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8 DEMOCRATIC UNDERGROUND, LLC

9 **UNITED STATES DISTRICT COURT**
10 **FOR THE DISTRICT OF NEVADA**

11 RIGHTHAVEN LLC, a Nevada limited liability
12 company,

13 Plaintiff,

14 v.

15 PAHRUMP LIFE, an entity of unknown origin
16 and nature; MAREN SCACCIA, an individual;
17 and MICHAEL SCACCIA, an individual,

18 Defendants.

Case No. 2:10-cv-01575-JCM (PAL)

**AMICUS REPLY ON ORDER TO
SHOW CAUSE**

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AMICUS CURIAE REPLY ON ORDER TO SHOW CAUSE

Pursuant to this Court’s May 11, 2011 Order granting it leave (Dkt. 29), *Amicus* Democratic Underground, LLC (“Democratic Underground” or “*Amicus*”) hereby respectfully submits the attached Reply Brief and supporting Declaration of Laurence Pulgram filed in *Righthaven LLC v. Democratic Underground, LLC et al.*, Case No. 2:10-cv-01356-RLH (GWF) as *amicus curiae* in this matter, attached hereto as Exhibits A and B respectively.

Amicus submits this brief to address Righthaven LLC’s (“Righthaven”) lack of standing under the recently unsealed Strategic Alliance Agreement and more recently executed Clarification and Amendment to Strategic Alliance Agreement (“Amendment”). The brief is submitted in the form prepared for and submitted this date in the *Democratic Underground* matter, as the issues are virtually identical. All docket citations in the attached brief are to *Righthaven LLC v. Democratic Underground, LLC et al.*, Case No. 2:10-cv-01356-RLH (GWF) unless otherwise noted.

As fully explained in the brief, regardless of any artful wordplay or formalistic gimmicks, neither the SAA nor the Amendment vest Righthaven with anything beyond a bare right to sue. Such a transaction was specifically rejected by the Ninth Circuit in *Silvers* as insufficient to provide standing under the Copyright Act. *See Silvers v. Sony Pictures Entm’t, Inc.*, 402 F.3d 881, 890 (9th Cir. 2005) (*en banc*) (holding that the bare right to sue does not grant standing under 17 U.S.C. § 501(b) to pursue an action for copyright infringement). Accordingly, Righthaven does not have standing to pursue this or any other action for copyright infringement based on the assigned Stephens Media copyrights.

Dated: May 20, 2011

Respectfully,
CHAD A. BOWERS, LTD

By: /s/ Chad A. Bowers
Chad A. Bowers

Attorneys for Amicus Curiae
DEMOCRATIC UNDERGROUND, LLC