

IN THE FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2024-CA-001964-XXXX-MB (AA)

EB5 UNITED, LLC, a Washington
Limited Liability Company, EB5
UNITED OKEECHOBEE, LLC, a
Delaware Limited Liability Company,
and EB5U FL, LLC, a Delaware Limited
Liability Company,

v.

EB5AN, LLC, a Florida Limited Liability
Company.

AMENDED COMPLAINT¹

Plaintiffs EB5 United, LLC (“EB5 United”), EB5 United Okeechobee, LLC (“EB5 United Okeechobee”), and EB5U FL, LLC (“EB5U FL”) sue Defendant EB5AN, LLC (“EB5AN”) and in support state:

INTRODUCTION

1. For Defendant EB5AN, business is a blood sport. Healthy competition takes a backseat to sharp business practices that include the publication of lies about their direct competitors, their offerings, and their ability to perform.

2. As part of its unethical approach to business, EB5AN developed a marketing plan that consisted of a checklist of lies, each of which was designed to shake the confidence of and dissuade potential foreign investors from participating in one of Plaintiffs' EB-5 Program investment offerings.

3. Incredibly, when confronted about its lies, one of EB5AN's managing partners, Michael B.

¹ Consistent with this Court’s December 18, 2024 *Order Denying, in Part, and Granting, in Part, Defendant EB5AN, LLC’s Motion to Dismiss the Complaint*, Plaintiff’s amendment is limited to Count II which alleges a claim for tortious interference with a business relationship. All other allegations and claims remain the same.

Schoenfeld, admitted that the false statements giving rise to this lawsuit should never have been published.

4. Though he concedes fault, Schoenfeld has taken no action to retract the defamatory statements his company has published. Instead, Schoenfeld, his business partner, Samuel B. Silverman, and EB5AN's team have doubled down on their strategy, publishing their admittedly defamatory statements on a global basis. EB5AN's false statements have now reached investors worldwide, from the United States, Canada, and Brazil to Europe, India, and China. In short, EB5AN's lies have reached nearly every major market where Plaintiff EB5 United operates.

5. This lawsuit seeks to compensate Plaintiffs for the lies EB5AN has and continues to spread. It also looks to ensure that Plaintiffs' reputation does not suffer any additional harm.

6. Competition benefits both business owners and consumers alike. This does not mean, however, that competitors are given free rein to manufacture, publish, and promote lies about their fellow competitors.

7. EB5AN's admission of liability is a first step, but it falls short. Even now, EB5AN continues to spread lies about Plaintiffs. EB5AN must make Plaintiffs whole by compensating them for the damages they have suffered.

THE PARTIES

8. Plaintiff EB5 United, LLC is a Washington limited liability company with its principal place of business in Hillsboro, Oregon.

9. Plaintiff EB5 United Okeechobee, LLC is a Delaware limited liability company with its principal place of business in Wilmington, Delaware.

10. Plaintiff EB5U FL, LLC is a Delaware limited liability company with its principal place of business in Wilmington, Delaware.

11. Defendant EB5AN, LLC is a Florida limited liability company with its principal place of business in Jupiter, Florida.

JURISDICTION AND VENUE

12. This action seeks damages in excess of \$50,000, exclusive of interest, costs, and attorney's fees.

13. Venue is proper pursuant to section 47.051, Florida Statutes, because this is an action against a domestic corporation located in Palm Beach County, Florida.

GENERAL ALLEGATIONS

I. THE EB-5 PROGRAM

14. Congress created the EB-5 Program in 1990 to stimulate the U.S. economy through job creation and capital investment by foreign investors.

15. The EB-5 Program is administered by U.S. Citizenship and Immigration Services ("USCIS").

16. Under the EB-5 Program, investors, including their spouses and unmarried children under 21, are eligible to apply for a lawful permanent residence and obtain a Green Card, if they satisfy two requirements.

17. To qualify for lawful permanent residence, an investor must (a) make the necessary investment in a commercial enterprise in the United States; and (b) plan to create or preserve a certain number of permanent full-time jobs for qualified U.S. workers.

II. EB-5 REGIONAL CENTERS

18. In 1992, Congress created the Immigrant Investor Program, also known as the Regional

Center Program, which set aside EB-5 visas for participants who invested in commercial enterprises associated with regional centers approved by USCIS based on proposals for promoting economic growth.

19. A regional center is a public or private entity located in the United States that promotes economic growth.

20. USCIS designates regional centers for participation in the Immigrant Investor Program.

21. A designated regional center gathers investment funds from multiple EB-5 investors to fund projects.

22. Florida EB5 Investments, LLC is an existing regional center under the EB-5 Program.

III. THE PROJECT

23. The Lakefront Estates and Villas at Lakefront Project (“the Project”) is a residential and commercial development located in Okeechobee, Florida.

24. When completed, the Project will include approximately 1,000 single-family homes, 300 residential units for lease, and approximately 780,000 square feet of commercial and public space.

25. The Project will incorporate religious facilities, a private school, and other on-site amenities designed to serve members of the Orthodox Jewish community relocating from places like New York and New Jersey where increasing rates of antisemitism and high costs of living no longer make those areas desirable.

26. Okeechobee Community Developers, LLC (“the Developer”) is developing the Project.

27. The Project has a development budget of approximately \$651,571,000 which will be funded with a combination of equity investment, senior bridge debt, buyer deposits, profit from sales, and EB-5 investment.

28. The Developer is seeking up to \$100,000,000 in EB-5 financing to fund construction.

29. USCIS approved the Project on November 17, 2023, finding that it met with EB-5 investment requirements.

30. Plaintiff EB5 United is a global financial services firm providing EB-5 and private equity investment opportunities.² EB5 United acts as fiduciary utilizing its “due diligence processes earned through various market cycles to navigate appropriate deal structures and provide global mobility” for its clients and their capital.³

31. EB5 United lists the Project on its website as a potential investment opportunity for qualified EB-5 investors.⁴

32. Plaintiff EB5 United Okeechobee was organized to loan up to \$100 million to the Developer for the development and construction of the Project.

33. EB-5 investors can purchase membership interests in EB5 United Okeechobee, LLC at the rate of \$800,000 per unit.

34. The investment terms for the Project, as well as other pertinent information are contained in a Private Placement Memorandum (“PPM”) prepared by EB5 United Okeechobee.

35. EB5 United Okeechobee is administered by Plaintiff EB5U FL.

36. Florida EB5 Investments, LLC, as an authorized regional center, has granted EB5 United Okeechobee the rights to use the EB-5 Program to raise capital for development and construction of the Project.

37. EB5U FL is not affiliated with the Developer or the Regional Center.

² <https://www.eb5united.com/about/> (last visited Feb. 27, 2024).

³ *Id.*

⁴ <https://www.eb5united.com/projects/lakefront-estates-and-villas/> (last visited Feb. 27, 2024).

IV. DEFENDANT EB5AN PUBLISHES FALSE STATEMENTS ABOUT PLAINTIFFS AND THE PROJECT

38. EB5AN is a direct competitor of EB5 United. Its website claims that it “helps foreign investors obtain U.S. permanent residency, or green cards, through qualifying investments within the guidelines of the EB-5 Immigrant Investor Program....”⁵

39. EB5AN prepared a four-page, single-spaced document entitled, Lakefront EB5 United Project Summary Comments (“the EB5AN Summary”).

40. The EB5AN Summary makes a number of false statements regarding the Project and the investment opportunities it presents as outlined in the PPM prepared by EB5 United Okeechobee, in addition to past EB-5 projects completed by EB5 United.

41. The EB5AN Summary is divided into eleven sections, each containing provocative headings containing false statements such as:

- a. “Misleading Valuations/Equity,”
- b. “Terrible Location,”
- c. “Misleading Loan Term,”
- d. “Weak I-526-E Approval Refund Guaranty,”
- e. Weak Completion Guaranty,” and
- f. False statements about a past EB5 United project that did not go bankrupt.

42. In addition to the false statements contained in these headings, the EB5AN Summary also makes several other false statements, including, but not limited to, claims that:

- a. the land value and the projected value of the completed non-residential components are inaccurate and not properly documented;

⁵ <https://eb5visainvestments.com/overview-history/> (last visited Feb. 27, 2024).

- b. the valuations for the land and for the non-residential components of the Project are “insane”;
- c. the Project is in an undesirable and economically depressed area: “There is nothing strategic about this unless you want to be living in the center of the state, as far away as possible from any shopping, beaches, healthcare, or other amenities, and want the cheapest land possible in the state and want to be neighbors with low-income mobile home parks.”
- d. the Project primarily caters to Orthodox Jews that constitute a very small market that is price sensitive;
- e. the regional center authorizing the EB-5 investments for the Project and its manager have engaged in criminal activity: The regional center is a “troubled regional center managed by the infamous Marty Cummins – pretty much he will rent his regional center to almost anyone for a fee, and over the years, many of his projects have failed and have had SEC investigations, theft of investor funds, etc.”;
- f. there is a “conflict of interest” and the regional center “owners will do what's best for them and not for the EB-5 investors in the fund”;
- g. there is significant financial exposure: “The EB-5 loan is not senior and will probably never become senior, so inferior EB-5 loan collateral is a significant risk for investors”;
- h. the “Completion Guaranty” is worthless: “this guaranty is pretty much worthless in terms of making sure the entire project gets completed within a set period of time....”;
- i. EB-5 investors will receive “unequal treatment”; and

- j. EB5 United “did a large, similar EB-5 loan to an ultra-high-end condominium/hotel project in Puerto Rico that failed and went into bankruptcy.”

43. Plaintiffs categorically deny each of the statements contained in Defendant EB5AN's Project Summary and will prove that there is no truth in the false statements made by Defendant.

V. EB5AN KNEW ITS STATEMENTS ABOUT THE PROJECT WERE FALSE

44. On February 20, 2024 a member of EB5 United's sales team received a text message from an agent working with the BLS Group in London, England. The message included EB5AN's Summary. The agent noted that EB5AN was “talking shit” about the EB5 United Okeechobee project.

45. Around the same time, an investor contacted Plaintiff EB5 United's CEO, Scott Fuller, regarding EB5AN's Summary.

46. Fuller contacted EB5AN's Managing Partner, Michael B. Schoenfeld, by electronic mail on February 20th, to discuss the matter. Fuller specifically asked Schoenfeld if EB5AN had distributed the document containing the false statements set out above.

47. Schoenfeld later called Fuller who again asked if EB5AN had produced the document regarding the Lakefront Project. Schoenfeld stated that the document likely came from EB5AN.

48. On February 23, 2024, Schoenfeld called Fuller again and confirmed that EB5AN's sales team had sent out (or published) the false statements about the Project.

49. Schoenfeld told Fuller that the EB5AN's Project Summary should never have been distributed.

50. Fuller agreed, telling Schoenfeld that false statements published by EB5AN regarding the Project had already resulted in the loss of investors.

51. Although conceding fault, neither Schoenfeld, nor EB5AN's other managing partner,

Samuel B. Silverman, have retracted the false statements.

VI. EB5AN DOUBLES DOWN ON ITS DEFAMATION STRATEGY

52. Although EB5AN admits that it should never have released the Project Summary riddled with falsehoods; it continues to defame Plaintiffs.

53. Companies like EB5 United and Defendant EB5AN often work with foreign migration agents, also known as EB-5 migration agents, located around the world, to identify qualified potential foreign investors for specific projects.

54. On February 8, 2024, Schoenfeld spoke to Marcelle Poirier, a lawyer and one of EB5 United's long-standing partners. During their conversation, Schoenfeld repeated the false statements contained in the EB5AN Summary. He pressed Poirier about why she continued to work and attend conferences with EB5 United. Schoenfeld told Poirier that EB5 United's presentations were misleading to investors and questioned the projects' legitimacy. Schoenfeld went so far as to question Poirier's reasons for referring clients to EB5 United.

55. EB5AN has also sent its Summary to agents in China who have distributed the document to investors who were considering the Project.

56. Plaintiffs have been contacted by Worldway Group, EB5 United Okeechobee's exclusive representative in China. Worldway Group told Plaintiffs that another immigrant investor network in China associated with EB5AN, GlobeVisa, is sending sections of EB5AN's Summary directly to clients that mention interest in the Project.

57. The publication of EB5AN's false statements in China has resulted in potential investors contacting WorldWay Group to express concern regarding the Project.

58. Upon information and belief, GlobeVisa, with the knowledge and approval of EB5AN, is

using the Summary and the false statements it contains to steer potential EB-5 investors to another investment opportunity promoted by Defendant.

VII. PLAINTIFFS SUFFER REPUTATIONAL AND OTHER HARM

59. Defendant EB5AN's knowing and intentional publication of false statements through its so-called Project Summary has caused several qualified EB-5 investors to withdraw their investment in the Project.

60. Many more potential investors, whom EB5 United has worked with for months, are now questioning the Project and delaying their investment. This is especially damaging because on April 1, 2024, filing fees for EB-5 Investor Petitions (Form I-526) increased by \$7,500. This is a significant increase, forcing investors to make decisions quickly in order to avoid additional fees, and making the timing of EB5AN's defamatory statements particularly insidious.

61. EB5AN's publication of defamatory statements has also led numerous qualified potential EB-5 investors to inform Plaintiffs that they will not be investing in the Project.

62. The false statements contained in EB5AN's Project Summary have impugned the integrity, honesty, and competence of Plaintiffs.

63. The harm here has been compounded by Defendant's decision to contact various agents working with Plaintiffs in the United States, Canada, Brazil, Europe, India, and China, among other locations, to repeat the false statements contained in EB5AN's Summary and question their professionalism for continuing to work with Plaintiffs.

64. EB5AN's false statements have reverberated beyond the Project, causing both agents and investors, alike, to question whether they wish to work with EB5 United on other investments.

CLAIMS

COUNT I **DEFAMATION**

65. Plaintiffs incorporate by reference paragraphs 1 through 64 and re-allege them as if fully set forth herein.

66. Plaintiffs are working to raise up to \$100 million for a loan to the developer of a mixed-use residential and commercial property in Okeechobee, Florida, known as the Lakefront Estates and Villas at Lakefront Project (“the Project”)

67. The Project qualifies under the U.S. EB-5 Immigrant Investor Program for purposes of helping qualified foreign investors, their spouses, and their children under 21, obtain Green Cards.

68. EB5AN, Plaintiffs' direct competitor, created a four-page document entitled Lakefront EB5 United Project Summary (“the Summary”).

69. EB5AN's Summary contained numerous falsehoods about the Project and Plaintiffs.

70. The statements contained in the Summary were defamatory and rise to the level of defamation *per se*.

71. EB5AN published the Summary to the public including, but not limited to, agents working with Plaintiffs as well as potential investors in the Project.

72. In addition to publishing the Summary, EB5AN contacted agents in the United States, Canada, Brazil, Europe, India, and China, among other locations, to spread the lies contained in its Summary and question why they would continue working with EB5 United.

73. EB5AN acted knowingly, with reckless disregard, and negligently when it published statements that it knew to be false.

74. EB5AN's Managing Partner, Michael B. Schoenfeld, conceded liability, noting that his company should never have published the statements contained in its so-called Summary.

75. None of the false statements published by EB5AN are protected or privileged and are, accordingly, defamatory.

76. EB5AN's false and defamatory statements caused Plaintiffs to suffer reputational and professional harm.

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment for defamation in favor of EB5 United, LLC, EB5 United Okeechobee, LLC, and EB5U FL, LLC and against Defendant EB5AN, LLC, for damages in an amount to be determined at trial, pre- and post-judgment interest, costs, and such other relief as this Court may deem just, equitable, and proper.

COUNT II
TORTIOUS INTERFERENCE
WITH A BUSINESS RELATIONSHIP

77. Plaintiffs incorporate by reference paragraphs 1 through 64 and re-allege them as if fully set forth herein.

78. Okeechobee Community Developers, LLC (“the Developer”) is developing a mixed-use project known as the Lakefront Estates and Villas at Lakefront (“the Project”).

79. The Developer is seeking \$100,000,000 in EB-5 financing.

80. Plaintiff EB5 United works with qualified foreign investors under the U.S. EB-5 Immigrant Investor Program to find suitable investment opportunities that will allow them to obtain Green Cards for themselves, their spouses, and their children under the age of 21.

81. EB5 United has announced the Project on its website as a potential investment opportunity for qualified EB-5 investors.

82. Plaintiff EB5 United Okeechobee was organized to provide a loan to the Developer for the development and construction of the Project.

83. Qualified EB-5 investors can purchase subscriptions in United Okeechobee at \$800,000 per unit.

84. Plaintiff EB5U FL administers EB5 United Okeechobee.

85. Florida EB5 Investments, a regional center qualified by the United States Immigration and Citizenship services, granted Plaintiff EB5 United Okeechobee the right to use the EB-5 Program to raise capital for the Project's development and construction.

86. The terms of this investment opportunity were set forth in a Private Placement Memorandum prepared by EB5U FL and distributed to qualified potential investors under the EB-5 Program.

87. EB5AN is Plaintiffs' direct competitor and knew of their relationship with various investors who were considering investing or had invested in the Project under which Plaintiffs would have legal rights.

88. EB5AN also knew that Plaintiff works closely with foreign migration agents or EB-5 migration agents to identify potential qualified EB-5 investors.

89. EB5AN prepared a document entitled Lakefront EB5 United Project Summary Comments ("the Summary") and distributed it to agents as well as existing and potential investors.

90. EB5AN's Summary contains numerous false statements regarding nearly every aspect of the Project and calls into question the honesty and integrity of Plaintiffs and the Regional Center promoting this EB-5 investment opportunity.

91. EB5AN's interference with Plaintiffs' relationship with agents and existing and potential investors in the Project through its dissemination of the Summary was both intentional and unjustifiable.

92. The EB-5 industry is small with a limited number of reputable participants offering potential investors their services. As such, reputations can be easily damaged by false statements

that lead potential investors, partners, and other associates to question a potential project or entity, like EB5 United.

93. In February 2024, as part of its plan to tarnish EB5 United's reputation, Defendant EB5AN's Managing Partner, Michael B. Schoenfeld, contacted Marcelle Poirier, one of EB5 United's partners. During their conversation, Schoenfeld questioned why Poirier would continue working with EB5 United. Schoenfeld sought to create doubt about EB5 United and the Project by claiming that Plaintiffs were misleading investors. Schoenfeld also repeated the false statements contained in EB5AN's defamatory Summary.

94. This was just the beginning, as EB5AN and its representatives broadly published the defamatory statements contained in the Summary with the knowledge and intent that it would negatively impact EB5 United's business relationships around the world.

95. As a result of EB5AN's publication of the defamatory Project Summary, several firms that marketed EB5 United opportunities to investors stopped offering the Project to their clients. These entities include:

- a. BLS Global, based in the United Kingdom, alerted EB5 United about the defamatory Summary. Prior to the Summary's publication, BLS Global heavily promoted the Project. After publication, BLS Global ceased its promotional efforts;
- b. EB5 BRICS, based in the United States, placed one investor in March 2024 that EB5 United had been working with for several months prior to publication of the defamatory Summary. After publication, it stopped offering the Project to potential investors;
- c. U.S. Immigration & Investment Group, based in Vietnam, placed two investors in January 2024. After publication of the defamatory Summary, it has placed no investors with the Project;

- d. Ciben Consultancy Limited, based in Los Angeles, placed one investor that EB5 United had already been working with prior to the publication of the defamatory Summary. After publication, it stopped marketing the Project;
- e. Kosdromos Consulting LTD, based in China, placed twenty-nine investors prior to publication of the defamatory Summary. After publication it has only placed five investors; and
- f. AGA Capital International Limited, based in China, took on the Project in November 2024, and faced significant headwinds in marketing the Project due to the publication of the defamatory Summary. To date they have not been able to place a single investor in the Project.

96. By distributing the Summary, EB5AN knowingly interfered with several of Plaintiffs' existing and potential business relationships resulting in the loss of millions of dollars in investment dollars for the Project.

97. At least one of EB5 United's competitors has acknowledged that Defendant EB5AN's conduct is unacceptable. On March 2, 2024, GlobeVisa admitted that after conducting an internal investigation it found that a member of its sales team disseminated false information regarding EB5 United's Project to a client who was comparing it with one offered by GlobeVisa. GlobeVisa acknowledged that this was "unfortunate and unprofessional behavior."

98. Plaintiffs have been damaged by EB5AN's tortious interference.

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment for tortious interference with a business relationship in favor of EB5 United, LLC, EB5 United Okeechobee, LLC, and EB5U FL, LLC and against Defendant EB5AN, LLC, for damages in an amount to be determined at trial, pre- and post-judgment interest, costs, and such other relief as this Court may deem just, equitable, and proper.

COUNT III
PERMANENT INJUNCTION

99. Plaintiffs incorporate by reference paragraphs 1 through 64 and re-allege them as if fully set forth herein.

100. Florida law recognizes a limited exception to the general rule against injunctions prohibiting the making of defamatory statements.

101. Injunctive relief is available where the defamatory words are made in furtherance of the commission of another intentional tort.

102. Count two alleges that Defendant EB5AN has and continues to engage in conduct rising to the level of tortious interference with a business relationship. Those allegations are re-alleged as if fully set forth herein.

103. Accordingly, Plaintiffs have a clear legal right to permanent injunctive relief stopping Defendant EB5AN from publishing lies about the Project, as well as its past performance in connection with other EB-5 investment opportunities.

104. Plaintiffs further have an inadequate remedy at law. There is no way for Plaintiffs to adequately measure or quantify the harm that EB5AN's defamatory statements have had and will continue to have on its reputation in the marketplace.

105. Plaintiffs will suffer irreparable harm absent injunctive relief. As fiduciaries, Plaintiffs' business is based on trust. Investors, agents, regional centers, and USCIS must have faith and confidence in Plaintiffs' ability to advise, represent, and safeguard investors and their investments. Defendant EB5AN's defamatory statements threaten Plaintiff's ability to discharge these core duties and operate within the marketplace.

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment for

permanent injunction in favor of EB5 United, LLC, EB5 United Okeechobee, LLC, and EB5U FL, LLC and against Defendant EB5AN, LLC. The permanent injunction should be narrowly tailored so as not to work as an unconstitutional prior restraint on speech. Plaintiffs request that this Court: (1) permanently enjoin Defendant EB5AN, LLC from further publishing the document entitled, “Lakefront EB5 United Project Summary Comments (the “Summary”),” in any form and through any medium; (2) permanently enjoin Defendant EB5AN, LLC from further publishing any portion of the Summary in any way and through any medium; (3) direct Defendant EB5AN, LLC to immediately retract the document entitled, “Lakefront EB5 United Project Summary Comments,” and (4) award such other relief as this Court may deem just, equitable, and proper.

DEMAND FOR TRIAL BY JURY

Plaintiffs EB5 United, LLC, EB5 United Okeechobee, LLC, and EB5U FL, LLC demand trial by jury against Defendant EB5AN, LLC of all issues raised herein that are so triable.

Dated: January 20, 2025

Respectfully submitted:

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CERTIFICATE OF SERVICE

I certify that on this 20th day of January 2025, a true and correct copy of the foregoing was served by electronic mail pursuant to Florida Rule of Judicial Administration 2.516(b)(1)(A) to all parties listed on the attached Service List.

By: /s/ Carlos F. Gonzalez
Carlos F. Gonzalez

SERVICE LIST

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