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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF MENDOCINO**

10 MARK GOLOB,

11 Plaintiff,

12 v.

13 SEAN KELLY,

14 Defendant.

) **CASE NO. SUUK CV PO-1463543**

) **REPLY DECLARATION OF**
) **DEFENDANT SEAN KELLY IN**
) **SUPPORT OF DEFENDANT'S**
) **SPECIAL MOTION TO STRIKE**

) **Date: April 11, 2014**

) **Time: 9:30 a.m.**

) **Dept.: E (Hon. Richard Henderson)**

) **Complaint Filed: Feb. 5, 2014**

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19 I, Sean Kelly, declare as follows:

20
21 1. I am a defendant in this action and I have personal knowledge of the facts and
22 information set forth herein. If called as a witness I would testify as to the same.

23 2. I have reviewed the Declaration of Mark Golob in Support of Opposition to Defendant's
24 Special Motion to Strike dated March 24, 2014 and his memorandum in opposition. I reply to this
25 declaration including statements and assertions not previously made by Mr. Golob.

26 ///

27 ///

1
2 **Misstatements by Mark Golob about the Golob Attorney Communications and My**
3 **Responses**

4 3. Mr. Golob states in paragraph 3 of his declaration: "In 2008 Mr. Kelly first published
5 the statement that I had a 'checkered past.' The statement was in an interview with Jeff Marks.
6 The interview was embedded in Mr. Kelly's website in the body of his blog, and not as a
7 headline." Mr. Golob next states in Paragraph 4 of the declaration: "In February 2011 I had my
8 attorney write a demand letter to Mr. Sean Kelly. The letter requested that he take down the
9 defamatory statements and all information pertaining to myself and my son."

10 4. Contrary to the above two juxtaposed statements of Mr. Golob, his attorney Scott
11 Hammel, Esq. did not write to me about the posted statements regarding a "checkered past" and a
12 "history of litigation" although those statements were both visible at the very front of the post.
13 Instead in his February, 2011 letter, Scott Hammel objected to a comment that was posted by a
14 blog visitor on the Jeff Marks Butterfly Life interview page, and that letter is attached as Exhibit
15 H to my prior declaration dated March 13, 2014. The blog visitor's comment warned would-be
16 investors and customers that Mr. Golob was actively involved in a new venture called Top Doc
17 America. Attorney Scott Hammel's threats of legal action were predicated on "references to Top
18 Doc America and its association with Mark Golob" and did not refer to the statements regarding
19 Mr. Golob's "checkered past" or "history of litigation."

20 5. In Paragraph 5 of his Declaration, Mr. Golob states "On February 16, 2011 Mr. Kelly
21 wrote my attorney back stating that he would take down the statement and related materials.
22 Attached hereto as Exhibit 1 is a true and correct copy of Mr. Kelly's letter agreeing to take down
23 the statement."

24 6. The sole subject addressed in my email included as Golob's Exhibit 1 is that of reader-
25 generated comments regarding Mr. Golob's association with the company Top Doc America.
26 There was no reference made to the "checkered past" statement. In my above email I nonetheless
27 state "we have taken the comments you objected to offline, and posted your statement that Mark
28 Golob is in no way affiliated with Top Doc America." During this entire exchange between Mr.
Golob's attorney and me in 2011, there was no stated reference to or objection to the "checkered
past" or "history of litigation" statements by either Mr. Golob or his attorney.

1 7. The statements regarding "checkered pasts" and "history of litigation" that Mr. Golob
2 claims were defamatory were made in the 2008 blog posts about the health club chain Butterfly
3 Life. The exchange between attorney Scott Hammel and myself in 2011 addressed comments
4 about Mr. Golob and an unrelated company called Top Doc America, and had nothing to do with
5 Butterfly Life or the statements regarding "checkered pasts" and "history of litigation."

6 **False Statement by Mark Golob that I Took Down the "Checkered Past" or "History of**
7 **Litigation" Statements from the Blog**

8
9 8. In Paragraph 6 of his declaration, Mr. Golob states "After that letter, Sean Kelly did in
10 fact take down the content related to me from his websites including the statements that I had a
11 'checkered past.'"

12 9. Mr. Golob's contention that I acquiesced to his attorney's threats by removing the
13 "checkered past" and "history of litigation" content related to him from February, 2011 to
14 January, 2014 is untrue.

15 10. The only content about Mr. Golob taken down related only to blog statements about him
16 and Top Doc America, and even these Top Doc America comments were taken offline only
17 temporarily and were almost immediately restored by me. The comments regarding Mr. Golob's
18 "checkered past" and "history of litigation" were never taken down and have continuously been
19 online since first posted by me in 2008.

20 11. Another email from Mr. Golob's attorney, Scott Hammel, to me dated February 18,
21 2011 states that I had "failed to comply with our request to retract and remove the defamatory
22 statements published on your websites." A true and complete copy of this February 18, 2011
23 email I received from attorney Scott Hammel is attached hereto as Exhibit M and incorporated by
24 reference as though fully set forth herein.

25 12. On February 21, 2011, I forwarded a letter to attorney Scott Hammel in response to the
26 above February 18, 2011 letter from attorney Scott Hammel. A true and complete copy of my
27 February 21, 2011 letter response to attorney Scott Hammel is attached hereto as Exhibit N and
28 incorporated by reference as though fully set forth herein.

13. In my February 21, 2011 letter, Exhibit N, I informed Mr. Hammel that I had extended
the courtesy of posting his statement on the Jeff Marks Butterfly Life interview page that Mr.

1 Golob claims to have no association with Top Doc America. I did not agree to remove anything,
2 nor did I remove the references to Mr. Golob and “checkered past” and “history of litigation

3 14. In my February 21, 2011 letter, Exhibit N, I informed Mr. Golob’s lawyer that I have
4 been an active blogger and web publisher on controversial issues for the past five years. In
5 addition in the letter I also informed Mr. Golob’s attorney that filing meritless lawsuits with the
6 intent of chilling free speech was subject to proscription via California’s anti-SLAPP laws.

7 15. At the conclusion my February 21, 2011, letter, I state “On a final note, we provide a
8 forum for the open exchange of ideas, opinions, and information. I invite you and your client to
9 exercise your First Amendment rights by participating in this forum, and to provide any
10 clarifications or viewpoints you care to share.”

11 16. Despite this invitation, neither Mr. Golob nor his attorney mentioned the "checkered
12 past" or "history of litigation" statements that were clearly visible on two blog pages in and since
13 2008.

14 17. Mr. Golob’s contention that the statements regarding Mr. Golob’s “checkered past” and
15 “history of litigation” had been removed and were not visible on the Internet between February,
16 2011, to January, 2014 is untrue.

17 18. Contrary to Mr. Golob’s contention, the Jeff Marks Butterfly Life interview page,
18 attached as Exhibit F to my March 13, 2014 Declaration, was continuously published and
19 publicly visible since 2008. I know this as the publisher of this website including because I never
20 took the Jeff Marks Butterfly Life interview page down and it is still up. This fact is substantiated
21 through records compiled by the digital archive known as the Wayback Machine, located at
22 Archive.Org.

23 19. The continuous publication of the Jeff Marks Butterfly Life interview page, Exhibit F to
24 my first declaration, which contains the “checkered past” and “history of litigation” remarks
25 about Mr. Golob, is confirmed by pages from the Wayback Machine archive for different years of
26 this web page. The Wayback machine archive, which I am familiar as a blogger contains historic
27 records of website images. Wikipedia defined the entity as follows: “The Wayback Machine is a
28 digital archive of the World Wide Web and other information on the Internet created by the
Internet Archive, a non-profit organization, based in San Francisco, California... The service
enables users to see archived versions of web pages across time, which the Archive calls a ‘three

1 dimensional index.”

2 20. During the past week, I went to the Wayback Machine archive on the internet to
3 confirm images of the Jeff Marks Butterfly Life page, Exhibit F to my first declaration, at various
4 times when Mr. Golob swears it was not visible. Attached hereto as Exhibit O are archived
5 snapshots from The Wayback Machine showing how the Jeff Marks Butterfly Life interview page
6 appeared to the public on three dates during the period Mr. Golob claims they were not visible:
7 December 27, 2011, September 3, 2012, and February 27, 2013.

8 21. Each of the above Wayback Machine archive snapshots included in Exhibit O show the
9 date they were archived by the Wayback Machine in the upper right corner. Each of the first three
10 snapshots in Exhibit O show that the Jeff Marks Butterfly Life interview page containing the
11 statements regarding “checkered past” and “history of litigation” were clearly readable on each of
12 the recorded dates, which were within the time frame in which Mr. Golob falsely claims they did
13 not exist.

14 22. The above Wayback Machine archive, Exhibit O, at page 4 contains a snapshot of the
15 comment section of the Jeff Marks Butterfly Life interview page as it appeared on February 27,
16 2013. This snapshot displays a comment that had been posted to the Jeff Marks Butterfly Life
17 interview page on January 31, 2012 by commenter "John Blaze." The snapshot of this comment
18 further indicates that the site was publicly viewable during the time Mr. Golob claims it was not.

19 **False Statement by Mark Golob that I Published a New Article in about January, 2014**

20 23. In Paragraph 8 of his declaration, Mr. Golob states: "In about January, 2014 Mr. Kelly
21 posted that I had a 'checkered past and history of litigation in the health club industry' on his
22 website. This time he took the statements that I had a checkered past and a history of litigation out
23 of the body of the article and made it a headline. I was in my home in Mendocino County
24 California when I discovered this new posting."

25 24. This statement is untrue. I neither wrote nor published any blog post about Mr. Golob
26 in January, 2014. Mr. Golob fails to provide a copy, screenshot or print-out of the purported
27 January blog post, which does not exist. Instead I posted the two articles, Exhibits F and G to my
28 original declaration, in August of 2008 as stated in my original declaration. I did not repost those

1 two articles through January of 2014 and the filing of the complaint by Mark Golob in this action,
2 rather those articles were posted as written in 2008 with subsequent comments by blog posters
3 other than me.

4 25. I have attached as Exhibit P a true and correct listing of all new posts published on
5 UnhappyFranchisee.Com during the month of January, 2014. The list also includes any existing
6 posts that were updated and republished on UnhappyFranchisee.Com during the month of
7 January, 2014. A total of sixteen blog posts were published regarding seven different franchise
8 companies and one franchisee association.

9 26. Neither Mr. Golob nor his companies were a subject of a blog post January, 2014, and
10 had not been since March, 2009. Mr. Golob's statement that he discovered this, or any other, new
11 posting in January, 2014 in his home in Mendocino County, CA is not true.

12 **Misstatements that I was Provided Prior Notice of this Lawsuit**

13
14 27. Mark Golob's Points and Authorities in Opposition to Defendant's Special Motion to
15 Strike states "Plaintiff, after politely asking Defendant to remove the statements and providing
16 notice that the statements were untrue, brought suit in February 2014." MPA in Opp., at page 7,
17 lines 1-3. This claim does not appear in Mr. Golob's Declaration and no supporting document is
18 supplied as an exhibit.

19 28. This claim is untrue. Neither Mark Golob nor any attorney representing him contacted
20 me to ask me to remove the purported January, 2014 statements and did not provide "notice that
21 the statements were untrue" prior to bringing suit in February, 2014.

22 29. I had no warning or notice of Mr. Golob's contentions or intention to sue until I was
23 served with the summons on February 21, 2014. The lawsuit was a complete surprise to me.

24 **My Opinions Were Justified**

25
26 30. In Paragraph 10 of his Declaration, Mr. Golob cites a definition of "checkered" to mean
27 "marked by dubious episodes; suspect in character or quality."

28 31. Without agreeing with Mr. Golob's definition, I expressed my opinion using the term

1 checked past. I have reported on franchising for years, and been involved in franchising for
2 decades during which I have met with and had discussions with hundreds of franchisors and
3 observed their business activities. After receiving hundreds of comments from Mr. Golob's
4 franchisees, having spoken and interviewed many of them, and having read numerous lawsuit
5 allegations concerning Mr. Golob's past business dealings and disputes, I formed the opinion that
6 Mr. Golob had a checkered past. I expressed this, which was shared by many franchisees of Mr.
7 Golob's companies, as an opinion.

8 **32.** In Paragraphs 11- 14 of his declaration, Mr. Golob attempts to refute my factual
9 statement that he has a "history of litigation" by enumerating his alleged victories and dismissals
10 in numerous civil lawsuits. By arguing that he has prevailed in numerous civil lawsuits, Mr.
11 Golob confirms the truth of my statement that he has a "history of litigation." The outcome of
12 Mr. Golob's past litigation was not the subject of my statement, just that such litigation existed.

13 **Mr. Golob's New Statements of Non Involvement with Franchising**

14
15 **33.** In his declaration at paragraph 2, Mr. Golob states: "I have not sold a franchise in at
16 least seven years and am in no way active in the franchise industry. I haven't applied for any
17 renewal to sell franchises from any state in over seven years."

18 **34.** While I do not have any knowledge of when Mr. Golob stopped selling franchises at
19 this time, his franchise company Butterfly Fitness, Inc. was operating through September 30,
20 2011, when it filed for bankruptcy as set forth in Exhibit K to my original declaration of March
21 13, 2014. Nor has Mr. Golob provided sworn testimony when Butterfly Fitness, Inc. ceased
22 operations.

23 **35.** Mr. Golob does not state in his declaration that he is no longer in business nor what his
24 intentions are for business activities including franchising.

25 **36.** I went on line this past week and found a website for Mark Golob and have attached as
26 Exhibit Q a true and complete copy of the content of that website. In this website Mr. Golob is
27 providing to the public his business background including references to being the founder of

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Linda Evans and Butterfly Life fitness chains.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, executed at Lancaster, Pennsylvania, on April 1, 2014.

By: 
Sean Kelly

N:\ACTIVE\Kelly, Sean\Pleadings\Reply Decl Kelly.04.01.14.doc

Exhibit M

Email from Scott Hammel to Sean Kelly February 18, 2011

Sean Kelly's reply to Scott Hammel February 21, 2011

From: Sean Kelly
To: shammel@astound.net
Cc:
Bcc: editor@bluemaumau.org
Subject: Re: Top Doc America, Inc. v. Blue MauMau, Inc., et al

Sent: Mon 2/21/2011 6:25 PM

Message:  TopDocresponse.docx (268 KB)

Please see attached response letter.

----- Original Message -----
From: Scott Hammel
To: editor@bluemaumau.org ; seankelly@ideafarm.net
Sent: Friday, February 18, 2011 8:41 PM
Subject: Top Doc America, Inc. v. Blue MauMau, Inc., et al

Don Sniegowski, Sean Kelly and Rosemarie Kelly:

Since you have failed to comply with our request to retract and remove the defamatory statements published on your websites, we intend to move forward and file the attached complaint against you for compensatory and punitive damages for claims based on defamation and business interference. You have one more chance to remove and unpublish the defamatory statements from your websites (as indicated in my prior correspondence to you). If not done by Monday, February 21, 2011, we will file and proceed with the lawsuit. In the meantime, we trust that you will promptly notify your respective insurance carriers of this potential claim.

Scott Hammel, Esq.
Litigation Advocates Group

Exhibit N



Scott Hammel, Esq.

Litigation Advocates Group

1990 North California Blvd., 8th Floor

Walnut Creek, California 94596

Sent by email to: shammel@astound.net

Mr. Hammel:

I am in receipt of your letter dated February 10th, 2011 ("RE: Defamation Claim Against Franchise Publicity") and your email with attachments dated February 18, 2011 (Subject: Top Doc America, Inc. v. Blue MauMau, Inc., et al").

As I stated in my emailed response of February 16, 2011, I can find no references to your client Top Doc America, Inc. anywhere on the FranchisePublicity.com website. On UnhappyFranchisee.com, I have extended the courtesy of posting your disclaimer (in your own words) that Mark Golob is not associated with your client's organization.

I have been an active business blogger and web publisher on controversial topics for the past 5 years. As such, I am no stranger to the laws pertaining to libel and freedom of speech on the Internet and, specifically, the legal protections afforded bloggers and web publishers. In order to save you further time, expense and potential embarrassment, let me introduce you to Section 230 of Title 47 of the United States Code (47 USC § 230).

In order for us to be liable for defamation, we would have to be the publisher or speaker of the offending information. Section 230 states that "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." This federal law preempts any state laws to the contrary: "[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section." The courts have repeatedly rejected attempts to limit the reach of Section 230 to "traditional" Internet service providers, instead treating many diverse entities – including bloggers and blog publishers - as "interactive computer service providers."

Neither IdeaFarm (Relentless, Inc.) nor BlueMauMau.org are publishers of any material in question, and are therefore not liable, under Section 230, for its content or effect.

We are also well aware of the prohibitions against those using lawsuits as a means of bullying and intimidating web publishers into relinquishing their 1st Amendment rights. California has a statute that specifically protects people from "Strategic Lawsuits Against Public Participation" or SLAPPs.

California's *Code of Civil Procedure section 425.16*, which took effect in 1993, allows a judge to decide at the outset of the suit whether the SLAPP has a "probability" of winning. If the judge finds that it does not, the SLAPP must be dismissed, and the SLAPP target wins his or her legal defense costs and attorneys' fees. Common sense, our legal advisers and solid precedent all indicate that your attempt at chilling free speech on the Internet is nothing more than a baseless, frivolous threat with no probability of succeeding.

On a final note, we provide a forum for the open exchange of ideas, opinions and information. I invite you and your client to exercise your First Amendment rights by participating in this forum, and to provide any clarifications or viewpoints you care to share.

Please feel free to contact me at 717-656-2107 if you have any questions or wish to discuss this matter any further.

Sincerely,

Sean Kelly

President, Relentless, Inc. dba IdeaFarm

Exhibit O

BUTTERFLY LIFE: Jeff Marks, Ex-

Franchisee blog post December 27, 2011

The snapshot below was captured and stored by The Wayback Machine Internet Archive on December 27, 2011. It indicates how the Jeff Marks interview page on UnhappyFranchisee.Com appeared to the public on December 27, 2011. The date is indicated in the black box in the upper right corner ; the statements regarding “checkered pasts” and “history of litigation” are publicly visible and unchanged.

INTERNET ARCHIVE
Wayback Machine

http://www.unhappyfranchisee.com/butterfly-life-jeff-marks-ex-franchisee/ Go FEB DEC SEP 27 2011

9 captures
1 Jan 11 - 27 Feb 13

Close Help

Unhappy Franchisee

To see the future of franchising
Click Here

NEWS FEED COMMENTS

HOME CONTACT US CURVES FOR WOMEN CONTRIBUTE Search this website... GO

ALL POSTS COMPANIES CONCEPTS FOR SALE FRANCHISE ISSUES

Browse > Home / 30 Minute Fitness, ALL POSTS, Butterfly Life / BUTTERFLY LIFE: Jeff Marks, Ex-Franchisee

WELCOME TO UNHAPPYFRANCHISEE.COM

BUTTERFLY LIFE: Jeff Marks, Ex-Franchisee

August 4, 2008

Interview with Jeff Marks, Former Multi-Unit Franchise Owner, Butterfly Life
8/1/08

Butterfly Life is a women's 30 minute fitness franchise chain that claims to be an improvement over Curves for Women. It was founded by Mark Golob, Tom Gergley, and, supposedly, Mark Mastrov. Golob & Gergley both have checkered pasts and a history of litigation in the health club industry. Many franchisees were attracted by the highly respected Mastrov (of 24 Hour Fitness), whose involvement ceased after they joined. (Read Butterfly Life Franchisees Allege Bait & Switch... of Execs)

Jeff Marks was an early, multi-unit franchisee in CA who claims to have lost \$350,000 within a year of opening two Butterfly Life clubs. He says that he paid a \$29,000 franchise fee plus a monthly \$1000 royalty/marketing fee for each club, yet never received the branding, advertising or operational support promised.

UF: Jeff, thanks for sharing your unfortunate experience with the Butterfly Life franchise specifically, and your general advice for helping prospective franchise owners make informed decisions.

What was your background prior to joining Butterfly Life? Did you have industry experience?

JEFF: Yes. I was health club operator and consultant for over 20 years



Revive Energy Mints Information UPDATED

SEARCH BY COMPANY:

Categories
Select Category

DISCUSSION

BUTTERFLY LIFE: Jeff Marks, Ex-

Franchisee blog post September 3, 2012

The snapshot below was captured and stored by The Wayback Machine Internet Archive on September 3, 2012. It indicates how the Jeff Marks interview page on UnhappyFranchisee.Com appeared to the public on September 3, 2012. The date is indicated in the black box in the upper right corner; the statements regarding “checkered pasts” and “history of litigation” are publicly visible and unchanged.

The screenshot shows the Wayback Machine interface at the top, with the URL <http://www.unhappyfranchisee.com/butterfly-life-jeff-marks-ex-franchisee> and a date selector for September 3, 2012. The website header features the "Unhappy Franchisee" logo, a "NEWS FEED" and "COMMENTS" link, and a navigation menu with items like HOME, CONTACT US, and FRANCHISE RESOURCE DIRECTORY. A search bar is also present. The main content area displays a blog post titled "BUTTERFLY LIFE: Jeff Marks, Ex-Franchisee" dated August 4, 2008. The post text describes Butterfly Life as a fitness franchise chain and mentions the founders, Mark Golob and Tom Gergley, along with a history of litigation. It also includes a quote from Jeff Marks regarding his experience with the franchise. On the right side, there is a sidebar with a "WELCOME TO UNHAPPYFRANCHISEE.COM" message, a "The Unhappy 25" badge, and a "SEARCH BY COMPANY:" section with a category dropdown menu. A "DISCUSSION" section with "UNHAPPY COMMENTS:" is also visible.

INTERNET ARCHIVE
Wayback Machine

http://www.unhappyfranchisee.com/butterfly-life-jeff-marks-ex-franchisee Go

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Close X
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10 captures
1 Jan 11 - 29 Mar 14

NEWS FEED COMMENTS

Unhappy Franchisee

To see the future of franchising
Click Here

HOME CONTACT US FRANCHISE RESOURCE DIRECTORY CONTRIBUTE

Search this website... GO

ALL POSTS COMPANIES CONCEPTS FOR SALE FRANCHISE ISSUES

WELCOME TO UNHAPPYFRANCHISEE.COM

The Unhappy 25

UNHAPPY FRANCHISEE 25: Hottest Controversies, Liveliest Debates

SEARCH BY COMPANY:

Categories
Select Category

DISCUSSION

UNHAPPY COMMENTS:

BUTTERFLY LIFE: Jeff Marks, Ex-Franchisee

August 4, 2008

Interview with Jeff Marks, Former Multi-Unit Franchise Owner, Butterfly Life
8/1/08

Butterfly Life is a women's 30 minute fitness franchise chain that claims to be an improvement over Curves for Women. It was founded by Mark Golob, Tom Gergley, and, supposedly, Mark Mastrov. Golob & Gergley both have checkered pasts and a history of litigation in the health club industry. Many franchisees were attracted by the highly respected Mastrov (of 24 Hour Fitness), whose involvement ceased after they joined. (Read Butterfly Life Franchisees Allege Bait & Switch... of Execs)

Jeff Marks was an early, multi-unit franchisee in GA who claims to have lost \$350,000 within a year of opening two Butterfly Life clubs. He says that he paid a \$29,000 franchise fee plus a monthly \$1000 royalty/marketing fee for each club, yet never received the branding, advertising or operational support promised.

UF: Jeff, thanks for sharing your unfortunate experience with the Butterfly Life franchise specifically, and your general advice for helping prospective franchise owners make informed decisions.

What was your background prior to joining Butterfly Life? Did you have industry experience?

JEFF: Yes, I was health club operator and consultant for over 20 years.

BUTTERFLY LIFE: Jeff Marks, Ex-

Franchisee blog post February 27, 2013

The snapshot below was captured and stored by The Wayback Machine Internet Archive on February 27, 2013. It indicates how the Jeff Marks interview page on UnhappyFranchisee.Com appeared to the public on February 27, 2013. The date is indicated in the black box in the upper right corner; the statements regarding “checkered pasts” and “history of litigation” are publicly visible and unchanged.

The screenshot shows the UnhappyFranchisee.com website interface. At the top, there is a navigation bar with links for HOME, CONTACT US, FRANCHISE RESOURCE DIRECTORY, and CONTRIBUTE. A search bar is located on the right side of the navigation bar. Below the navigation bar, there are several menu items: ALL POSTS, COMPANIES, CONCEPTS, FOR SALE, and FRANCHISE ISSUES. The main content area features a large heading for the article: "BUTTERFLY LIFE: Jeff Marks, Ex-Franchisee" dated August 4, 2008. The article text discusses the franchisee's experience with Butterfly Life, mentioning the founder Mark Mastrov and the franchisee's financial losses. A quote from Jeff Marks is included, along with a question about his background. On the right side of the page, there is a sidebar with a "WELCOME TO UNHAPPYFRANCHISEE.COM" message, a "The Unhappy 25" badge, and a "SEARCH BY COMPANY:" section with a dropdown menu. The bottom of the page shows a "DISCUSSION" section with "UNHAPPY COMMENTS:".

INTERNET ARCHIVE
Wayback Machine

http://www.unhappyfranchisee.com/butterfly-life-jeff-marks-ex-franchisee/ Go

10 captures
1-Jan-11 - 25-Mar-14

OCT FEB MAR
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NEWS FEED COMMENTS

Unhappy Franchisee

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HOME CONTACT US FRANCHISE RESOURCE DIRECTORY CONTRIBUTE

Search this website... GO

ALL POSTS COMPANIES CONCEPTS FOR SALE FRANCHISE ISSUES

WELCOME TO UNHAPPYFRANCHISEE.COM

The Unhappy 25

UNHAPPY FRANCHISEE 25: Hottest Controversies, Liveliest Debates

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BUTTERFLY LIFE: Jeff Marks, Ex-Franchisee

August 4, 2008

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8/1/08

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UF: Jeff, thanks for sharing your unfortunate experience with the Butterfly Life franchise specifically, and your general advice for helping prospective franchise owners make informed decisions.

What was your background prior to joining Butterfly Life? Did you have industry experience?

I was health club operator and consultant for over 20 years.

BUTTERFLY LIFE: Jeff Marks, Ex-

Franchisee blog post February 27, 2013 –

Comments Section

The snapshot below was captured and stored by The Wayback Machine Internet Archive on February 27, 2013. It indicates how the comments section below the Jeff Marks interview page on UnhappyFranchisee.Com appeared to the public on February 27, 2013. The date is indicated in the black box in the upper right corner; the comment left by “John Blaze” had been posted on January 31, 2012 at 1:25 am.

INTERNET ARCHIVE Text Only 1996 <http://www.unhappyfranchisee.com/butterfly-life-jeff-marks-ex-franchisee/> Go OCT FEB MAR Close X

waybackmachine 10 captures 1 Jan 11 - 29 Mar 14 ◀ 27 ▶ 2011 2013 2014 Help ?

<http://www.manta.com/c/m1b67q5/doctors-improving-healthcare-inc>

Yeah, this sounds legit.

-  ADMIN says:
February 16, 2011 at 4:50 pm
We received recent comments stating that a Mark Golob was now selling for a company called Top Doc America. However, an attorney representing that company informed us that "Mark Golob is not an officer, director, employee, agent or representative of Top Doc America..."
-  John Blaze says:
January 31, 2012 at 1:25 am
I know TopDocAmerica inside and out. Worked for them. They are a bunch of scammers. Beau Golob is the President/Ceo, but his father Mark often coached us. He's one of those old time pushy salesman. The company is BS. They're not selling anything, just going from door to door down a list (like the old Yellow Pages salesman) and selling a spot on a crappy website that no one will look at.

SHARE A COMMENT HERE:

Name (required)

Email Address (required)

Website

Exhibit P

UnhappyFranchisee.Com

All Posts Published – January, 2014

2014/01/02 FRESHBERRY Franchise Closures [UPDATED]

2014/01/13 When Franchises Fail: Interview with Former Frozen Yogurt Franchisee Leon Walker

2014/01/13 YoFRESH YOGURT CAFÉ Franchise Watch: How Many Have Closed? How Many Remain?

2014/01/13 YOFRESH YOGURT CAFÉ: Chris Gregoris Responds to Franchisee Allegations

2014/01/22 TERIYAKI MADNESS Franchise Disclosure Document (FDD), CA Impoundment Order

2014/01/23 DICKEY'S BBQ Is Dickey's Overselling its Franchise Opportunity?

2014/01/23 HERBALIFE Is Herbalife a Pyramid Scam?

2014/01/25 LEGACY ACADEMY Invited to Respond to Franchise Complaints

2014/01/25 LEGACY ACADEMY Issues Cease & Desist Letter to UnhappyFranchisee.Com

2014/01/25 LEGACY ACADEMY UnhappyFranchisee.Com Complies With Legal Request/Threat

2014/01/26 7-ELEVEN Protest Over 7-11 Franchise Store Seizure (Pictures)

2014/01/26 7-ELEVEN Stole Our Store – Dev Patel's Story

2014/01/27 LEGACY ACADEMY Are Frank & Melissa Turner "Disreputable"?

2014/01/27 LEGACY ACADEMY Franchise Marketing Representations

2014/01/29 CFA: New Hampshire Fair Franchising Hearing Scheduled for Next Week! 2014/01/29

CFA: Maine Franchisees & Franchise Owners Rally Tomorrow

Exhibit Q

Mark Golob | Butterfly Life Franchise, Linda Evans Fitness Gyms, Concerts and Events

Mark Golob was the past CEO and Founder of Butterfly Life Franchise, Linda Evans Fitness, Mark Golob also owned the Bodyworks Healthclubs, Nightclubs and was a Concert Promoter of Live Music Events in Miami and the South. Mark Golob is a retired Entrepreneur.



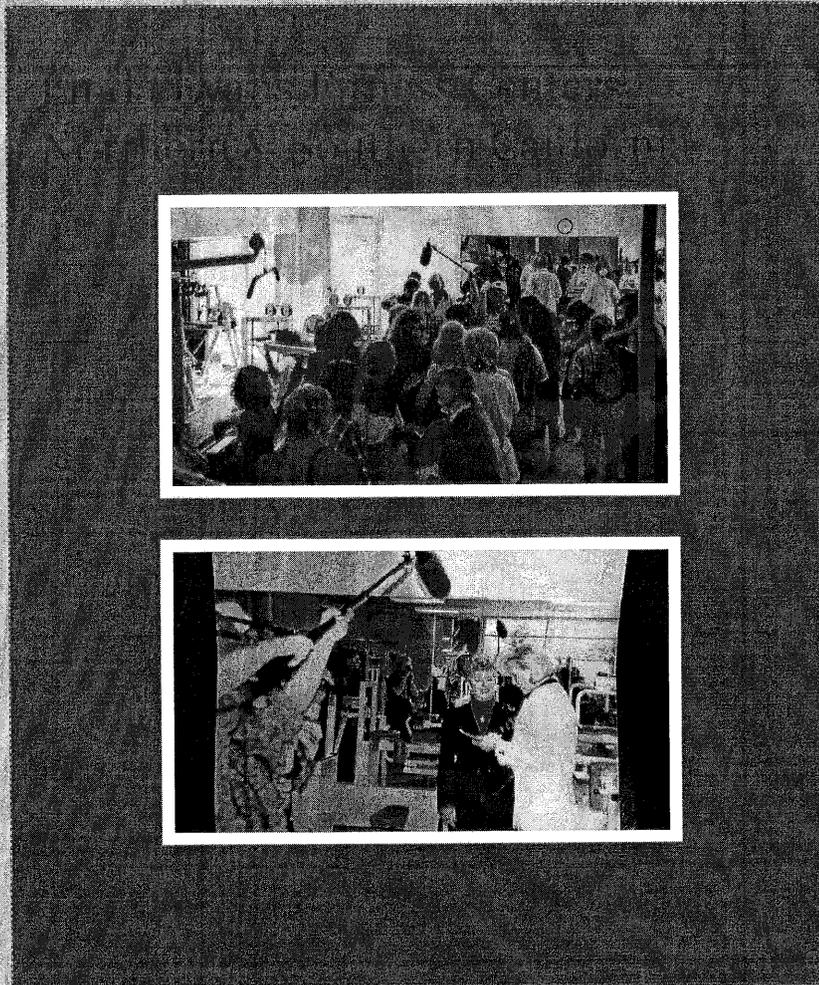
Mark Golob

San Francisco, California, United States

Mark Golob has built a top career in the health & fitness and entertainment industry. Mark Golob is a retired entrepreneur.

[View my complete profile](#)

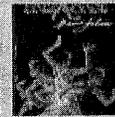
Friday, November 22, 2013



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Mark Golob produced and promoted Freedanse with Marine Jahan From the hit movie Flashdance

Mark Golob produced and promoted Freedanse with Marine Jahan From the hit movie Flashdance



The 24 hour Fitness Story

Based in San Ramon, California, 24 Hour Fitness Worldwide, Inc. is the largest privately owned and operated chain of fitness centers, wit...



Linda Evans a New You, Aerobic Workout Video

Linda Evans a New You, Aerobic Workout Video, Executive Producer Mark Golob Director Ernest Schultz Music by Yanni Distributed by: Nordic ...



LUMEX, INC. ANNOUNCES CYBEX EXCLUSIVE AGREEMENT WITH LINDA EVANS FITNESS CENTERS, INC.

BAY SHORE, N.Y., Oct. 6

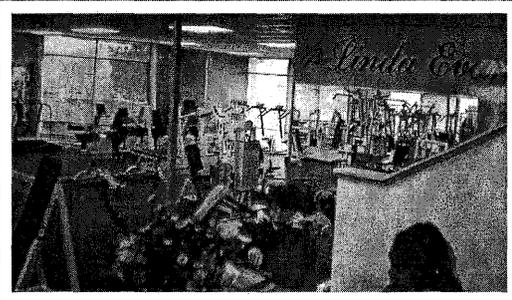
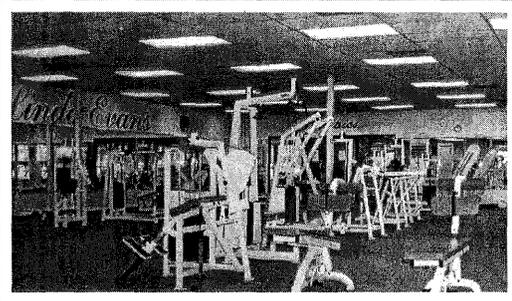
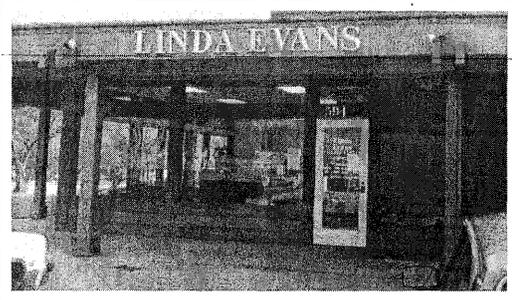
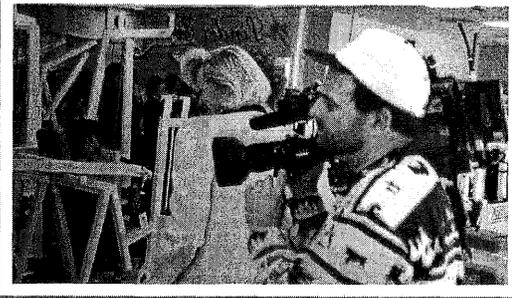
/PRNewswire/ -- Lumex, Inc. (AMEX:

LUM) announced today that its CYBEX division has reached an agreement to be t...



Diversified Health & Fitness, Inc Acquires Butterfly Life Inc.

Diversified Health & Fitness, Inc Acquires Butterfly Life Diversified Health & Fitness, Inc. of Ft. Lauderdale, Florida



announces i...



About Mark Golob
Mark Golob is a Health and fitness expert and a prominent marketer who has promoted bands like Madonna in concert, Fleetwood Mac and Bruce ...



Mark Golob Nightlife King
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Mark Golob and former NYC mayor Ed Koch
Mark Golob and former NYC mayor Ed Koch

Video Bar Mark Golob

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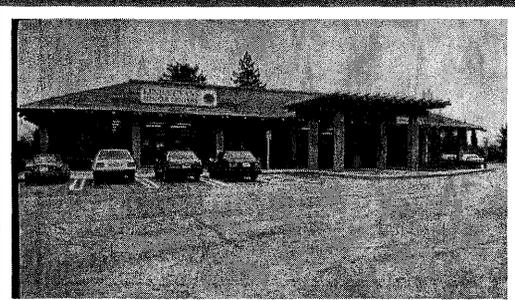
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Linda Evans
Fitness Centers
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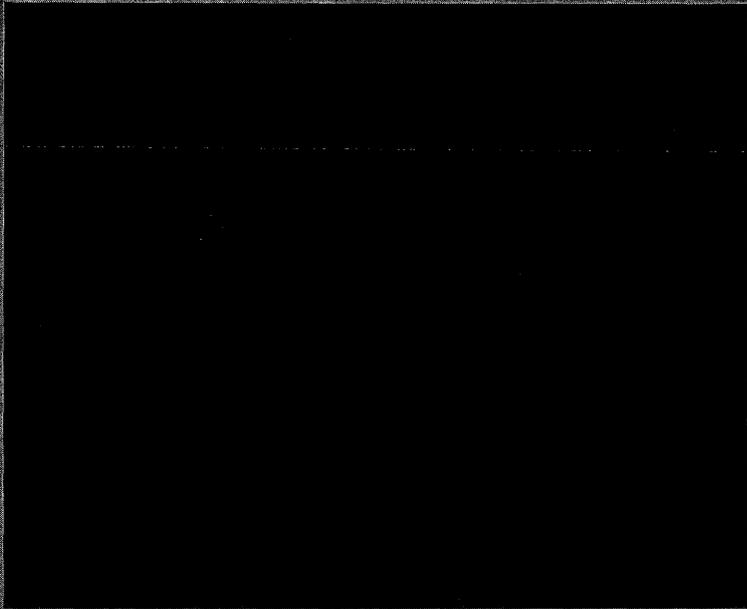
Fish



Posted by



Friday, March 4, 2011



It's never too late to look healthy and happy with the way you look and feel.

International Ambassador Linda Evans and fitness professional Matt Anderson lead you through a fun, all-inclusive aerobic fitness program. Each class has 3 levels of intensity so choose from designed for the beginning exerciser to the more fit. As you become stronger, you'll increase the intensity and duration of your workout, and better develop your cardiovascular health and endurance capacity.

a new YOU...



A new beginning
 Impress the way you look and feel for a healthier, happier New You. A NEW YOU is for everyone!

- warm-up
- cardiovascular workout
- gentle lower-body toning
- stretching
- cool down

Teach and demonstrate by Linda Evans
 Fitness and exercise by Matt Anderson
 Music by: 91.1
 Live Performance by Linda Evans
 Directed by: Mark Golob, LLC

194.078

Linda Evans a New You

Aerobic Workout Video, Executive Producer

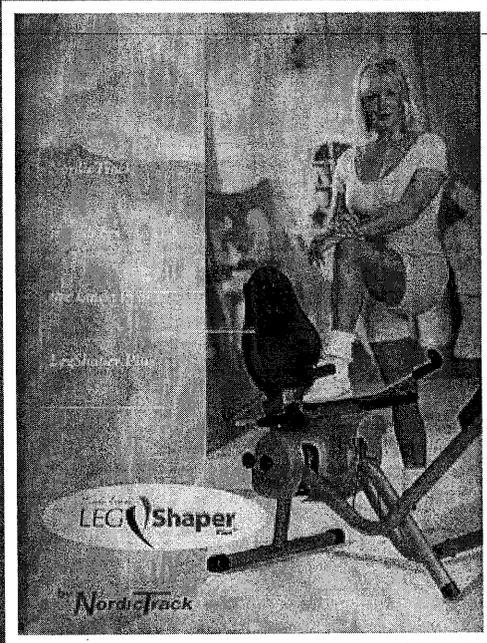
• Director Ernest Schultz

• Music by

• Distributed by

• Manufactured and distributed by BMG Videos, a unit of BMG

• The Official Workout of The Linda Evans Fitness Centers



CK THE CLOCK

LINDA EVANS

'Dynasty' star opens her own fitness centers after winning battle of bulge



After "Dynasty" went off the air, Linda Evans took up the battle to get fitter. In 1991, she levelled out packed on 25 pounds.

After fitness on "Dynasty" ended, Evans knew she had to get fitter. She started with a 100-mile marathon in 1991, then a 100-mile triathlon in 1992. She then lost 25 pounds in an intense exercise program. She then opened Linda Evans Fitness Centers in 1995.

She opened her first fitness center in 1995 in Los Angeles. She has since opened several more centers across the country. She is now a multi-millionaire.

She has also written several books on fitness and health. She is a motivational speaker and a television personality.

She is currently a member of the National Fitness Association and the International Fitness Association.

She is also a member of the National Health and Fitness Association and the National Association of Fitness Professionals.

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Linda Evans Fitness Centers

CLUB NEWS

Volume One Number Two Winter 1995



LINDA MAKES THE OPENING GRAND!

The grand opening of our new club in Monterey was a truly special event. Linda Evans, founder and CEO of Linda Evans Fitness Centers, was the guest of honor at the opening ceremony. Linda opened her first fitness center in 1995 in Los Angeles. She has since opened several more centers across the country. She is now a multi-millionaire.

She has also written several books on fitness and health. She is a motivational speaker and a television personality.

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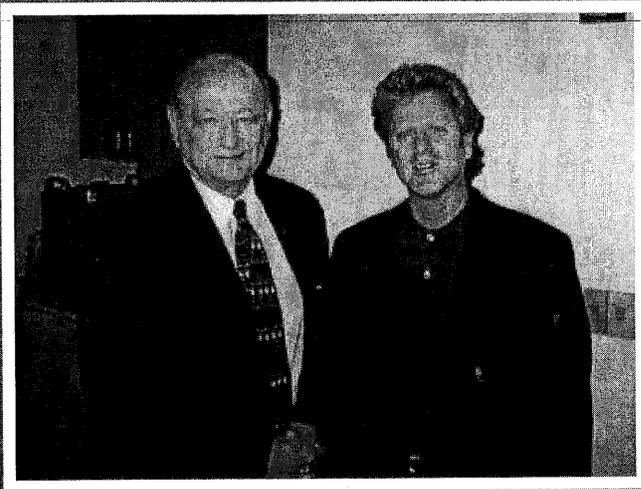
She is also a member of the National Health and Fitness Association and the National Association of Fitness Professionals.



A woman's place

Pittsburg resident Tamra Powell presents a plaque for a photo run across Linda Evans, who attended the grand opening of one of her fitness centers.

Posted by



Mark Golob and former NYC Mayor

Posted by



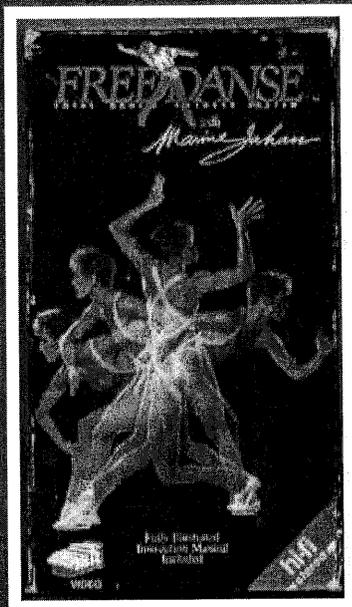
Mark Golob was the owner of the Sports Rock Cafe at the Bakery Centre

SPORTS ROCK Cafe
M · I · A · M · I
SENSATIONAL SPORTS
Great Food
Live Music
Complimentary Admission Every Night!
Special Events
Sports Rock Cafe
5701 Sunset Drive - 3rd Level Bakery Centre at Bodyworks
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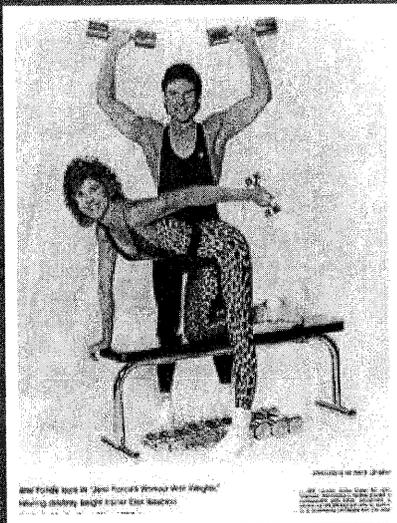


Thursday, March 3, 2011

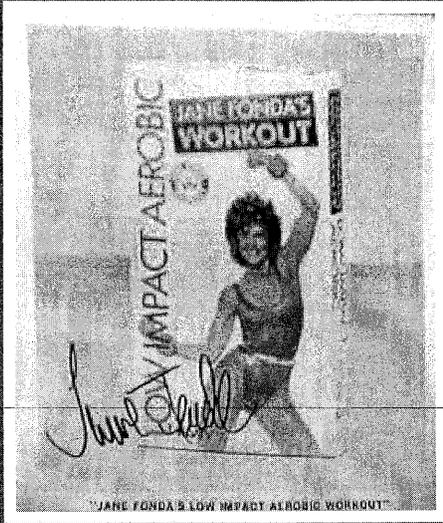
Mark Golob produced and promoted the event with Marine Jahan from the hit movie



active licenses to build new clubs. The Butterfly acquisition will push Diversified Holdings to nearly 200 clubs and will dramatically increase its market share in the women's fitness club franchise business. The acquisition has also allowed Diversified to enter the Japanese market with 6 locations. The Japanese market is one of the fastest growing fitness markets in the world. The acquisition included the acquisition of Butterfly's franchise agreements, FDI registrations, area developer agreements, manuals, trade names and other intellectual property. Diversified will bring its own needed corporate support and marketing and operational experience to our franchisees," said Mark Golob, CEO of Butterfly. "This is a great opportunity to help create one of the best brand names in women's fitness." Diversified Chief Executive Officer Roger Wittenbergsaid, "This is a great step forward for Diversified and for Butterfly. We welcome our new franchise partners to our family and will be excited to bring our experience and know-how to such a promising organization. Diversified Health and Fitness, Inc. is a franchise holding company for multiple fitness franchise concepts. The company was founded in 2007 and is the franchisor of Butterfly women's fitness. Board Chair Roger Wittenberg.



Mark Golob promoted "The Jane Fonda Live Workout Tour". Jane's live workout tour sold out in every city. She was a pleasure to work with. She was so down to earth. Women just love being with her. said Golob.



The
is well known as
Atlanta's first major
rock music hall. Every
mid-size touring act of
the mid to late 70's
played the room.
From Bruce
Springsteen, Lynyrd
Skynyrd, The Electric
Light Orchestra.

Highly anticipated and
enthusiastically received. Atlanta's rock scene still thrives in the old ballroom
at the

Mark Golob was one of the original owners and partners with
Carol said, "of all the famous people that performed in the ballroom, my
favorite night was when Bill Graham came to the grand opening and shared
some of his great rock n roll stories with me."

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