

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
Civil Action No. 1:08-CV-00115-FL

ELECTRA ENTERTAINMENT )  
GROUP, INC. *et al.* )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
JOHN DOE, )  
 )  
Defendant. )

FIRST AFFIDAVIT OF  
STEPHEN E. ROBERTSON

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that: Under penalty of perjury, I, Stephen E. Robertson, hereby depose and say

1. I am the attorney for Defendant in the above-entitled action.
2. On behalf of various Doe defendants I represent, both in the above-entitled action, and in several other nearly identical actions in North Carolina, on or about the 27<sup>th</sup> day of March, 2008, I mailed an inquiry to Terry Wright, Director North Carolina Private Protective Services Board to complain of the unlicensed and unlawful practices of Plaintiffs' investigator, MediaSentry, Inc.. A true and accurate copy of the letter is marked Exhibit 1, is attached hereto and is incorporated as if fully set out herein.
3. The Director responded to the March 27, 2008 letter on or about the on or about the 14<sup>th</sup> day of May, 2008. A true and accurate copy of the response letter from the Director is marked Exhibit 2, is attached hereto and is incorporated as if fully set out herein.
4. I declare under the perjury laws of the United States of America that the foregoing is true and correct.



**ROBERTSON, MEDLIN & BLOCKER, PLLC**

ATTORNEYS AT LAW

ADRIENNE S. BLOCKER  
JOHN F. BLOSS  
W. ERIC MEDLIN  
STEPHEN E. ROBERTSON  
JONATHAN WALL

March 27, 2008

Terry Wright  
Director of Protective Services  
1631 Midtown Place, Suite 104  
Raleigh, North Carolina 27609

Dear Mr. Wright:

Thank you for speaking with me on the phone yesterday. Our law firm represents John Doe [REDACTED] in *BMG, et al. v. Does 1-14*, Case No. 07-CV-948, U.S. Federal Court for the Middle District of North Carolina.

The Big 4 companies who dominate the recording industry, the enforcement/lobbying arm of the music industry -- the RIAA -- and MediaSentry have devised an investigation scheme that we believe is both illegal and seriously flawed. The scheme is based on secret private investigations by unlicensed, unregistered and uncertified private investigators.

These private investigators claim to have entered the hard drives of hundreds, if not thousands, of private North Carolina citizens to look for music recordings stored there. This personal invasion is being investigated as a crime in many other states. If music was "discovered" through this process, the private investigators would then sell the identity of the computers' internet protocol address to the RIAA and the Big 4 record companies.

In addition to our representation of Doe [REDACTED] in this suit, our law firm represented 8 out of 38 Doe defendants in a case in the Eastern District that was dismissed, and we represent 4 out of 34 Does in another suit pending in the Eastern District. We believe that, in all of these cases the MediaSentry acquisitions of the data by surreptitious means; and the sale of the information to the Big 4, are investigations constituting a series of crimes in North Carolina.

According to the Private Protective Services Act, the private detectives and/or private investigators from MediaSentry engage in the profession for the purpose of "[s]ecuring evidence to be used before [a] court ..." N.C. Gen. Stat. §74C-3(a)(8)e. We believe that MediaSentry's investigators are not licensed in North Carolina. The Private Protective Services Act specifically requires a license. N.C. Gen. Stat. §74C-2(a).

Enclosed please find attached, the Declaration of Carlos Linares in Support of *ex parte* Application for Leave to Take Immediate Discovery in *BMG v. Does 1-14*. It outlines MediaSentry's investigative activities, in the same boilerplate manner as the industry has done in thousands of other lawsuits (see pp. 5-7). Also attached is a brief from the recording industry seeking a protective order for MediaSentry. The purpose of this document is to demonstrate that, while the industry would have courts and defendants believe their methods are just what any individual would be able to do, they are secretive and protective of the real investigative methods used.

Our office will continue to represent defendants in these cases. We are most interested in the position of your office concerning the status of MediaSentry. Please call me if I can answer any questions. Thank you.

Very truly yours,

A handwritten signature in black ink, consisting of the letters 'S', 'E', and 'R' in a stylized, cursive font.

Stephen E. Robertson

EXHIBIT 2



**NORTH CAROLINA  
PRIVATE PROTECTIVE SERVICES BOARD**

1631 Midtown Place • Suite 104  
Raleigh, North Carolina 27609  
Phone: (919) 875-3611 • Fax: (919) 875-3609  
E-Mail: PPSASL@ncdoj.gov  
Web Page: <http://www.ncdoj.com>



May 14, 2008

Mr. Stephen E. Robertson  
Robertson, Medlin & Blocker, PLLC  
125 South Elm Street  
Suite 100  
Greensboro, North Carolina 27401

RE: Media Sentry

Dear Mr. Robertson:

We are in receipt of information you supplied to the North Carolina Private Protective Services Board ("Board") regarding Media Sentry. As you are aware, the Board is the governmental agency that regulates the private protective services industry in North Carolina, which includes the regulation of private investigators.

"Private investigators" are defined as individuals who engage "in the profession of or accepts employment to furnish, agrees to make or makes inquiries or investigations concerning the below-listed topics on a contractual basis:

- a. Crimes or wrongs done or threatened against the United States or any state or territory of the United States.
- b. The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person.
- c. The location, disposition, or recovery of lost or stolen property.
- d. The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to properties.
- e. Securing evidence to be used before any court, board, officer, or investigative committee; or
- f. Protection of individuals from serious bodily harm or death."

See N.C. Gen. Stat. § 74C-3(a)(8).

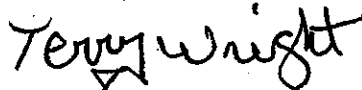
In reviewing the material supplied to us, we understand that individuals claim to have accessed the hard drives of private citizens to look for music recordings that are being stored. If information is found showing that music is being stored, the individual will then sell that information, along with the internet protocol address, to certain companies that are interested in obtaining that information. The information may then be used as evidence in court. In essence, it appears that individuals may be performing services on a contractual basis to determine the identity, habits, conduct, activity, transactions, or acts of individuals.

If the above information supplied is correct and it is found that the individuals do not hold a private investigators license issued by the Board, it is the opinion of the Board's staff that such activities violate the Private Protective Services Act.

This is an informal opinion of the Board's staff and is based on the information you supplied. The information appears to show a violation of the Act; therefore, if you would like to file a formal Complaint with the Board, please contact the Board's office at (919) 875-3611 to obtain a Complaint form.

If you have additional questions, you may contact me at the above number or you may contact Board Attorney Charles McDarris at (919) 828-0731.

Sincerely,

A handwritten signature in black ink that reads "Terry Wright". The signature is written in a cursive style with a small triangle under the letter 'y'.

Terry Wright  
Director

TW/vf