

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

THE GENTLE WIND PROJECT,)	
ET AL.)	
)	
Plaintiffs,)	Civil Action Docket No. 04-CV-103
)	
v.)	
)	
JUDY GARVEY, ET AL.)	
)	
Defendants.)	

DEFENDANTS JAMES BERGIN’S AND JUDY GARVEY’S
STATEMENT OF MATERIAL FACTS
IN SUPPORT OF MOTION FOR SUMMARY
JUDGMENT ON RICO COUNT

Defendants James Bergin (“Bergin”) and Judy Garvey (“Garvey”) submit this statement of material facts as to which there is no issue to be tried, in support of their motion for summary judgment on Count I of the amended complaint – the RICO count.

1. Plaintiff The Gentle Wind Project (“GWP”) is a Maine non-profit corporation that claims to be a dedicated to emotional and physical healing and well-being. Amended Complaint (“AC”) ¶ 21.

2. The individual plaintiffs are employees, staff and/or directors of GWP. AC ¶ 27; Answer ¶ 27.

3. The individual plaintiffs all live together at 118 Piscataqua Road, Durham, New Hampshire. M. Miller Dep. 6:24-7:12.

4. GWP manufactures “healing instruments,” which it claims “restore human beings to a natural state of existence.” M. Miller Dep. 134-135 and Dep. Exh. 12 at page 1.

5. GWP claims that the healing instruments heal the etheric structure, which is an energy field around each person, and stands about eight feet high and four feet wide. M. Miller Dep. 74:16-25.

6. The healing technology is communicated in the form of design blueprints through telepathic impressions received by plaintiff John Miller from the “Spirit World.” M. Miller Dep. 21:6-23:8.

7. GWP claims that the individual plaintiffs have the ability to see the etheric structure around each of us, and also claims the ability to perform “telepathic healings,” which it has performed on thousands of people. J. Miller Dep. 93:4-16.

8. GWP claims, at the direction of the Spirit World, to have telepathically-healed 18 to 20 members of the Soviet Politburo, thereby effecting the fall of the Soviet Union. J. Miller Dep. 93:4-97:10.

9. GWP’s healing instruments are offered to “Instrument Keepers” for a wide range of suggested donations, including some instruments which exceed more than \$10,000 in price. M. Miller Dep. 176:9-13; Hostetler Dep. 72:2-73:19.

10. Bergin and Garvey are husband and wife, are the sole remaining defendants in this case, and for many years were involved with GWP. F.R. Evid. 201 (Judicial Notice of Court’s Own Docket); AC ¶ 28; Answer ¶ 28.

11. In November, 2003, Garvey, with Bergin’s assistance as proofreader, authored a document entitled “Insiders’ Stories.” AC ¶ 32; Garvey Interrogatory Answer 1.

12. The document describes what Garvey contends was her experience with GWP, and, among other things, characterizes GWP as a cult. Garvey Dep. 182:9-183:19 and Dep. Exh. 67.

13. “Insiders’ Stories” also states that members of GWP participated in sexual rituals, known as “energy work,” in which selected female members of GWP, along with the founder, John Miller, engaged in group sexual activity for the purported purpose of creating GWP’s “healing instruments.” Garvey Dep. and Dep. Exh. 67 at pages 7-9.

14. Bergin and Garvey developed a web site entitled www.windofchanges.org, on which they published “Insiders’ Stories.” AC ¶¶ 45 and 50; Answer ¶¶ 45 and 50.

15. Some time after publication of “Insiders’ Stories,” Bergin, with Garvey’s assistance, authored “A Husband’s Perspective” describing what he contends was his experience and perspective of the 17 year relationship he and his wife, Garvey, had with GWP. AC ¶ 36; Bergin Interrogatory Answer 1.

16. “A Husband’s Perspective” characterizes GWP as a cult, discusses the effects of the group’s sexual rituals on his wife and their marriage and family, and opines that the healing instruments, are akin to snake oil. Bergin Dep. 174:10-24 and Dep. Exh. 94.

17. “A Husband’s Perspective” was and is published on www.windofchanges.org. AC ¶ 50; Answer ¶ 50

18. Original defendant Steven Gamble (“Gamble”) resides in the United Kingdom and operates defendant Equilibra. AC ¶¶ 12-13.

19. Gamble added links from his Equilibra website to the Wind of Changes website, and communicated sporadically with Bergin and Garvey by email. Garvey Interrogatory Answer 14(a).

20. There has been no legal connection, organization, agreement or exchange of money or anything of value between Gamble, Bergin and Garvey. Garvey Interrogatory Answer 14(a); Bergin Interrogatory Answer 6(a).

21. Original defendant Ivan Fraser (“Fraser”) is a resident of the United Kingdom and operates defendant The Truth Campaign. AC ¶¶ 14-15.

22. Fraser hosts a website called “The Truth Campaign,” added links from his website to the Wind of Changes website, and had sporadic email communications with Bergin and Garvey. Garvey Interrogatory Answer 14(b).

23. There has been no legal connection, organization, agreement or exchange of money or anything of value between Fraser, Bergin and Garvey. Garvey Interrogatory Answer 14(b); Bergin Interrogatory Answer 6(b).

24. Original defendant Rick Ross (“Ross”) is a resident of New Jersey and operates the defendant Rick A. Ross Institute for the Study of Destructive Cults, Controversial Groups and Movements. AC ¶¶ 16-17.

25. Ross reviewed “Insiders’ Stories” and “A Husband’s Perspective,” linked to them from his website, and had very limited email correspondence with Bergin and Garvey in early, 2004. Garvey Interrogatory Answer 14(d).

26. There has been no legal connection, organization, agreement or exchange of money or anything of value between Ross, Bergin and Garvey. Garvey Interrogatory Answer 14(d); Bergin Interrogatory Answer 6(d).

27. Original defendant Ian Mander (“Mander”) is a resident of New Zealand. AC ¶ 18.

28. Mander is the co-editor of a website entitled “New Zealand Cult List,” placed links from his website to “Insiders’ Stories” and “A Husband’s Perspective” in approximately February, 2004 when GWP held seminars in New Zealand, and had very limited email communications with Bergin and Garvey in early 2004. Garvey Interrogatory Answer 14(e).

29. There has been no legal connection, organization, agreement or exchange of money or anything of value between Mander, Bergin and Garvey. Garvey Interrogatory Answer 14(e); Bergin Interrogatory Answer 6(e).

30. In their original complaint, plaintiffs named Steven Allan Hassan and his Freedom of Mind Center, Inc. as defendants, including RICO defendants. Complaint ¶¶ 16-17, 133.

31. Before settling with plaintiffs and being dropped as a defendant from this action, Hassan reviewed Garvey's "Insiders' Stories," included it on the Freedom of Mind website, and had email communications with Bergin and Garvey. Garvey Interrogatory Answer 14(c).

32. There is currently no reference to GWP, any plaintiff, Bergin or Garvey on www.freedomofmind.com. F.R. Evid. 201 (Judicial Notice).

33. There has been no legal connection, organization, agreement or exchange of money or anything of value between Hasson, Bergin and Garvey. Garvey Interrogatory Answer 14(c); Bergin Interrogatory Answer 6(c).

DATED: August 17, 2005

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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2005, I electronically filed this statement of material facts in support of motion for summary judgment with the Clerk of Court using CM/ECF system which will send notification of such filing(s) to the following: James G. Goggin, Esq. and Daniel Rosenthal, Esq.

/s/ Brian D. Willing _____
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