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**REPUBLIC OF THE PHILIPPINES**  
**DEPARTMENT OF JUSTICE**  
**OFFICE OF THE CITY PROSECUTOR**  
**PASIG CITY**

**JAMES ARTHUR WATKINS**  
also known as "**JIM**  
**WATKINS**"

*Complainant,*

- versus -

I.S. No. \_\_\_\_\_  
For: Violation of Section 4 (c)  
(4) of R.A. No. 10175,  
otherwise known as the  
"Cybercrime Prevention Act of  
2012", in relation to Section 6  
of the same law and Article  
355 of the Revised Penal Code

**FREDRICK ROBERT**  
**BRENNAN**

*Respondent.*

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**COMPLAINT-AFFIDAVIT**

I, **JAMES ARTHUR WATKINS** commonly known as "**JIM WATKINS**", American citizen, of legal age and with residence address at U-4F Phoenix Heights Condominium, 40 Canley Rd., Bagong Ilog Pasig City, after having been duly sworn in accordance with law, do hereby depose and state:

1. I am the complainant in the instant case/ complaint for violation of Section 4 (c) (4) of Republic Act No. 10175 (hereinafter referred to as "R.A. No. 10175", for brevity) also known as the Cybercrime Prevention Act of 2012 in relation to Section 6 of the same law and Article 355 of the Revised Penal Code of the Philippines against respondent **FREDRICK ROBERT BRENNAN** (hereinafter referred to as "respondent", for brevity) who is of legal age, married, American national and with residence address at

Cubao, Quezon City

where he may be served with notices, orders and other processes of this Honorable Office.

2. Respondent is the founder of the website 8chan, which he transferred to Complainant sometime in 2015. Respondent became a Sales Consultant of Complainant's company RACE QUEEN, INC. sometime in March 2015. A copy of the Respondent's Employment Contract dated 20 March 2015 as a Sales Consultant for RACE QUEEN, INC. is attached hereto as Annex "**A**".

3. Sometime during the last quarter of 2018, Respondent ceased his involvement with Complainant's company Race Queen Inc. due to irreconcilable differences, after which, the website 8chan became involved in a controversy when a user misused 8chan as a platform to commit hate crimes and express offensive materials.

4. This unfortunate event was utilized by the Respondent to malign Complainant's reputation and character both as a respectable individual and a competent businessman.

5. During the period of September to October 2019, Respondent posted several tweets on his Twitter account under the handle @HW\_BEAT\_THAT about Complainant's appearance before the United States Congress. A copy of the said posts is hereto attached as Annex "**B-series**". In the said tweets, respondent made mention of Complainant's name as follows:

*September 6, 2019*

*"Jim wearing a QAnon pin to Congress was truly awful.  
Either:*

*Jim is wearing the pin cynically. He knows Q is a LARP,  
but is wearing it to trick Cultists into donating to him.*

*Jim is going senile and believes Q is real to some degree  
and is wearing it as a talisman."*

*September 6, 2019*

*"My theory that Jim Watkins himself is going senile and  
actually believes in Q is no longer a theory.  
Wow..."*

*September 12 2019*

10. Second, Articles 353, 354 and 355 of the Revised Penal Code of the Philippines provide:

“Art. 353. Definition of libel. — A libel is public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status, or circumstance tending to cause dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.

Art. 354. Requirement for publicity. — Every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown, except in the following cases:

1. A private communication made by any person to another in the performance of any legal, moral or social duty; and
2. A fair and true report, made in good faith, without any comments or remarks, of any judicial, legislative or other official proceedings which are not of a confidential nature, or of any statement, report or speech delivered in said proceedings, or of any other act performed by public officers in the exercise of their functions.

Art. 355. Libel means by writings or similar means. — A libel committed by means of writing, printing, lithography, engraving, radio, phonograph, painting, theatrical exhibition, cinematographic exhibition, or any similar means, shall be punished by prison correccional in its minimum and medium periods or a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party.”

11. Clearly, for a violation of Section 4 (c) (4) of R.A. No. 10175 to arise, the following elements must concur:

- a. The unlawful or prohibited acts of libel as defined in Art. 355 of the Revised Penal Code; and,

b. The unlawful acts are committed through a computer system or any other similar means which may be devised in the future.

c. To constitute Libel under Art. 355 of the Revised Penal Code, Jurisprudence holds that the elements of libel are as follows: 1) the imputation of a discreditable act or condition to another; 2) publication of the imputation; 3) identity of the person defamed; and 4) the existence of malice.<sup>1</sup>

d. In turn, “computer”, “computer data”, “computer program”, and “computer system have been defined in Sections 3 (d), (e), (f), and (g) of R.A. No. 10175, to wit:

“(d) *Computer* refers to an electronic, magnetic, optical, electrochemical, or other data processing or communications device, or grouping of such devices, capable of performing logical, arithmetic, routing, or storage functions and which includes any storage facility or equipment or communications facility or equipment directly related to or operating in conjunction with such device. It covers any type of computer device including devices with data processing capabilities like mobile phones, smart phones, computer networks and other devices connected to the internet.

(e) *Computer data* refers to any representation of facts, information, or concepts in a form suitable for processing in a computer system including a program suitable to cause a computer system to perform a function and includes electronic documents and/or electronic data messages whether stored in local computer systems or online.

(f) *Computer program* refers to a set of instructions executed by the computer to achieve intended results.

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<sup>1</sup> Corpuz vs. Del Rosario, G.R. No. 149261, December 15, 2010.

(g) Computer system refers to any device or group of interconnected or related devices, one or more of which, pursuant to a program, performs automated processing of data. It covers any type of device with data processing capabilities including, but not limited to, computers and mobile phones. The device consisting of hardware and software may include input, output and storage components which may stand alone or be connected in a network or other similar devices. It also includes computer data storage devices or media.” (Underscoring supplied)

12. An allegation is considered defamatory if it ascribes to a person the commission of a crime, the possession of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance which tends to dishonor or discredit or put him in contempt, or which tends to blacken the memory of one who is dead. In determining whether a statement is defamatory, the words used are to be construed in their entirety and should be taken in their plain, natural, and ordinary meaning as they would naturally be understood by persons reading them, unless it appears that they were used and understood in another sense. Moreover, a charge is sufficient if the words are calculated to induce the hearers to suppose and understand that the person or persons against whom they were uttered were guilty of certain offenses or are sufficient to impeach their honesty, virtue or reputation or to hold the person or persons up to public ridicule.<sup>2</sup>

13. Here, as can be gleaned in the above tweets, Respondent wrote that he has theories that the Complainant is going senile and his actions in wearing “Q” pin is indicative of that. In addition, the Complainant’s explanation of 8chan’s slogan and his refusal to answer to any interviews became the Respondent’s basis to support his theory that the Complainant is going senile.

14. To begin with, Respondent’s statement that the Complainant is going senile is completely untrue. Herein Complainant has never been medically evaluated to be undergoing senility. Complainant is an upstanding member of

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<sup>2</sup> MANILA BULLETIN PUBLISHING CORPORATION AND RUTHER BATUIGAS vs. VICTOR A. DOMINGO AND THE PEOPLE OF THE PHILIPPINES, G.R. No. 170341, July 5, 2017.

the business community, with businesses covering the IT, web programming, real estate and agriculture industries. Further, Complainant's refusal to answer interviews is fueled by the fact that a United States Congressional hearing was ongoing and uttering words outside of the hall was, in his personal opinion, uncalled for.

15. Moreover, the Respondent is not a medical practitioner equipped with competence to declare that a person is suffering from senility. To be exact, senility is a medical condition usually arising as a symptom for Alzheimer's disease. The mere exercise of Complainant's freedom of expression in wearing a "Q" pin and business judgment not to answer interviews cannot be a catalyst to conclude that a person is going senile. To reiterate, the Complainant merely exercised his freedom of expression and business judgment.

16. Respondent even went so far as to disparage the administrators of 8chan, which for the information of this Honorable Office, includes the Complainant's son Ron, by saying that they are "*terrible incompetent people*". To this effect, Respondent wants 8chan to be shut down due to his personal "vendetta."

17. Clearly, the Respondent's twitter posts are not only an innocent commenter, with knee-jerk reactions and comments just to catch in on the controversy. His statements were posted out of pure hate and lust for vengeance to ride on and exacerbate the issue so as to darken the reputation and competence of the Complainant.

18. In their ordinary sense, the words used casted aspersion upon Complainant's reputation and mental health or condition thereby exposing him to public derision and ridicule. The words convey that Complainant is suffering from a mental illness of some sort; and which shows his incompetence as a businessman and as an upstanding member of society. In a society such as ours where there still exists an unresolved stigma regarding mental illness, the condition and behavior attributed by respondent to the Complainant truly besmirched the latter's condition, status, and reputation, especially as a businessman.

19. Respondent's words were not only untrue, they also were maliciously crafted in such a way that readers may

readily attribute a supposed mental condition or illness on the part of the Complainant.

20. The identity of the Complainant was clearly indicated in the tweets made by respondent when he used the name "Jim Watkins" and "8chan administrators." There is no doubt that the person whom respondent was referring to was the Complainant Jim Watkins, the owner of 8chan. There is no other person named Jim Watkins who owns the website 8chan, and with whom the respondent has a personal vendetta.

21. The element of publication is present as well because the defamatory post or remarks, being on Twitter, were obviously public in nature. Just like Facebook and Instagram, Twitter, is a social-media platform for the use and access of the general public. Further proof of the publicity of the article is attested to by the fact that Respondent, as of October 28, 2019, has Eight Thousand Three Hundred Twenty Five (8325) followers on Twitter with a privacy setting "public."

22. More importantly, Respondent's article and comment reeks of malice because these tend to cause dishonor, discredit or derision of Complainant's condition or behavior.

23. Any of the imputations covered by Article 353 of the Revised Penal Code of the Philippines is defamatory; and, under the general rule laid down in Article 354 of the same code, "every defamatory imputation is presumed to be malicious, even if it be true, if no good intention and justifiable motive for making it is shown." Thus, when the imputation is defamatory, "the prosecution need not prove malice on the part of the petitioner (malice in fact), for the law already presumes that the imputation is malicious."

24. Malice is presumed by law. In the case of the Philippines *vs. Julian Monton, et al.*, G.R. No. L-16772, the Court held:

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"The point is not well taken, and proceeds from a misapprehension of the provision just cited. The provision states: "Every defamatory imputation is presumed to be malicious even if it be true, if no good intention and justifiable motive for making it is

shown, except in the following cases: (1) a private communication made by any person to another in the performance of any legal, moral, or social duty." Libel, as defined under Article 353, has three elements: The imputation must be defamatory, it must have been given publicity, and it must be malicious. A fourth element may also be considered implicit in the provision, namely, that the victim of the libel must be identifiable. The defamatory character of the imputation is shown by the recitals thereof. No evidence aliunde need be adduced to prove it. With respect to the element of malice, the same is established (either by presumption or by proof). If nothing but the defamatory imputation itself is laid before the court, malice is presumed from it, and to overcome this presumption there must be a showing of good intention and justifiable motive. In other words, the burden is upon the defendants to overcome the legal inference of malice." (Emphasis supplied)

25. This was reiterated by the Supreme Court in the recent case entitled *Disini v. The Secretary of Justice, G.R. No. 203335, 11 February 2014*, to wit:

"But, where the offended party is a private individual, the prosecution need not prove the presence of malice. The law explicitly presumes its existence (malice in law) from the defamatory character of the assailed statement. For his defense, the accused must show that he has a justifiable reason for the defamatory statement even if it was in fact true. xxx

There is "actual malice" or malice in fact when the offender makes the defamatory statement with the knowledge that it is false or with reckless disregard of whether it was false or not. The reckless disregard standard used here requires a high degree of awareness of probable falsity. There must be sufficient evidence to permit the conclusion that the accused in fact entertained serious doubts as to the truth of the statement he published. Gross or even extreme negligence is not sufficient to establish actual malice."



26. Evidently, Respondent's tweets reek with malice. This can be shown that he has theorized that the Complainant is going senile without actual medical proof to support thereof. It can also be readily observed that Respondent admitted that he has personal vendetta with 8chan, which was owned by the Complainant. That alone is a sufficient motive on his part to spout malicious tweets to disparage the character and reputation of Complainant.

27. Lastly, Respondent posted the defamatory statements on Twitter, a software computer program available to computers, tablet devices and mobile phones or smartphones, which are clearly covered by Section 3 (d), (e), (f) and (g) of R.A. No. 10175.

28. The exercise of the right of expression and free speech like any other right enshrined in our Constitution comes with an equal burden of responsible exercise of that right. After all, the recognition of a right is not a free license for the one claiming it to run roughshod over the rights of others.

29. Freedom of expression enjoys an exalted place in the hierarchy of constitutional rights. Free expression however, "is not absolute for it may be so regulated that [its exercise shall neither] be injurious to the equal enjoyment of others having equal rights, nor injurious to the rights of the community or society." Libel stands as an exception to the enjoyment of that most guarded constitutional right.

30. Besides, "a man's good name and reputation are worth more to him than all the wealth which he can accumulate during a lifetime of industrious labor. To have that destroyed may be eminently of more damage to him personally than the destruction of his physical wealth or health." (*Worcester vs. Ocampo*, 22 *Phil. Rep.*, 42.) This is true since, --

"The enjoyment of a private reputation is as much a constitutional right as the possession of life, liberty, or property. It is one of those rights necessary to human society and underlies the whole scheme of civilization and stable government. The respect and esteem of a man's neighbors are among the highest rewards of a well spent life vouchsafed to man in this existence. The hope of the good esteem of one's neighbors and associates is the inspiration of youth

and its possession is a solace in later years. A man of affairs who has been seen and known by his fellow men in the active pursuits of life for many years and who has developed a great character and an unblemished reputation, has acquired a possession more useful and more valuable to most men than the possession of lands or houses or silver or gold. The law recognizes the value of such a reputation and imposes upon him who attacks it by slanderous words or libelous publication, the liability to make full compensation for the damage done."

31. Finally, it should be borne in mind that probable cause, for purposes of filing a criminal information, is defined as such facts as are sufficient to engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof. It does not mean "actual and positive cause" nor does it import absolute certainty. It is merely based on opinion and reasonable belief and, as such, does not require an inquiry into whether there is sufficient evidence to procure a conviction; it is enough that it is believed that the act or omission complained of constitutes the offense charged.

32. All told and based on the foregoing, it is respectfully submitted that the allegations and evidence presented herein by Complainant more than suffice to establish probable cause to hold Respondent for trial for the commission of online libel as provided under Section 4(c)(4) of R.A. No. 10175 in relation to Section 6 of the same law and Article 355 of the Revised Penal Code of the Philippines.

33. I am executing this Complaint-Affidavit to attest to the truth of all the foregoing and for the purpose of charging Respondent for violation of Section 4(c)(4) of R.A. No. 10175, otherwise known as the "Cybercrime Prevention Act of 2012," in relation to Section 6 of the same law and Article 355 of the Revised Penal Code of the Philippines.

AFFIANT FURTHER SAYETH NAUGHT.

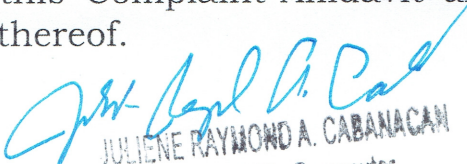
IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of October 2019 at Pasig City.



**JAMES ARTHUR WATKINS**

Affiant

SUBSCRIBED AND SWORN to before me this 30th day of October 2019 in Pasig City. I further certify that I have personally examined the affiant and that I am convinced that he voluntarily executed this Complaint-Affidavit and that he understood the contents thereof.



JULIENE RAYMOND A. CABANACAN  
District City Prosecutor

INVESTIGATING PROSECUTOR

*"I've had a theory for a while that Jim Watkins doesn't talk to the media as he's going senile and can't control his emotions while on the phone. He can't just say, "I decline to answer" or "I have no comment at this time but may e-mail you later". Further proof of his senility."*

October 7 2019

*"I don't want 8chan to come back.*

*Mostly for personal reasons.*

*I think its admins are terrible incompetent people. I have a vendetta with them.*

*I'm not against other image boards, only one they run with names like 8chan. Honest enough?"*

6. Complainant chanced upon Respondent's posts on Twitter. Upon seeing Respondent's demeaning and disparaging statements, herein Complainant was severely disappointed, humiliated, and anguished by the fact that Respondent maligned his good name to the community.

7. At any rate, being a resident of U-4F Phoenix Heights Condominium, 40 Canley Rd., Bagong Ilog Pasig City, the Complainant and the offense committed is well within the jurisdiction of this Honorable Office.

8. In turn, there can be no gainsaying Respondent's violation of Section 4(c)(4) of R.A. No. 10175 in relation to Section 6 of the same law and his commission of Libel under Articles 353, 354 and 355 of the Revised Penal Code of the Philippines.

9. First, Section 4.(c) (4) states:

“SEC. 4. Cybercrime Offenses. – The following acts constitute the offense of cybercrime punishable under this Act:

xxx

(c) Content-related Offenses:

xxx

(4) Libel. – The unlawful or prohibited acts of libel as defined in Article 355 of the Revised Penal Code, as amended, committed through a computer system or any other similar means which may be devised in the future. xxx”