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7 Strategy Group, LLC and Counter-Defendant John Mooers  
8

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11

12 BLUE STONE STRATEGY GROUP, LLC  
13 a Delaware limited liability company,

14 Plaintiff,

15 v.

16 NIKISHNA POLEQUAPTEWA,  
an individual, and DOES 1-5

17 Defendant.  
18

19 AND CROSS ACTION  
20

Case No.: SACV 14-1888 CJC (DFMx)

**CROSS-DEFENDANTS BLUE STONE  
STRATEGY GROUP LLC'S AND  
JOHN MOOERS' ANSWER TO  
COUNTERCLAIM**

**Complaint Filed: November 26, 2015  
Response Date to Amended Counterclaim:  
May 28, 2015**

1 Plaintiff and Cross-Defendant Blue Stone Strategy Group LLC (“Blue Stone”)  
2 and Cross-Defendant John Mooers (collectively “Cross-Defendants”) submit the  
3 following Answer to First Amended Cross-Complainant of Nikishna Polequaptewa’s  
4 (“Polequaptewa”).

5 1. Cross-Defendants admit that Polequaptewa’s employment relationship  
6 with Blue Stone began on or about April 2014. Cross-Defendants also admit that  
7 Eldad Yacobi took video of Polequaptewa at Blue Stone’s offices. Cross-Defendants  
8 denies the remainder of the paragraph.

9 2. Cross-Defendants admit the allegations of paragraph 2.

10 3. Cross-Defendants admit the allegations of paragraph 3.

11 4. Cross-Defendants admit the allegations of paragraph 4.

12 5. Cross-Defendants admit the allegations of paragraph 5.

13 6. Cross-Defendants admit the allegations of paragraph 6.

14 7. Cross-Defendants admit the allegations of paragraph 7.

15 8. Cross-Defendants admit the allegations of paragraph 8.

16 9. Cross-Defendants admit the allegations of paragraph 9.

17 10. Cross-Defendants admit that the employment agreement with  
18 Polequaptewa stated that it would provide Polequaptewa with a computer. Cross-  
19 Defendants lack sufficient knowledge or information to form a belief about the truth of  
20 the remaining allegations and on the basis denies them.

21 11. Cross-Defendants admit the allegations of paragraph 11.

22 12. Cross-Defendants deny the allegations contained in paragraph 12 as they  
23 are legal conclusions.

24 13. Cross-Defendants deny the allegations of paragraph 13.

25 14. Cross-Defendants admit that Blue Stone had a project in Florida on or  
26 about October 2014. Cross-Defendants deny the remainder of the paragraph.

27 15. Cross-Defendants deny the allegations of paragraph 15.

1           16. Cross-Defendants lack sufficient knowledge or information to form a  
2 belief about the truth of the allegations in paragraph 16 and therefore deny them.

3           17. Cross-Defendants deny the allegations of paragraph 17.

4           18. Cross-Defendants deny the allegations of paragraph 18.

5           19. Cross-Defendants lack sufficient knowledge or information to form a  
6 belief about the truth of the allegations in paragraph 19 and therefore deny them.

7           20. Cross-Defendants deny the allegations of paragraph 20.

8           21. Cross-Defendants admit that Polequaptewa arrived in Florida on or about  
9 November 18, 2014. Cross-Defendants lack sufficient knowledge or information to  
10 form a belief about the truth of the remaining allegations and on the basis deny them.

11           22. Cross-Defendants deny the allegations of paragraph 22.

12           23. Cross-Defendants deny the allegations of paragraph 23.

13           24. Cross-Defendants admit that Polequaptewa resigned from Blue Stone on  
14 or about November 18, 2014. Cross-Defendants deny the remainder of the paragraph.

15           25. Cross-Defendants admit that the Florida police went to Polequaptewa's  
16 room. Cross-Defendants lack sufficient knowledge or information to form a belief  
17 about the truth of the remaining allegations and on the basis deny them.

18           26. Cross-Defendants deny the allegations of paragraph 26.

19           27. Cross-Defendants lack sufficient knowledge or information to form a  
20 belief about the truth of the allegations in paragraph 27 and therefore deny them.

21           28. Cross-Defendants deny the allegations of paragraph 28.

22           29. Cross-Defendants lack sufficient knowledge or information to form a  
23 belief about the truth of the allegations in paragraph 29 and therefore deny them.

24           30. Cross-Defendants lack sufficient knowledge or information to form a  
25 belief about the truth of the allegations in paragraph 30 and therefore deny them.

26           31. Cross-Defendants lack sufficient knowledge or information to form a  
27 belief about the truth of the allegations in paragraph 31 and therefore deny them.  
28

1           32. Cross-Defendants deny that they caused and/or contributed to the “cyber  
2 attacks.” Cross-Defendants lack sufficient knowledge or information to form a belief  
3 about the truth of the remaining allegations and on the basis deny them.

4           33. Cross-Defendants admit that Polequaptewa went to Blue Stone’s office on  
5 or about November 19, 2014. Cross-Defendants further admit that upon advice from  
6 law enforcement it did not allow Polequaptewa to enter Blue Stone’s office. Cross-  
7 Defendants deny the remainder of the paragraph.

8           34. Cross-Defendants deny the allegations of paragraph 34.

9           35. Cross-Defendants deny the allegations of paragraph 35.

10          36. Cross-Defendants admit that Yacobi conspicuously videotaped  
11 Polequaptewa in Blue Stone’s office. Cross-Defendants deny the remainder of the  
12 paragraph.

13          37. Cross-Defendants deny the allegations of paragraph 37.

14          38. Cross-Defendants deny the allegations of paragraph 38.

15          39. Cross-Defendants deny the allegations of paragraph 39.

16          40. Cross-Defendants admit that Blue Stone’s counsel Matthew Berliner  
17 emailed Polequaptewa informing him that Blue Stone would be mailing him is  
18 personal belongings. Cross-Defendants further admit that Blue Stone turned over the  
19 laptop (whose ownership is unknown) to the authorities. Cross-Defendants lack  
20 sufficient knowledge or information to form a belief about the truth of the remaining  
21 allegations and on the basis deny them.

22          41. Cross-Defendants deny the allegations of paragraph 41.

23          42. Cross-Defendants deny the allegations of paragraph 42.

24          43. Cross-Defendants believe Polequaptewa was issued a right to sue letter  
25 against Blue Stone and Mooers. Cross-Defendants lack sufficient knowledge or  
26 information to form a belief about the truth of the allegations in paragraph 43 and  
27 therefore deny them.

1           44.   . Cross-Defendants lack sufficient knowledge or information to form a  
2 belief about the truth of the allegations in paragraph 44 and therefore deny them.

3           45.   Cross-Defendants admit that Polequaptewa's counsel notified their  
4 counsel of his right to sue letter.

5           46.   Cross-Defendants incorporate their responses to the corresponding  
6 paragraphs herein.

7           47.   Cross-Defendants admit the allegations of paragraph 47.

8           48.   Cross-Defendants deny the allegations of paragraph 48.

9           49.   Cross-Defendants deny the allegations of paragraph 49.

10          50.   Cross-Defendants deny the allegations of paragraph 50.

11          51.   Cross-Defendants incorporate their responses to the corresponding  
12 paragraphs herein.

13          52.   Cross-Defendants admit the allegations of paragraph 52.

14          53.   Cross-Defendants deny the allegations of paragraph 53.

15          54.   Cross-Defendants deny the allegations of paragraph 54.

16          55.   Cross-Defendants deny the allegations of paragraph 55.

17          56.   Cross-Defendants incorporate their responses to the corresponding  
18 paragraphs herein.

19          57.   Cross-Defendants lack sufficient knowledge or information to form a  
20 belief about the truth of the allegations in paragraph 57 and therefore deny them.

21          58.   Cross-Defendants deny the allegations of paragraph 58.

22          59.   Cross-Defendants admit that Blue Stone never provided Polequaptewa  
23 with a laptop. Cross-Defendants deny the remaining allegations of paragraph 59.

24          60.   Cross-Defendants deny the allegations of paragraph 60.

25          61.   Cross-Defendants deny the allegations of paragraph 61.

26          62.   Cross-Defendants deny the allegations of paragraph 62.

27          63.   Cross-Defendants deny the allegations of paragraph 63.

28

1           64. Cross-Defendants deny the allegations of paragraph 64.

2           65. Cross-Defendants deny the allegations of paragraph 65.

3           66. Cross-Defendants admit that Yacobi conspicuously videotaped  
4 Polequaptewa in Blue Stone's office. Cross-Defendants deny the remainder of the  
5 paragraph.

6           67. Cross-Defendants deny the allegations of paragraph 67.

7           68. Cross-Defendants deny the allegations of paragraph 68.

8           69. Cross-Defendants deny the allegations of paragraph 69.

9           70. Cross-Defendants incorporate their responses to the corresponding  
10 paragraphs herein.

11           71. Cross-Defendants deny the allegations of paragraph 71.

12           72. Cross-Defendants deny the allegations of paragraph 72.

13           73. Cross-Defendants deny the allegations of paragraph 73.

14           74. Cross-Defendants incorporate their responses to the corresponding  
15 paragraphs herein.

16           75. Cross-Defendants lack sufficient knowledge or information to form a  
17 belief about the truth of the allegations in paragraph 75 and therefore deny them.

18           76. Cross-Defendants admit that Polequaptewa has made allegations of  
19 retaliation in his Counterclaim. Cross-Defendants deny the substance of the  
20 allegations and any inference of such in paragraph 76.

21           77. Cross-Defendants deny the allegations of paragraph 77.

22           78. Cross-Defendants deny the allegations of paragraph 78.

23           79. Cross-Defendants deny the allegations of paragraph 79.

24           80. Cross-Defendants deny the allegations of paragraph 80.

25           81. Cross-Defendants incorporate their responses to the corresponding  
26 paragraphs herein.

27           82. Cross-Defendants deny the allegations of paragraph 82.

28

- 1 83. Cross-Defendants deny the allegations of paragraph 83.
- 2 84. Cross-Defendants deny the allegations of paragraph 84.
- 3 85. Cross-Defendants deny the allegations of paragraph 85.
- 4 86. Cross-Defendants deny the allegations of paragraph 86.
- 5 87. Cross-Defendants incorporate their responses to the corresponding
- 6 paragraphs herein.
- 7 88. Cross-Defendants deny the allegations of paragraph 88.
- 8 89. Cross-Defendants deny the allegations of paragraph 89.
- 9 90. Cross-Defendants deny the allegations of paragraph 90.
- 10 91. Cross-Defendants deny the allegations of paragraph 91.
- 11 92. Cross-Defendants deny the allegations of paragraph 92.

## 12 **AFFIRMATIVE DEFENSES**

### 13 First Affirmative Defense

#### 14 (Failure to Mitigate Damages)

- 15 1. Cross-Defendants assert that whatever damages Polequaptewa may have
- 16 incurred, were caused in whole or in part, by his failure to mitigate his damages.

### 17 Second Affirmative Defense

#### 18 (Offset)

- 19 2. Cross-Defendants are entitled to an offset against any alleged damages
- 20 incurred by Polequaptewa.

### 21 Third Affirmative Defense

#### 22 (Privileged)

- 23 3. Cross-Defendants' conduct and actions were privileged and bar
- 24 Polequaptewa's claims for relief.

1 Fourth Affirmative Defense

2 (Waiver)

3 4. By his actions and conduct Polequaptewa waived his right to sue Cross-  
4 Defendants for any alleged wrongdoing.

5 Fifth Affirmative Defense

6 (Estoppel)

7 5. By his actions and conduct Polequaptewa is estopped from asserting the  
8 claims set forth in his Amended Counterclaim.

9 Sixth Affirmative Defense

10 (Unjust Enrichment)

11 6. Cross-Defendants allege that Polequaptewa was unjustly enriched beyond  
12 any alleged damages he may have incurred.

13 Seventh Affirmative Defense

14 (Consent)

15 7. Cross-Defendants allege that Polequaptewa consented to the conduct of  
16 which he now complains and is therefore barred from seeking relief.

17 Eighth Affirmative Defense

18 (Ratification)

19 8. Cross-Defendants allege that Polequaptewa ratified all acts and omissions  
20 of Cross-Defendants and as such is barred from seeking relief.

21 Ninth Affirmative Defense

22 (Justification)

23 9. Cross-Defendants' conduct, acts and/or omissions were justified so as to  
24 bar Polequaptewa's claims for relief.

25 Tenth Affirmative Defense

26 (Unclean Hands)

10. Polequaptewa's own wrongful, improper and illegal conduct bars Polequaptewa's claims for relief.

## PAYER FOR RELIEF

Wherefore, Cross-Defendants prays for judgment as follows:

- a. That Polequaptewa take nothing by virtue of his Counterclaims;
- b. That judgment be awarded in Cross-Defendants favor;
- c. The Cross-Defendants be awarded its costs of suit in the defense of Polequaptewa's counterclaims; and
- d. For whatever other relief as the Court deems proper.

Dated: May 28, 2015

BLUE CAPITAL LAW FIRM P.C.  
MATTHEW A. BERLINER

By: /s/ Matthew A. Berliner

Matthew Berliner

Attorneys for Plaintiff and Cross-Defendant  
Blue Stone Strategy Group, and Cross-  
Defendant John Mooers

**CERTIFICATE OF SERVICE**

I, Matthew A. Berliner, declare as follows:

I am employed in the County of Orange, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 100 Spectrum Center Drive, Suite 870, Irvine, California 92618, in said County and State. On May 28, 2015, I served the following document(s):

**CROSS-DEFENDANTS' ANSWER TO FIRST AMENDED CROSS-COMPLAINT**

on the parties stated below:

Michael Khouri  
Andrew Goldman  
Khouri Law Firm  
4040 Barranca Parkway, Suite 280  
Irvine CA 92604  
agoodman@khourilaw.com

by the following means of service:

**BY MAIL:** I placed a true copy in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY PERSONAL SERVICE:** I emailed a true copy of this document to a messenger with instructions to personally deliver it to each person[s] named at the address[es] shown before 5:00 p.m. on the above-mentioned date.

☐ **BY OVERNIGHT SERVICE:** On the above-mentioned date, I placed a true copy of the above mentioned document(s), together with an unsigned copy of this declaration, in a sealed envelope or package designated by Federal Express with delivery fees paid or provided for, addressed to the person(s) as indicated above and deposited same in a box or other facility regularly maintained by Federal Express or delivered same to an authorized courier or driver authorized by Federal Express to receive documents.

☒ **BY ELECTRONIC SERVICE:** On the above-mentioned date, I caused each such document to be transmitted by electronically mailing a true and correct copy through The PACER Court Website

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ (FEDERAL) I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 28, 2015.

  
Matthew A. Berliner