called Boggs to demand that he cease and desist or face charges of obstruction of justice, Boggs stated to Petitioners that he intended to destroy the file despite what anyone told him. Further, that he would not cease even upon orders from This Court, the Governor Jeb Bush, or other governing body, or words to that effect. That despite Yarbrough's order, Boggs claimed he did not care what the Supreme Court did, as they would not intercede in Bar matters and quoted *Tyson v. Bar*, stating that Bar was beyond reproach even by This Court. That luckily,

Petitioners received such letter the day before the August 1, 2004 attempt, in time to call Yarbrough and Hall and inform them of this new twist. Whereupon hearing of this, Yarbrough and Hall requested that Petitioners file for an emergency hearing of This Court to halt such destruction through formal orders. Yarbrough appeared a bit surprised that Bar had even attempted such foul play and again took action, with no time, to prevent such absurdity. This Court upon receiving the Petition ordered Bar to hold all records until further orders from This Court and where again, Petitioners thank This Court and the excellent work of Clerks, Hall and Yarbrough, for preserving the evidence.

94. That in relation to file destruction, according to Florida Rules of Judicial Administration, file destruction is determined by date of closure after final disposition. Whereby in the matter of the Wheeler Complaint, the file was not closed officially, according to the Response, until the review by Beer in June of 2004; making destruction one year from such date, and therefore June of 2005. That knowing this rule, it seems almost impossible that Turner, Marvin, Boggs, Johnson and Hoffman, in their haste to destroy the file would violate these rules, and had Yarbrough and Hall not taken action, such violation of the rules would have occurred. Certainly, this constitutes immediate relief by This Court as to the securing of files of all named participants in relation to these matters.

95. That This Court should take immediate action to secure and preserve the files immediately from every party involved in these matters, to prevent possible destruction that could cause obstruction of justice, leading to further loss of constitutionally protected rights of due process and inventors rights to their inventions. Where there are reasons as profound as these to maintain the files, there is no need for

such haste and Petitioners further offered Bar to pay the storage fee's if they needed offsite storage facilities, and Bar refused. That again, by even requesting This Court rule for destruction of the file in their Response, Bar once again shows their face and tries to have This Court collude with them in obstruction, intentionally misdirecting This Court with false and misleading information of their need to destroy the evidence against them for housekeeping purposes.

96. That the destruction should not proceed, not only for re-review of the Wheeler Complaint free of conflict but now for review of the Triggs Complaint and the Turner Complaint (the filed and not docketed Turner Complaint or internal employee complaint) that all absolutely require investigation of the Bar work product. The request in the Response that This Court destroy the file in light of all evidence and inapposite the Bar Rules and record retention rules, under the disguise of a file-pruning statute under Florida Rules of Judicial Administration 2.076, is to make mockery of This Court and the great Justices that serve This Court. This record retention policy not even allowing an attempted destruction until June of 2005 and with deceptive intent Bar is attempting to have This Court violate such policy. Petitioners beg This Court not to be misled and have the appearance of impropriety in destroying files until every single piece of evidence and allegation is analyzed and dealt with, where due process, insures fair play and impartial review by such Justices, or other third-party appointed by the Justices of This Court.

97. That, as in paragraph 14 of the amended Petition, mention is made that a full review has been completed which again is false and misleading. A full review would include a re-review (of the whole file and all subsequent complaints) void of conflicts of

interest and further appearances of impropriety. A new review should lead to disbarment and other applicable relief deemed worthy by This Court of those guilty of perpetrating such crimes and on all those involved and attempting to fraud This Court.

98. That in closing, Turner in his WHEREFORE statement, attempts a final Hail Mary to have the documents destroyed and deny due process based on the weak and ineffective claim that final review is now complete according to the review process. Turner ignores entirely the conflicts and every allegation levied against Bar in the Petition, and falls back on the flawed reviews of Bar. Again attempting to deny due process and with no regard to proper procedure under Florida procedural file retention rules or Bar Rules, and in so doing may in fact constitute further criminal actions for abuse of Supreme Court office positions and lying to This Court with intent to deceive.

99. Where the WHEREFORE statement states "...obtain them within 10 days of this court's order." Where "this court's order" is unclear as to what "this court" refers to, other than further lack of respect to This Court. Therefore, Petitioners ask if Bar cannot properly address This Court, than This Court should strike the entirety of Bar's unintelligible Response as an insult to the decorum of This Court, and, deny all relief requested. Such improper grammar and disrespectful addressing of This Court by Bar is intolerable. Whereas improper grammar from a pro-se litigant may be tolerated, the question remains as to how Bar, full of lawyers to review the Response to allegations as serious as those contained in the Petition can fail to use proper grammar and fail to respect This Court. Where Bar represents a division of This Court, there is no room for such inexcusable language and should be cause for This Court to have Bar secure representative counsel capable of responding properly to This Court. The appearance of

impropriety of the Bar continuing to representing itself after tendering a non-Response, where failure to asserts defense against allegations including conflicts, confirms such allegations, would be absurd and create the appearance of impropriety.

100. That Petitioners review and give reason for striking the exhibits put forth by Bar in the Response in support of their review of the Wheeler Complaint, in Exhibit “D” – a point by point rebuttal of the Response exhibits.

101. That Exhibit “E” contains information pertinent to This Court’s review of the materials, although Petitioners request that This Court use this CD as only partial evidence of Bar’s work and submissions and require that Bar submit their entire file first before Petitioner release this exhibit to Respondents. That such CD contains highly proprietary and confidential information and therefore This Court need set up proper protocol for any distribution of the contents that This Court may order in the future.

WHEREFORE, Petitioners request that This Court:

- i. maintain its order preventing the destruction of the file pertaining to the Wheeler Complaint by Bar;
- ii. enter an order granting a petition for temporary and permanent injunctive relief prohibiting Bar from destroying Petitioners’ file pertaining to the Wheeler Complaint and the Wheeler Complaint 2;
- iii. enter an order granting a petition for declaratory relief as called for in the Petition;
- iv. enter an order granting the verified (at least 20 years that the patents may require) preservation of, and delivery to Petitioners and This Court, all Florida Bar attorney work product, complaints, responses, correspondences of any

medium and all notes, in light of the conflict of interest, appearance of impropriety and abuse of public office of Bar;

- v. enter an order to begin an immediate investigation of the Wheeler Complaint, Wheeler Complaint 2, Triggs Complaint, Turner Complaint, Proskauer Complaint, and all allegations of all crimes mentioned heretofore or in the Petition;
- vi. enter an order to move the Wheeler Complaint and all subsequently related complaints to the next highest level of review, void of conflicts and the appearance of impropriety (for example, the United States Supreme Court);
- vii. enter an order for a conflicts of interest check to be performed on all Florida Supreme Court and Bar employees or other officers, who have in any way participated or are to participate in any of the complaints on file with Bar and Case No. SC04-1078 or any related cases or investigations;
- viii. enter an order to the United States Patent and Trademark Office, the European Patent & Trademark Office, the Japanese Patent and Trademark Office, to cease and desist any actions regarding all patents and maintain status quo to preserve the constitutionally protected inventor intellectual property rights under Section 8 Article 1 Clause 8, until such time as This Court determines a resolve to the issues contained herein;
- ix. enter an order preserving Petitioners' rights under the Fifth and Fourteenth Amendments of The Constitution of the United States, whereby the evidences, witnesses and allegations can be fully reviewed and investigated so as to prevent further loss of inventor constitutionally protected rights to their

inventions and intellectual properties free of conflicts of interest and the appearance of impropriety, ensuring due process going forward;

- x. enter an order to the appropriate agencies of the United States government enforcement agencies, other courts or whomever This Court deems fit and appropriate to relegate investigation and disposition of all alleged crimes contained herein and in the Petition;
- xi. enter an order for the Justice Department or any bodies deemed appropriate by This Court to further Petitioners' RICO and antitrust cases to be filed immediately by the proper authorities;
- xii. enter an order granting Petitioners all civil relief typical and customary under any of the alleged violated state and federal criminal and civil codes and any other code This Court may find just and equitable to return stolen properties and preserve constitutionally protected inventor rights to their intellectual properties;
- xiii. enter an order to report all malfeasances and crimes committed as cited herein to all applicable state and federal authorities to whomever This Courts deems fit and necessary to protect the inventors inventions and their lives;
- xiv. enter an order to whichever agencies that are apropos to protect the lives of the inventors, life already threatened by those guilty identified by name in the Petition and The Wheeler Complaint rebuttals;
- xv. enter an order to return all intellectual property rights globally as well as all proceeds that have been or may be received due to the misappropriation of

inventors intellectual properties rights, by those conducting the unauthorized use of Petitioners' technologies;

- xvi. enter an order granting the immediate seizure from all parties, of all documents relating to these events, no matter if guilt or innocence is presumed, so as that no further document destructions may take place or document tampering, without the watchful eye of This Court charged with protecting from such obstructions;
- xvii. enter an order returning all royalties and rights that have been converted by Proskauer and patent pools controlled by the Proskauer, Proskauer NDA violators and any others conducting the unauthorized use of Iviewit's technologies;
- xviii. enter an order to have any royalties frozen with additional cease and desist orders from This Court to cease use of Iviewit technologies to any parties conducting the unauthorized use of Iviewit technologies;
- xix. enter and order for equitable relief, among other things through issue of cease and desist orders in the unauthorized uses of such technology by such patent pools controlled by Proskauer and other Proskauer NDA violators, or even for the unauthorized use by parties not directly related to the crimes contained herein, as they still stand as unauthorized users benefiting from the criminal acts of others and therefore violating the inventors constitutionally protected rights to their inventions;
- xx. enter an order granting all such further relief that This Court, a Supreme Court with supreme powers can enter to the right the wrongs, deemed just and

equitable, because as evidenced throughout the complaints and Petition, Wheeler and Proskauer and Rubenstein and all those named were INTEGRALLY involved in the patent work of Petitioners and stand guilty of every allegation that has been levied against them. Where the guilty stand holding the royalties and in certain instances, the patents, to inventions they did not invent. Proskauer stands holding the “goods” controlling patent pools that are anticompetitive and in violation of federal antitrust laws as they rob inventors, and as such, This Court need return all such properties to the true and proper inventors as The Constitution demands. As the very purpose of This Court is in righting constitutional wrongs and therefore This Court should grant all relief within its jurisdiction in an attempt to preserve due process and protect the inventors constitutionally protected rights to their intellectual properties.

This 15th day of November 2004.

Eliot I. Bernstein, Pro Se

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by facsimile, email and US Mail this 15th day of November 2004, to The Florida Bar.

Eliot I. Bernstein
Pro-Se

EXHIBIT A – OCTOBER 29TH LETTER FROM IVIEWIT TO TURNER



IVIEWIT HOLDINGS, INC.

Eliot I. Bernstein
Founder
Direct Dial: 561.364.4240

VIA – CERTIFIED MAIL & EMAIL

Friday, October 29, 2004

Eric Turner
Chief Branch Discipline Counsel
The Florida Bar
Cypress Financial Center
Suite 900
5900 North Andrews Avenue
Fort Lauderdale, Florida 33309

Re: Complaint against Christopher Wheeler #2003-51, 109(15c)

Dear Mr. Turner:

Pursuant to our discussion you and then with Mr. Kenneth L. Marvin - Director Of Lawyer Regulation, of your Tallahassee offices, he has offered us and thereby directed you to submit the above referenced case to the Chairman of the Grievance Committee for (15C). Additionally, upon direction from Mr. Marvin, we are requesting the following information be forwarded to the Company from the Chairman of the Grievance Committee

1. His name and past and present law firms that the chairperson has worked for, this to prevent any possible conflicts of interest.
2. Provide the Company with a detailed account of your review of each and every rule of professional conduct complained about against Mr. Wheeler that was cited in our initial complaint and what evidence and witnesses you have contacted, in regards to each claim in making your decision to close this matter.

We are saddened and shocked at our conversation with you last week whereby you stated that there was no opportunity to have this case further reviewed by anyone and that you



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Chief Branch Discipline Counsel
Florida Bar

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were the last resort and nothing further could be done. The fact that you referred us to a general number at the main FL Bar office, instead of furthering it to the Grievance Chairperson at 15(c) is remarkable. Upon repeated requests and your refusal to give us the name and number of your superior, we were even more shocked when we called Mr. Marvin to find out that there were still available remedies to have this case further reviewed, contrary to your statements. Your comments that you were the final decision maker on this matter and that there was no other course of action for our complaint, seem to be completely contradicted by Mr. Marvin's suggestion that it should then be referred to the Chairperson for review as your regulations call for.

Also, in further review of your letter, we find that again your offices have failed to analyze any of the allegations we have levied against Mr. Wheeler and attempted to skirt many of the violations of the rules regulating the Florida Bar specifically outlined in our complaint against him. Repeatedly, letters from your offices have hinted to a review of the materials and an investigation that was then delayed by Mrs. Hoffman until the civil case was finished. It is finished and Mrs. Hoffman had informed us to petition your office again when it was so completed, as we did. None of the eyewitnesses provided to your offices have ever been contacted to our knowledge regarding specific allegations made of Mr. Wheeler's violations of the rules and regulations of professional conduct that we cite throughout our complaint.

Your letter also states that Mr. Wheeler and Proskauer Rose were not patent counsel, which contrary to their own billing statements, witnesses and evidence contrary becomes apparent that they were in fact patent oversight counsel and several partners including Mr. Wheeler and Mr. Rubenstein had billed for such services. Further, Mr. Rubenstein was on the Advisory Board of the Company and had conversations numerous times with Iviewit clients and investors and we submitted witness statements that contradict Mr. Rubenstein's statements under deposition and to the New York Bar, and Mr. Wheeler's statements to The Florida Bar, of not having done patent work as Mr. Wheeler attempts to state in his rebuttals. Mounds of evidence and witnesses have been submitted to your offices showing these statements to be factually untrue. Under deposition, Mr. Rubenstein is confronted with hosts of evidence showing that he did in fact deal with the Company and it's patents and then in a stunning reversal, writes to the court to explain his involvement. The conflicts of interest this represents for Wheeler/Rubenstein/Proskauer, since Proskauer/Rubenstein has factually the most to gain from our technologies through its control and revenues created by the MPEGLA and other patent pools controlled by Proskauer/Rubenstein, as unearthed in the Rubenstein deposition is undeniable. The fact that your letter states that Proskauer did not act as



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Chief Branch Discipline Counsel
Florida Bar

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patent counsel as they represent in their false statements to the Florida Bar is to state that you have not reviewed the evidence, talked to eyewitnesses, reviewed contrary statements from Board members and investors in writing, and read the depositions of Rubenstein/Wheeler in the Florida Case of Proskauer v. Iviewit submitted, whereby it all becomes apparent that these statements are utterly untrue. We have expressed throughout our complaints that there was more evidence available in the case once proper protocol had been set up to receive highly confidential patent documents which support our claims, and yet you bother not to request them.

Proskauer Rose acted as patent counsel and further in an advisory board capacity with Rubenstein on the Advisory Board, as outlined in every business plan edited, reviewed, billed for and sent to Iviewit investors and hosts of others by Mr. Wheeler personally, this evidence has been submitted as well to your offices. In fact, witness statements consistently state that Mr. Rubenstein's patent review is the basis for their investments. Further, we provided here again, a letter from Mr. Wheeler stating that PR had reviewed the technologies, found them to be novel and had procured patent counsel. Nowhere in the letter provided does it mention any outside counsel and it is based on **their** review we engaged them and paid for them to perform (Exhibit 1) and this and numerous other documents similarly were sent to numerous investors by Mr. Wheeler directly. Further, since it was Rubenstein and Wheeler who referred the other counsel to file the patents, only a small portion of the patent work, they remained as overseer and eventual prosecutor of the patents. There are obligations they have for their lawyer referrals under their control as well, especially when the counsel they referred was initially brought to the Company disguised by Mr. Wheeler as Proskauer partners.

It appears by your letter and the factually incorrect statement that Proskauer did not act as patent counsel and only acted as general counsel, that this case has never truly been reviewed or investigated by your offices and thus is the reason we request, on the advice of Mr. Marvin of the Tallahassee office, that each and every allegation made by the Company of violations of Rules of Professional Conduct overseen by your offices be addressed as to why it is not being investigated and the actions taken by your offices in making such determinations, as well as the evidence reviewed. The fact that you claim Proskauer Rose did not do patent counsel and was simply general counsel is to have accepted Proskauer's rebuttal entirely without ever checking the accuracy of a single item presented to you, not one of your offices correspondences deal with one single item of hundreds of items of evidence presented. Further, it is to deny statements to the contrary from respectable eyewitnesses, shareholders and others, all stating that Proskauer Rose was intimately involved with all aspects of our patents, including raising funds from



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Chief Branch Discipline Counsel
Florida Bar

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investors based on their patent opinions and further billed for such work. Furthermore, not only did the company complain against Mr. Wheeler for patent malfeasances but also for multiple violations of the general corporate work that he performed and these go unaddressed in your letter.

Again, in your opening paragraph you err in that you make the claim that we are making a claim for malpractice to your offices, which could not be further from the truth; we are making a claim for actions against Mr. Wheeler for specific violations of his professional conduct as cited in our complaint and taken directly from your rules as is evidenced in our correspondences and voluminous responses filed with your offices. We are unclear what our failure in a civil billing claim has to do with the complaint with your offices and why your offices have attempted to delay your actions based on that case, which was a billing case against the Company by Proskauer. Further, since the Court never heard any of the materials contained in our Counter-Complaint, the Company then noticed your offices of the allegations as suggested by Judge Labarga himself to have the attorney misconduct reported, we submitted the complaint along with the Counter-Complaint to your offices. The Counter-Complaint was simply submitted as a basis to understand the many claims of professional misconduct against Mr. Wheeler, Proskauer, and every single referral of Mr. Wheelers, as they relate to violations of the Rules and Regulations of the Florida Bar cited against Mr. Wheeler. Almost all of the claims in the Counter-Complaint run parallel to violations of the Rules of Professional conduct overseen by your offices in relation to Mr. Wheeler, similarly noted by Mrs. Hoffman. Your office, more particularly Mrs. Lorraine Hoffman, then stated that her hands were tied in investigating the case while it was still in litigation, despite knowledge that the claims other than billing dispute issues were not being heard in the civil case and that your offices would re-open the case when the litigation concluded, if the claims contained in the Counter-Complaint were not heard. Several calls to Mrs. Hoffman also yielded the same answer, that although she was fully cognizant that the Court denied the Counter-Complaint, she would have to wait and that she would maintain the records so that re-filing the evidence would not be necessary.

Finally, our request that you maintain the records for a 5-year period was specifically in response to Mrs. Hoffman's suggestion to write a letter to such effect and we request that if you are unable to maintain the documents that upon the date of termination, July 1, 2004, that the items be returned in entirety to the Company. Per Mrs. Hoffman, all we had to do was submit a written request for your offices to maintain the files, which we did. Perhaps, as with the review process that you mistakenly thought had no further



Eric Turner
Chief Branch Discipline Counsel
Florida Bar

Friday, October 29, 2004
Page 5 of 7

outlet other than yourself, you should check with your procedural rules regarding the maintenance of records or check with Mrs. Hoffman as to her statements to the contrary.

Sincerely yours,

IVIEWIT HOLDINGS, INC.

By:

A handwritten signature in black ink, appearing to read "E.I. Bernstein", written in a cursive style.

Eliot I Bernstein
Founder
I View It Technologies, Inc.

And

P. Stephen Lamont
CEO
Iviewit Holdings, Inc.

cc: Kenneth L. Marvin



Eric Turner
Chief Branch Discipline Counsel
Florida Bar

Friday, October 29, 2004
Page 6 of 7

EXHIBIT 1



Eric Turner
Chief Branch Discipline Counsel
Florida Bar

Friday, October 29, 2004

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561 241 7145 TO 2410071#

P.02/02

PROSKAUER ROSE LLP

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NEW YORK
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NEWARK
PARIS

Christopher C. Wheeler
Member of the Firm

Direct Dial 561.995.4702
cwheeler@proskauer.com

April 26, 1999

Mr. Richard Rosman
Lewinter and Rosman
16255 Ventura Blvd., Suite 600
Encino, CA 91436

Re: iviewit, Inc.

Dear Richard:

Under separate cover I have forwarded you a revised Confidentiality Agreement.

As you know we have undertaken representation of iviewit, Inc. ("iviewit") and are helping them coordinate their corporate and intellectual property matters. In that regard, we have reviewed their technology and procured patent counsel for them. We believe the iviewit technology is far superior to anything presently available with which we are familiar. iviewit has filed a provisional patent application on a method for providing enhanced digital images on telecommunications networks. We are advised by patent counsel that the process appears novel and may be protected by the patent laws. While in all matters of this sort, it is far to early to make any final pronouncements, we do believe that there is an extremely good prospect that iviewit will protect their process which is novel and superior to any other format which we have seen.

Very truly yours,

Christopher C. Wheeler

CCW/gb

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** TOTAL PAGE.02 **

EXHIBIT B – FEBRUARY 12TH 2004 LETTER FROM TURNER TO IVIEWIT



THE FLORIDA BAR

CYPRESS FINANCIAL CENTER, SUITE 900
5900 NORTH ANDREWS AVENUE
FT. LAUDERDALE, FL 33309

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

954/772-2245
WWW.FLABAR.ORG

February 12, 2004

PERSONAL/FOR ADDRESSEE ONLY

Eliot I. Bernstein
Iviewit Holdings, Inc.
10158 Stonehenge Circle, Suite 801
Boynton Beach, FL 33437

RE: Complaint against Christopher Wheeler
The Florida Bar File No. 2003-51,109(15C)

Dear Mr. Bernstein:

At this point your case will be reviewed by a committee chair. You do not need to write to me, but since you have, I must once again correct you. When you spoke with me, you indicated you would take the case to the Supreme Court. I clearly explained to you The Florida Bar was the only place for a review of an attorney's conduct and the Florida Supreme Court would not hear your case. I offered to send you a copy of a decision explaining this, but you chose to continue with other claims. The grievance committee is part of The Florida Bar not a higher court.

The investigation of your complaint in any other jurisdiction is left to their rules and procedures. We will not change our determination to assist you with any other matter. You should expect to receive notice from the chair of their review of the entire file.

Sincerely yours,

Eric Montel Turner
Chief Branch Discipline Counsel

EMT/es

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EXHIBIT C – FEBRUARY 2ND, 2004 LETTER FROM TURNER TO IVIEWIT



THE FLORIDA BAR

CYPRESS FINANCIAL CENTER, SUITE 900
5900 NORTH ANDREWS AVENUE
FT. LAUDERDALE, FL 33309

JOHN F. HARKNESS, JR.
EXECUTIVE DIRECTOR

954/772-2245
WWW.FLABAR.ORG

February 2, 2004

PERSONAL/FOR ADDRESSEE ONLY

Eliot I. Bernstein
Iviewit Holdings, Inc.
10158 Stonehenge Circle, Suite 801
Boynton Beach, FL 33437

RE: Complaint against Christopher Wheeler
The Florida Bar File No. 2003-51,109(15C)

Dear Mr. Bernstein:

We have received your letter expressing dissatisfaction with the review of the investigation against the above respondent. As you were informed, our policy allows us to seek further review from an appropriate grievance committee. Please be advised your concerns have been noted and you will be notified of the outcome of the review.

I must correct several of your misconceptions. First, you were told you could not petition the court because The Florida Bar was the only place for such complaints, not that I alone was the final arbiter. I further explained to you that any request for further review would be directed back to me as this is the only office that will handle your complaint, which why you were instructed to write once again to me rather than anyone in Tallahassee. The records cannot be returned to you as we must maintain them pursuant to the public records requirement. I am enclosing a copy of the notice you received when your complaint was initially filed.

When someone is assigned to review this matter, you will hear directly from them. We cannot direct them to follow your directives in regards to how you want the review conducted. Thank you for your patience while this matter is reviewed.

Sincerely yours,

Eric Montel Turner
Chief Branch Discipline Counsel

EMT/es

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TO COMPLAINANT

The Florida Bar Lawyer Regulation Department investigates complaints to determine whether the attorney in question violated Florida Bar rules governing attorney conduct. An attorney who is found to have violated Florida Bar rules may be subject to disciplinary sanctions (admonishment, reprimand, suspension, etc.). During our process, the attorney complained about is referred to as the respondent.

If you have filed an inquiry/complaint, we will presume that you attempted unsuccessfully to resolve your issue(s) with the respondent, that you were unwilling to do so, or that other factors prevented a mutually agreeable resolution. Although our primary function is to investigate and prosecute rule violations, if your main goal is to achieve a resolution of your issue(s) with the respondent, please let us know immediately in writing, because this may affect how we proceed with the investigation.

Our grievance system should not be viewed as an alternative to a malpractice action or any other legal or equitable claim you may be entitled to pursue. If you believe you have a claim for damages against the attorney, you should seek legal advice. The Florida Bar cannot appoint you an attorney, and Florida Bar staff attorneys cannot furnish legal advice or assistance. Nor do we pursue investigations solely because the client is seeking a refund or restitution. If you need the name of another attorney, you may wish to contact the Florida Bar Lawyer Referral Service by telephone at 1-800-342-8011 or in writing at The Florida Bar, Lawyer Referral Service, 650 Apalachee Parkway, Tallahassee, Florida 32399.

The complaints we investigate must be provable by clear and convincing evidence. If determination of the primary issues in the case depends on accepting one person's word over another's, and the relevant documentation does not resolve disputed facts, it is likely that the case cannot be proven by clear and convincing evidence. Our closing of a file does not mean that we have taken the side of the respondent, that we do not believe your allegations, or that we endorse or approve of the respondent's conduct in the situation described. We may decide not to pursue an investigation where the evidence appears insufficient, if for any other reason the allegations do not appear capable of being proven, or because discipline does not appear to be appropriate under the totality of the circumstances.

~~Our policy is to retain files for one year after the date the file is closed. After that time, our file may be destroyed. You should maintain a complete set of all of the papers you provide and receive in relation to this matter, in case you need them at some point after our file has been destroyed.~~

Due to the large volume of cases we handle, it is difficult for us to take telephone calls. If you wish to supplement your complaint or to ask questions, please help us by doing so in writing, with a copy to the respondent.

Thank you for your cooperation and patience during our investigative process.

EXHIBIT "D" – REVIEW OF RESPONSE EXHIBITS

RESPONSE EXHIBIT A - HOFFMAN FLORIDA BAR JULY 1ST 2004 LETTER

1. That the letter is materially false in that;
 - xxi. it states that “significant discovery has taken place (and continues)” and appears to state that discovery into the allegations of ethical misconduct and other charges are being investigated by Labarga’s court, when in fact Labarga had already reduced the case to only allow billing issues. Therefore, no discovery was taking place on the issues presented to Bar.
 - xxii. it states, “the matter you present is a civil dispute which may not be resolved by the intervention of The Florida Bar.” Which again, the matter presented to Bar in all filed complaints are matters of ethical misconduct regulated by Bar and since the civil case was not hearing the other issues, including the ethical misconduct, it was the duty of Bar to review them.
 - xxiii. it states that “Rather, because Mr. Wheeler has advanced a viable position, the Bar has deferred its consideration of the matter until a determination has been made, on the merits, by the civil court before which the matter is currently pending.” Where it is unclear what viable position Wheeler has advanced, and where upon writing this, as Petitioners’ responses will show when presented to This Court by Bar, Hoffman knew that no civil court was reviewing the matter, other than billing issues, and that no court was reviewing the allegations of criminal and ethical misconduct cited. Hoffman in dismissing claims states that she reviewed the materials and never states an answer to the multitudes of Rule violations cited and fails to address a single

one in her deferment letter. That this is an attempt to bury the Wheeler Complaint and a successful one at that.

EXHIBIT B – JANUARY 20, 2004 FLORIDA BAR LETTER – TURNER

2. That the letter is factually incorrect in that;
 - xxiv. it claims “Your complaint was essentially an action for malpractice.” The complaint is essentially a complaint of ethical violations of Wheeler and specific Rule violations by Wheeler.
 - xxv. it claims the confusing and incomplete sentence, “The violation of any ethical rule does not and should be assumed to demonstrate the violation of any legal duty.” This again leaves Petitioners wondering what exactly Turner is claiming and constitutes cause for Turner’s review of Hoffman’s work to be stricken as confusing.
 - xxvi. it states, “Your failure to fully prosecute your civil claim does not require The Florida Bar to otherwise consider your complaint.” Where in this instance, since the civil claim did consider or try the ethical and criminal charges it therefore did require the review of Bar since the matters were factually and wholly dissimilar. That had Labarga even given recognition to the charges in the counter-complaint, than there would have been no need at such time for Bar to review them as the court would have been reviewing similar matters. In that case, Petitioners would have understood Bar’s request to wait pending the outcome of the civil trial, although Bar Rules still state that this is not sufficient reason to stay investigation.

xxvii. it states an opinion without any formal investigation in violation of Bar Rules, “The evidence before us indicates your company was represented by patent attorneys from Meltzer, Lippe, Goldstein and Schlissel and Foley and Lardner, not Mr. Wheeler or other Proskauer Rose attorneys, to state your claims to patents for the technology.” Where it is unclear what evidence out of the literally hundreds of pieces of evidence presented Bar which showed Proskauer and their partners absolutely doing patent work, gave Turner the right to make such opinion and where Turner refers not to a single piece of evidence submitted by either party to support his claims. Where Turner does not address any of the evidence contained in the approximately 1500 pages of rebuttal evidence submitted showing such Proskauer patent involvement. Turner fails to conduct any review of the witness statements by former Board members and shareholders, which absolutely conflict his opinion, an opinion based upon unknown evidence and with no investigation. Where patent opinion letters by Wheeler are submitted as evidence to Bar which were sent to multitudes of investors to secure investment and stating that Proskauer's patent counsel had reviewed the patents and found the technology novel and superior to any other product they (Proskauer) had reviewed. Where evidence was submitted that Wheeler penned the patent opinion letter when requested by an attorney, Richard Rosman, seeking the opinion of Rubenstein for an investment by Earthlink founders Sky Dylan Dayton and Kevin M. O'Donnell. Where Hassan Miah (pioneer of the Intel/CAA multimedia lab responsible for the spawning of the Internet as a multimedia medium), who knew Rubenstein

and requested the patent opinion of him, after hearing of Rubenstein's opinion by Wheeler and where this was part of his due diligence for the Earthlink founders. Wherein the patent opinion, Wheeler refers only to Proskauer patent counsel in making his opinion, and never mentions any other law firm or lawyer and talks about a review of Proskauer's patent department which is headed by Rubenstein. All evidence in contradiction to Turner's claim and ignored in the review;

- xxviii. it claims that "Mr. Wheeler and his firm may have acted as general counsel, however, the ethical duty imposed upon them did not include filing the patent applications." Where this statement is based on no specific evidence, and in fact, evidence of patent billings by Proskauer was submitted to Bar. Further, that evidence showed that Rubenstein was direct oversight of all other patent counselors that did Iviewit work while being retained as patent counsel, overlooked by Bar. Even if the false contention that they did not do patent work was true, they still would have had responsibility as oversight to their referrals. Further, that in a Wachovia Private Placement Memorandum ("PPM"), reviewed, billed for and disseminated by Proskauer, Rubenstein is listed as "Iviewit patent counsel", as an Advisor to the Board and wherein the PPM, Proskauer is referred to as "retained" patent counsel. Where evidence proves that Wheeler had approved all such statements in the PPM.

RESPONSE EXHIBIT C – MAY 20TH 2004 – BARTMON LETTER

3. That the Memorandum is factually incorrect in that;
- i. it is supposed to be a review letter and instead is a memorandum;

- ii. it is missing any verification that it was date stamped as received by anyone at Bar or how it was transmitted on such date;
- iii. Turner had stated in February 12th and 24th 2004 letters;

The investigation of your complaint in any other jurisdiction is left to their rules and procedures. We will not change our determination to assist you with any other matter. You should expect to receive notice from the chair of their review of the entire file.

and,

We have received your letter expressing dissatisfaction with the review of the investigation against the above respondent. As you were informed, our policy allows us to seek further review from an appropriate grievance committee. Please be advised your concerns have been noted and you will be notified of the outcome of the review.

and further;

When someone is assigned to review this matter, you will hear directly from them. We cannot direct them to follow your directives in regards to how you want the review conducted. Thank you for your patience while this matter is reviewed.

- iv. Yet, the reviewer never directly corresponds with Petitioners regarding the outcome of the review, opposite what Turner claims, and where this memorandum in place of a review letter was hidden from Petitioners along with even the name of the reviewer. That Petitioners were left only with Turner's unintelligible interpretation letter that clearly fails to state the name or even carbon copy the reviewer. The failure to explain, in proper English, the Chair of the Grievance Committee's ("Chair") letter and no correspondence from the Chair, opposite Turner's prior written statements to Petitioners, cause concern, in that Petitioners were left with a meaningless unintelligible interpretation letter, in violation of the rules, which Petitioners take at the least to mean an explanation;

- v. no other person is copied by Turner of his disposition letter and Bar Rules state:

(k) Letter Reports in No Probable Cause Cases. Upon a finding of no probable cause, bar counsel will submit a letter report of the no probable cause finding to the complainant, presiding member, investigating member, and the respondent, including any documentation deemed appropriate by bar counsel and explaining why the complaint did not warrant further proceedings. Letters of advice issued by a grievance committee in connection with findings of

- vi. Upon reviewing the newly submitted Bartmon memorandum, the memorandum fails to outline what evidence she reviewed and states she only reviewed several attorney responses, and not all responses, never stating if she reviewed Petitioners' responses or rebuttals, when she claims; "I have reviewed the attorney's responses and several replies [no mention of whose replies] to the complaint";
- vii. Bartmon attempts to distill approximately fifty violations of the Rules cited against Wheeler for multitudes of alleged ethics violations into two claims and then distills them void of any factual basis or reference to any evidence. Further, no reference at all to the specific Rules Petitioners complained of in the Wheeler Complaint. Bartmon's interpretation not only misrepresents the allegations made by Petitioners, but then only focuses on her two misinterpretations and completely fails to deal with the rest of the allegations or evidence as if they did not exist;
- viii. it claims in summation of Petitioners' charges "that Wheeler (1.) Had a conflict of interest in that he represented both Iviewit and Warner Bros. to whom Iviewit's technology was offered" which is a factually incorrect summation of what Petitioners complained of;

- ix. except in the claim in summation of Petitioners charges whereby Bartmon concludes “(2.) Wheeler and his firm failed to handle competently certain patent work for Iviewit.” Which statement Petitioners agree is correct;
- x. Bartmon, concerning the conflict she claims, misinterprets and misrepresents Petitioners’ complaint and fails to define correctly the complained of conflict, and therefore sees no conflict. Which based on her bastardized rendition of Petitioners complaint of the WB/Iviewit/Proskauer/Rubenstein conflict, she should not have seen a conflict, as Petitioners would also not find a conflict in her assessment of the conflict. What her assessment fails to correctly state, is that the conflict between WB, Proskauer, Rubenstein and Iviewit stems from patent work done by Kenneth Rubenstein, patent work Bartmon states does not exist. Where in opposition to her claims evidence submitted to Bar shows WB in written letters, claim that they called Iviewit’s patent attorney Kenneth Rubenstein to evaluate the Iviewit inventions. Further, the WB letters state the Rubenstein OPINED favorably as to the novel aspects of such technologies, not a bad review for an attorney who now claims he never heard of the Iviewit under direct deposition. The WB letters were included for review in the complaints and therefore no misinterpretation of the complaint should have occurred through proper review. Further, the opinion by Rubenstein led to Iviewit beginning an operational and licensing deal with WB, which eventually led to Iviewit taking office in the WB building and taking over the entire WB encoding lab for a fee. That a future advanced licensing deal was being prepared by the highly regarded law firm of Irell and Manella and that such

licensing deal and paid fee's further contradict Bartmon's contention. These facts, and others, all contradict the false and misleading statement of Bartmon that; "It appears to me that Wheeler's firm put together two clients. The Iviewit technology was not the only technology of its kind in the market and Iviewit was in competition with others. Warner Bros. declined to enter into a deal with Iviewit."

- xi. That such statement is chalked full of false and misleading rhetoric that makes no sense and again is factually incorrect in summation and conclusion and casts a bias. First, Kenneth Rubenstein, again acting as Iviewit patent counsel was asked to opine on behalf of Iviewit's technology to senior advanced technology officers of WB, and others, of which he did. This of course was when he was acting as patent counsel and an Advisor to the Board for Iviewit, before the loss of his memory whereby he now claims, he no longer can remember such occasions and does not know Iviewit. Petitioners' evidence throughout the Wheeler Complaint that Rubenstein was essential to the Iviewit/WB relationship and key technologists at WB knew him well and therefore his opinion had far reaching impact. In fact, Gregory Thagard ("Thagard"), Vice President Advanced Technology Technical Operations, held multiple patents in a patent pool for DVD technology that Rubenstein is counselor for and that Thagard and Colter readily admitted AOLTW/WB was using the Iviewit processes for encoding video at WB facilities. That Thagard was assigned as the oversight of the Iviewit relationship with David J. Colter ("Colter"), Vice President Technology - Technological Operations. Where letters were written

by Colter and Thagard, included in the complaints Bartmon reviewed which stated that Iviewit Technology was new and novel and that WB was utilizing Iviewit's novel processes. Further, such WB letters state that WB learned of the technologies from Iviewit after signing Non-Disclosure agreements. That at the time of the letters, WB was using the technologies across a broad array of digital platforms, attached Exhibit "E" – WB letters. Such evidence refutes directly the statements of Bartmon wherein she attempts to claim that "Iviewit's technology was not the only technology of its kind in the market and Iviewit was in competition with others" and where Petitioners ask what investigatory review or patent prior art searches or degree in patent pending technology Bartmon uses to makes such statements. Finally, Petitioners question if such statements, advancing and supporting Wheeler's claims, is appropriate under Bar Rules, and if such opinions should not have come from a licensed and registered patent counselor regarding Petitioners' technologies. Again, this armchair opinion casts bias on Petitioners.

- xii. That a relationship began between Iviewit and WB where daily business was conducted and whereby Iviewit had taken over the entire encoding operation for WB, an account that based on the revenues being generated, projected revenues would have generated millions of dollars of annual revenue. That Iviewit was similarly holding discussions with AOLTW/WB, Sony, Paramount Pictures, MGM, Intel, regarding their use of Petitioners' technologies throughout their various digital media mediums and that licensing arrangements were being completed and drafted worth several hundred million dollars over time. In

particular, a website www.movieink.com was being created, whereby five studios now have digital downloads of their movie and music video libraries, all admittedly using the Iviewit mathematical scaling algorithms, which made such model possible. Simultaneously, Irell and Manella drafted final versions of an advanced WB royalty agreement whereby the numbers would have multiplied significantly over the revenue generated on the operational side. That as the WB letters contained in the Wheeler Complaint indicate, WB admittedly learned of these methods from Iviewit and was under Non-Disclosure Agreement secured and maintained by Proskauer. That checks were paid weekly for the work (opposite Bartmon's claim) and in fact, WB had turned over their entire operation to Iviewit and let go of their prior employees and encoding division to use Iviewit and the Iviewit patent pending processes which were far superior to prior methods.

- xiii. That it came to pass that Utley was caught with two sets of patent book showing evidence of foul play and attempted theft of intellectual properties. Petitioners at this moment in time did not have much of the knowledge of all the malfeasances occurring and have grown to learn that far more crime were taking place. That things began a downward spiral for the Iviewit and Proskauer relationship, as the Iviewit Board of Directors began requesting explanation from Utley and Wheeler for certain patent malfeasances, in what appeared at the time to be, theft of the intellectual properties by Utley. It appeared that Utley and Iviewit patent counsel, (Rubenstein and Dick) attempted to steal off with core inventions (i.e. "Zoom and Pan on a Digital Camera" and "Zoom and Pan

Imaging Design Tool”), by putting such inventions in Utley’s name, inventions that were invented by the inventors, of which Utley was not one. Patents were found in Utley’s sole name, soullessly, and without knowledge or approval of the company, representing intellectual property theft, and further, fraud upon The United States Patent and Trademark Office. Members of the board and others were confronting Utley and Wheeler regarding the patent matters and other matters of converted funds, and evidence was beginning to surface exposing the Iviewit Board and Shareholders to further risks of loss. At this point, Wayne Smith (“Smith”), a leading patent expert for WB was brought in to review the patents and company, for John Calkins, Senior Vice President New Media Business Development, for Ted Leonsis, Founder of AOL. That Smith was brought in to perform due diligence as Iviewit was negotiating with WB and AOLTW to raise twenty million dollars of capital in a licensing partnership deal with AOLTW/WB. WB was presented with copies of the Wachovia PPM which Wheeler/Proskauer billed for, reviewed and disseminated, wherein Rubenstein is again named as “Iviewit patent counsel”, listed as an “Advisor to the Board” and Proskauer is referred to as “retained patent counsel”, all contradicting Bartmon’s conclusions that Proskauer did not do patent work. Petitioners are unclear as to how Bartmon misses this in her review, as the evidence was included in the Wheeler Complaint.

- xiv. That on the way to such raise from AOLTW, Smith informed Colter that he wanted to speak with Rubenstein regarding his past patent evaluations and opinions for Iviewit. Where at the time of the request by Smith to speak to

Rubenstein, Rubenstein was no longer on the best of terms with Iviewit, since Proskauer and others were being confronted to explain to the Iviewit Board and Shareholders the problems discovered in the patents. Questions such as; why patents had gone into Utley's name, why there appeared two sets of patents books with differing information, how Utley was added as inventor without having invented anything or contributed, why it appeared that there were two sets of similar patents with different inventors and why it appeared that assignments and inventors were all wrong. These issues recently confirmed wrong by the USPTO, in contradiction to the information on attorney intellectual property dockets, where investors relied on these attorney intellectual property dockets in making their investment decisions. If these patent rights were wrong, then the rights, titles and interests of investors and shareholders in the patents, were wrong and at risk. It was at this point Rubenstein suddenly lost his memory of Iviewit and claimed he could not speak to Smith at AOLTW/WB due to a conflict of interest Rubenstein cites between his representation of Iviewit and WB. Further, he claimed suddenly that he did not know much anyway, which was quite a shock to AOLTW/WB, Sony, MGM, Viacom and hosts of others doing business with Iviewit, and, to all the shareholders who had relied on his prior claims and involvement. That Rubenstein's remarks were followed by due-diligence by AOLTW/WB, as Rubenstein's remarks contradicted his prior opinions to WB personnel and caused confusion and suspicions, since Smith who knew Rubenstein, had even offered with Iviewit to sign a conflict waiver, whereby Rubenstein became

further evasive and never completed the call. This caused a suspicion at WB and then further WB due-diligence exposed that Iviewit was in an involuntary bankruptcy with former Proskauer referred management, and, that Iviewit was in a lawsuit with Proskauer, all to the surprise of Iviewit's management, board and shareholders. Nobody had known of such litigation and involuntary bankruptcy proceedings, as it appears that these suits (including the Iviewit v. Proskauer litigation) were being worked on by lawyers working for the other side. Proskauer referred management, Ross Miller, Esq. ("Miller") a consultant for Iviewit brought in to replace Utley who had been fired with cause, and who unbeknownst to Iviewit at the time, was a close and longtime Wheeler friend, secretly began representation of Iviewit with outside counsel. Where such suits may have been against companies that Petitioners were unaware of at the time, companies set up by Proskauer with similar or identical names as companies of Iviewit. Where recently discovered information now shows that these "ghost" companies may be where core patents were walking out the door. Again, all of this information was submitted in the Wheeler Complaint and as supplemental submissions to Bar for review.

- xv. Immediately upon finding out about such suits, Iviewit confronted the mystery counselors in the matters and they ran for the hills claiming unpaid bills. Later it was discovered that these attorneys had close personal ties to Wheeler that were not disclosed to anyone or waived by anyone. Iviewit then brought in Caroline Prochotska Rogers, Esq. a longtime friend of Bernstein who aided Iviewit by securing new counsel, not related to Wheeler, to defend Iviewit, not

Wheeler. Immediately upon new counsel taking over the involuntary bankruptcy filed by former Proskauer referred management, the parties withdrew their ill intended bankruptcy. Petitioners recently learned the involuntary bankruptcy is fraught with fraud on the Bankruptcy Court as it had false claims made by Iviewit former management and others, claims on companies that they had no interest in and therefore had no rights to even file such involuntary bankruptcy against Iviewit, and that further false financial information was supplied to the Bankruptcy Court.

- xvi. Proskauer as well sued companies of Petitioners that they had no bills for or claims against and no retainer or other agreement with. Where Proskauer was caught, in a bizarre attempt to claim billings in companies they had no bills with, as the retainer and all bills were for another company. In fact, through the Mickey Mouse court of Labarga they actually won lawsuits against these companies and now hold claim to companies that Petitioners were unaware held patents, until recently disclosed by the USPTO. Now it becomes clear why Proskauer was seeking judgment against Iviewit companies that they had no claims against; as only Proskauer knew that patents had been re-directed to these companies ,as the attorney intellectual property dockets contained false and misleading information as to who, invented, owned, and had assignment to the patent applications. Bartmon must have read only the responses of Wheeler (written in conflict by Triggs) or certainly, she would have had to address these and many more facts. These are the reasons Rubenstein fails to confirm his prior opinions to WB and causes calamity for Iviewit in so doing. That

Proskauer and Rubenstein tortuously interfered with Iviewit accounts by an intentional denial of Rubenstein to cast doubt on Iviewit and destroy the chances of an AOLTW/WB deal being successful, deserves the relief of This Court. That Rubenstein's failure to speak with Smith and confirm his statements, led to Smith feeling uneasy with investment and where WB got cold feet, as would anyone, in the face of what was being learned about what Proskauer had done to Iviewit.

- xvii. Bartmon refers to a retainer void of patent or intellectual property work that illustrates that she must again have only looked at one side of the story, as Iviewit has long held and evidenced that such retainer is an outright fraud. That the retainer is contradicted by Proskauer's billing records and supposedly came a year after Proskauer began patent work and where Utley was refused the ability to sign such document unilaterally without Iviewit Board consent with his longtime friend Wheeler, all make the document suspect. Whereby Petitioners evidence in the Wheeler Complaint that Rubenstein had been receiving patent disclosures throughout such year and that Wheeler maintained all Iviewit patent original work in a safe in his offices, with copies sent to Rubenstein in New York by Wheeler. Further, it would have been highly unethical of Proskauer to be doing patent, copyright and trademark work without such retainer as the billings show them doing such work throughout the prior year. Where no China Wall was built around Rubenstein to protect Petitioners intellectual properties which would have been required unless Rubenstein was acting as copyright, patent and trademark counsel to Iviewit affording attorney/client privileges

which would have been presumed, which the billings and other evidence reflect. This current false and misleading denial of services preformed by Proskauer, is to now prevent one from seeing the glaring conflicts of Rubenstein and Proskauers patent pools, of which Rubenstein also acted as counsel too and where such pools are now the single largest infringer of Petitioner technologies, and where without such technologies the pools would in fact, be worthless. Where Proskauer has proliferated the technologies through the pools to thousands of infringers, and hundreds of NDA violators, and, whereby Proskauer directly benefits from the pools and inure profit to the firm, is almost too much to believe. In fact, Proskauer claims that they are operating such pools on their website, which seems highly suspect business for a law firm. Highly suspect that when for two hundred years before meeting inventor Bernstein, Proskauer was a real estate firm with virtually no patent department and having no patent pools as assets. An attempt by Proskauer and Rubenstein to now distance themselves from such conflict is remarkable in the face of the evidence. Rubenstein's attempt to deny his involvement as counsel and that he had full and total access to all inventions and invention disclosures creates an opportunity for Rubenstein to state that his pools, the largest infringers of Iviewit technologies, did not learn of Iviewit's technology from Iviewit or from his involvement with Iviewit. Yet, Rubenstein was not even with Proskauer prior to meeting inventor Bernstein. This behavior is so that they may attempt, through this conflict of adverse interests, to steal the technologies through such anticompetitive patent pools, which again inure benefits for all Proskauer

partners and Rubenstein. It is interesting to note that even if Proskauer claims they did no patent work, they admit to trademark and copyright work which they also billed for, and for which all such departments Rubenstein is Partner in charge. Therefore, all such intellectual property departments had access to all of the Iviewit patents, source codes and disclosures. Had Bartmon reviewed anything other than Bar's review letters, than certainly she would have seen that Rubenstein, the single most conflicted individual with Iviewit in the world, was receiving patent disclosures and maintaining Iviewit's entire patent portfolio in his office. Then she would have had an understanding of the real conflict of interest complained about in the Wheeler Complaint. Rubenstein when stating that he could not talk to WB and reiterate his prior opinion and the further malfeasances such as the involuntary bankruptcy and billing dispute discovered during their due-diligence, is what led to the end of Iviewit/WB relationship and killed the investment opportunity at that time, Bartmon's assessment is far from reality.

xviii. Further, Rubenstein claimed in sworn and verified statements to Labarga that he was not going to take deposition in his firms billing case (wherein such billing statements he is mentioned throughout three years) and that he never heard of Iviewit or Eliot I. Bernstein and that he was being "harassed". Where in his court ordered deposition he is confronted by evidence contrary to his prior written court statements and statements in response to his bar complaint ("Rubenstein Complaint") at the First Department. In fact, he walks out of his deposition challenging Iviewit to take his refusal to answer direct questions

regarding his involvement with Iviewit up with the Labarga. Labarga then gave orders for Rubenstein to be re-deposed and answer the unanswered questions, this has never occurred because Iviewit was denied a trial to re-examine Rubenstein. Yet, a read on Rubenstein's deposition shows perjured statements to the First Department, and therefore perjured statements by Wheeler to Bar in the Triggs Response, when contrasted to his prior sworn written statement of harassment and not knowing anything to Labarga. Had Bartmon opened a single rebuttal of Petitioners, certainly she would have seen all the evidence;

- xix. Bartmon states that; "The Iviewit technology was not the only technology of its kind." Again, Iviewit asks how without an investigation can Bartmon make a statement of this kind in support of Wheeler when Bar Rules state that without investigation Bar does not take the side of either party. Further, Bartmon makes an opinion regarding the novelty of the patents, opinion that should only come from a registered patent attorney with the USPTO. Where it appears from Bartmon's law firm information that Bartmon is not a registered patent attorney, nor does the firm have any intellectual property department. Therefore, Bartmon's opinion is baseless, unqualified and a violation of the Rules. Certainly, such unqualified opinion merits This Court removing it from the record. In fact, an utterly wrong opinion that biases future reviews, as Iviewit has intellectual property that is patent pending, that is the only technology of its kind, despite whether others now conduct the unauthorized use of such proprietary technology. This unfounded bias in Bartmon's review is cause to

disregard the Bartmon review altogether and demand a retraction until an expert in patents can review her statements and support such baseless claims;

- xx. Bartmon states, “I do not see any correspondence or documentation that Wheeler or anyone working with him mislead Iviewit regarding the progress of the patents.” Where Bartmon again misses the boat, as if she fails to understand the gravity of the suspension of the Iviewit patents currently at the USPTO, suspensions caused by confusion as to who even owns the patents and where certain patents may be owned by Proskauer and Proskauer referred management. First, regarding misleading anyone, the Wachovia PPM is a prime example of misleading investors to believe the statements contained therein regarding Rubenstein’s involvement which was what many investors based their decision on;

Investment Management, both based in London. Among his primary areas of expertise are technology research and economic research, including electronics, telecommunications and computer software. Most recently, he was Senior Technology Analyst and Vice President of Southeast Research Partners, Inc. where he worked with leading technology companies. He earned a bachelor of arts degree at Yale University and a master of business administration degree at Stanford University.

Advisors

Alan J. Epstein

Partner, **Armstrong Hirsch Jackoway Tyerman & Wertheimer, P.C.**

Mr. Epstein's law practice consists of advising Internet companies on various issues pertaining to the entertainment and sports industries, including the creation, licensing and acquisition of content, the introduction and negotiation of strategic partner relationships, and various other matters relating to the convergence of technology and content. Mr. Epstein also advises his firm's numerous celebrity clients on the exploitation and protection of their name and likeness rights and content on the Internet, as well as merchandising, endorsement and sponsorship deals. Prior to entering the UCLA School of Law, Mr. Epstein was a certified public accountant at Deloitte Haskins & Sells in Dallas, Texas.

Kenneth Rubenstein

Partner, **Proskauer Rose LLP**

Mr. Rubenstein is a partner at Proskauer Rose LLP law firm and is the patent attorney for iviewit. He is a registered patent attorney before the U.S. Patent & Trademark Office. Mr. Rubenstein counsels his clients with respect to the validity and infringement of competitors' patents, as well as prosecutes patent applications. For the past several years he has worked on the formation of a patent pool, for MPEG-2 technology, involving large consumer electronics and entertainment companies. He is also a former member of the legal staff at Bell Laboratories. Mr. Rubenstein received his law degree, cum laude, from New York Law School, and his Ph.D. in physics from the Massachusetts Institute of Technology where he also graduated with a B.S. Degree.

Christopher C. Wheeler

Partner, **Proskauer Rose LLP**

Mr. Wheeler is a member of Proskauer Rose LLP's Corporate Department and as a partner in the Florida office has a versatile transactional practice. He has had extensive experience in real estate and corporate law, institutional lending and workonts, administrative law and industrial revenue bond financing. Moreover, he serves as a strategist and counselor to many clients in handling their other legal and business matters. Mr. Wheeler is well-versed in general corporate law as well as mergers and acquisitions and securities matters. He has guided companies from startup through initial private placements to public offerings. A graduate of Hamilton College and Cornell Law School, Mr. Wheeler was a member of the managing Board of Editor of the Cornell Law Review.

Legal & Accounting Counsel

Arthur Andersen, LLP

Arthur Andersen's vision is to be the partner for success in the New Economy. The firm helps clients find new ways to create, manage and measure value in the rapidly changing global economy. With world-class skills in assurance, tax, consulting and corporate finance, Arthur Andersen has more than 70,000 people in 83 countries that are united by a single worldwide operating structure that fosters inventiveness, knowledge sharing and a focus on client success. Since its beginning in 1913, Arthur Andersen has realized 86 years of uninterrupted growth, with 1999 revenues over \$7 billion. Arthur Andersen is a business unit of Andersen Worldwide.

Proskauer Rose, LLP

This law firm is one of the nation's largest law firms, providing a wide variety of legal services to major corporations and other clients through the United States and around the

and;

Company has retained Foley & Lardner to shepherd its patent development and procurement. In addition, the Company has retained Kenneth Rubenstein of Proskauer Rose, LLP to oversee its entire patent portfolio – Mr. Rubenstein is the head of the MPEG-2 patent pool.

- xxi. Where Bartmon states that no one was misled, it is hard to understand if she read the April 2004 shareholder letter, sent to Bar to add charges against Wheeler. That such letter exposes that Proskauer opened multiple companies and that several of them were ghost companies of which audits failed to prove ownership by the shareholders. Proskauer may own some of these ghost companies wholly, and wherein core patents, unbeknownst to Iviewit, were directed out of the company and rewritten into false inventors names. Whereupon such findings that the information transmitted to Iviewit was possibly false and misleading, the USPTO after confirming that certain information was false and misleading suspended the Iviewit patents, this information which is false and misleading was prepared by Proskauer and sent to investors and therefore refutes Bartmon's claim entirely;
- xxii. Bartmon claims, "The claim that Wheeler referred the patent work to an attorney with whom a prior client had an issue regarding unethical conduct without disclosing same, does not prove a breach of any rule of professional conduct." This is so far from the allegation that was levied against Wheeler in the Wheeler Complaint, that one finds it hard to believe that Bartmon read any of the materials. In her statement she states Wheeler referred the work to a patent attorney with whom a prior client had an issue regarding unethical conduct, where this is not the whole story. Wheeler referred the patent work to

another attorney, Dick, who had been involved with Utley and perhaps Wheeler, in the misappropriation of intellectual properties from Utley's prior employer, Diamond Turf Equipment, Inc. ("DTE"). Where Utley was then fired with cause for such actions and DTE was closed due to such acts, costing the owner, Monte Friedkin, the loss of the DTE and several million dollars. Where Wheeler, who according to Utley's deposition, knew of the patent misappropriations that lead to the termination of Utley with cause. Wheeler in disseminating Utley's resume failed to ever disclose such patent theft to Iviewit when referring him. Further, Wheeler then submitted a resume on behalf of Utley with knowingly false and misleading representations of Utley's prior employment history, stating that DTE went on to become a leader in turf equipment due to Utley's inventions. That Wheeler, when referring Dick, also failed to disclose Dick's involvement with Utley at DTE, as he was the patent attorney who wrote the patents out of DTE, knowing that Utley was violating his employment with DTE. Where Dick, upon taking the position of patent co-counsel with Rubenstein, also failed to disclose this matter and his involvement in the ruin of DTE. Where Utley never disclosed such history and in fact conspired with Wheeler to circulate a bogus resume with other false claims, showing intent to fraud Iviewit from the minute Utley was represented and sold to Iviewit by Wheeler. In fact, Wheeler states that H. Wayne Huizenga Jr., the seed investor, would not invest unless Utley was chosen over Hassan Miah, and where Wheeler stated that Utley's resume was superior. Where such knowingly false and misleading statements and actions by Wheeler, Dick and Utley,

establishes a pattern of criminal conspiratorial behavior in the misappropriation of technologies from companies, a pattern which must be stopped before further businesses are ruined due to these criminals. Of course, if one reviews the statements of Bartmon it is clear that she wholly misrepresents the allegations and it appears that she goes on a deliberate course of misrepresentation throughout her memorandum to sell Wheeler's position, at any cost. So much so does Bartmon's memorandum reek of foul play, that not only should it be discarded from the re-review of the Wheeler Complaint and stand as cause for a retraction but also that This Court should impose disciplinary sanctions for this behavior by a designated reviewer representing the Grievance Committee and any other relief to Petitioners.

RESPONSE EXHIBIT D – MAY 21ST 2004 – TURNER LETTER

4. That the unintelligible review of Bartmon's memorandum in substitution of a review letter, is factually incorrect in that;
 - xxix. As evidenced prior, the letter is written with such poor grammar and unintelligible statements, as to make it worthless;
 - xxx. Turner makes conclusions in interpreting the memorandum of Bartmon similar to those of Bartmon regarding patents, and as such, this letter should be stricken from the record due to its continuation of the bias' inherent in the Bartmon memorandum;
 - xxxi. Turner fails to properly carbon copy the required parties as stated in the Bar Rules;

- xxxii. Turner states that the file will be destroyed pursuant to policy, when policy appears to have it that there are remaining review levels, as the Beer review inherently proves and therefore the case had not reached a final conclusion nor was it ready to be destroyed by any measure;
- xxxiii. Bar Rules state that Complainant will be notified of the decision of the Chair with an explanation as to the finding and whereby with or without the Bartmon memorandum, the Turner interpretation letter is unintelligible and therefore fails to explain the flawed review of Bartmon. Further, that upon repeated request for clarification from Petitioners, Turner and Bartmon, fail to respond or clarify the letter;
- xxxiv. Turner states, "This file remains closed." When in fact, as the reviews shows the file was not closed but in the process of review with further reviews available to Petitioners;
- xxxv. Turner makes statements that advance Wheeler's position, with no investigation, opposite Bar Rules and constituting cause for dismissal and retraction of this letter.

RESPONSE EXHIBIT E – JUNE 9TH 2004 – BEER LETTER

- 5. That the review letter is factually incorrect in that;
 - xxxvi. Beer states that his review was based on partial unidentified materials provided to him by Bar and concludes stating that he did not review the entire file and would be happy to do so;
 - xxxvii. Beer states that he based his conclusions on review of the prior review letters, all of which have been proven herein to contain false and misleading

statements and conclusions, including the conflicted Triggs Response, thus biasing the incomplete review of Beer;

xxxviii. wherein Beer states, “Furthermore, by virtue of the underlying allegations, it is problematic that the Complainant is apparently attempting to use the “leverage” of the Bar to help influence the outcome of the civil litigation.” Where this statement is false and misleading in that Petitioners state that there was no “civil litigation” that existed at the time of the letter review and had Beer reviewed the materials, he would have seen that such litigation had ended month’s prior. Where this false and misleading conclusion cast bias and prejudice on Petitioners and therefore it should be stricken and a retraction should be forthcoming;

xxxix. Beer’s admission of a partial review, of flawed review letters and of unknown materials with no statements based on any evidence, should cause dismissal of this review and a retraction of the statements contained therein, as the review is baseless and misleading;

RESPONSE EXHIBIT F – JUNE 14TH 2004 – TURNER LETTER

6. That Turner states in this letter that the Iviewit matters are final as of the date of the letter and files will be destroyed per policy rules. Policy rules would then have the file being destroyed at earliest based on the misleading view of Bar on June 14th 2005 and based on Iviewit’s understanding of the records retention rules on June 14th 2009.

RESPONSE EXHIBIT G – JULY 2ND 2004 – MARVIN LETTER

7. That the email is factually incorrect in that;

- xl. Marvin states, “I have reviewed the “complaint” that you filed against Eric Turner.” which indicates that the Turner Complaint is somehow not a “complaint”. Where Marvin quotes the word complaint to indicate that the complaint filed was not a “complaint” and where such complaint was properly served upon Bar and Turner, as procedure would mandate, and therefore constitutes a formal bar complaint that should have been treated and filed as such.
- xli. Marvin states, “Your allegations concern job performance and do not concern violations of The Rules Regulating The Florida Bar, and therefore I will treat those allegations as a personnel matter, and will not be opening a disciplinary file.” This statement is materially false in that the Turner Complaint stated that Turner failed to follow Bar Rules;
- xlii. That had Marvin treated this as an employee matter, Petitioner would have challenged the decision, but Marvin refuses to allow such challenge or review of his decision. That Petitioners have repeatedly requested that Bar provide the employee complaint docket for review or to find what the outcome of such internal affair investigation was and where Bar fails to respond.
- xliii. the Turner Complaint states that Turner was made aware that attorneys had misused Bar conclusions to two tribunals, The Supreme Court of Virginia State Bar and The Supreme Court of New York, First Department. That Turner failed upon learning of such attorney misconduct to take corrective actions, in violation of Bar Rules and the Rules that state that upon learning of the misconduct of another attorney, a lawyer must report such misconduct.

Instead, Turner fails to report such attorneys and writes that it is not his responsibility to take such actions when he states;

“

The Florida Bar can not control or influence any other body by its decisions. If any other investigative agency is reviewing your claims, it is incumbent upon them to reach their own conclusions under their rules and regulations.

”.

That this statement shows that Turner has failed to notify these other investigative agencies of information that Bar conclusions were being misrepresented, as “investigated” and then “dismissed” versus the truth dismissed without any formal investigation. Turner knew these statements to be false and failed to report such attorneys and thereby a violation of the Rules and contrary to Marvin’s claim that the Turner Complaint does not regard violations of the Bar Rules and Rules. These violations are significant and not at all related to personnel matters being defined within the Bar Rules and Rules as violations. Stated in the Turner Complaint clearly is Turner’s failure to report attorney misconduct, especially misconduct by attorneys to tribunals, wherein the Turner Complaint it states;

2. That such endorsements, and further, false claims of the conclusions of the Florida Bar case were used in other state and federal investigations citing the Florida Bar case as having concluded through investigation, whereby the attorney complained of was found vindicated by the Bar, a wholly false claim. When Turner learned of these false and misleading statements being used, that may have arisen from his improper endorsements of the attorney, he failed to take any corrective actions.

xliv. Marvin states “I have decided to deny your request that The Florida Bar retain the closed file concerning the complaint that you filed against Mr. Wheeler until some other agency has completed its investigation. We have a long-standing file retention policy that a closed file not resulting in discipline is kept for one year after closure. It is necessary for us to adhere to this policy.”

Whereby this contradicts the Response tendered by Turner to This Court, where Turner states that Bar was asked to retain the file for five years “so that they [Petitioners] might bring their civil action later.” Again, as stated prior herein, Petitioners have never claimed that they were bringing civil actions, and where if Turner meant Iviewit, than this paragraph is false and misleading as Iviewit is not a Petitioner in these matters, as clearly precluded by order of This Court. This contradiction shows that Turner intended to mislead This Court and failed to disclose the truth to This Court further attempting to have This Court destroy documents based on false and misleading statements. Further, Marvin attempts to state that in cases where the file may prove invaluable in other investigations, that the file-pruning statute is far more important than preserving patent rights, which may be recoverable, based on information contained in the file. Petitioners gave explanations to Turner and Marvin and yet they continue to attempt a course of destruction that as proven herein is far before proper procedural rules would allow.

- xlv. Marvin states that the destruction shall take place one year after closure, and cites an August 2, 2004 date for destruction of the file and whereby the file was not even remotely close to closed in August 2003 since the review by Beer was not completed until June of 2004. This would establish a date of destruction of June 2005 by Marvin’s own account. Instead, again through a deceptive tactic, Marvin attempts to destroy the file far before the one year he claims and this would seem worthy of This Courts taking disciplinary against all those who tried to destroy the file at any point prior to records policy,

including Turner, Hoffman, Marvin, and Boggs. Each attorney citing a one year period from closure and according to the Florida Rules of Judicial Administration 2.076, closure would have been after all levels of review had been completed, so at the earliest the destruction would have been in June of 2005.

EXHIBIT E – CD ROM EVIDENCE