

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
SPRINGFIELD DIVISION

SEXUAL MINORITIES UGANDA

Plaintiff,

Civil Action
3:12-CV-30051

v.

SCOTT LIVELY, individually and as President
of Abiding Truth Ministries

Defendant.

**PLAINTIFF’S RESPONSE TO DEFENDANT’S
LOCAL CIVIL RULE 56.1 STATEMENT OF FACTS
AND PLAINTIFF’S CONCISE STATEMENT OF MATERIAL FACTS
OF RECORD OMITTED BY DEFENDANT**

Pursuant to Local Civil Rule 56.1, Plaintiff Sexual Minorities Uganda (“SMUG”) submits in opposition to Defendant Scott Lively’s Motion for Summary Judgment, Dkt. 257, the following response to Defendant’s Material Facts of Record (“D-MFR”) as to which he contends there is no genuine issue to be tried. Section I contains Plaintiff’s responses to each factual assertion contained in the D-MFR disputed by Plaintiff. Section II contains Plaintiff’s additional material facts that Lively omitted from his Rule 56.1 statement.

Plaintiff objects to the D-MFR for its inclusion of immaterial factual and legal conclusions. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) (explaining that a fact is “material” only if it “might affect the outcome of the suit under the governing law”). *See also Malin v. Hospira, Inc.*, 762 F.3d 552, 564 (7th Cir. 2014) (reversing allowance of summary

judgment motion where defendant's "presentation of evidence amounted to nothing more than selectively quoting deposition language it likes and ignoring deposition language it does not like").

**PLAINTIFF'S RESPONSES
TO DEFENDANT'S R. 56.1 FACTS OF RECORD**

D-MFR 1: SMUG accepts Lively's assertion to the extent that by identifying himself as an "American," he acknowledges that he is a U.S. citizen. The remainder of the assertions in this paragraph is immaterial.

D-MFR 2-3: The first assertion in D-MFR 2 is immaterial. Otherwise denied. To the extent that the remainder of Lively's assertions in D-MFR 2 and 3 are material, they are inconsistent with his previous writings and publications in which he has stated that homosexuality is "NOT 'just another sin'" but "a symbol of extreme rebellion against God and harbinger of His wrath," (Declaration of Mark S. Sullivan, dated August 8, 2016 ("Sullivan Decl.") Exhibit ("Ex.") 1 at Lively 4691), "worse than mass murder," (Sullivan Decl. Ex. 2 at Lively 4243), and "a personality disorder that involves various, often dangerous sexual addictions and aggressive, anti-social impulses" that cause "homosexuals to have an intense loyalty to each other and a common goal to change any society in which they live in organized 'gay and lesbian' communities." (Sullivan Decl. Ex. 3 at Lively 2193)

D-MFR 5: Denied. Lively's assertion that he is "firmly opposed to any" "ostracism or vilification of" persons who identify as "homosexual" is contradicted by his statements described in SMUG's response to D-MFR 2 and 3, *supra*, as well as his equating homosexuality with pedophilia (Sullivan Decl. Ex. 4 at Lively 4417), advising colleagues and followers to "emphasize the issue of homosexual recruitment of children" because "the protection of children

trumps any argument for ‘gays’ as societal victims” (Sullivan Decl. Ex. 20 at SMUG000359; Sullivan Decl. Ex. 21; Sullivan Decl. Ex. 5 at Lively 1670 (discussing Defendant’s book *Redeeming the Rainbow*), Sullivan Decl. Ex. 6 at Lively 3246 (forwarding a copy of Defendant’s book *Redeeming the Rainbow*), Sullivan Decl. Ex. 7 at 4-5 (acknowledging authorship of the book *Redeeming the Rainbow*), and attributing the Rwandan genocide and the Nazi Holocaust to homosexuals, (Declaration of Scott Lively in Support of Motion for Summary Judgment, dated July 1, 2016 (dkt. 257-1) (“Lively Decl.”) Ex. 6, and Sullivan Decl. Ex. 194 at 02:25:01-02:27:10, Tr. 88:8-89:12¹). Further, in his book, *The Pink Swastika: Homosexuality in the Nazi Party*, Lively claims that homosexuality is at the root of fascism and responsible for the extreme violence and inhumanity of the Nazi party (Sullivan Decl. Ex. 8 at Lively 1850; *id.* Ex. 177). He has blamed a “homosexual presence” for everything from the Spanish Inquisition to slavery in the United States to Apartheid in South Africa (Sullivan Decl. Ex. 71), proclaimed that “[t]he ‘gay’ movement is the most dangerous social and political movement of our time... ” (Sullivan Decl. Ex. 9 at 1402), and that homosexuality is worse than genocide. (Sullivan Decl. Ex. 2 at Lively 4242)

Lively’s assertion that he is opposed to any violence against any person who identifies as homosexual is inconsistent with the fact that he was sued and found guilty of battery of someone he identified as a “lesbian activist.” (Sullivan Decl. Ex. 10 at Lively 4225, Sullivan Decl. Ex. 179) Lively’s assertion that he “abhors the idea of forcibly ‘outing’ persons who want to keep their consensual, adult sexual activities private and discrete” is inconsistent with his admission that he publicly revealed in a press release that “the new head of [a] human rights commission was a homosexual.” (Sullivan Decl. Ex. 10 at 4226)

¹ For ease of the Court’s reference, for most of the videos that have been included as exhibits, Plaintiff has included courtesy transcripts for ease of review.

D-MFR 6-7: Denied. Lively's assertions that he "believes the law should allow consenting adults to make wrong choices in their private sexual conduct" and that he is opposed to the government "intruding into private sexual conduct between consenting adults" is contradicted by his assertion in D-MFR 6 that he "favor[s]" "criminalization" of what he refers to as "homosexual conduct," along with similar statements he has made on numerous past occasions, and by his opposition to laws prohibiting discrimination on the basis of LGBT status, identity, or orientation. (*See, e.g.*, Sullivan Decl. Ex. 11 at Lively 2841, Sullivan Decl. Ex. 12 at Lively 2001, Sullivan Decl. Ex. 3 at Lively 2193-94)

D-MFR 8-9: Denied. Lively's assertion in D-MFR 8 that he is "firmly opposed to any attempt to criminalize or punish any form of 'status' or sexual 'identity' or 'orientation,' separate and apart from sexual conduct" is contradicted by his admission in D-MFR 6 that he favors criminalization of "homosexual conduct," as criminalization of the sexual conduct of persons who engage in consensual sex with adult persons of the same gender or sex amounts to criminalizing their orientation and status as people who are oriented to and/or engage in such conduct. Additionally, this assertion is contradicted by Lively's efforts to criminalize the status, identity, or orientation of lesbian, gay, bisexual, and transgender ("LGBT") people through efforts to legalize discrimination by state and private actors against LGBT persons on the basis of their sexual orientation and gender identity, a form of stigmatizing and punishing LGBT status, identity, and orientation. For example:

- A) As early as 1991, Lively worked with an organization in Oregon that filed what he describes as "the boldest anti-homosexuality ballot measure in American history." (Sullivan Decl. Ex. 11 at Lively 2841) According to Lively, the measure

would have amended the state constitution to define homosexuality as “abnormal, unnatural and perverse.” (Sullivan Decl. Ex. 11 at Lively 2841)

- B) In 2006, Lively authored the *Riga Declaration on Religious Freedom, Family Values and Human Rights*. (Sullivan Decl. Ex. 3 at Lively 2193; Sullivan Decl. Ex. 12 at Lively 2001) The *Riga Declaration* calls on the European Union and the international community to “immediately abandon” initiatives to recognize the human rights of LGBT people. (Sullivan Decl. Ex. 12 at Lively 2001)
- C) In 2007 in Russia, Lively supported opposition to laws “prohibiting discrimination against homosexuals,” calling homosexuality a “personality disorder” involving “various, often dangerous sexual addictions and aggressive, anti-social impulses.” (Sullivan Decl. Ex. 3 at Lively 2193)
- D) In 2011, Lively traveled to Moldova where he helped defeat the passage of a law prohibiting discrimination on the basis of sexual orientation in the Moldovan parliament, (Sullivan Decl. Ex. 13 at Lively 2410), boasting that “[i]n one week I organized and implemented a successful plan by which the fledgling pro-family movement there killed the law.” (Sullivan Decl. Ex. 11 at Lively 2843) Lively also “taught the Moldovans” that discrimination is necessary because “anti-discrimination law is the seed that contains the entire tree of the homosexual agenda, with all of its poisonous fruit.” (Sullivan Decl. Ex. 13 at Lively 2410)
- E) In 2012, in Springfield, Missouri, Lively boasted of his efforts to help thwart an ordinance in the City Council that would have prohibited discrimination on the basis of sexual orientation. (Sullivan Decl. Ex. 14 at Lively 1689)

Further, Lively's assertion in D-MFR 8, as well as his assertion in D-MFR 9 that he "would be against prohibiting homosexual persons or organizations from using legal means and the democratic process to advocate for changes to laws they oppose," is directly contradicted by his expressed intent, and efforts in furtherance of his intent, to prohibit, criminalize, and punish other social and political activity – beyond sexual conduct – by LGBT people and advocates. For example:

- A) In 2007, Lively campaigned in several cities in Russia in an effort to urge leaders to "criminalize the public advocacy of homosexuality," claiming "homosexuality is destructive to individuals and to society" and that the "easiest way to discourage 'gay pride' parades and other homosexual advocacy is to make such activity illegal in the interest of public health and morality." (Sullivan Decl. Ex. 3 at Lively 2194-95)
 - i) In 2013, the Russian Duma passed the Anti-Propaganda Law that did just that. The law imposes harsh fines and possible jail terms for "propaganda" of "nontraditional sexual relations" ostensibly aimed at minors, though in effect has been used to prevent or punish speech, including media reporting, and public assembly in support of LGBT equality or the idea that homosexuality is normal. (Sullivan Decl. Ex. 15 at p. 2) Examples of what the government considered prohibited propaganda included: materials that "directly or indirectly approve of persons who are in nontraditional sexual relationships" (Sullivan Decl. Ex. 15 at p. 64); a public demonstration by LGBT groups in Sochi in 2013 (Sullivan Decl. Ex. 16 at p. 28); the publication of a story in a newspaper about a teacher who lost his job because of his gay rights activism

and who had been assaulted by neo-Nazis because of his sexual orientation (Sullivan Decl. Ex. 15 at p. 65); a gay pride rally in Moscow in 2015 (Police subsequently arrested approximately 20 people when activists attempted to hold the rally despite the ban.) (Sullivan Decl. Ex. 15 at p. 34); and an online post by a former director of an LGBT organization that stated, “Being gay means being a brave and confident person, with dignity and self-esteem.” (Sullivan Decl. Ex. 15 at p. 23)

- ii) Lively described the Russian law as “the very important and frankly necessary step of criminalizing homosexual propaganda to protect the society from being ‘homosexualized.’” (Sullivan Decl. Ex. 17 at Lively 2528) He trumpeted the fact that the ban on such advocacy was one of the “few specific policies” he advocated during his tour of Russia and that “the first version of this law at the local level was in St. Petersburg where I released my Letter to the Russian People in October of 2007” calling for the criminalization of advocacy. (Sullivan Decl. Ex. 18 at Lively 2522) He also noted that he “played a role” in its enactment. (Sullivan Decl. Ex. 18 at Lively 2522; Sullivan Decl. Ex. 19 at pp. 182:19-183:4)
- iii) Lively admitted that a law like the Russian Anti-Propaganda Law would not be legal in the United States, writing, “[h]ere in the United States it would not be possible to pass such a law these days because of the way our First Amendment has been misinterpreted in recent decades by the U.S. Supreme Court.” (Sullivan Decl. Ex. 18 at Lively 2522)

- B) In 2008, Lively published *Redeeming the Rainbow*, in which he recommended the enactment of criminal laws that prevent LGBT people from “us[ing] the organs of government to advance their philosophy as normal and healthy.” (Sullivan Decl. Ex. 20 at SMUG000259)
- C) Between 2009 and 2013 in Uganda, Lively collaborated in the drafting and passage of the Anti-Homosexuality Bill (“AHB”), which, in addition to compounding the pre-existing criminalization of same-sex sexual conduct, sought to “hinder and silence advocacy of this issue” (Lively Decl., Ex. 9) by penalizing “promotion of homosexuality” by individuals and organizations. (Lively Decl., Ex. 10). Lively stated his belief that “the primary enforcement effort” of the law should target LGBT “activists.” (Sullivan Decl. Ex. 21 at Lively 3650) In 2013, because his Ugandan co-conspirators were having difficulty in getting the AHB passed into law (Lively Decl., Ex. 19 at 3741), Lively recommended that they consider passing legislation similar to the Russian Anti-Propaganda Law in order to stop the “destructive propaganda efforts of groups like SMUG.” (Lively Decl., Ex. 18) Lively expressed that the “implementation of the law could encompass activities that are ostensibly for adults.” (Lively Decl., Ex. 19, at 3741)
- D) In 2010 in Uganda, Lively further targeted the political opinions and speech of LGBT advocates by urging his co-conspirators in Uganda, along with several members of the Ugandan Parliament, to ensure that the dean of a law school in

Uganda be fired or demoted because she was vocally supportive of lesbian, gay, bisexual, transgender, and intersex (“LGBTI”)² rights. Lively expressed:

She should not be allowed to remain in this post. As the Scripture warns, Bad [*sic*] company corrupts good morals, and the people she is training in her views will be Uganda’s future leaders. This is one of the ways that the “gays” transformed America – by corrupting the leaders. If you don’t stop her now, while you have the power of public opinion at its height, you will never be able to do it. (Sullivan Decl. Ex. 22 at Lively 3365)

E) Lively stated repeatedly that he believes advocacy of LGBT rights should be prohibited and penalized. When an interviewer sympathetic to Lively’s views suggested that SMUG’s Executive Director’s allegation that Lively has “actively and intensively worked to eradicate any trace of LGBT advocacy and identity,” (Sullivan Decl. Ex. 19 at pp. 390:5-12), was a “lie,” (Sullivan Decl. Ex. 19 at pp. 388:22-389:5), Lively corrected her:

Well, you know, I am against advocacy. And actually I take the position that homosexuality should be criminalized [...] so that you have a public policy basis to prevent the advocacy that I think should be prohibited – and that is gay pride parades and public school advocacy and promotion of homosexuality to school children. That kind of thing. (Sullivan Decl. Ex. 19 at 391:14-392:6; *see also* Sullivan Decl. Ex. 25 at SMUG000863)

² Professor Sylvia Tamale, to whom Lively refers here, recognizes intersex persons as a sexual minority. *See* Declaration of Sylvia Tamale (“Tamale Decl.”) ¶ 2. Prof. Tamale considers her advocacy work to be on behalf of this group, as well as lesbian, gay, bisexual and transgender persons. *Id.* SMUG also recognizes intersex persons to be encompassed in the sexual minority community. *See* Declaration of Pepe Onziema (“Onziema Decl.”) ¶ 1. Lively has not indicated that he recognizes the existence of intersex persons, and his views regarding “homosexuals” are thought to encompass LGBT persons only. Plaintiff uses both of these acronyms throughout this filing in accordance with the purported views of the individual or organization being discussed.

As he had done previously with respect to the Russian Anti-Propaganda Law, *supra*, Lively again acknowledged that this kind of legislation would not be allowed in the United States:

As an attorney, also, the problem is, if you have, at least in the US, Canada's got a little different legal context, but in the US you can't have unequal treatment of like groups. You couldn't do that in the United States for example. . . . (Sullivan Decl. Ex. 19 at 392:14-21)

Lively also acknowledged in the interview that the "use of government authority to silence differing opinion" is a "fascist tactic":

Yes. That is a central component of fascism. Active suppression of dissent of all opposing voices. And that's what the Nazis did, that's what they perfected. That's what the communists did. That's what every totalitarian government does.... (Sullivan Decl. Ex. 19 at 401:23-402:10)

D-MFR 11-14: Denied. Lively's assertions in these paragraphs are contradicted by Lively's own statements about his activities in Uganda during that trip:

- A) Lively explained he is sure he addressed the "topic of homosexuality" at the 2002 pornography conference because "it's part of my standard presentation, that the sexual revolution includes the LGBT agenda." (Sullivan Decl. Ex. 19 at pp. 101:7-14) He also stated that, as the keynote speaker of the conference, (Sullivan Decl. Ex. 23 at Lively 1556), which he described as being attended by "[f]our hundred of Uganda's leading citizens... including the heads of nearly every religious denomination, cabinet ministers, and a justice of the Supreme Court," (Sullivan Decl. Ex. 24 at Lively 1640), he "really helped them launch their movement." (Sullivan Decl. Ex. 20 at pp. 385:4-12; Sullivan Decl. Ex. 25 at SMUG000863 at 9:48; *see also* Sullivan Decl. Ex. 174 at 00:00:24, Tr. 1)

- B) Lively boasted that following his meeting with approximately a dozen local pastors in Uganda in 2002, the pastors “were very grateful for the insights I was able to give them about the way in which America was brought low by homosexual activism and the acceptance of porn and abortion.” (Sullivan Decl. Ex. 23 at 1564)
- C) Lively described his talk at the Ugandan Christian University in 2002 as “address[ing] the homosexual issue from the American perspective to these future church leaders and identif[ying] it as one of the main reasons why Christians must take leadership in society.” (Sullivan Decl. Ex. 23 at 1561)
- D) Lively described that at a seminar for students and staff of local high schools in Uganda in 2002 he attributed dangerous effects of a “porn culture” described as “widespread rebellion” against, *inter alia*, “restriction of sexual intimacy to the lifelong union of marriage between one man and one woman.” (Sullivan Decl. Ex. 23 at 1561)
- E) Lively described his appearance on a one-hour show on a secular radio station as “mostly on the threat of homosexuality and it was very powerful! The phone lines were deluged with calls.” (Sullivan Decl. Ex. 23 at 1564) Lively went on to state, “Afterward, the secular talk host spent another half hour asking me questions about the issue and was sincerely moved by the information I gave him. He was also very interested in the *Pink Swastika* and I promised to send him a copy.” *Id.*
- F) Lively appeared on co-conspirator Martin Ssempe’s TV program, Spotlight (Sullivan Decl. Ex. 23 at Lively 1559), on which he stated that the spread of pornography was a result of “a social movement that was launched by

homosexual political activists who had started the modern gay movement in American in . . . the late 1940s.” (Sullivan Decl. Ex. 175 at SMUG032048 at 2:47 and Tr. 2:9-11)³ In the interview, Ssempe also discussed Lively’s book, *Seven Steps to Recruit-Proof Your Child*, which he said was written “in light of the fact that homosexual groups are actively growing through recruitment” by “recruiting new members into homosexuality and it’s an active process that is on right now to recruit your child, your daughter into a homosexual, even lesbian club.” *Id.* at 15:22-40, Tr.10:1-7. Ssempe also mentioned Lively’s book, *The Pink Swastika*, discussing Lively’s stated belief that the “driving force behind Nazis and Hitler’s movement . . . was found in the fact that many of these men were homosexuals.” *Id.* at 18:30-18:38; Tr. 11:4-6. Lively stated that Ssempe’s “program had never dealt with these subjects [homosexuality] in depth” until Lively and another guest appeared on his show that day in June 2002. (Sullivan Decl. Ex. 23 at 1560)

G) In materials prepared in anticipation for his 2012 Massachusetts gubernatorial campaign, he stated that he was considered to be the “father” of Uganda’s “pro-family” movement “for his work in that country.” (Sullivan Decl. Ex. 26 at Lively 1749)

D-MFR 15-20: Lively’s assertions regarding the lack of personal knowledge of certain deponents regarding Lively and his co-conspirators’ conduct are immaterial given the evidence otherwise available. Lively’s assertions about Lively’s conduct in Uganda are in many instances contradicted by the available evidence. Otherwise denied. To the extent the assertions in D-MFR

³ SMUG objects to Lively’s reliance on paragraph 9 of the Langa Declaration describing the content of this interview as nowhere does Langa indicate in his declaration that he actually viewed the TV show or otherwise witnessed the exchange.

15-20 are material, they are contradicted by SMUG officers' testimony that SMUG's knowledge and evidence of Lively and his co-conspirators' activities in 2002 are based on Lively's own documents (Sullivan Decl. Ex. 49 at 65:11-14), and SMUG officer Pepe Onziema's recollections of Lively and co-conspirator Ssempe's discussion on the latter's televised program regarding "recruitment." (Sullivan Decl. Ex. 27 at 212:17-213:25)

D-MFR 21: Lively's assertions regarding the lack of personal knowledge of certain deponents regarding Lively and his co-conspirators' conduct are immaterial given the evidence otherwise available. The assertions about Lively's conduct in Uganda are in many instances contradicted by the available evidence. Otherwise denied. To the extent the assertions are material, they are contradicted by SMUG officers' testimony that SMUG's knowledge and evidence of Lively's activities between June 2002 and March 2009 are based on Lively's own documents described in more detail *infra*. (See e.g., Sullivan Decl. Ex. 28 at pp. 170:4-24, 171:18-172:2)

D-MFR 22-24: Lively's assertions in D-MFR 22-24 are contradicted by his own written admissions reflecting substantive written communications about coordinating international efforts to combat the so-called gay agenda.⁴ For example:

- A) On March 6, 2007, Lively advised Langa that those he was working with in Latvia might be interested in sending him to Uganda with a delegation to assist Langa's effort to "expose the homosexual lies, agenda and propaganda." (Lively Decl., Ex. 1 at 3194)

⁴ SMUG also notes that with respect to D-MFR 23, not "all" of Defendant's emails from that time period were attached as exhibits as demonstrated by Sullivan Decl. Ex. 30 at Lively 3202.

B) In October 2007, Langa reached out to Lively again to follow up with plans for a “conference on homosexuality sometime next year here in Africa,” advising him that, “[w]e are also engaged in a fierce battle in Uganda on homosexuals who have taken the government to court over gay rights,” referring to a court case brought by then-SMUG officer Victor Mukasa. (Sullivan Decl. Ex. 30 at Lively 3202) Lively responded that he wanted to participate in the conference, and that he would try to come and “bring the Russians.” (Sullivan Decl. Ex. 30 at Lively 3202) Lively then wrote to colleagues with whom he was engaged in efforts in Latvia to see if they could do a “WOW [Watchmen on the Walls] conference in Uganda in 2008.” (Sullivan Decl. Ex. 30 at Lively 3202)

C) In December 2007, Lively and Langa continued to write about plans for the conference, and Lively again discussed the possibility of “the Russians” doing a conference under the auspices of Watchmen on the Walls. (Lively Decl., Ex. 2) Langa wrote that the meeting they were planning would help “gain momentum for an international meeting” that would “put pressure on S.African [*sic*] government to reverse their gay position.” (Lively Decl., Ex. 2 at 3) In a subsequent email, in discussing timing of the convening, Langa advised Lively it “would give us enough time to really mobilise the international community” so that it could be the “beginning of taking back grounds gained by homosexuals worldwide.” (Lively Decl., Ex. 2 at 4). Langa also advised Lively during this particular email chain that his organization, the Family Life Network, had “secured permission from the Ministry of Gender, Labor and Social Development to spearhead the celebrations for the [International Day of Families].” (Lively Decl., Ex. 2)

Lively's assertions are also contradicted by his written admissions in written communications regarding strategies to address "the homosexual agenda" in Uganda, as well as other activities during Lively's visit to Uganda in March 2009 beyond the "conference on homosexuality":

- A) In regards to the "fierce battle in Uganda on homosexuals who have taken the government to court over gay rights," referring to a court case brought by then-SMUG officer Victor Mukasa, that Langa described in an October 2007 email, (Sullivan Decl. Ex. 30 at Lively 3202), Lively asked whether the government had "good lawyers to fight this" and whether "the judge is an honorable man," and warned Langa to "[b]eware of bribes." (Sullivan Decl. Ex. 91 at Lively 3205)
- B) Also in October 2007, Lively sent Langa a copy of his *Activist Handbook*, directing Langa to "[r]ead the attached booklet to learn [sic] how we're organizing people in other countries." (Sullivan Decl. Ex. 30 at Lively 3202)
- C) In communications between January 28 and February 5, 2009, Langa advised Lively that he envisioned Lively dealing with the issues of "activism, advocacy and exposing of the homosexual agenda" and later asked him to put together a full-day program for a "meeting where policy makers and people who are concerned about the homosexual propaganda will be present." (Sullivan Decl. Ex. 31 at Lively 3232, 3234)
- D) On February 28, 2009, Langa advised Lively that the meeting for members of Parliament had been set for March 5 from 7:30-9:30 and that Lively would have a one-hour presentation plus 30 minutes of interaction and questions, (Lively Decl., Ex. 4, Sullivan Decl. Ex. 6 at Lively 3245), and that Lively would be meeting with a group of lawyers. (Sullivan Decl. Ex. 6 at Lively 3245)

D-MFR 25: Denied as stated. SMUG clarifies Lively's assertion by stating that SMUG officers testified that they are aware that the President of Uganda stated in 1999 that gays should be sent to jail. (Sullivan Decl. Ex. 27 at pp. 173:5-12; Sullivan Decl. Ex. 28 at pp. 226:4-18)

D-MFR 27: Denied. The evidence proffered is inadmissible for the legal assertion that Ugandan law in effect in 2002 prohibited registration of a "homosexual organization" is based solely on testimony of SMUG's board chair, Samuel Ganafa, who is not a lawyer or an expert on Ugandan law. As evidenced by the debates in Parliament concerning the need for the AHB, there was no law explicitly prohibiting registration of a "homosexual organization," hence the perception of the need for a law in order to ban them. (*See* Sullivan Decl. Exs. 101, 102 and 107 (transcripts of parliamentary proceedings discussing the need for stronger law against homosexuality))

D-MFR 29, 31, 33-37: Lively's assertions regarding the lack of personal knowledge of certain deponents regarding Lively's connection to the events and statements described in these paragraphs are immaterial. Denied as stated:

- A) With respect to D-MFR 33, SMUG clarifies Lively's assertion by noting that Uganda's "active campaign of legislative overkill" in 2006 referred to the then-recent decision by the Ugandan President to ban same-sex marriage because sodomy was already criminalized under the Ugandan penal code and "[m]arriage [wa]s not really at the top of the community's list of needs." (Sullivan Decl. Exs. 201 and 202)
- B) With respect to D-MFR 37, SMUG clarifies that shortly after his participation in the 2009 anti-gay conference and related events in Uganda, and upon his return to

the United States, Lively was in communication with fellow anti-gay leaders and advocates in the United States who were spearheading their first international conference in Africa to take place in Nigeria in June 2009. (Sullivan Decl. Ex. 32 at Lively 3277) Lively advised his colleague Don Feder that “Uganda may be a secret weapon for us re the intl [sic] pro-family agenda” and “Uganda is the key to Africa!” (Sullivan Decl. Ex. 32 at Lively 3277) Copying the head of the conference organizing committee, Theresa Okafor, Feder responded that they were expecting 300 pro-family leaders, scholars and policymakers. (Sullivan Decl. Ex. 32 at Lively 3277) Okafor then urged that it would be great if Lively and “his team” could attend the conference, noting that “Uganda has some good experience to share with the rest of us and Nigeria also has a lot to offer.” (Sullivan Decl. Ex. 32 at Lively 3277) On March 13, 2009, Lively passed the information on to Langa and asked that it be shared with Ssempe as well. (Sullivan Decl. Ex. 32 at Lively 3277) SMUG also notes that the Nigerian bill was later signed into law on January 7, 2014, just days after Uganda’s Anti-Homosexuality Act was passed on December 20, 2013. (Sullivan Decl. Exs. 33 and 176)

D-MFR 40: Immaterial.

D-MFR 42: Denied as stated. SMUG clarifies that a SMUG officer testified as to his knowledge of discussion of “recruitment” of children in homosexuality on a national television show in 2002 on which Lively appeared with Ssempe. (Sullivan Decl. Ex. 27 at pp. 212:17-213:25; *see also, supra* at Response to D-MFR 11-14(F).

D-MFR 43: Denied as stated. SMUG clarifies Lively's assertion by noting that SMUG's testimony was in regards only to co-conspirator and then-Minister of Ethics and Integrity Buturo's statements and not any action by the Ugandan President or legislature. (Sullivan Decl. Ex. 34 at pp. 138:3-6)

D-MFR 44-46: Denied as stated. SMUG clarifies Lively's assertion by noting that SMUG testified that in 2007, it did not attribute the backlash against SMUG's campaign to Lively, not that SMUG does not do so now. (Sullivan Decl. Ex. 27 at pp. 155:15-157:8) Further, SMUG affirmed that in 2007 and 2008, SMUG attributed the beliefs held by much of Ugandan society to myths that were then spreading about LGBTI Ugandans "recruiting others into homosexuality." (Sullivan Decl. Ex. 27 at pp. 221:420-221:9)

D-MFR 49: Denied. Lively's assertions are contradicted by:

A) Langa's meeting prior to the conference with the Ugandan Parliament's Principal Research Officer, Charles Tuhaise, on February 27, 2009, at which time they discussed the upcoming conference. (Sullivan Decl. Ex. 35 at Lively 3247) Tuhaise played a key role in strengthening the laws against homosexuality, specifically the Anti-Homosexuality Bill and later, the Anti-Homosexuality Act. (Tuhaise Decl. at ¶¶ 2, 8-9, 13, and 20-21) Following that meeting, Tuhaise prayed that Lively's visit would "achieve its purpose." (Sullivan Decl. Ex. 35 at Lively 3247)⁵

⁵ Notably, neither the declarations of Langa nor Tuhaise provided contemporaneous evidence of the content or purpose of the 2009 homosexuality conference or the meetings with members of Parliament, despite clear indication that Tuhaise had email correspondence on the subject as evidenced by his email to Harvey. (Sullivan Decl. Ex. 35 at Lively 3247)

- B) Langa's efforts to arrange meetings for Lively with members of Parliament and Ugandan lawyers (Lively Decl., Ex. 4 at 3241, 3242; *see also* Sullivan Decl. Ex. 6 at Lively 3245). On this basis of Langa's efforts to arrange meeting between Lively and lawmakers, a trier of fact could infer that he intended Lively to influence legislation.
- C) Langa's follow-up strategy meeting, within weeks of the conference, to discuss strategy and ways forward, where there was discussion about how the law against homosexuality was not strong enough. (Declaration of Kapya Kaoma ("Kaoma Decl."), Ex. A). The follow-up meeting was attended by Tuhaise, who further spoke of the need to strengthen the laws addressing homosexuality. *Id.*
- D) Langa's march on Parliament, approximately one month after the conference, at which time he met with then-Deputy Speaker of Parliament (now Speaker of Parliament), Rebecca Kadaga, demanding an investigation into the impact of homosexuality in the country and demanding that the Ugandan constitution be amended to further prohibit homosexual conduct. (Langa Decl., para. 19). Following Lively's line of argument, which Lively first introduced in 2002 and emphasized again in 2009, Langa accused "homosexuals and lesbians" of using pornography to "break the resistance and defenses of our children." *Id.* Langa went on to claim that "homosexuals are operating freely without any regard to the law. This has to stop." (Sullivan Decl. Ex. 90, SMUG032051; Sullivan Decl. Ex. 103, SMUG032241) Langa singled out SMUG alongside four other human rights organizations for "promoting homosexuality." (Sullivan Decl. Ex. 90, SMUG032051)

D-MFR 50-52: Denied. Lively's assertions are contradicted by his admissions and documents reflecting that:

A) He went to Uganda in 2009 to help his partners and co-conspirators have an

“easier time” strengthening their laws. In a radio interview in 2012, Lively stated:

So when in 2009 they had not been able to stop George Soros and these others from, you know, creating a sexual revolution there, they knew they needed to strengthen their laws. And in anticipation of that they held this conference that I went and spoke at.

Well, that conference was to sort of educate the leaders of the society so that when the law came out that they have an easier time, you know, being able to implement it.

(Sullivan Decl. Ex. 19 at 386:13-25; Sullivan Decl. Ex. 25 at 9:50)

B) He went to Uganda at this time “because I was actually one of the people that helped to start the pro-family movement there and then they wanted to do some kind of anti-homosexuality law,” confirming that when he went to Uganda in 2009, he “knew they wanted to introduce a bill . . . but there wasn't one in the works in the sense that something had been drafted.” (Sullivan Decl. Ex. 174 at 00:00:21, Tr. 1)

C) He was aware while he was in Uganda that “they were planning to do some sort of law” and that “at that point” it became his purpose to help Ugandans strengthen their laws against homosexuality. (Sullivan Decl. Ex. 19 at 125:3-126:2)

D) He had been advocating for the criminalization of advocacy as early as 2007 during his tour through Eastern Europe and Russia, (Sullivan Decl. Ex. 3 at Lively 2193), and had been trying to connect his co-conspirators in Eastern Europe with

Langa to further broaden the reach of their efforts. (*See, e.g.*, Sullivan Decl. Ex. 30 at Lively 3202-06)

- E) Three months before the conference in Uganda, he reported to his supporters that he would be “better equipped to impact [the homosexual issue] than ever before.” (Sullivan Decl. Ex. 36 at Lively 2761) Lively already knew that homosexuality was illegal in Uganda (Sullivan Decl. Ex. 24 at 1640) and viewed Uganda as still being “under siege on the homosexual front.” (Sullivan Decl. Ex. 36 at Lively 2761) Shortly after the conference, he “prayed” that his efforts with Langa in 2009 were like “a nuclear bomb” against the gay agenda. (Sullivan Decl. Ex. 37 at Lively 1663)
- F) Lively later stated that he considered the AHB with its harsh provision was better than no law. (Sullivan Decl. Ex. 174 at 00:01:23, Tr. 1; Sullivan Decl. Ex. 41 at Lively 3547)

D-MFR 53-56: Denied. Lively’s assertions are inconsistent with his contemporaneous description of the event as “an address to members of the Parliament,” one of whom was “the Minister of Ethics and Integrity,” co-conspirator Buturo (Sullivan Decl. Ex. 37 at Lively 1663, Sullivan Decl. Ex. 39 at 4791, Sullivan Decl. Ex. 40 at 4836; Sullivan Decl. Ex. 19 at pp. 110:3-117:8;) and a Member of Parliament, David Bahati. (Sullivan Decl. Ex. 19 at pp. 110:4-14 (affirming photos taken during Lively’s trip to Uganda) and (Declaration of Frank Mugisha (“Mugisha Decl.”) at ¶ 6 confirming Bahati)

D-MFR 57: Denied. Lively’s assertion is contradicted by his prior statements that he knew when he went to Uganda of the potential for a new a law (Sullivan Decl. Ex. 174 at 00:00:21, Tr. 1), and that the purpose of the conference was “to educate the leaders of the society

so that when the law came out that they have an easier time, you know, being able to implement it.” (Sullivan Decl. Ex. 19 at pp. 386:13-25; Sullivan Decl. Ex. 25 at 10:08-10:17)

D-MFR 58-61: Denied. Lively’s assertions are contradicted by his own admission that he advised members of Parliament “to give arrestees the choice of therapy instead of imprisonment.” (Sullivan Decl. Ex. 37 at Lively 1663) Therapy as an alternative to imprisonment is inherently not “voluntary,” and “therapy” to convert LGBTI people is deemed to represent “a serious threat to the health and well-being – even the lives – of affected people” (*See* Sullivan Decl. Ex. 179), and under some circumstances constitutes mental or physical torture. (*Pitcherskaia v. INS*, No 95-70887 (1997))

These assertions are also contradicted by Lively’s long-held views on homosexuality, (*see supra* responses to D-MFR 2-3, 5), and his years-long efforts in support of the criminalization of same-sex sexual conduct between adults (*see supra* responses to D-MFR 6-7), including in Uganda (Sullivan Decl. Ex. 37 at Lively 1663); the legalization of discrimination by private and state actors against people on the basis of their sexual orientation and gender identity (*see supra* responses to D-MFR 8-9), and the criminalization of advocacy for the human rights of LGBTI people. (*See supra* responses to D-MFR 8-9)

D-MFR 65: Denied as stated. SMUG disputes Lively’s assertion by noting that at the time, Lively characterized the event “very well attended, mostly by professionals in various fields including education, counseling, government and medicine.” (Sullivan Decl. Ex. 37 at Lively 1663)

D-MFR 67-68: Denied as stated. SMUG disputes Lively’s assertions by noting that at the same conference, Lively described the movement seeking respect for the rights of LGBTI people

as the “movement we hate.” (Lively Decl., Ex. 6 at 00:58:52, Tr. 35:19). Lively also described LGBT people as people who experience “extreme . . . dysfunction,” and as “monsters,” “killers,” “serial killers,” “mass murderers,” “brutish animalistic men that want to hurt other people,” and “sociopaths,” and suggested that the Rwandan genocide “probably involved these guys.” (Lively Dep., Ex. 6 at 02:25:35, Tr. 86:7-90:3).

Lively’s assertions are also contradicted by his long-held views on homosexuality, (*see supra* responses to D-MFR 2-3, 5), and his years-long efforts in support of the criminalization of same-sex sexual conduct between adults (*see supra* responses to D-MFR 6-7), including in Uganda (Sullivan Decl. Ex. 37 at Lively 1663); the legalization of discrimination by private and state actors against people on the basis of their sexual orientation and gender identity (*see supra* responses to D-MFR 8-9), and the criminalization of advocacy for the human rights of LGBTI people. (*See supra* responses to D-MFR 8-9) It is not plausible then to accept that on these occasions, Lively put aside a lifetime of fighting the so-called evil gay agenda and went around to churches, universities, and school assemblies in Uganda solely preaching tolerance and respect for LGBT people.

D-MFR 69-71: Immaterial.

D-MFR 72: Denied. Lively’s assertions are inconsistent with:

- A) Lively’s long-held views on homosexuality (*see supra* responses to D-MFR 2-3, 5);
- B) Lively’s years-long efforts in support of the criminalization of same-sex sexual conduct between adults (*see supra* responses to D-MFR 6-7), including in Uganda (Sullivan Decl. Ex. 37 at Lively 1663); the legalization of discrimination by

private and state actors against people on the basis of their sexual orientation and gender identity (*see supra* responses to D-MFR 8-9); and the criminalization of advocacy for the human rights of LGBTI people (*see supra* responses to D-MFR 8-9).

C) That at the one conference that was recorded (D-MFR 69), Lively referred to many LGBT people as genocidal sociopaths and murderers responsible for some of the worse mass murders in history (*see supra* response to D-MFR 67-68) and emphasized the need to prevent people from “promoting [homosexuality]” and trying to “change all the laws and create a pro gay society.” (Sullivan Decl. Ex. 194 at 00:51:27-34, Tr. 30:21-22; *see also id.* at 02:46:38-02:46:55, 100:9-11). It is not plausible then that on these occasions, Lively put aside a lifetime of fighting the so-called evil gay agenda and went around to other churches, universities, and school assemblies in Uganda solely preaching tolerance and respect for LGBT people.

D-MFR 73: Denied as stated. SMUG clarifies Lively’s assertion by noting that Bahati attended Lively’s address to members of Parliament (Sullivan Decl. Ex. 19 at 110:15-111-13, 143:9-17; Mugisha Decl., ¶ 6, Ex. A), and that Lively was also involved in a number of communications that included Bahati between 2009 and 2014:

- A) in December 2009, strategizing around a response to U.S.-based pastor Rick Warren, who had criticized the AHB (Sullivan Decl. Ex. 42 at Lively 3595-3597, Sullivan Decl. Ex. 43 at 3347);
- B) in March 2010, discussing strategies with respect to the AHB (Sullivan Decl. Ex. 21 at Lively 3647-3660; Lively Decl., Ex. 15 at Lively 3664);

- C) in July 2010, discussing firing or demoting the dean of a law school in Uganda because she was supportive of LGBT rights (Sullivan Decl. Ex. 22 at Lively 3365);
- D) in July 2012, discussing the present lawsuit (Sullivan Decl. Ex. 147 at Lively 5648);
- E) In December 2012, discussing the provisions of the AHB (Lively Decl., Ex. 17 at Lively 3728); and
- F) in October 2013, discussing “[c]oalition [b]uilding” between the co-conspirators in Uganda and their counterparts in Russia, the Russian Anti-Propaganda Law, and strategies to pass the legislation criminalizing LGBT rights advocacy in Uganda. (Lively Decl., Ex. 19 at Lively 3740)

D-MFR 74: Immaterial.

D-MFR 76: Neither admitted or denied. SMUG objects to this testimony as inadmissible because Mr. Tuhaise has not provided any basis from which to conclude that he had personal knowledge as to whether *any* member of Parliament at *any* time consulted Lively or Lively’s speeches or writings in either concluding that there was a need for the AHB or any of its provisions in developing or drafting any of its provisions. Further, this assertion is contradicted by email exchanges between Tuhaise and Lively where Tuhaise reports to Lively that members of Parliament were in agreement with and attempted to include some of Lively’s suggestions regarding legislative language. (*See infra* at responses to D-MFR 82-88 (D-F))

D-MFR 77-78: Denied. Lively’s assertion is contradicted by Ssempe’s email to Lively on April 23, 2009, extolling Lively’s work in Uganda as “plant[ing] deep seeds” and “fuel[ing] a desire for change,” and seeking Lively’s assistance on drafting what was to become the AHB:

Urgently We need your help on a legislative angle.. We need help in developing a strong deterrent [sic] law against homosexuality in Uganda...[We] were assigned

to work with some three wonderful christian MPs to develop [sic] a bill to be presented in parliament on Wednesday next week. I am tasked with helping these guys develop this law. I am asking for some help in this legal process. What would you encourage us to put in this bill. What are definitions. What are key issues to capture. How do we hinder and silence advocacy of this issue. Remember they have their hate crimes against us, how can we draft a reverse hate crimes against propaganda. How do we deal with national and international protocols. (Lively Decl., Ex. 9 at Lively 3228)

Ssempe advised Lively that he would be meeting with the MPs the following day. (Lively Decl., Ex. 9). On April 25th, Ssempe wrote back to say, “we spent sometime [sic] working on the draft with some legislators. There is no precedence [sic] we found, but decided to proceed anyway.” (Lively Decl., Ex. 10). And on April 28th, Ssempe sent an email attaching a draft of the Anti-Homosexuality Bill and declaring:

Africa will never be the same again. [...] [w]e stormed the parliament to demand that stronger legislation needed to be made to combat the spreading cancer of homosexuality” and “put up ‘an impressive’ demo in the city.

The speaker challenged us to come up with legislation which we have now done in a record three days. As the Exec director of the newly formed Family Policy Center, I was in action to fulfil [sic] the plans of my INT objectives. Research coorination,[sic] advocacy and policy formulation. Eh, guys this is what I was made to do. Not [sic] the bill is to be read in parliament on Wednesday. We expect fireworks with much homo lobbying from Europe, US, Canada and South Africa. (Sullivan Decl. Ex. 46 at Lively 3524)⁶

⁶ There is no testimony from Ssempe regarding what he did or did not do with regard to the initial drafting of the AHB, and Charles Tuhaise’s statement that to his knowledge Ssempe was not “involved in the initial draft of the AHB” (Tuhaise Decl. at ¶ 17) does not demonstrate any basis for his specific knowledge as to the degree of Ssempe’s role in the drafting process. After learning of Mr. Ssempe’s U.S. citizenship, on April 9, 2015, Plaintiff requested that the Court issue a subpoena to Mr. Ssempe to testify at a deposition. (dkt. 141). On April 24, 2015, the Court granted the motion (dkt. 146), and signed the subpoena on April 27, 2015. (dkt. 148) Subsequently, Plaintiff has attempted to serve Mr. Ssempe in Uganda and at his last known address in the United States but has been unable to locate him. (See Sullivan Decl. Ex. 203; dkt. 143-4)

D-MFR 80: Denied. Lively’s assertion is inconsistent with Lively’s communications and meetings with his co-conspirators and others in Uganda involved with drafting the Anti-Homosexuality Bill. (*See supra* response to D-MFR 52)

D-MFR 81: Denied. Lively’s assertions that he was “appalled” at seeing the AHB because its “draconian penalties were not at all consistent with his beliefs or advocacy” and “issued a blanket admonition to reconsider the approach of the AHB to focus on counseling instead of punishment” are contradicted by:

- A) Lively’s comments to Ssempe prefacing his suggested edits to the draft AHB stating that he “encourage[s] moderation in sentencing” and “emphasize[s] rehabilitation and prevention,” and “[o]therwise” the bill would “*solve [their] problems.*” (Lively Decl., Ex. 10) (emphasis added). Lively’s response in no way indicated he was “appalled.” Lively’s revisions still contained harsh sentences, maintained the criminalization of advocacy – via the offense of “promotion of homosexuality” – and of failing to report, in addition to adding on provisions for “rehabilitation,” or coercive conversion therapy. (Lively Decl., Ex. 10)
- B) Lively’s admissions that while he would have written the law differently, he believed that the legislation was the “lesser of two evils:”

I would not have written the bill this way . . . but what it comes down to is . . . the lesser of two evils. What is the lesser of two evils here? To allow the American and European gay activists to continue to do to that country what they’ve done here? Or to have a law that may be overly harsh in some regards . . . I think the lesser of two evils is for the bill to go through. (Sullivan Decl. Ex. 174 at 00:01:23, Tr. 1)

D-MFR 82-88: Denied. Lively's assertion that his suggestions were for "moderation, leniency, reduction of criminal punishment," is contradicted by the fact that he recommended, *inter alia*, imposing incarceration for LGBTI advocacy and for failing to report homosexual activity with sentences of imprisonment. (Lively Decl., Ex. 10) Lively recommended five years imprisonment for the crime of promotion, which was intended to encompass the work of SMUG and its member organizations. (Lively Decl., Ex. 10; Ex. 18; Sullivan Decl. Ex. 21 at Lively 3650 ("the primary enforcement effort" of the law should target "activists"))

Further, Lively's assertions that Langa, Tuhaise, and members of Parliament "disagreed" with Lively's suggestions, that Lively's suggestions were ultimately rejected, and that the versions of the AHB introduced in Parliament in 2009 and passed by Parliament in 2013 reflected none of Lively's suggestions are directly contradicted by the following:

- A) Lively's recommended reduction in the prison sentence for "promotion of homosexuality," a provision that he suggested, was reflected in the version of the bill that was introduced by Bahati in 2009 (*Compare* Lively Decl., Ex. 10 with Sullivan Dec Ex. 211).
- B) On November 6, 2009, Langa notified Lively that they had actually included the "recovery component" in the draft legislation as Lively suggested, though someone had removed it. Langa assured him they were "working to see that it is included." (Lively Decl., Ex. 11)
- C) In March 2010, Lively received an email from Ssempe that had been sent to Langa, Bahati, Buturo, and several other members of the Ugandan Parliament with the subject line, "Consultation and suggested way forward with AHB." (Sullivan Decl. Ex. 21 at Lively 3647) Ssempe suggested that "it would not cost

us at all to drop” the death penalty from the legislation and would put their “detractors on the defensive.” (Sullivan Decl. Ex. 21 at Lively 3647) Ssempe further advised that he thought their “greatest weapon on the bill is the aspect of recruitment and promotion.” *Id.* Tuhaise wrote, “I agree with Dr. Lively that the Death Penalty can be removed...” (Lively Decl., Ex. 16)

- D) In February 2012, Tuhaise emailed Lively to give him an update on the status of the bill and advised him that: Bahati had “moved away from certain provisions in the original Bill, including capital punishment”; it was expected that a parliamentary committee was going to recommend milder penalties; “most MPs here, including President Museveni have advised against capital punishment”; and “there is a growing consensus that aggravated homosexuality be punishable by anything other than the death penalty.” (Sullivan Decl. Ex. 47 at Lively 3698) On the issue of the so-called counseling component, Tuhaise advised Lively that they had “originally tried to provide for counselling in the Bill,” but that it could not be included for “technical reasons.” (Lively Decl. Ex. 17 at Lively 3728)
- E) Also in February 2012, Tuhaise explained to Lively that some of his suggestions were taken seriously by Bahati and other members of parliament and would be reflected but that changes to the bill could not be made once a bill was published until after the bill’s second reading at which time any amendments were to be made on the floor of parliament. (Sullivan Decl. Ex. 47 at Lively 3697)
- F) Lively’s critique in 2010 that the “failure to report” provision be modified because it was “untenable as written because it is too vague and because it targets people who may live as homosexuals in their private lives, but who do not seek to

recruit others or legitimate their lifestyle in the larger society,” (Sullivan Decl. Ex. 44 at Lively 3654), was reflected in the debate in Parliament before the bill was passed with that provision removed in December 2013. (Sullivan Decl. Ex. 176 at SMUG013766)

D-MFR 89-90: Immaterial.

D-MFR 91: SMUG would add that those “substantial modifications” were consistent with what Lively had recommended, as noted *supra* in response to D-MFR 82-88.

D-MFR 92: Immaterial.

D-MFR 93: Denied. Lively’s assertion is contradicted by Lively’s role in strategizing about, assisting with, drafting, and revising (for the purpose of making its passage easier) the AHB. (*see supra* D-MFR 82-88)

D-MFR 95: Denied. Lively’s assertion that no person was “punished” under the Anti-Homosexuality Act (“AHA”) is contradicted by the following events after the enactment of the AHA:

- A) SMUG and some of SMUG member organizations were surveilled by persons believed to be state actors, and/or were forced to minimize or suspend their operations serving Uganda’s LGBTI community. (Onziema Decl. ¶ 53; Declaration of Brian Nkoyooyo (“Nkoyooyo Decl.”) ¶¶ 11-14; Declaration of Jay Mulucha (“Mulucha Decl.”) ¶¶ 5-8)
- B) The government initiated an investigation into the Refugee Law Project (RLP), a non-governmental organization based at Makerere University that provides legal

aid to asylum seekers and refugees in Uganda, based on allegations that it was “promoting homosexuality.” (Declaration of Chris Dolan (“Dolan Decl.”) ¶¶ 8, 10). The government suspended the services of activities at RLP pending the investigation expressing its “concern” with RLP serving as “chair for the Gay Coalition in Uganda.” (Dolan Decl. ¶¶ 8, 11, 13) At the time, RLP was hosting the Civil Society Coalition on Human Rights and Constitutional Law, which was founded in the wake of introduction of the AHB and consisted of organizations that shared the understanding that the AHB posed a threat to human rights. (Dolan Decl. ¶¶ 3-6)

C) The Ugandan police raided the Makerere University Walter Reed Project, a U.S.-funded medical research facility in Kampala that conducted HIV research and provided services to LGBTI people, and arrested one of the facility’s employees, allegedly for conducting “unethical research” and “recruiting homosexuals.” The operations of the clinic were temporarily suspended, and even when the clinic reopened, LGBTI persons were forced to seek services elsewhere. (Sullivan Decl. Ex. 145; Declaration of Sandra Ntebi (“Ntebi Decl”) ¶ 5-6; Sullivan Decl. Ex. 150 at p. 38)

D-MFR 96-101: Lively’s assertions regarding the lack of personal knowledge of certain deponents regarding Lively and his co-conspirators’ conduct are immaterial given the evidence otherwise available. Lively’s assertions about Lively’s conduct in Uganda are in many instances contradicted by the available evidence. With respect to D-MFR 99, SMUG notes that Lively selectively cites to one line out of a passage of testimony where SMUG officer Pepe Onziema described having seen Defendant’s own description in the media of how he assisted with the

drafting of the AHB and had seen a copy of the draft AHB with Lively's comments, which was produced by Lively in this litigation. (Sullivan Decl. Ex. 27 at pp. 428:4-17, 429:21-430:2)

D-MFR 103: Denied. Defendant has admitted that he contributed to the drafting of the AHA (Lively Decl. ¶¶ 30-32), which was among the acts of persecution listed by SMUG. *See* Defendant's Motion for Summary Judgment, Ex. D (dkt. 257-4). SMUG further objects to any remaining assertions as legal conclusions about foreign law not supported by expert opinion and otherwise conclusory and/or immaterial assertions.

D-MFR 104-117: Lively's assertions regarding SMUG's personal knowledge of his connection to each incident of persecution are immaterial. Otherwise denied. Further these assertions are contradicted by SMUG officers' testimony regarding their knowledge of Lively's responsibility for these acts of persecution based on Lively's own documents and admissions. (*See e.g.*, Sullivan Decl. Ex. 49 at pp. 91:5-22; 92:2-93:10; 98:6-15, 98:24-99:4)

SMUG clarifies Lively's assertion in **D-MFR 113** that "[n]o one 'in Uganda received any legal punishment under the Anti-Homosexuality Act that was signed in 2014'" with reference to the state actions described in *supra* response to D-MFR 95. SMUG further clarifies Lively's assertion in **D-MFR 113** that "The presence of the anti-homosexuality law has not prevented ... SMUG from continuing its activities and claiming its space in the global human rights realm with its centrality on liberating LGBT persons in Uganda." (Sullivan Decl. Ex. 27 at pp. 475:9-476:17; Sullivan Decl. Ex. 50 at SMUG 002255) As SMUG's corporate representative testified, this statement should not be read "to mean that everything is rosy for Sexual Minorities Uganda when carrying out activities." (Sullivan Decl. Ex. 27 at pp. 476:17-21) Rather, SMUG intended this statement to mean that despite the persecution and violations it has suffered, SMUG staff

members are committed to carrying out their activities and risk their own security to build the capacity of LGBTI Ugandans to assert their fundamental human rights and live with dignity.

(Onziema Decl. ¶ 63)

D-MFR 118: SMUG objects to Lively's assertion as it contains legal conclusions about foreign law not supported by expert legal opinion and otherwise contains immaterial assertions of fact. Otherwise denied in that the assertion is contradicted by substantial evidence to the contrary. *See supra* responses to D-MFR 8-9, 11-14, 22-24, 50-52, 58-61, 73, 78-79, and 82-88.

D-MFR 120-127: Denied. Lively's assertions are contradicted by SMUG's testimony regarding the campaign of systematic persecution they have suffered (*See, e.g.*, Sullivan Decl. Ex. 58 at Responses to Interrogatory No. 2) Further, Lively's assertions regarding SMUG's knowledge of Lively's efforts with his co-conspirators to design and carry out this campaign are immaterial and contradicted by SMUG's testimony describing their knowledge based on Lively's own documents (*see e.g.*, Sullivan Decl. Ex. 49 at pp. 65:3-4, 65:11-14, 65:23-66), and video footage of Lively. (Sullivan Decl. Ex. 49 at pp. 68:17-18)

D-MFR 128: Lively's assertion regarding SMUG not believing that Lively has coerced or forced SMUG to do anything is immaterial. To the extent that the assertion in D-MFR 128 is material, SMUG disputes the characterization of the testimony. (Sullivan Decl. Ex. 28 at 374:22-366:5).⁷

D-MFR 129: Denied. Lively's assertions are contradicted by the facts described in SMUG's responses to D-MFR 8-9, 11-14, 22-24, 50-52, 58-61, 73, 78-79, and 82-88.

⁷ When asked this question by Lively's counsel, SMUG officer Pepe Onziema explained, "I feel the way you're asking the question does not give me the opportunity to answer it accurately." (Sullivan Decl. Ex. 27 at pp. 374:9-16)

D-MFR 130-131: Lively's assertions are contradicted by the following facts:

- A) Except for his visits to Uganda in 2002 and 2009, Lively engaged in communications with his co-conspirators and others between 2002 – 2014 to design and carry out their plan for persecuting Uganda's LGBTI community while in the United States. (*see, e.g.*, Sullivan Decl. Ex. 51 at Lively 3275, Lively Decl., Ex. 11 at 3537)
- B) In the United States, Lively also solicited funds from supporters in the United States to help support his travel to and efforts in Uganda (*see e.g.*, Sullivan Decl. Ex. 37 at Lively 1663 at 1664, Sullivan Decl. Ex. 80 at 2708, Sullivan Decl. Ex. 7 at Response to Interrogatory No. 18 (ATM "funded by donations from the public")), strategized with allies in the United States in countering some of the media reporting surrounding his participation in the seminar in Uganda (*see, e.g.*, Sullivan Decl. Ex. 55 at Lively 3248), and strategized with allies in the United States to expand the reach of his persecutory efforts (Sullivan Decl. Ex. 32 at Lively 3277)

D-MFR 132-148: Lively's assertions regarding the lack of personal knowledge of certain deponents about the Lively's conduct in the United States are immaterial given the evidence otherwise available. Otherwise denied. His assertions are contradicted by SMUG officers' testimony as to their knowledge of Lively's communications with co-conspirators while he was in the U.S. (*See e.g.*, Sullivan Decl. Ex. 28 at 123:23-126:16, Sullivan Decl. Ex. 27 at 381:13-382:15 (discussing Lively's emails produced in the litigation between his trips to Uganda)).

D-MFR 149: Denied as stated. SMUG clarifies Lively’s assertion by noting that he misstates Lusimbo’s quote describing President Museveni’s stance. The actual quote was: “Through widespread activism, again thanks to the local and international community, Uganda’s President’s stand on homosexuality has now changed from consenting to kill them in 2007 to there are homosexuals in Uganda and no one persecutes them.” (Sullivan Decl. Ex. 49 at 257:9-18) The difference in Lively’s version of the statement and the actual statement is that Lively has Lusimbo stating that Museveni went from believing in 2007 LGBTI people should be killed to acknowledging they exist and should not be persecuted; whereas the actual statement says that, Museveni’s stand, due to international pressure, is no longer that they should be killed, acknowledging that LGBTI people exist but denying they are being persecuted.

D-MFR 150: Denied as stated. SMUG clarifies Lively’s assertion by noting that the quote attributed to SMUG – that it is “no longer afraid of anything” – was in regards to SMUG officer Frank Mugisha witnessing “more than 30 colleagues walk the streets of Kampala holding pro-gay posters” during “a march against gender-based violence” in 2012, which was an increase from only four colleagues who had joined Mugisha for a demonstration in support of gay rights four years earlier. (Sullivan Decl. Ex. 27 at 149:6-150:16; Sullivan Decl. Ex. 204) Nonetheless, there is continuing persecution, such as the raid of an LGBTI rights workshop that had only occurred weeks earlier. (Onziema Decl. ¶¶ 36-39)

D-MFR 151: Denied. Lively’s assertion is contradicted by the fact that SMUG officers and their colleagues refrain from identifying themselves as members of the LGBTI community in most public places in Uganda and reserve doing so until they are in spaces where they know that LGBTI persons are welcome. (Onziema Decl ¶ 64; Lusimbo Decl. ¶ 8) SMUG and its staff have continued to face threats, attacks, and other rights violations in recent years (Sullivan Decl.

Ex. 198 at pp. 2-7; Onziema Decl ¶¶ 58-59; Mugisha Decl. ¶¶ 11-17; Lusimbo, Decl. ¶¶ 5-7, Bakuraira Decl. ¶¶ 3-7) SMUG officer Richard Lusimbo made the strategic decision to make photos of himself on social media public following his outing in 2014 in an effort to disincentivize tabloid newspapers – which are more widely read by the Ugandan public – from continuing their sensationalistic outings of him. (Lusimbo Decl. ¶ 8)

D-MFR 152-154: Denied as stated. SMUG clarifies Lively’s assertions by noting that SMUG staff and other LGBTI activists must retain their own security in order to arrange events in which LGBTI persons can participate safely. (Sullivan Decl. Ex. 49 at 246:3-5) Some parts of the Ugandan Police Force have recently been willing to protect LGBTI persons when SMUG and other LGBTI activists arrange events due to SMUG’s persistent efforts to sensitize the police to the rights of LGBTI people. (Lusimbo Decl ¶ 4; Onziema Decl. 65) But many police officers in Uganda continue to harass and otherwise intimidate LGBTI people and fail to protect LGBTI persons from attacks by private actors. (Sullivan Decl. Ex. 49 at 229:17-22, 233:18-24; Mugisha Decl ¶¶ 11-17; Onziema Decl. ¶¶ 58-59) Moreover, the Minister of Ethics and Integrity has continued his efforts “to disrupt meetings and seminars where LGBT organizations are involved and arrest the participants.” (Sullivan Decl. Ex. 49 at 11-15; Mugisha Decl. ¶ 18)

D-MFR 155: Denied. Lively’s assertion that “security concerns for LGBTI persons in Uganda do not arise from abusive police officers” is contradicted by the fact that many police officers in Uganda continue to harass and otherwise intimidate LGBTI people and fail to protect LGBTI persons from attacks by private actors. (Sullivan Decl. Ex. 49 at pp. 229:17-22, 233:18-24; Mugisha Decl ¶¶ 11-17; Onziema Decl. ¶¶ 58-59) Further, Lively’s assertion regarding SMUG’s knowledge of Lively’s involvement in private acts of discrimination is immaterial.

D-MFR 156: Denied. Lively's assertion is contradicted by SMUG testimony that the police "interfered" with an LGBTI rights workshop in which SMUG participated in 2013. (Sullivan Decl. Ex. 27 at pp. 229:25-231:11; Onziema Decl. at ¶ 49)

D-MFR 157: Denied to the extent that SMUG was not able to prevent members of Parliament from passing the AHB in December 2013.

D-MFR 158: Denied as stated. SMUG clarifies Lively's assertion by noting that the chair of SMUG's board, Samuel Ganafa, works for MTN Uganda, a South African company that has a non-discrimination policy covering discrimination based on sexual orientation. (Sullivan Decl. Ex. 34 at pp. 7:21; Ganafa Decl. Ex. A)

D-MFR 163: Lively's assertion regarding SMUG's knowledge as to Lively's role in interfering with any Pride parades is immaterial.

D-MFR 164: Denied as stated. SMUG clarifies Lively's assertion by incorporating by reference its response to D-MFR 113.

D-MFR 165-169: Lively's assertions are immaterial since, as SMUG has advised Lively, it is not seeking to hold Lively liable for David Kato's death and "included the death of David Kato in paragraphs 10 and 222 of the Amended Complaint in order to present a complete narrative of a SMUG staff member who had been subject to the persecution alleged in the Amended Complaint and subsequently died." (Sullivan Decl. Ex. 58 at Response to Interrogatory No. 10) Nevertheless, SMUG clarifies Lively's assertions by noting the following:

- A) Kato was murdered on January 26, 2011, less than one month after a Ugandan court ruled that the Ugandan tabloid publication the *Rolling Stone* had violated

Kato's rights in October 2010 by publishing his photo and identifying information and identifying him as an LGBTI person and activist under the headline "HANG THEM; THEY ARE AFTER OUR KIDS!!," and following a series of death threats and physical attacks related to the publication (Onziema Decl. ¶ 26)

- B) SMUG's corporate representative testified that SMUG had learned that Sidney Nsubuga Enoch purportedly confessed to murdering David Kato only from news reports. (Sullivan Decl. Ex. 27 at pp. 161:4-13)
- C) SMUG's director testified that he had doubts regarding Enoch's reported confession because Kato "was my friend, and as a person who was close friend, I would have known that – he would have shared information with me about the person who they say allegedly murdered him that they had a connection." (Sullivan Decl. Ex. 28 at pp. 238:19-239:10). He further testified, "I had my suspicions because before his murder, he did complain about harassment." (Sullivan Decl. Ex. 28 at pp. 239:25-240:2)
- D) Similarly, in response to the question of whether SMUG has "any knowledge of any fact suggesting that David Kato was killed as a result of his LGBT advocacy in Uganda," SMUG's corporate representative testified that Kato "received threats through phone calls and on his way home," "was attacked very many times when we were at court during the hearings of the Rolling Stone case that we had filed," and so "his murder couldn't just be a coincidence or – unrelated to that." (Sullivan Decl. Ex. 27 at pp. 162:10-25, 449:24-450:4) As a result, he explained, SMUG's staff, who "receive threats on a day-to-day basis, some of them being death threats, some of them people actually going to the length of physically attacking

you after those threats,” was “intimidated” when they learned that their colleague and friend “was murdered, his brains spilled on the floor.” (Sullivan Decl. Ex. 27 at pp. 166:2–168:15)

- E) Another SMUG officer explained his belief that Enoch “is in fact the person who killed David Kato,” (Sullivan Decl. Ex. 49 at pp. 106:11-15), but he still doubted the motivation behind the murder was unrelated to Kato’s status as an LGBTI activist, believing that the police failed to address this issue. (Sullivan Decl. Ex. 49 at pp. 259:24-260:8)
- F) Similarly, a SMUG board member testified that he was not satisfied with the investigation into Kato’s death, explaining: “What happened is that the person who was arrested confessed or pleaded guilty, so that meant there was no trial, so that leaves a lot of gaps in understanding what exactly transpired...so you may not understand exactly what happened, who was behind him, what are the circumstances that led him to do that.” (Sullivan Decl. Ex. 34 at 194:6-21)
- G) On February 3, 2011, in response to Lively’s email forwarding his blog, “Murdering Uganda,” in which he discusses Kato’s murder, Ssempe sent Lively an email, copying Langa, Tuhaise, Bahati, and three others, in which he indicated that a colleague of his had access to “the killer,” and who interviewed him [the killer] and “came up with the embarrassing facts.” (Sullivan Decl. Ex. 57 at Lively 3416)

D-MFR 170-176: Denied. Lively’s assertions are contradicted by the fact that the injunctive relief SMUG seeks from this Court is as follows: “enjoining the Defendant from undertaking further actions, and from plotting and conspiring with others, to persecute SMUG

and the LGBTI community in Uganda on the basis of their sexual orientation and gender identity, and strip away and/or severely deprive SMUG and LGBTI community in Uganda of fundamental rights, including the rights to freedom of expression, association and assembly, to be free from torture and other cruel, inhuman and degrading treatment, and arbitrary arrest and detention.” (Sullivan Decl. Ex. 58 at Response to Interrogatory No. 9; *see also* Sullivan Decl. Ex. 27 at pp. 434:6-15) SMUG is not seeking that the court “order Scott Lively not to go to Uganda,” but only that the court order Lively “[n]ot to come to Uganda to carry out persecution of LGBT people.” (Sullivan Decl. Ex. 27 at pp. 435:2-18) As a foreign organization, SMUG understands that what SMUG would “want the court to prohibit Lively from doing” (Sullivan Decl. Ex. 27 at pp. 435:19-48:10) may be different from what the Court is able to do under the United States Constitution, and is different from what SMUG is asking the Court to do. (Onziema Decl. ¶ 66)⁸

D-MFR 177: Denied. SMUG’s board chair testified that Lively’s efforts have harmed SMUG’s activities by increasing security issues for SMUG and hindering SMUG’s advocacy and ability to support its constituency, the LGBTI community. (Sullivan Decl. Ex. 34 at pp. 185:13-186:16) He further testified that SMUG’s officers know how this has translated into monetary harm for SMUG. (Sullivan Decl. Ex. 34 at 185:22-23)

D-MFR 180-191: Lively’s assertions are immaterial. Nevertheless, SMUG disputes Lively’s assertions because:

- A) On December 20, 2013, in supplemental initial disclosures, SMUG disclosed that it seeks compensatory damages, punitive and

⁸ SMUG also notes that the purported injunctive relief described in D-MFR 171-176 reflect the language of Lively’s counsel, not SMUG’s testifying witness. (Sullivan Decl. Ex. 27 at 435:19-48:10)

exemplary damages, and reasonable attorneys' fees and costs of suit, in addition to equitable relief. While, at this stage in the litigation, it is premature for Plaintiff to provide an estimate as to the damages sought, Plaintiff provides the following categories of injuries for which it seeks compensatory damages:

- Compensation for diversion of resources to protect Plaintiff from the persecution conspiracy and/or joint criminal enterprise that Defendant has propelled and pursued as alleged in the FAC [First Amended Complaint], including diversion of resources to seek redress and accountability for persecution of Plaintiff's staff members and raids of Plaintiff's meetings and to adopt additional security measures and relocate its operations;
- Compensation for diversion of resources to identify and counteract incidents of persecution resulting from the conspiracy and/or joint criminal enterprise that Defendant has propelled and pursued as alleged in the FAC, including resources used to assist lesbian, gay, bisexual, transsexual, and intersex persons denied access to critical services, forcibly evicted, forced to go into hiding or seek asylum, and/or arbitrarily arrested or detained;
- Compensation for frustration of Plaintiff's purpose as a result of harm Plaintiff suffered to its standing and reputation in the community necessary to conduct its advocacy and education and outreach campaigns, due to the persecution conspiracy and/or joint criminal enterprise that Defendant has propelled and pursued as alleged in the FAC; and
- Compensation for the violation of Plaintiff's rights to expression, assembly, and association as a result of the persecution conspiracy and/or joint criminal enterprise that Defendant has propelled and pursued as alleged in the FAC.

Plaintiff will provide its computation of damages as soon as expert reports are delivered and damages are computed.

(Lively Motion for Summary Judgment, Ex. G (dkt. 257-7))

B) On July 11, 2014, in interrogatory responses, SMUG represented that:

SMUG only seeks damages for harm it suffered as an organization. As set forth in SMUG's Amended Complaint (Dkt. No. 27 at 59-60), SMUG seeks compensatory damages, punitive and exemplary damages, and reasonable attorneys' fees and costs, in amounts to be determined at trial, in addition to equitable relief. The categories of past and ongoing harm to SMUG for which it seeks damages

fall into one or more of the following categories, which SMUG reserves the right to supplement due to the ongoing nature of the persecution:

- Compensation for diversion of SMUG's resources to protect SMUG from the persecution conspiracy and/or joint criminal enterprise as alleged in the Amended Complaint, including diversion of resources to seek redress and accountability for persecution of Plaintiff's staff members and raids of Plaintiff's meetings and to adopt additional security measures and relocate its operations, including but not limited to: Costs incurred and staff time spent following the arbitrary arrest and detention of staff member(s) and following the harassment and threats faced by staff member(s) causing them to temporarily relocate; Costs incurred and staff time spent in responses to breach(es) to security of SMUG's operations; and Costs incurred and staff time spent to implement additional security measures due to heightened security risks.
- Compensation for diversion of SMUG's resources to counteract the persecution resulting from the conspiracy and/or joint criminal enterprise as alleged in the Amended Complaint, including resources used to conduct public education, political and legal advocacy, and media campaigns and to support SMUG's member organizations, some of which assist LGBTI persons who are denied access to critical services, forcibly evicted, forced to go into hiding or seek asylum, and/or arbitrarily arrested or detained, including but not limited to: Costs incurred and staff time spent for public education, advocacy, and media campaigns to counteract the persecution; Costs incurred and staff time devoted to supporting SMUG's member organizations; and Costs incurred and staff time spent bringing a constitutional challenge to the Anti-Homosexuality Act.
- Compensation for frustration of SMUG's purpose as a result of harm SMUG suffered to its standing and reputation in the community, attributes which are necessary to conduct its advocacy and education and outreach campaigns, due to the persecution conspiracy and/or joint criminal enterprise that Defendant has propelled and pursued as alleged in the Amended Complaint.

(Sullivan Decl. Ex. 58 at Response to Interrogatory No. 4)

C) On August 6, 2015, SMUG identified the documents in its production, by then complete, that contained information regarding SMUG's compensatory damages

in the categories previously disclosed. (Sullivan Decl. Ex. 205 at Response to Interrogatory No. 4)

D) Consistent with SMUG's statement in its initial disclosures served on December 20, 2013, where SMUG stated that it would "provide its computation of damages as soon as expert reports are delivered and damages are computed," within a few days after SMUG's expert reports were served, on November 6, 2015, SMUG disclosed specific amounts of damages incurred with regard to each category of compensatory damages previously disclosed. (Lively Motion for Summary Judgment, Ex. 5 (dkt. 257-5))

E) On February 19, 2016, to supplement SMUG's Rule 30(b)(6) witness testimony, SMUG provided annotated versions of previously produced and identified documents demonstrating how the specific amounts of damages incurred with regard to each category of compensatory damages previously disclosed were calculated. (Sullivan Decl. Ex. 199 at Response to Interrogatory No. 4)

D-MFR 198: SMUG states that belief that one is harmed is different from knowledge of a legal injury.

**PLAINTIFF’S CONCISE STATEMENT OF MATERIAL FACTS
OF RECORD OMITTED BY DEFENDANT**

Introduction

1. Sexual Minorities Uganda (SMUG) is an umbrella organization located in Kampala, Uganda, that represents its own interests and those of its constituent member organizations in advocating for the rights of lesbian, gay, bisexual, transgender, and intersex people (“LGBTI”) people in Uganda. (Onziema Decl. ¶¶ 3-4) With respect to its network of LGBTI organizations, SMUG’s mission is “to coordinate and support its member organizations to achieve their objectives aimed at the liberation of LGBTI people.” (Onziema Decl. ¶ 4)

2. Since 2002, Scott Lively has worked with a group of co-conspirators in Uganda to systematically deprive Uganda’s LGBTI community, including SMUG and its member organizations, of their fundamental rights to equality, non-discrimination, and freedom of expression, association, and assembly. This group has included, at various times:

- a. Stephen Langa, Executive Director and founder of the Family Life Network, which was founded in 2002 (Langa Decl. ¶ 2) and whom Lively described as a friend and ministry partner. (Sullivan Decl. Ex. 19 at p. 106:13-19)
- b. Martin Ssempe, pastor and founder of the Family Policy and Human Rights Centre (Sullivan Decl. Ex. 46 at Lively 3524), whom Lively described as a friend, the person he “knew the second best in Uganda,” (Sullivan Decl. Ex. 19 at pp. 226:20-227:3), “one of the leading media figures in the nation” (Sullivan Decl. Ex. 24 at Lively 1560), and a “good man; he’s trying to protect all the children of his country from being homosexualized.” (Sullivan Decl. Ex. 174 at 00:04:26-00:04:33, Tr. 3) Ssempe is a United States citizen. (dkt. 143-1)

- c. David Bahati, member of Parliament and current Minister of State for Planning. (Langa Decl. ¶ 20, Lively Decl. ¶ 32(g))
- d. Charles Tuhaise, Principal Research Officer for the Parliament of Uganda since 2005, who works closely with members of Parliament as they draft and consider various laws. Tuhaise met Lively in March 2009 and continued to correspond with him over the next few years regarding the status of and strategies concerning the passage of the AHB. (Tuhaise Decl. ¶¶ 2-3)
- e. James Nsaba Buturo, Minister of Information and Broadcasting from 2001 until 2006, and Minister of State for Ethics and Integrity from 2006 until 2011. (Lively Decl. ¶ 32(i), Sullivan Decl. Ex. 83)
- f. Simon Lokodo, the current Minister of State for Ethics and Integrity (Onziema Decl. ¶ 38, Mugisha Decl. ¶ 18)

3. Lively's efforts in Uganda form part of a broader plan that Lively has carried out in the U.S., Central and Eastern Europe, and Russia to defeat what he described as the "global homosexual political movement," (Sullivan Decl. Ex. 59 at Lively 2686) and "counter the effect of the international 'gay' agenda on the U.S." (Sullivan Decl. Ex. 60 at Lively 2703) The group that Lively worked with in Eastern Europe and Russia, and tried to connect with his Ugandan co-conspirators, included:

- a. Alexey Ledyayev, an anti-gay activist whom Lively described as founder of the New Generation Church based in Riga, Latvia, which has an "activism-oriented denomination with more than 250 Russian-speaking churches in 14 countries. . ." (Sullivan Decl. Ex. 54 at Lively 2728) Lively described Ledyayev as having helped form Christian political parties in several countries

and as involved with the First Latvian Party, which controlled several key seats in Latvian government, including the Ministry of Family and Ministry of Human Rights. (Sullivan Decl. Ex. 61 at Lively 2139) With Lively, Ledyaev started Watchmen on the Walls, described by Lively as a “vehicle to attempt to establish a coalition of like-minded people regarding homosexuality and social policy.” (Sullivan Decl. Ex. 19 at 325:2-326:19) Ledyaev and Lively were two of the four founding members of the initiative. (Sullivan Decl. Ex. 19 at 325:3-22, 326:18-19)

- b. Vadim Privedenyuk, a pastor at the New Generation Church branch in Springfield, Massachusetts, and a friend of Lively’s. Privedenyuk was in Latvia with Lively in 2007, where he acted as a translator for Ledyaev. (Sullivan Decl. Ex. 19 at 349:9-20; 363:8-365:24)

Lively’s Persecutory Efforts Internationally

4. Lively, a U.S. citizen, was based primarily in Oregon and California for a number of years but has been living and working in Springfield, Massachusetts since his “strategic” relocation in 2008 to what he describes as, “the most morally corrupt state in the union.” (Sullivan Decl. Ex. 26 at Lively 1748, Sullivan Decl. Ex. 65 at Lively 2740)

5. Lively is an attorney (Sullivan Decl. Ex. 19 at 17:18), author (Sullivan Decl. Ex. 19 at 33:11-37:7), pastor (Sullivan Decl. Ex. 19 at 29:10-33:10), and president and founder of Abiding Truth Ministries (“ATM”), a tax-exempt 501(c)(3) organization incorporated in California and registered in Massachusetts. (Sullivan Decl. Ex. 19 at 321:5-17, Sullivan Decl. Ex. 66 at Lively 2931;) Defend the Family International, DefendtheFamily.com and the Pro-Family Resource Center are divisions of ATM run by Lively. (Sullivan Decl. Ex. 7 at Response

to Interrogatory No. 8; *see also* Sullivan Decl. Ex. 19 at p.324:4-10) In addition to DefendtheFamily.com, Lively has another website, www.scottlively.net, a/k/a Scott Lively Ministries, where he posts his writings and commentary. (Sullivan Decl. Ex. 19 at p.345:11-18; Sullivan Decl. Ex. 7 at Response to Interrogatory No. 2) Lively has also described himself as a “church and university lecturer and government consultant on family issues and human rights with service in more than 30 countries” (Sullivan Decl. Ex. 67 at Lively 1854), a “media figure in more than 700 radio and television interviews here at home,” (Sullivan Decl. Ex. 19 at pp. 354:9-357:19, Sullivan Decl. Ex. 26 at Lively 1748), a “prophet” (Sullivan Decl. Ex. 68 at Lively 2836), a “strategist against the satanic ‘gay’ agenda” (Sullivan Decl. Ex. 69 at Lively 2884), and, in materials for his Massachusetts gubernatorial campaign, as the “Father of the Ugandan Pro-Family Movement.” (Sullivan Decl. Ex. 26 at Lively 1749)

6. In 1991, Lively worked with an organization in Oregon that filed what he describes as “the boldest anti-homosexuality ballot measure in American history.” (Sullivan Decl. Ex. 11 at Lively 2841) According to Lively, the measure would have amended the state constitution to define homosexuality as “abnormal, unnatural and perverse.” *Id.*

7. In 1995, Lively published *The Pink Swastika: Homosexuality in the Nazi Party*, in which he argues that the rise of Nazism – with its resultant horrors – was engineered and driven by a violent and fascistic gay movement in Germany. (Sullivan Decl. Ex. 8 at Lively 1850; Sullivan Decl. Ex. 177)

8. In 1997, Lively published *The Poisoned Stream* where he writes:

Since [*The Pink Swastika*],...my own studies have broadened. I have come to discover, through various leads, a dark and powerful homosexual presence in other historical periods: the Spanish Inquisition, the French “Reign of Terror,” the era of South African apartheid, and the two centuries of American slavery.

(Sullivan Decl. Ex. 71 at SMUG000105)

9. Lively has asserted the importance of “counter[ing] the effect of the international ‘gay’ agenda on the U.S.” (Sullivan Decl. Ex. 60 at Lively 2703) Lively has written that “by building bridges to strongly pro-family Christian power centers in other nations,” Lively and his partners can “revitalize and strengthen” the efforts to counter the “gay agenda” in the U.S. (Sullivan Decl. Ex. 72 at 98) that have been “hurt” by the “growth of homosexual power globally.” (Sullivan Decl. Ex. 60 at Lively 2702) Lively developed a strategy to oppose the “gay agenda” by focusing on prohibiting or otherwise impeding advocacy on behalf of the LGBT community.

10. In 2006, Lively met Ledyaeв, the founder of the New Generation Church based in Riga, Latvia, (Sullivan Decl. Ex. 54 at Lively 2728) who helped Lively extend his anti-LGBTI efforts to Central and Eastern Europe and Russia. (Sullivan Decl. Ex. 72 at Lively 2697, Sullivan Decl. Ex. 73 at 2699, Sullivan Decl. Ex. 74 at Lively 2700; Sullivan Decl. Ex. 19 at pp. 325:3-9; 351:25-352:6; Sullivan Decl. Ex. 7 Response to Interrogatory No. 16)

11. In 2006, with Ledyaeв, Lively co-founded Watchmen on the Walls, an organization he described as a “vehicle to establish a coalition of like-minded people regarding homosexuality.” (Sullivan Decl. Ex. 19 at pp. 325:2-328:17; Sullivan Decl. Ex. 75 at Lively 2133) Lively traveled to Latvia in 2006 for the first Latvian conference of Watchmen on the Walls where he delivered two lectures: one an expanded version of his presentation called “Masculine Christianity,” (Sullivan Decl. Ex. 76 at Lively 2739), in which he decried an “effeminate” form of Christianity in the American church, and the other for the benefit of “numerous political and religious leaders” about “Practical Projects to Advance the Pro-Family Agenda.” (Sullivan Decl. Ex. 74 at Lively 2701) During this trip, Lively also presided over a ceremony at which Watchmen on the Walls issued the *Riga Declaration on Religious Freedom*,

Family Values and Human Rights, which Lively drafted and described as an “ideological call-to-arms of the pro-family peoples of the earth.” The declaration states that “the human rights of religious and moral people to protect family values is far superior to any claimed human right of those who practice homosexuality and other sexual deviance” (Sullivan Decl. Ex. 74 at Lively 2701 and Riga declaration) and calls on the European Union and the international community to “immediately abandon” initiatives to recognize the rights of LGBT people. (Sullivan Decl. Ex. 12 at Lively 2001)

12. This same year, Lively formally launched Defend the Family International, a division of ATM, to build international alliances to “stop the homosexual agenda, especially in places it is just getting started.” (Sullivan Decl. Ex. 60 at Lively 2703, Sullivan Decl. Ex. 77 at Lively 2136, Sullivan Decl. Ex. 7 Response to Interrogatory No. 16)

13. In 2007, Lively published *Defend the Family: Activist Handbook* (“Activist Handbook”) for the Latvian affiliate of Defend the Family International, though he envisioned it would be adapted for use elsewhere. (Sullivan Decl. Ex. 9 at Lively 1397 at 4) As described by Lively, this publication presents a comprehensive plan to stop the “homosexual political and social agenda.” (Sullivan Decl. *Id.* at 3) In it, Lively describes the “gay movement” as a “highly organized army of social engineers with a single purpose” and as the “most dangerous social and political movement of our time.” (Sullivan Decl. Ex. 70 at SMUG000060)

14. In 2007, Lively founded a Defend the Family affiliate in Latvia and had plans under way to establish similar organizations in Jamaica, Germany, Russia, (Sullivan Decl. Ex. 78 at Lively 2713 at 1), and Uganda (Sullivan Decl. Ex. 79 at Lively 2725)

15. Lively and Ledyayev also agreed in 2007 that Lively would develop an “Americanized version of the [New Generation] program” (modified by Lively) at a “campus”

New Generation had established in Springfield, Massachusetts. (Sullivan Decl. Ex. 54 at Lively 2728)

16. In 2007, Ledyaeв helped Lively organize a nearly year-long speaking tour in Central and Eastern Europe that took Lively to cities in Latvia, Lithuania, Bosnia, Belarus, Ukraine and Russia. (Sullivan Decl. Ex. 19 at pp. 343:21-354:4) Lively solicited funds from supporters in the United States to help support his international travel. (*See e.g.*, Sullivan Decl. Ex. 180 at Lively 2401, Sullivan Decl. Ex. 18 at 2522-23, Sullivan Decl. Ex. 181 at 2710, Sullivan Decl. Ex. 52 at 2718, Sullivan Decl. Ex. 53 at 2719, Sullivan Decl. Ex. 4 at 4418; Sullivan Decl. Ex. 54 at Lively 2728; Sullivan Decl. Ex. 7 Response to Interrogatory No. 18)

17. In Lithuania during the 2007 tour, Lively held consultations with government officials that he claimed “helped produce two strong pro-family laws there.” (Sullivan Decl. Ex. 11 at Lively 2841) While in Lithuania, Lively also held meetings with members of Parliament, held two press conferences at Parliament, gave lectures at two universities, and appeared in a number of media interviews. (Sullivan Decl. Ex. 80 at Lively 2707; Sullivan Decl. Ex. 19 at pp. 354:18-355:2, 355:9-356:4) According to Lively, his efforts helped achieve a “huge victory” when the mayor of Vilnius, Lithuania “refused to grant permission for May ‘Rainbow Day’ events that had been planned and advertised for months by the homosexual activists of the E.U.” (Sullivan Decl. Ex. 80 at Lively 2707)

18. During this 2007 tour, Lively campaigned in several cities in Russia including St. Petersburg, Vladivostok, Blagoveshchensk and certain cities in Siberia. (Sullivan Decl. Ex. 3 at Lively 2193) In his “Letter to the Russian People,” Lively urged resistance to laws “prohibiting discrimination against homosexuals,” calling homosexuality a “personality disorder” involving “various, often dangerous sexual addictions and aggressive, anti-social impulses,” and urged

Russian leaders to “criminalize the public advocacy of homosexuality,” claiming that “homosexuality is destructive to individuals and to society” and that the “easiest way to discourage ‘gay pride’ parades and other homosexual advocacy is to make such activity illegal in the interest of public health and morality.” (Sullivan Decl. Ex. 3 at Lively 2193)

- i) In 2013, the Russian Duma passed a law that did just that. The Duma passed the Anti-Propaganda Law, which imposes harsh fines and possible jail terms ostensibly for propaganda of “nontraditional sexual relations” aimed at minors, though in effect it has been used to prevent or punish speech, including media reporting, and public assembly in support of LGBT equality or the idea that homosexuality is normal. (Sullivan Decl. Ex. 15 at p. 2)

Examples of what the Russian government has considered criminal LGBT propaganda include: materials that “directly or indirectly approve of persons who are in nontraditional sexual relationships” (Sullivan Decl. Ex. 15); LGBT rights demonstrations (Sullivan Decl. Exs. 15, 16); a newspaper article about a teacher who lost a job because of his gay rights activism and who had been assaulted by neo-Nazis because of his sexual orientation (Sullivan Decl. Ex. 48); and an online post by the former director of an LGBT organization who stated, “Being gay means being a brave and confident person, with dignity and self-esteem.” (Sullivan Decl. Ex. 15)

- ii) Lively described the Russian Anti-Propaganda Law as “the very important and frankly necessary step of criminalizing homosexual propaganda to protect the society from being ‘homosexualized.’” (Sullivan Decl. Ex. 17 at Lively 2528) Lively noted that he “played a role” in the “enactment of this law.”

(Sullivan Decl. Ex. 18 at Lively 2522) He trumpeted the fact that the ban on advocacy was one of the “few specific policies” he advocated during his tour of Russia. (Sullivan Decl. Ex. 18 at Lively 2522) He also has noted that “the first version of this law at the local level was in St. Petersburg where I released my Letter to the Russian People in October of 2007.” (Sullivan Decl. Ex. 18 at Lively 2522)

iii) Lively has advised other countries to adopt anti-propaganda laws like the one in Russia. (Sullivan Decl. Ex. 17 at 2529)

iv) Lively admitted that a law like the Russian Anti-Propaganda Law would not be legal in the United States, writing, “[h]ere in the United States it would not be possible to pass such a law these days because of the way our First Amendment has been misinterpreted in recent decades by the U.S. Supreme Court.” (Sullivan Decl. Ex. 18 at Lively 2522)

19. In 2009, Lively published *Redeeming the Rainbow*, in which he recommends strategies to defeat the “gay movement.” Foremost among his strategies is broad-based systematic discrimination against people on the basis of sexual orientation and gender identity. Lively recommends criminal laws that prevent LGBT people from “us[ing] the organs of government to advance their philosophy as normal and healthy.” (Sullivan Decl. Ex. 20 at SMUG000259) He also recommends “emphasiz[ing] the issue of homosexual recruitment of children”:

The protection of children trumps any argument for “gays” as societal victims. Once parents and grandparents accept that recruitment of children is possible, they become interested in seeing all the evidence against the idea of “gay” legitimacy. (Sullivan Decl. Ex. 20 at SMUG000359)

He also claims pornography is a “gateway into the ‘gay’ lifestyle. . .” (*Id.* at SMUG000308)

20. In 2011, Lively traveled to Moldova where he helped defeat the passage of a law prohibiting discrimination on the basis of sexual orientation. (Sullivan Decl. Ex. 13 at Lively 2410) Lively told audiences in Moldova, “I guarantee you, if this bill passes, all the evil that struck the European Union, the collapse, and [sic] to the Republic of Moldova.” (Sullivan Decl. Ex. 81 at SMUG000868) Lively also “taught the Moldovans” that discrimination is necessary because “anti-discrimination law is the seed that contains the entire tree of the homosexual agenda, with all of its poisonous fruit.” (Sullivan Decl. Ex. 13 at Lively 2410) Lively boasted that “[i]n one week I organized and implemented a successful plan by which the fledgling pro-family movement there killed the law.” (Sullivan Decl. Ex. 11 at Lively 2843) Lively later confirmed that his purpose in Moldova was not simply to speak his mind or preach his beliefs, but to ensure that LGBT Moldovans could be subject to discrimination – a success he claimed he was instrumental in achieving. (Sullivan Decl. Ex. 182 at Lively 1352)

Persecutory Campaign in Uganda

Prior to 2002

21. Same-sex sexual conduct has been criminalized, and punishable by life imprisonment, in Uganda since 1930 (during British colonial rule), via the offense of “carnal knowledge against the order of nature” in Section 145 of Uganda’s Penal Code. (Jjuuko Decl. Ex. A at 29-30) As such, while “homophobic sentiment” against LGBTI people has long existed in Uganda (Sullivan Decl. Ex. 34 at pp. 19:2-23:9), cases of Ugandans being tried to judgment under Ugandan Penal Code Section 145 were essentially nonexistent. (Jjuuko Decl. Ex. A at 11)

22. Apart from a statement by the Ugandan President in 1999 that LGBTI people should be sent to prison, (Sullivan Decl. Ex. 28 at p. 226:2-18), LGBTI Ugandans primarily

suffered discrimination during private interactions such as with family members, colleagues, and health care professionals when seeking medical assistance tailored to their needs as sexual minorities. (Onziema Decl. ¶ 6; Sullivan Decl. Ex. 34 at pp. 18:19-23:9) LGBTI Ugandans gathered together without intrusion by public institutions, such as government agencies, the police, and the media. (Sullivan Decl. Ex. 28 at pp. 40:8-41:3, 51:6-21; Sullivan Decl. Ex. 34 at pp. 24:20-22; 28:9-18. .

Lively's 2002 Visit

23. In 2002, Lively traveled to Uganda for events coordinated by Langa. Lively Decl. ¶ 7. His first efforts there in 2002 were to assist Ugandans in “launch[ing] their movement” to combat the “challenge of the sex activists.” (Sullivan Decl. Ex. 19 at pp. 385:25-386:12) Indeed, he boasted in materials he created during his gubernatorial campaign that he “is known as the Father of the Ugandan Pro-Family Movement.” (Sullivan Decl. Ex. 26 at Lively 1748)

24. When Lively traveled to Uganda in 2002, Langa introduced him to Martin Ssempea (Sullivan Decl. Ex. 34 at pp. 90:19-23)

25. Lively described his participation in a conference organized by Langa entitled “The Threat of Pornography and Obscenity in Uganda,” (Langa Decl. ¶ 4) in Uganda in March 2002 as a “remarkable success” and as having made a deep impact among key actors in Uganda, “as well it might in a nation where pornography, abortion and homosexuality are still illegal.” Lively noted that “[f]our hundred of Uganda’s leading citizens attended, including the heads of nearly every religious denomination, cabinet ministers, and a justice of the Supreme Court.” (Sullivan Decl. Ex. 24 at 1636-1644)

26. In coordination with Langa, Lively returned to Uganda in June 2002 to participate in additional speaking events and media appearances that included an “all-day pastors’

conference with about a dozen local pastors,” some of whom he described as “ranking members of national ministerial associations.” (Sullivan Decl. Ex. 23 at Lively 1564) It was a closed-door conference with no media or guests who had not been specifically invited. (Sullivan Decl. Ex. 23 at Lively 1564) Lively boasted afterwards that the pastors in attendance “were very grateful for the insights I was able to give them about the way in which America was brought low by homosexual activism and the acceptance of porn and abortion.” (Sullivan Decl. Ex. 23 at Lively 1564)

27. During this trip, Lively also gave a talk to students at Nkumbe University, led a service at the Ugandan Christian University – which Lively described as “address[ing] the homosexual issue from the American perspective” (Sullivan Decl. Ex. 23 at Lively 1561) – and conducted a seminar for about 550 students and staff of local high schools where he discussed the dangerous effects of a “porn culture.” (Sullivan Decl. Ex. 23 at Lively 1561, Sullivan Decl. Ex. 19 at 100:24-101:3)

28. Lively also met with the Kampala City Council in a special session, (Sullivan Decl. Ex. 23 at Lively 1564) and had a “very frank and profitable discussion” with the council during which he “offered a number of practical suggestions” for dealing with porn, including use of Uganda’s “power of censorship.” (Sullivan Decl. Ex. 23 at Lively 1564) Lively also had a private meeting with the mayor. (*Id.* at Lively 1565)

29. Lively further participated in a number of media interviews with some of Uganda’s largest media outlets. (Sullivan Decl. Ex. 23 at Lively 1559-60; Sullivan Decl. Ex. 19 at pp. 100:24-101:3) Lively described his appearance on a one-hour show on a secular radio station as “mostly on the threat of homosexuality and it was very powerful! The phone lines were deluged with calls.” (Sullivan Decl. Ex. 23 at Lively 1564) Lively went on to state, “Afterward,

the secular talk host spent another half hour asking me questions about the issue and was sincerely moved by the information I gave him. He was also very interested in the *Pink Swastika* and I promised to send him a copy.” (*Id.*)

30. Lively appeared on Ssempe’s TV program, Spotlight. (Sullivan Decl. Ex. 23 at Lively 1560; Sullivan Decl. Ex. 175)

a. Lively opened the discussion about the spread of pornography being a result of a “social movement that was launched by homosexual political activists who had started the modern gay movement in American . . . in the late 1940s.” (Sullivan Decl. Ex. 175 at 2:9-11) Lively went on to describe his view of the sexual revolution as a way of softening society to the acceptance of homosexuality. (*Id.* at 2:6-7:14)

b. In the interview, Ssempe also discussed Lively’s book, *Seven Steps to Recruit-Proof Your Child*, which Ssempe said was written “in light of the fact that homosexual groups are actively growing through recruitment” by “recruiting new members into homosexuality and it’s an active process that is on right now to recruit your child, your daughter into a homosexual even lesbian club.” (*Id.* at 10:3-7) Ssempe also mentioned Lively’s book, *The Pink Swastika*, stating that the “power behind the Nazis and Hitler’s movement were homosexuals.” (*Id.*)

31. Lively stated that Ssempe’s “program had never dealt with these subjects [homosexuality] in depth” until Lively and another guest appeared on his show that day in June 2002. (Sullivan Decl. Ex. 23 at 1560).

32. After one of the events at which Lively and Langa spoke during Lively's 2002 visits, Lively was present when Langa was contacted by the Minister of Ethics and Integrity and asked to assist with a curriculum for the national school system. (Sullivan Decl. Ex. 24 at Lively 1641)

Years 2003 to 2008

33. Following 2002, Uganda witnessed a rise in actions by public officials, the media, and high profile religious leaders against LGBTI individuals and organizations. (Onziema Decl. ¶ 7).

34. In 2003, Ssempe became involved in helping to develop Uganda's HIV/AIDS policies and approaches. (Sullivan Decl. Ex. 184)

35. In September 2004, it was reported that Langa launched the Uganda National Parents Network because, in his words, "homosexuality and lesbianism are spreading like wild fire in schools" and pornography was like a "silent deadly virus" (Sullivan Decl. Ex. 185 at SMUG000806; Sullivan Decl. Ex. 186)

36. In October 2004, co-conspirator Buturo, as Uganda's then-Minister of Information, said that "police will investigate and take appropriate action against reported activities of homosexual associations...." (Sullivan Decl. Ex. 83 at SMUG032279)

37. In October or November 2004, SMUG formed as an umbrella organization for a network of LGBTI organizations in order to coordinate advocacy for the inclusion of LGBTI persons in the government's HIV/AIDS policies and programs. (Tamale Decl. ¶ 2; Sullivan Decl. Ex. 84 at pp. 93:10-22, 101:14-20)

38. In November 2004, one of Uganda's leading newspapers, the *Daily Monitor*, reported that Buturo warned UNAIDS, the United Nations agency addressing HIV and AIDS,

and the Uganda AIDS Commission not to include LGBTI members in HIV/AIDS initiatives and mechanisms, on the ground that homosexual conduct was illegal in Uganda. (Sullivan Decl. Ex. 56)

39. On July 6, 2005, the Ugandan Parliament amended the Ugandan Constitution to prohibit same-sex marriage. (Sullivan Decl. Ex. 187 at SMUG033489)

40. On July 20, 2005, the police raided the home of Victor Mukasa, a transgender LGBTI rights advocate and SMUG's founder. The authorities unlawfully forced their way into Mukasa's home. (Sullivan Decl. Ex. 131 at p. 10, Sullivan Decl. Ex. 171 at p. 12) Mukasa was not present at the residence when authorities arrived, but the police arrested his guest, Yvonne Oyo, and seized a number of documents and electronic files. (Sullivan Decl. Ex. 84 at pp. 249:19-250:5) Mukasa later sued the government for violating his constitutional rights. (Sullivan Decl. Ex. 84 at pp. 249:10-250:15)

41. Since its inception, SMUG had focused on advocacy, research, and capacity building for its then ten member organizations; however, given the raid of Mukasa's home and the arrest and detention of Oyo, SMUG added "emergency response" to its activities in 2006 to deal with such situations. (Onziema Decl. ¶ 5)

42. In December 2006, Buturo helped ensure that a law intended to provide protections for minorities would not include basic anti-discrimination protections for sexual orientation and gender identity. During the parliamentary debate on the Equal Opportunities Commission Bill, a government minister called for an amendment excluding LGBT people from the acts' protections "because the homosexuals and the like have managed to forge their way through in other countries by identifying with minorities. If it is not properly put in the clause, they can easily find their way through fighting discrimination. They can claim that since they are

part of the minority, they can fight against marginalization.” (Sullivan Decl. Ex. 85 at SMUG032842; Sullivan Decl. Ex. 86 at SMUG032201-02) Buturo echoed support for an amendment that would avoid making the statute amenable to addressing discrimination on the basis of sexual orientation or gender identity. (Sullivan Decl. Ex. 85 at SMUG032834; Sullivan Decl. Ex. 86 at SMUG032201-02)

43. In May 2007, Lively sought to connect Langa with his Eastern European partners, suggesting that Langa would be their Watchmen on the Walls coordinator in Uganda. (Sullivan Decl. Ex. 29 at Lively 3199; Sullivan Decl. Ex. 7 at Response to Interrogatory No. 16)

44. In response to the increase in persecution, SMUG initiated a “Let Us Live in Peace” campaign to counter the pervasive and virulent messaging about LGBTI people. (Sullivan Decl. Ex. 28 at p. 211:7-16)

45. In response to SMUG’s campaign, on August 21, 2007, Ssempe organized a rally at which he and Buturo (Minister of Ethics and Integrity at the time) spoke against homosexuality. (Sullivan Decl. Ex. 87; Roubos Decl. ¶ 6) At this rally, Ssempe delivered a document to Buturo, calling for stronger government action against what Ssempe described as “a well-orchestrated effort by homosexuals to intimidate the government.” (Sullivan Decl. Ex. 87; Roubos Decl. Ex. A) Ssempe further expressed, “Homosexuals should absolutely not be included in Uganda’s HIV/AIDS framework. It is a crime, and when you are trying to stamp out a crime you don’t include it in your programmes.” (*Id.*) Referring to the notion of “promotion of homosexuality,” Buturo stated, “Must press freedom be used to subvert one of our cardinal founding laws?” (*Id.*)

46. A website was also established entitled “The Official Statement of Inter Faith, Culture and Family Coalition Against Homosexuality in Uganda to the Uganda Government,”

listing Uganda LGBTI rights activists by name, posting their photos and contact information, and labeling them “homosexual promoters.” (Onziema Decl. ¶ 8)

47. On August 22, 2007, Gaetano Kagwa, the manager of Capital FM radio station, interviewed SMUG founder Victor Mukasa on air. (Kagwa Decl. ¶ 3) Shortly thereafter, the Ugandan Broadcasting Council suspended Kagwa, alleging a violation of “minimum broadcasting standards” for unacceptable language used by Mukasa, though similar language had been used by other guests on the show, except that this time it had been used in the context of lesbian persons. (Kagwa Decl. ¶¶ 5-9)

48. Reacting to SMUG’s August 16th press conference and SMUG’s founder’s appearance on Kagwa’s radio show, Buturo stated,

[A]t the moment our laws do not address the critical issue of the promotion of homosexuality. They don’t point out that promotion is a crime nor do they say that if someone came to you and said he is gay or she is lesbian, that in itself does not constitute a crime. You have to be caught in the act....That is why we are interested in having catalogues of people we think are involved in perpetuating the vice of homosexuality. We are also considering revising the laws. Even now as we speak a prominent radio presenter and someone called Victor are busy. So the homosexuals are working through the electronic and print media. The recent press conference in Kampala shows that they took advantage of the weakness of the law. We are now considering changing the law so that promotion itself becomes a crime.

(Wasike Decl. Ex. A)

49. In September 2007, a Ugandan tabloid newspaper, the *Red Pepper*, published names and photos of LGBTI activists with the headline, “Homo Terror! We Name and Shame the Top Gays in the City.” (Onziema Decl. ¶ 9; Sullivan Decl. Ex. 172 at p. 24)

50. In the wake of the onslaught of outings and calls for harsher tactics on the part of the government against LGBTI rights activists, a number of activists, including an officer of SMUG, were forced to leave the country. (Mugisha Decl. ¶ 3)

51. On October 8, 2007, national newspaper the New Vision reported that Buturo, as Minister of Ethics, had stated:

People who are agitating for [gay] rights are selfish individuals with callous intention. They are trying to impose a strange, ungodly, unhealthy, unnatural, and immoral way of life on the rest of our society. I will endeavour to block it, I can assure you on that. Let them go to another country, and not here.

(Sullivan Decl. Ex. 90 at SMUG032053), and that “a Bill on homosexuality was in the offing.”

(*Id.*)

52. Shortly thereafter on October 19, 2007, Langa emailed Lively, writing, “thanks a lot for all the great work you are doing out there and the battle you have steadily engaged in to safeguard our civilization.” Referring to a constitutional challenge brought by SMUG founder Victor Mukasa for the raid of his home and detention of his guest in 2005, Langa wrote further, “[w]e are also engaged in a fierce battale [sic] in Uganda on homosexuals who have taken the government to court over gay rights.” Langa inquired whether Lively was still willing and able to participate in a conference on homosexuality in Africa that they had agreed would be held the following year. (Sullivan Decl. Ex. 30 at Lively 3202) Lively replied that he would “try to come myself and bring the Russians,” suggesting April or May 2008 as potential dates. (Sullivan Decl. Ex. 91 at Lively 3205-06) With respect to the court case Langa mentioned, Lively asked whether the government had “good lawyers to fight this” and whether “the judge is an honorable man,” and warned Langa to “[b]eware of bribes.” (Sullivan Decl. Ex. 91 at Lively 3205) Finally, Lively sent a copy of his *Activist Handbook*, directing Langa to “[r]ead the attached booklet to learn [sic] how we’re organizing people in other countries.” (Sullivan Decl. Ex. 30 at Lively 3202) Continuing to attempt to connect his Ugandan and Eastern European partners, Lively also forwarded Langa’s email to Watchmen on the Walls, asking whether they could “do a WOW

[Watchmen on the Walls] conference in Uganda in 2008.” (Sullivan Decl. Ex. 30 at Lively 3202; Sullivan Decl. Ex. 7 Response to Interrogatory No. 20; Sullivan Decl. Ex. 19 at p. 371:16-25)

53. In December 2007, Lively emailed Langa, asking about the details of a “pro-family conference” to be held in Uganda in 2008, perhaps with the participation of “the Russians,” and indicating his intent to attend the conference regardless of their participation. (Lively Dec. Ex. 2 at 3210) He forwarded a copy of this email to Privedenyuk. (Lively Dec. Ex. 2 at 3210) Langa replied that he and others were looking to “bring together activists from across Africa and other parts of the World” and “would like to involve politicians across the continent and if possible put political pressure on S. Africa to reverse their pro-gay position.” (Lively Dec. Ex. 2 at 3211) Langa advised that they wanted to combine the homosexuality conference with the UN International Day of Families (“IDF”) because Family Life Network (which Langa had founded) had “secured permission from the Ministry of Gender, Labor and Social Development to spearhead the celebrations for the IDF.” *Id.* Lively again mentioned the possibility of involving “the Russians.” (*Id.*)

54. In January 2008, Lively began corresponding with Don Schmierer about plans for the conference in Uganda. (Sullivan Decl. Ex. 92 at 3218) Schmierer was a board member of Exodus International at the time, which he described as “an umbrella organization” of “ex-gay ministries.” (Sullivan Decl. Ex. 93 at pp. 15:14-16:2) Lively encouraged Schmierer’s participation, informed Schmierer of his work with Langa and Ledyaeve, and stated that “Africa needs a pro-family summit soon.” (Sullivan Decl. Ex. 92 at 3218)

55. In February 2008, Langa told Lively that it had been decided to “make this meeting a Uganda meeting and then gain momentum for an international meeting that would take place next year where we would put pressure on the S. African government to reverse their gay

position.” (Lively Dec. Ex. 2 at 3212.) Lively emailed Langa that “I want to make sure we have an international gathering, not just a Ugandan event.” (Sullivan Decl. Ex. 92 at 3213.)

Ultimately, the two agreed to hold the conference in March 2009. (Sullivan Decl. Ex. 92 at Lively 3213.)

56. In June 2008, at an international conference on HIV/AIDS being held in Kampala, Uganda, LGBTI activists staged a peaceful demonstration by distributing leaflets and holding up small placards demanding attention to HIV vulnerability among LGBTI. (Onziema Decl. ¶ 10)

The activists were protesting against the statements made by a Ugandan government official that no funds would be directed toward HIV programs targeting men who have sex with men.

(Onziema Decl. ¶ 10; Sullivan Decl. Ex. 28 at pp. 202:23-203:20) Three activists, including Pepe Onziema of SMUG, were arrested by the police and charged with trespass even though they had been invited to the meeting, and neither the venue nor conference organizers had complained about their presence. (Sullivan Decl. Ex. 173 at p. 20; Sullivan Decl. Ex. 28 at pp. 203:21-206:8; Sullivan Decl. Ex. 27 at pp. 305:7-20; Onziema Decl. ¶ 11____) The activists were first detained at the venue, where the officers stated repeatedly that homosexuality was illegal. (Onziema Decl.

¶ 12) They were later brought to the police station for two days before being released on bail.

(Onziema Decl. ¶ 12; Sullivan Decl. Ex. 28 at pp. 206:13-207:5) While in detention, police officers mocked Onziema, who is a transgender man. They forcibly removed Onziema’s clothing, while one officer touched Onziema’s genitals “for confirmation.” (Onziema Decl. ¶ 13)

This event caused Onziema extreme psychological and emotional harm. (Onziema Decl. ¶ 14)

- a. After being released, Onziema had to avoid going to the office and limit his activities. (Onziema Decl. ¶ 15) While he had regularly addressed crises in the LGBTI community on behalf of SMUG, he was forced to suspend activities

that had him meet with people due to the harm the arrest caused to his reputation. (Onziema Decl. ¶ 16) Additionally, the rest of the staff conducted their work in hotels and at member organizations for some time to ensure their safety, and the number of people attending SMUG gatherings dropped for a while. (Mugisha Decl. ¶ 4) As a result, SMUG's operations and ability to fulfill its mission suffered. (*Id.*)

- b. The charges against Onziema were dropped, but not until September 2008. (Onziema Decl. ¶ 14)
- c. Onziema was stopped by the police three times within a year of the June 2008 arrest. In September 2008, he was stopped by police upon arriving in front of a church, and brought to the police station, where he was identified by a police officer as "homosexual." (Onziema Decl. ¶ 17(a)) He was released without charges or any explanation for his arrest. (*Id.*) In December 2008, he was stopped by the police once again, when police officers took money from his wallet and told him to stop doing the work he was doing with SMUG or he would keep getting arrested. (Onziema Decl. ¶ 17(b)) Finally, in March 2009, while waiting for colleagues who had been in attendance at the anti-homosexuality seminar organized by Stephen Langa, he was stopped by the police and brought to the local police station. He was kept there for six hours without being questioned, and was released without learning of any reason for his arrest. (Onziema Decl. ¶ 17(c))

Lively's 2009 Visit and the Introduction of the Anti-Homosexuality Bill

57. Mukasa's suit against the government for raiding his home and detaining his guest was ongoing through 2008. Ssempe attended court hearings and spoke to the government attorney as well as the government official who had raided Mukasa's home, both before and after the official's testimony. (Onziema Decl. ¶¶ 18-19)

58. On November 22, 2008, the Ugandan High Court issued a ruling in favor of Mukasa, holding that LGBT persons enjoyed the basic protections of law. The court expressly rejected the government's arguments regarding homosexuality, stating that the case is "about abuse of the applicants' human rights," and "not about homosexuality," it awarded damages to Oyo for the violation of her right to protection from torture, and cruel, inhuman and degrading treatment and to Mukasa for the violation of his right to privacy. (Sullivan Decl. Ex. 130)

59. Parroting Lively's warning to Langa in October, *see supra* ¶ 52, Ssempe appeared on national television (including NTV and WBS) in the days following the ruling, claiming that the judge was bribed by gays, that "we" would appeal the ruling, and that Uganda should not accept homosexuals. (Mugisha Decl. ¶ 5)

60. In December 2008, Ssempe's associate emailed Lively with the subject line "Uganda Needs Your Help," advising Lively that "we are in a battle against homosexuality in our nation Uganda," requesting permission to make copies of Lively's book *Seven Steps to Recruit Proof Your Child*, and requesting additional resource materials. (Lively Dec. Ex. 3 at 3223). Lively responded by granting permission to reprint copies of his book and seeking a portion of the sales of the book. (Lively Dec. Ex. 3 at 3223). He also noted, "I've been working with Stephen Langa to set up a conference for me on the homosexual issue in Uganda for 2009" and invited Ssempe to join them in the effort. (Lively Dec. Ex. 3 at 3223) Lively offered to sell

100 copies of the book to “generate interest for the conference,” and sought a “Ugandan sales distributor” for his upcoming book, *Redeeming the Rainbow*. (Lively Dec. Ex. 3 at 3223-24)

61. Also in December 2008, Lively continued to plan and correspond with his Latvian partners about events in Riga in 2009 and about coordinating efforts in Uganda. (Lively Dec. Ex. 3 at 3225; Sullivan Decl. Ex. 94 at 3230)

62. In early 2009, Onziema ran into Ssempe at a restaurant in Kampala. Ssempe told Onziema: “You think you’re on top of the world. We’re going to move to undo the ruling,” referring to the *Mukasa* judgment issued that past November. (Onziema Decl. ¶ 20)

63. In January 2009, Langa and Lively began finalizing plans for the March 2009 seminar. (Sullivan Decl. Ex. 31 at Lively 3232) In February, Langa advised Lively and Don Schmierer that Lee (Caleb) Brundidge, whom he described as a “former homosexual,” would be part of the program, representing International Healing Ministries. (Lively Dec. Ex. 4 at 3241) Langa also advised Lively and Schmierer that there was a possibility of a two-hour meeting with members of the Ugandan Parliament on March 4, 2009, and asked that Lively be prepared to be the “main speaker” at that meeting. (Lively Dec. Ex. 4 at 3241) Langa followed up separately with Lively to advise him that the meeting with members of Parliament had been moved to the morning of March 5, 2009, from 7:30-9:30, and that Lively would have a “one-hour presentation plus 30 minutes of interaction and answering questions.” (Lively Dec. Ex. 4 at 3242) Langa urged Lively “to come up with a one hour version” of the topics he previously indicated he would cover in his seminar sessions “because people don’t know about these things.” (Lively Dec. Ex. 4 at 3242) Langa also advised Lively that they were trying to arrange a meeting with “the lawyers.” (Lively Dec. Ex. 4 at 3242)

64. Prior to the conference, Lively received an email from Columbus, Ohio-based Linda Harvey, forwarding an email from Charles Tuhaise, whom she described as a “staff member of Parliament in Uganda.” (Sullivan Decl. Ex. 35 at Lively 3247) Tuhaise’s email explained that he was “in touch with Family Life Network, the local organisers of Scott’s meetings,” and that Lively was scheduled to speak at “5 or more meetings, including one for Members of Parliament on Thursday.” Tuhaise also stated that Langa had been in his office the day before discussing the events and prayed that “Scott’s visit will achieve its purpose.” (Sullivan Decl. Ex. 35 at Lively 3247)

65. On February 28, 2009, Langa sent Lively, Schmierer, and Brundidge the proposed final program for the seminar and advised that it was “all systems” go for the “week of meetings and seminar on homosexuality,” which he described as a “landmark week.” (Sullivan Decl. Ex. 6 at Lively 3245) The topics Langa designated Lively to speak about on the last day of the seminar included: “The Gay Movement’s Agenda for Control of Society,” “The Blueprint for Transforming a Nation,” and “Effective Response to the Gay Agenda.” (Sullivan Decl. Ex. 6 at 3246.1)

66. During his trip to Uganda in March 2009, Lively wrote a blog in which he advertised that he traveled to Uganda to “teach[] about the ‘gay’ agenda in churches, schools, colleges, community groups and in Parliament.” (Sullivan Decl. Ex. 37 at Lively 1663)

67. At Lively’s meeting with Ugandan parliamentarians in March 2009, Minister of Ethics and Integrity James Buturo and member of Parliament David Bahati were present, and both Buturo and Lively spoke. (Sullivan Decl. Ex. 37 at Lively 1663; Sullivan Decl. Ex. 40 at Lively 4836. Sullivan Decl. Ex. 95 at Lively 4815, Sullivan Decl. Ex. 19 at pp. 110:3-117:8, Sullivan Decl. Ex. 39 at Lively 4791, Sullivan Decl. Ex. 38 at Lively 4833, Mugisha Decl. ¶ 6)

Lively had “a personal chat for more than half and hour [sic] leading to the event” with Buturo. (Sullivan Decl. Ex. 37 at Lively 1663)

68. During his address before members of the Ugandan Parliament, Lively “urged them to pattern their [anti-homosexuality law] on some American laws regarding alcoholism and drug abuse” because “[c]riminalization of the drug prevents its users from promoting it.” (Sullivan Decl. Ex. 96 at 3577)

69. Lively gave three lectures lasting most of the final day of the conference, which was “well attended, mostly by professionals in various fields including education, counseling, government and medicine.” (Sullivan Decl. Ex. 37 at Lively 1663) In these lectures, Lively claimed to know more about the topic of homosexuality “than almost anyone in the world,” and went on to conflate same-sex sexual orientation with sexual violence against children and attributed violent, criminal, even genocidal behavior to LGBT people. (Sullivan Decl. Ex. 194)

70. Lively opened his first lecture, consistent with his practice and advice to others, i.e. by equating homosexuality with pedophilia and the recruitment of children. To draw this connection, he recounted a purported personal story about a “little four-year-old boy... one of the sweetest little children you would ever have known... adorable, lovable child,” (Sullivan Decl. Ex. 194 at 5:19), who was molested by a 19-year-old man and who was then transformed into a “tortured and tormented child” and never recovered, while the “man that molested him” went on to live a “gay lifestyle in Los Angeles, Calif.” (*Id.* at 6:09) Lively told his audience that this incident “opened [his] eyes and led [him] to focus on this topic for all of these years.” (*Id.* at 6:54)

71. Later in his talk, Lively further emphasized the danger to children posed by the many in the LGBT community:

And you know, predatory gays --- and there are a lot; not every is, and I'm not, please don't misquote me -- but there are a number of people that are very predatory; they are very sexually oriented, that want to satisfy their sexual desires. And, often these are people that were molested themselves. And they're turning it around and they are looking for other people to be able to prey upon, and that they, when they see a child that's from a broken home, it's like they have a flashing neon sign over their head.... (*Id.* at 24:31)

72. Lively also shared his theory about a spectrum of homosexual sexual orientation and gender normality in which he characterized a subset of homosexual orientation as extremely violent, even genocidal, claiming the Nazis fell into this category, and that those who perpetrated the Rwandan genocide probably did:

The Nazis were super macho... the storm troopers, the ones that helped Hitler come to power, the ones that would go and smash windows, jack booted thugs. You also see them in prisons. The super machos are very often brutish, brutish, animalistic, uh men that want to hurt other people. You know, there is no mercy in them... Men having sex with boys and other men usually in some sort of aggressive way....

Lastly, you have what I call the monsters... They are so far from normalcy that they're killers, they're serial killers, mass murderers. They're sociopaths. There's no mercy at all, there's no nurturing, no caring about anybody else. This is the kind of person it takes to run a gas chamber or to do a mass murder - you know like the Rwandan stuff, probably involved these guys. (*Id.* at 25:10-27:12)

73. After expounding on the dangers of homosexuality to children and the connection between the LGBT community and various genocides, Lively concluded his introductory session by emphasizing the same thing he had emphasized in Russia and elsewhere -- the importance of targeting those engaged in political advocacy on behalf of LGBTI rights, characterizing the "gay movement" as an "evil institution" and "the movement that we hate." (*Id.* at 36:25) Lively emphasized preventing people from "promoting [homosexuality]," and trying to "change all the laws and create a pro gay society." (*Id.* at 27:13-15)

74. During this trip, Lively also met with approximately 50 lawyers belonging to the Ugandan Christian Lawyers Association, appeared on radio shows and for a one-hour program that aired live on national television – on which he “exposed a book distributed to schools by UNICEF [the United Nations Children’s Emergency Fund] that normalizes homosexuality to teenagers” – and spoke to large groups of approximately 4,000 secondary school students. (Sullivan Decl. Ex. 37 at Lively 1663, Sullivan Decl. Ex. 97 at Lively 4788) In addition, Lively had “private conversations with several influential leaders” and a brainstorming session with a small group of key leaders. (Sullivan Decl. Ex. 37 at Lively 1663)

75. Lively reported to his supporters that Langa was “overjoyed” with the results of their efforts, that their campaign had been described as a “nuclear bomb against the ‘gay’ agenda in Uganda,” which Lively said he prayed was true, and that Langa “predicted confidently that the coming weeks would see significant improvement in the moral climate of the nation, and a massive increase in pro-family activism in every social sphere.” (Sullivan Decl. Ex. 37 at Lively 1664)

76. Still speaking of his trip, Lively also expressed to his supporters: “[R]emember that homosexuality is literally illegal in this country. Imagine how bad things would be if the criminal law were abandoned.” (Sullivan Decl. Ex. 37 at Lively 1663) Explaining that his “attention is turned to equipping the activists in Uganda with helpful materials,” Lively sought funds from his supporters to distribute his book *Seven Steps to Recruit-Proof Your Child* in Uganda. (Sullivan Decl. Ex. 37 at Lively 1664)

77. After Lively returned to the United States, on March 11, 2009, Langa emailed Lively to thank him for the work he had done in Uganda and to say, “I don’t think that things will remain the same on the homosexuality and family front in Uganda.” (Sullivan Decl. Ex. 51

at Lively 3275) Lively replied that he was “home and feeling pleased about all that transpired in Uganda.” (Sullivan Decl. Ex. 51 at Lively 3275)

78. Lively has acknowledged that the purpose of the March 2009 conference was to “educate the leaders of the society so that when the law came out that they have an easier time, you know, being able to implement it.” (Sullivan Decl. Ex. 19 at pp. 386:21-25; Sullivan Decl. Ex. 98 at Lively 4282) Indeed, Lively’s messaging regarding “recruitment” and “promotion” – that had begun to spread in Uganda following his 2002 visit – became more well-known among the general Ugandan public following Lively’s visit. (Sullivan Decl. Ex. 28 at pp. 234:15-237:6)

79. On March 12, 2009, Langa emailed Lively that he was preparing to make a presentation to “the biggest newspapers in a few day’s [sic] time” and asked for Lively’s assistance with resource materials that could be used to argue against “homosexuals who come in the guise of human rights.” (Sullivan Decl. Ex. 99 at Lively 3276) Langa also advised Lively that he had received confirmation that one of Lively’s publications had been circulated to all staff members of the Uganda Human Rights Commission. (Sullivan Decl. Ex. 99 at Lively 3276)

80. Around this time, Lively was also strategizing with allies in the United States who were assisting him in countering some of the media reporting surrounding his participation in the seminar in Uganda. (*See, e.g.*, Sullivan Decl. Ex. 55)

81. On March 13, 2009, Lively wrote to his U.S.-based colleague Don Feder to proclaim that “Uganda may be a secret weapon for us re the intl [sic] pro-family agenda. We launched a national pro-family movement there last week out of various smaller elements and it looks very hopeful. Uganda is the key to Africa!” (Sullivan Decl. Ex. 32 at Lively 3277) Lively advised Feder that “[t]he key leaders want to coordinate something with WCF [World Congress of Families] to unify African nations and align them with counterparts [sic] throughout the

world.” (Sullivan Decl. Ex. 32 at Lively 3277) Lively then forwarded to Langa the request from Feder for contacts of leaders Lively worked with in Uganda to attend the World Congress of Families’ first “African” conference in Nigeria in June 2009. (Sullivan Decl. Ex. 32 at Lively 3277-78)

82. On March 15, 2009, one week after Lively’s visit, Langa, under the auspices of his Family Life Network, held a follow-up meeting to discuss strategy. (Declaration of Kapya Kaoma (“Kaoma Decl.”), Ex. A)

- a. During the meeting, Langa drew from and reiterated Lively’s writings in *The Pink Swastika* and his discussion at the Hotel Triangle conference on the dangers of what he called the “modern gay movement.” (*Id.* at 20-25) Langa also echoed Lively’s linking pornography and homosexuality:

Pornography is used as a tool to weaken the moral strength of a society, once it is weakened, then it is easy to introduce homosexuality. . . .

(*Id.* at 36)

- b. Langa lamented “the increase of the activities of [pro-LGBTI] activists in Uganda,” warning “they are around everywhere... Oh, yeah, they are everywhere.” (*Id.*) He also complained about the court case brought “by lesbians in December against the government,” (*Id.* at 38), referring to the court ruling issued in November 2008 in the *Mukasa and Oyo v. Attorney General*.
- c. Charles Tuhaise, in attendance at the March 15, 2009 strategy session, addressed the law relating to same-sex sexual conduct between consenting adults, which only prohibited “carnal knowledge against the order of nature,”

(*Id.* at 39), which he claimed was “extremely inefficient” and ineffective and did not “comprehensively deal of the causes and solutions of the issue.” (*Id.*) He stated that Uganda needed a law that “takes into account” the “gay agenda,” and advised that there was a proposal to have a new law drafted. (*Id.* at 40)

- d. Reiterating the importance of using the law to suppress homosexuality, Langa stated the need for strong laws to work with, and the corresponding urgency for parents to pursue lobbying efforts to support such legislation and protect their children. (*Id.* at 45)

83. On March 26, 2009, Lively wrote to Langa that “[t]he battle rages on and I pray the Lord is adding to our victory in Uganda.” (Sullivan Decl. Ex. 100 at Lively 3313)⁹

84. On April 1, 2009, the Uganda Parliament opened its session with MP Latif Sebaggala, complaining about “a point of national importance.” (Sullivan Decl. Ex. 101) He criticized a photo on the front page of a national Ugandan newspaper “showing gay activists addressing a press conference.” (Sullivan Decl. Ex. 101) Raising concerns about “our sons and daughters,” he stated:

To the best of my knowledge, homosexuality is illegal. I know that our cultural norms, our religious norms, and even our Constitution do not allow homosexuality. However, these people have now been given the opportunity to address press conferences. I am quite disappointed that the Minister of Ethics and Integrity can allow these activists to address journalists and at the same time we are saying that this is contrary to our cultural and religious norms. (Sullivan Decl. Ex. 101)

85. Other members of Parliament echoed Sebaggala’s concern about “homosexuals addressing press conferences,” (Sullivan Decl. Ex. 101 at 4-5), and demanded a response from

⁹ Lively also asked Langa for copies of recordings of the seminar he had given in Uganda. (*See* Sullivan Decl. Ex. 100 at Lively 3313)

the government. The government chief whip, Mr. Daudi Migereko, responded that the Minister of Ethics and Integrity had been very clear on this matter and had stated the government position a “number of times,” (*Id.* at 5), and that Hon. (James) Nsaba Buturo would apprise Parliament on the issue of homosexuality and “on the steps that are being taken to ensure that the country is not taken over by rapacity.” (*Id.* at 6). He went on to state:

It is also true that to hold a press conference, you do not need to get permission from anyone. These homosexuals decided to go for a press conference and they have exposed themselves. Now those in charge of law enforcement can be in a position to follow them up. Otherwise, on homosexuals, government is very clear; it is illegal here and I want to assure you, hon. Latif Sebagala and hon. Betty Kanya, these guys will be followed up by state agencies. (Sullivan Decl. Ex. 101 at 5)

86. On April 15, 2009, Buturo, as Minister of Ethics and Integrity, appeared in person in Parliament to respond to the concerns raised by these members of Parliament and gave a lengthy address on homosexuality. (Sullivan Decl. Ex. 102) Buturo declared, “Having known that the current law on homosexuality is weak, Government will instead proceed to enact a more comprehensive one, which will treat as illegal, among other things, the promotion of homosexuality and membership to homosexual groups.” (*Id.* at 13)

87. Echoing Lively’s repeated linkages between pornography and homosexuality, which Lively had raised in Uganda as early as 2002, Buturo advised the Ugandan Parliament that “[b]ecause pornography and homosexuality are bedfellows in their campaign to render apart our way of life, a Bill on pornography will be presented to this august House very shortly. Soon after that, a Bill on homosexuality will also be tabled.” (*Id.*)

88. Buturo also raised the specter of danger to and recruitment of youth, claiming that “some non-governmental organisations are recruiting our youth and taking them abroad under

the pretext of giving them education, when in fact their motive is to turn them into homosexuals who will then come back and spread the vice.” (*Id.* at 12)

89. Buturo also suggested that legalizing “homosexuality” would “spell the end of human civilisation as we know it today” and also called on the media to “not give oxygen or publicity to these groups which are operating on fringes of our society.” (*Id.* at 13)

90. After railing against homosexuals and homosexuality in his lengthy address to members of parliament, Buturo concluded by echoing Lively’s advice for a therapy option, stating, that “government will do everything possible to counsel and support victims of homosexuality with a view to encourage them to resume normal life.” (*Id.*)

91. In support of Buturo’s comments, Uganda’s Shadow Minister of Information and National Guidance, Christopher Kibanzanga, declared that “[h]omosexuality is evil” and further that, “We must exterminate homosexuals before they exterminate society.” Kibanzanga even reiterated at the end of his statement, “We must exterminate them.” (*Id.* at 14)

92. On April 23, 2009, Langa and Ssempe, along with approximately 300 supporters marched on Parliament and presented a petition to the then-Deputy Speaker of Parliament Rebecca Kadaga to demand that the government investigate the impact of homosexuality in Uganda and assess the extent of the damage it had caused to children in particular and Ugandans generally and demanding that the Ugandan constitution be amended to further prohibit homosexual conduct. (Langa Decl., ¶ 19; Sullivan Decl. Exs. 90, 103; *see also* Sullivan Decl. Ex. 46 at Lively 3524) Langa advised Kadaga, “The serious threat that homosexuality poses to the stability and the social fabric of the nation has come to light in the recent past.” (Sullivan Decl. Ex. 103 at SMUG032242) Langa further stated, “The homosexuals are operating freely without

any regard to the law. This has to stop.” (Sullivan Decl. Ex. 90) The group presenting the petition singled out SMUG for “promoting homosexuality.” (*Id.*)

93. That same day, Ssempe emailed Lively describing the petition to Parliament. (Lively Dec. Ex. 9 at 3228) Extolling Lively’s work in Uganda as “plant[ing] deep seeds” and “fuel[ing] a desire for change,” Ssempe sought Lively’s assistance:

Urgently We need your help on a legislative angle.. We need help in developing a strong deterrent [sic] law against homosexuality in Uganda...[We] were assigned to work with some three wonderful christian MPs to develop a bill to be presented in parliament on Wednesday next week. I am tasked with helping these guys develop this law. I am asking for some help in this legal process. What would you encourage us to put in this bill. What are definitions. What are key issues to capture. How do we hinder and silence advocacy of this issue. Remember they have their hate crimes against us, how can we draft a reverse hate crimes against propaganda. How do we deal with national and international protocols. (Lively Dec. Ex. 9 at 3228)

Ssempe advised Lively that he would be meeting with the MPs the following day. (*Id.*)

94. On April 25, 2009, Ssempe emailed Lively again indicating that “we spent sometime working on the draft with some legislators.” (Sullivan Decl. Ex. 104 at Lively 3504) Ssempe sent a draft of the legislation and asked for Lively’s “careful input,” including specifically asking “[h]ow can we make it stronger....” (*Id.*) Lively responded that he would give it attention the following day. (*Id.*)

95. On April 27, 2009, Ssempe sent Lively another version of the legislation asking that he “make additional changes where needed.” (Sullivan Decl. Ex. 105 at Lively 3506) The draft legislation was entitled “The Anti-Homosexuality Bill, 2009” (“AHB”) and indicated it was being introduced by “Hon. David Bahati.” (Sullivan Decl. Ex. 105 at Lively 3507-08)

- a. The object of the draft bill was “to create a comprehensive legislation which prohibits homosexuality” and identified the “need to protect our children and youth who are made vulnerable to sexual abuse and deviation” and decried

terms like “sexual orientation,” “sexual minorities” and “gender identity.”
(Sullivan Decl. Ex. 105 at Lively 3507)

b. Section 4(2) of the draft bill carried the death penalty for certain acts, one of which appeared to include a second offense of consensual same-sex sex between consenting adults. For a first offense of same-sex sexual conduct between consenting adults, the legislation provided for the possibility imprisonment up to 10 years. (Sullivan Decl. Ex. 105 at Lively 3510-11)

c. Section 5 of the draft bill described the offense of “Promotion of Homosexuality,” which would apply to any person who:

- (a) Participates in production, trafficking, procuring, marketing, broadcasting, disseminating, publishing homosexual materials;
- (b) Funds or sponsors homosexuality or other related activities;
- (c) Offers premises and other fixed or moveable assets;
- (d) Uses electronic devices which include internet, films, mobile phone [sic] and
- (e) Who acts as an accomplice or attempts to legitimize or in any way abets homosexuality and related practices.

(Sullivan Decl. Ex. 105 at Lively 3512) The provision also applied to corporate entities, businesses, associations and non-governmental organizations, and provided that registrations would be cancelled and directors, proprietors and promoters would be criminally liable for violations.

(*Id.*) This provision carried a potential penalty of life imprisonment. (*Id.*)

d. Section 6 of the draft bill described the offense of “Failure to Report” and provided that:

Any person who being aware of the commission of any offense under this Act omits to report the offense to the relevant authorities

within 24 hours commits an offense and on conviction is liable to a fine not exceeding five hundred currency point or imprisonment not exceeding two years.

(Sullivan Decl. Ex. 105 at Lively 3512)

96. On April 28, Lively wrote to Ssempe with suggested revisions to the draft, stating “this looks like it will solve your problems.” (Sullivan Decl. Ex. 106 at Lively 3515) Lively also wrote – in the context of reviewing this draft which provided for the death penalty – that he encouraged moderation in sentencing, “but I’ll leave that to you.” (Sullivan Decl. Ex. 106 at Lively 3515; Lively Decl., Ex. 10 at 1253)

a. As to the proposed sentences, Lively suggested reducing the death penalty to 20 years or life imprisonment for certain offenses included in the crime of aggravated homosexuality. And for the offense of “promotion of homosexuality,” Lively recommended up to five years’ imprisonment. Lively offered no suggested revisions for the offense of “failure to report.” (Lively Dec. Ex. 10 at 4518-20)

b. Lively also urged the inclusion of “reparative therapy.” (Lively Dec. Ex. 10 at 4521)

97. Also on April 28, 2009, Ssempe emailed a group of people, including Lively, a draft of the Anti-Homosexuality Bill along with a number of photographs that he said were from “the demo from Makerere to the parliament.” (Sullivan Decl. Ex. 46 at Lively 3524) Ssempe described his leadership role pushing for and in developing the bill:

The speaker challenged us to come up with legislation which we have now done in a record three days. As the Exec director of the newly formed Family Policy Center, I was in action to fulfil [sic] the plans of my INT objectives. Research coordination, advocacy and policy formation. Eh, guys this is what I was made to do. Not [sic] the bill is to be read in parliament on Wednesday.. [sic] We expect fireworks with much homo lobbying from Europe, US, Canada and South Africa.

(Sullivan Decl. Ex. 46 at Lively 3524) Ssempe expressed that “Africa will never be the same again” and that “[t]his law will become a modell [sic] for the rest of Africa.” (*Id.*)

98. On April 29, 2009, David Bahati moved to introduce the Anti-Homosexuality Bill as a Private Members Bill in the Uganda parliament. (Sullivan Decl. Ex. 107 at p. 41) The Deputy Speaker of Parliament specifically noted the presence of Langa and Ssempe in the gallery. (Sullivan Decl. Ex. 107 at p. 40) After parroting the account that Lively had given the previous month of a case of the rape of a young boy by an adult male, Bahati introduced an 11-year-old boy, who was present in the gallery, and stated:

Reports of this nature have come out in the recent past and I know that for each [name of victim] we read about, there are thousands whose stories are unexposed and never make it to the headlines. Many people have been crying for our help and no more should we be silent about this creeping threat of homosexuality to our children and our families.

(Sullivan Decl. Ex. 107 at p. 43) Bahati expounded further on the danger to children and decried “propaganda” to “exploit our young people that to be a homo or a lesbian is okay.” (Sullivan Decl. Ex. 107 at p. 44)

99. In contrast to Lively, neither Caleb Brundidge nor Don Schmierer, both of whom had participated in the March 2009 seminar, reviewed or commented upon draft legislation; and both were involved in efforts to unequivocally denounce the legislation in its entirety, including the criminalization of same-sex sexual conduct between consenting adults. (Sullivan Decl. Ex. 108 at pp. 76:15 – 80:4; 81:3-84:15; Sullivan Decl. Ex. 109 at pp. 14:11-17:23, Sullivan Decl. Exhs. 110-111; Sullivan Decl. Ex. 93 at pp. 70:1-76; Sullivan Decl. Ex. 112) After news of the AHB became public, Schmierer “felt duped” because he had not been “made aware of the full scope of something” he had been “invited to do.” (Sullivan Decl. Ex. 93 at p., 70:2-8.)

100. During and following April 2009, LGBTI activists, including those affiliated with SMUG, noted an increase in demeaning tabloid outings and stories that accused LGBTI people of “recruiting” children in schools. (Onziema Decl. ¶ 21) They also noted an increase in harassment and attacks against them by state and private actors. (*Id.*) As a result, SMUG increased the focus of its work on security and rights trainings for their membership. (Onziema Decl. ¶ 22)

101. In response to ongoing threats against its staff, SMUG also had to divert resources toward security measures for both its office and the safety of SMUG employees, as some had to leave their homes, go into hiding, and rely on secure methods of transportation while commuting to and from the SMUG office. (Onziema Decl. ¶ 22; Sullivan Decl. Ex. 28 at pp. 67:20-22)

102. Lively continued to correspond with Langa and Ssempe after Bahati moved to introduce the AHB in April. (*See, e.g.*, Sullivan Decl. Ex. 113 at Lively 3338 (June 12, 2009, email from Langa requesting name of the German man who coined the term “homosexuality”); Sullivan Decl. Ex. 114 at Lively 3339 (June 24, 2009 email from Langa thanking Lively for his great work upon receipt of Lively’s *Redeeming the Rainbow*); Sullivan Decl. Exhs. 115-116 (August 13 and Sept. 11, 2009, emails between Lively and Langa discussing Langa’s trip to the United States); Sullivan Decl. Ex. 117 at Lively 3341-42 (Sept. 5-8, 2009, emails from Lively connecting Langa and Ssempe with a supporter in South Africa about working together on “an Africa-wide pro-family conference” and offering to provide the same training on how to oppose “the gay agenda” in South Africa as he had in Uganda))

103. The AHB was formally introduced in the Ugandan Parliament by Bahati in September 2009 was very similar to the version Lively reviewed, though it reflected his

suggestion in connection with the offense of promotion of homosexuality, which provided for a jail term of five to seven years. (Anti-Homosexuality Bill, 2009 (dkt. 200-1))

104. On October 28, 2009, Lively wrote to Langa and Ssempe stating that the “news [of the AHB] is hitting here in the US and from the reports it sounds excessively harsh and is likely to create a lot of problems for Uganda internationally” and inquiring whether there was a treatment component. (Lively Dec. Ex. 11 at Lively 3537) Langa responded, “We had included it in the draft but it looks like somebody removed it. We are working to see that it is included.” (Lively Dec. Ex. 11 at Lively 3537)

105. In October 2009, LGBTI rights advocates, including SMUG and its member organizations, formed the Civil Society Coalition on Human Rights and Constitutional Law to prevent the passage of the Anti-Homosexuality Bill. (Sullivan Decl. Ex. 28 at p. 131:6-16; Sullivan Decl. Ex. 195 at p. 47)

106. On November 18, 2009, the Human Rights and Peace Center at Makerere University in Kampala, Uganda hosted a public dialogue on the Anti-Homosexuality Bill. (Tamale Decl. ¶ 3) Bahati, Langa, and Dr. Sylvia Tamale, professor and former dean of Makerere University, gave public remarks at this event, and Ssempe was in attendance. (Tamale Decl. ¶ 3) Bahati spoke about “recruitment” into homosexuality. (Tamale Decl. ¶ 4) Langa spoke about the “gay agenda,” and its support from outside Uganda, as well as “recruitment” into homosexuality and gay pride parades. (Tamale Decl. ¶ 5) Langa quoted from Lively’s *The Pink Swastika* and referenced Lively by name. (Tamale Decl. ¶ 5) Langa also mentioned Ssempe, who was in attendance, as someone fighting the good fight. (Tamale Decl. ¶ 5) Both Bahati and Langa expressed that they were legislating against homosexuals because they love them and feel

sorry for them. (Tamale Decl. ¶ 6) Dr. Tamale's remarks criticized the bill as unconstitutional and called on Bahati to withdraw it. (Tamale Decl. ¶ 7)

107. On November 21, 2009, Lively emailed Ssempe and Langa to advise them that he could not support the bill as written "due to the political realities here in the US and the vulnerability that I have based on my history on the issue." (Lively Dec. Ex. 13 at Lively 3567) Lively suggested that the law be liberalized "to make it more palatable to the international community." (Lively Dec. Ex. 13 at Lively 3567)

108. On December 3, 2009, Lively emailed Langa and Ssempe requesting they pass along his message about the death penalty to members of Parliament. (Lively Dec. Ex. 14 at Lively 3574) In his email, Lively lauded Uganda for "having firmly resisted" what he described as "the enormous power and relentless pressure of the international 'gay' lobby." (Lively Dec. Ex. 14 at Lively 3575) At the same time as disavowing support for the death penalty, Lively described the AHB as "one of the first laws of this century to recognize that the destructiveness of the 'gay' agenda warrants opposition by government." (Lively Dec. Ex. 14 at Lively 3575)

109. Lively, Langa, and Ssempe were communicating during this time about strategies for responding to different journalists and critics of the bill. (Sullivan Decl. Ex. 41 at Lively 3538, Lively Dec. Ex. 12 at 3548, Sullivan Decl. Ex. 96 at 3576, Sullivan Decl. Ex. 118 at 3598, Sullivan Decl. Ex. 120 at 3346, Sullivan Decl. Ex. 121 at 3348)

110. On December 16, 2009, the U.S.-based National Public Radio broadcast a story about the AHB that included an interview with Bahati who stated, "[t]his is a defining bill for our country, for our generation. You are either anti-homosexual or you're for homosexuals, because there's no middle point. Anybody who does not believe that homosexuality is a crime is a sympathizer." (Sullivan Decl. Ex. 197) The program also included an interview with Langa who

said: “Providing literature, writing books about it, standing up and saying it is OK – you should be arrested. Even if you are not in the act, you should be arrested. Anybody who tries to promote it should be arrested. That's why we need a stronger law.” (*Id.*)

111. In December 2009, Ssempe also communicated with Lively and Langa, along with Buturo, Bahati, and others, about a response to U.S.-based pastor, Rick Warren, who had publicly denounced the AHB and declared that in that “[i]n 2007 when we learned that Ssempe’s beliefs and actions were vastly different than ours, we disassociated ourselves from him.” (Sullivan Decl. Ex. 42 at Lively 3595, Sullivan Decl. Ex. 118 at Lively 3598, Sullivan Decl. Ex. 43 at Lively 3347) On December 19, 2009, in reply to an email sent by Ssempe to Rick Warren with a statement by the “Uganda National Pastors Task Force Against Homosexuality” castigating Warren for his position against the bill, Lively replied, “Well done.” (Sullivan Decl. Ex. 118 at Lively 3601)

112. In 2010, the Uganda Human Rights Commission held a convening regarding the AHB at the Protea Hotel in Kampala. (Onziema Decl. ¶ 24) The panel included then-SMUG staff member David Kato, as well as Ssempe and Bahati. (*Id.*) Langa was also present at this convening. (Onziema Decl.) At one point during the convening, Bahati pointed to the SMUG staff members who were present at the meeting, stated “We can’t have homosexuals in this meeting,” and turned to Ssempe saying, “I’m calling Kayihura [the Inspector General of Police].” (*Id.*) When SMUG officer Onziema saw Bahati start to call someone on his phone, feeling unsafe, Onziema left. (*Id.*)

113. On January 9, 2010, Lively wrote in an email to U.S.-based colleagues that the draft bill had been revised to remove the death penalty and asked for help to disseminate his press release endorsing the revised bill their media lists. (Sullivan Decl. Ex. 122 at Lively 3618-

19) On the same day, Lively sent Langa and Ssempe an email entitled “My endorsement of the revised bill” in which he advised he was “greatly relieved to see that the bill has been revised to remove the death penalty and life imprisonment” and that he had been “taking a terrible pounding in the America media as the ‘inspiration’ for the prior version of the bill.” (Sullivan Decl. Ex. 123 at Lively 3623) Lively did not mention any other provisions that provided for incarceration, including for “Promotion of Homosexuality,” and “Failure to Report” homosexuality, all of which were viewed by SMUG as harsh. (Sullivan Decl. Ex. 27 at p. 430:3-22)

114. Lively sent Langa and Ssempe a draft and a final press statement endorsing the bill in which he explained his disagreement with the death penalty in the original version and that he believed the revision was “an acceptable compromise under the circumstances.” (Sullivan Decl. Exs. 124-125 at Lively 3624 and Lively 3627) When he endorsed the revised bill, Lively made no mention of any disagreement with other provisions in the legislation, such as those banning the promotion of homosexuality or failing to report. (Sullivan Decl. Ex. 125 at Lively 3626-27) Rather, he stated that the bill reflected “an acceptable compromise under the circumstances. (Sullivan Decl. Ex. 125 at Lively 3627) Lively also wrote that he had “advised the Ugandan Parliament on the issue of homosexuality in March.” (Sullivan Decl. Exs. 124-125)

115. Langa and Lively continued to correspond about matters related to the March 2009 conference and the prospects for passing a revised bill, (Sullivan Decl. Ex. 121 at Lively 3348), as well as the procedural status of the bill, (Sullivan Decl. Ex. 126 at Lively 3637). On January 18, 2010, Lively asked Langa to explore whether he could get a meeting with President Museveni, or if, in the alternative, Langa could deliver a copy of Lively’s book *Redeeming the Rainbow* to the president. (Sullivan Decl. Ex. 127 at Lively 3349) Langa confirmed that he

would distribute copies of Lively's book to "influential people here in Uganda" but couldn't guarantee an appointment with the president. (Sullivan Decl. Ex. 127 at Lively 3349)

116. Ssempe and Lively also continued to correspond on related issues, with Ssempe sending Lively statements issued by his Family Policy and Human Rights Centre concerning remarks by President Barack Obama, (Sullivan Decl. Ex. 128 at Lively 3351), and on Ssempe's screening of graphic images he described as depicting homosexual sex in church and public presentations to ostensibly demonstrate what LGBTI people do, in connection with which he asked Lively for "feedback." (Sullivan Decl. Ex. 129 at Lively 3354, Declaration of Patricia Ackerman ("Ackerman Decl."), Ex. A)

117. In January 2010, Lively issued a press release entitled "Defend the Family Int'l Endorses Revised Uganda Bill," acknowledging that his "teachings in Uganda were drawn from" *Redeeming the Rainbow*. (Sullivan Decl. Ex. 124 at Lively 3625)

118. In February 2010, Ssempe began to intensify his campaign for the new law. He led a large march in Jinja, Uganda, demanding harsher laws on homosexuality and claiming children were being "raped violently by bullies in the school" as justification for the new law. (Onziema Decl. ¶ 25) Ssempe also continued to show graphic content that he claimed was gay pornography at public meetings and at his church, stating, "The major argument homosexuals have is that what people do in the privacy of their bedrooms is nobody's business but do you know what they do in their bedrooms?" and railing against human rights organizations for attempting to "convert people to lesbianism." (Sullivan Decl. Ex. 129 at Lively 3355; Ackerman Decl. Ex. A)

119. In March 2010, Ssempe communicated with Lively, Bahati, Buturo, Langa, and Tuhaise, and at times other members of parliament, about strategies for enacting the AHB. On

March 7, 2010, he suggested they include a confidentiality clause for caregivers who are incriminated to disclose “parents, priests, doctors, etc.” as well as a mandatory reporting provision. (Sullivan Decl. Ex. 21 at Lively 3647) He declared that “our greatest weapon on the bill is the aspect of recruitment [sic] and promotion” and urged that they focus on that particular issue. (Sullivan Decl. Ex. 21 at Lively 3647)

120. Lively replied to Ssempe that he was drafting a letter to Bahati, as they had previously discussed. He also advised that a letter from Bahati agreeing with the modifications Lively suggested “would not only provide” relief from criticism but “would boost my credibility and stature as an international authority on the homosexual issue” which “could prove valuable in the future as we work together to build international cooperation.” (Sullivan Decl. Ex. 21 at 3648) Lively and Ssempe had discussed plans for an international conference the year before and Lively advised Ssempe he was “pleased” that Ssempe was pressing forward with it. (*Id.*)

121. On March 7, 2010, Lively sent Ssempe his letter to Bahati concerning the bill. (Sullivan Decl. Ex. 21 at Lively 3648) Lively again recommended that the death penalty be removed because it would evoke a “severe negative reaction in most Western nations” and if it were removed “it would take the wind out of the sails” of opposition to the bill. (Sullivan Decl. Ex. 44 at Lively 3654) Underscoring his recurring emphasis on targeting LGBT advocates (like SMUG), he advised that the “failure to report” provision was “untenable as written because it is too vague and because it targets people who may live as homosexuals in their private lives, but who do not seek to recruit others or legitimate their lifestyle in the larger society.” (Sullivan Decl. Ex. 44 at Lively 3654) He recommended a mandatory reporting provision for those believed to be in violation of the law similar to child abuse reporting requirements in the United States and provided a sample of such a law. (Sullivan Decl. Ex. 44 at Lively 3655) Lively

suggested that the mandatory requirement encompass “all youths under the age of twenty-five within this shield of protection.” (Sullivan Decl. Ex. 44 at Lively 3655) Lively further stated that he will vigorously support a version of the law that addresses these issues, i.e. one that continues to criminalization LGBT rights advocacy. (Sullivan Decl. Ex. 44 at Lively 3655)

122. On March 10, 2010, Ssempe sent Lively the response of Charles Tuhaise to Lively’s letter to Bahati. (Sullivan Decl. Ex. 21 at Lively 3648) Ssempe described Tuhaise as “Legal draft researcher at parliament.” (Sullivan Decl. Ex. 21 at Lively 3648) Tuhaise agreed that the death penalty could be removed but expressed concern that lessening penalties would serve to “normalize homosexuality.” Tuhaise, referring to Lively as his friend, further stated:

I admire the courage of my friend Dr. Lively, because he has stood up to homosexual intimidation for so long as a lone voice. We need more people like him in the days, weeks, months and years ahead. The homosexual machine is well organized and its agenda is not conciliation with anyone but total take-over of society. Africa is probably is the last place they are trying to take-over that has the best hope to turn the tide, if we do not mess-up the opportunity.

(Sullivan Decl. Ex. 21 at Lively 3649-50) Lively’s response reflected his focus on prohibiting advocacy as the primary tool against the “homosexual agenda”: “There is wisdom in Mr. Tuhaise’s response,” and clarifying that he was “not suggesting the normalization of homosexuality, but only that existing adult homosexuals who are citizens of Uganda and not guilty of recruitment or advocacy would not be actively pursued under the new law.” Lively further advised, “Homosexuality would still be criminalized, but the primary enforcement effort would target the recruiters and activists.” He advised this approach would incur “less opposition from Western countries.” (Sullivan Decl. Ex. 21 at Lively 3650) Ssempe and Lively continued to correspond and strategize about how to go public with the suggestions and next steps with Bahati and Buturo. (Sullivan Decl. Ex. 21 at Lively 3651-52)

123. On July 13, 2010, Tuhaise wrote to Langa, copying Lively, Ssempe, Buturo, Bahati, Benson Obua, another member of the Ugandan parliament, and Sharon Slater, a U.S.-based anti-gay activist, complaining that the dean of a law school in Uganda, Dr. Sylvia Tamale (who had publicly criticized the bill at an event with Bahati and Langa, *see supra* ¶ 106), had been able to keep her job even though she had “organized several conferences at which she has passionately defended homosexuality.” (Sullivan Decl. Ex. 22 at Lively 3363) Lively wrote back unequivocally calling for her removal:

She should not be allowed to remain in this post. As the Scripture warns, Bad [sic] company corrupts good morals, and the people she is training in her views will be Uganda’s future leaders. This is one of the ways that the “gays” transformed America – by corrupting the leaders. If you don’t stop her now, while you have the power of public opinion at its height, you will never be able to do it. (Sullivan Decl. Ex. 22 at Lively 3365)

Lively suggested a “behind-the-scenes” campaign to have her fired or ‘promoted’ into a less influential position. (*Id.*) Langa wrote back to Lively with cc’s to the group, “[w]hat you are saying is very true, because ‘IDEAS HAVE CONSEQUENCES.’” (*Id.*)

124. On August 13, 2010, Lively forwarded to Langa and Ssempe an email he received from Youth for Democracy, a group describing itself as wanting “to improve the situation for homosexuals in Uganda” and “promote the full and equal inclusion of gays and lesbians.” Langa responded to say he would “organize to investigate this group.” (Sullivan Decl. Ex. 132 at Lively 3695)

125. On September 3, 2010, Ssempe emailed Lively asking for his thoughts about a resolution passed by the California senate condemning the AHB, to which Lively responded, “The CA legislature is controlled by homosexuals.” (Sullivan Decl. Ex. 133 at Lively 3696)

126. On September 8, 2010, the press reported that Buturo stated in a press conference regarding a forthcoming anti-pornography law that “Pornography breeds homosexuality....The days of homosexuals are over.” (Sullivan Decl. Ex. 188)

Years 2010 - 2013

127. In October 2010, a new Ugandan tabloid, the *Rolling Stone*, began publishing the names of LGBTI persons and activists. One issue ran with the headline “HANG THEM; THEY ARE AFTER OUR KIDS!!” (Onziema Decl. Ex. A) It published the names, identifying information, and photos of LGBTI rights activists, including SMUG’s staff members, Pepe Onziema and David Kato, and the then-director of SMUG’s member organization Freedom and Roam Uganda, Kasha Jacqueline Nabagasera. (Onziema Decl. ¶ 26, Ex. A) The issue included a number of false accusations, including alleging that Onziema and Nabagasera were “recruiting” children into homosexuality, and claiming that multiple SMUG member organizations were using “billions” in funding to target and manipulate children. The cover of the issue included sub-headlines that stated “We Shall Recruit 1000,000 [sic] Innocent Kids by 2012 – Homos” and “Parents Now Face Heart-breaks As Homos Raid Schools.” (Onziema Decl. ¶ 26, Ex. A; Sullivan Decl. Ex. 195 at p. 47) In response to the “war” against homosexuality, the issue anonymously quoted an anonymous church leader who stated that the government must engage by “hanging dozens of homosexuals” in order to save Uganda. This issue of the *Rolling Stone* also featured an “exclusive” interview with Ssempe in which he vowed, “We shall fight on until we rescue our country from the hands of evil... This war has just started.” Co-conspirators Buturo, Bahati, and Ssempe were described as leading the “fearless battle against homosexuality and lesbianism” together. (Onziema Decl. ¶ 26, Ex. A)

128. In November 2010, the *Rolling Stone* published another issue that “outed” more members of the LGBTI community with photos and more anti-gay rhetoric blaming homosexuality for the escalation of sexually transmitted diseases and the downfall of schools. (Onziema Decl. ¶ 27)

129. Onziema received death threats and harassment following the *Rolling Stone* publication and again following the filing of a lawsuit with Kato and Nabagasera against the *Rolling Stone* and its editor, Giles Muhame, to enjoin further outings. (Onziema Decl. ¶¶ 28-29)

130. On December 30, 2010, the court issued a ruling in the *Rolling Stone* case finding that the publication had violated the rights of Onziema, Nabagasera, and Kato. (Onziema Decl. Ex. B). Ssempe was present in court when the ruling was issued and was seen speaking to the *Rolling Stone*’s editor, Giles Muhame. (Onziema Decl. ¶ 31)

131. In its ruling in the *Rolling Stone* case, the court found that “the central issue is whether the publication threatened or tended to threaten the human dignity of gay persons,” and held that it did. (Onziema Decl. Ex. B at 8) The court further held that “the exposure, of the identities of the persons and homes of the applicants for the purposes of fighting gayism and the activities of gays, as can easily be seen from the general outlook of the impugned publication, threaten the rights of the applicants to privacy of the person and their homes.” (Onziema Decl. Ex. B at 9) Finally, the court noted that it rejected the *Rolling Stone*’s argument that “section 145, of the Penal Code Act renders every person who is gay a criminal under that section of the Penal Code Act” because “[t]he scope of section 145 is narrower than gayism generally. One has to commit an act prohibited under section 145 in order to be regarded a criminal.” (Onziema Decl. Ex. B. at 9)

132. Following the judgment in the Rolling Stone issue, Onziema continued receiving threats. (Onziema Decl. ¶ 32)

133. In December 2010, Buturo, as Minister of Ethics, blocked a showing of a documentary on gay rights entitled “Do Not Discriminate,” that was sponsored by the United Nations High Commissioner for Human Rights and the Uganda Human Rights Centre. Buturo deemed it a form of promotion of homosexuality. (Sullivan Decl. Ex. 189 at SMUG0; Sullivan Decl. Ex. 195 at pp. 24, 47-48)

134. In January and February of 2011, Lively and Langa communicated about ongoing media coverage of the situation in Uganda and their work together. Lively assured Langa he would not be silenced and in fact would be “going to the country of Moldova this month to do the same thing there that I did in Uganda.” (Sullivan Decl. Ex. 134 at Lively 3373) Langa assured Lively their “friendship” would not be “harmed by Satan’s devices” and discussed meeting in the United States. (Sullivan Decl. Ex. 135 at Lively 3414-15) Ssempe also encouraged a colleague to involve Lively in trainings to “prepare the troops for the battles ahead.” (Sullivan Decl. Ex. 136 at Lively 3419)

135. In February 2011, Lively wrote a blog piece entitled “Murdering Uganda,” which he opened with the declaration that “Uganda is being murdered.” He challenged Ugandans to fight back against the “rape” and “murder” of their culture by the “lavender Marxists,” referring to LGBT advocates. (Sullivan Decl. Ex. 190 at Lively 2404) Lively strategized with his cohorts in the United States about the messaging in the blog and about dissemination. (Sullivan Decl. Ex. 137 at Lively 3374)

136. It was reported that on May 6, 2011, Langa testified before the Legal and Parliamentary Affairs committee of the Ugandan Parliament in support of passage of the AHB

and told the committee members to protect children against so-called homosexual promoters and that the Committee should not listen to gays who say the bill will violate their human rights on the ground that homosexuality has never been a human right. (Sullivan Decl. Ex. 191 at SMUG000822)

137. On May 27, 2011, Simon Lokodo was appointed to replace Buturo as Minister of Ethics and Integrity. (Onziema Decl. ¶ 34) Lokodo continues to serve as Minister of Ethics and Integrity as of the date of this filing. (*Id.*)

138. In February 2012, Lively corresponded with Tuhaise about the status of the AHB. Lively stated/reiterated that removing the death penalty would make the defense of the law outside of Uganda, in the West, easier. (Sullivan Decl. Ex. 47 at Lively 3698) Tuhaise provided Lively with a detailed report and advised him that the rules of procedure of the Ugandan parliament did not allow for changes once a bill is published and that all amendments are done on the floor of parliament after a bill's second reading. Tuhaise assured Lively that there was a growing consensus for the removal of the death penalty as a punishment. (Sullivan Decl. Ex. 47 at Lively 3697)

139. In February 2012, SMUG and its member organization, Freedom and Roam Uganda, held a one-week conference at the Imperial Resort Hotel in Entebbe, Uganda to train LGBTI persons on leadership skills, self-improvement, and human rights advocacy. (Sullivan Decl. Ex. 27 at pp. 300:18-301:6) The conference was private, and the organizers had requested that the hotel employees not send anyone to the conference room unless previously approved. (Onziema Decl. ¶ 35) Thirty participants attended. (Onziema Decl. ¶ 36)

140. On the last day of the conference, on February 14, 2012, the new Minister of Ethics and Integrity, Simon Lokodo, accompanied by the police, entered the conference room

and interrupted the workshop. (Sullivan Decl. Ex. 27 at pp. 301:7-17) Lokodo demanded to see conference materials, accused them of “recruiting” young people into homosexuality, and declared the meeting “illegal.” (Sullivan Decl. Ex. 27 at pp. 301:7-17; Sullivan Decl. Ex. 28 at pp. 198:6-199:6; Onziema Decl. ¶ 36)

141. Then-director of Freedom and Roam Uganda, Kasha Jacqueline Nabagasera, challenged Lokodo on the illegality of his actions. (Onziema Decl. ¶ 36) Lokodo ordered that she be arrested. (Onziema Decl. ¶ 36) Nabagasera fled the hotel. (Onziema Decl. ¶ 36; Sullivan Decl. Ex. 28 at pp 199:11-19) Lokodo went to the hotel concierge and attempted to have the hotel staff arrested for allowing the workshop to be held there. (Onziema Decl. ¶ 37) He also asked them for a list of names of everyone who participated in the workshop (Onziema Decl. ¶ 37) Onziema saw Lokodo on the phone; Lokodo said Ssempe’s name indicating that he was speaking to Ssempe. (Onziema Decl. ¶ 37)

142. Lokodo publicly stated on NTV news after the workshop: “Over 30 gay and lesbian members of this society, including ex-patriots, people who have come from abroad, had gathered at this hotel for the last ten days. When I think they have been organizing, their activities empowering each other and authenticating their presence in this country, as one who is upholding the Constitution of Uganda, I advised them to leave and disperse immediately.” (Onziema Decl. Ex. C). Lokodo also equated the workshop participants to terrorists and said that they were recruiting people, and so they should not be allowed to associate. (Onziema Decl. ¶ 39)

143. Following the raid of the workshop, SMUG’s staff avoided SMUG’s office for a few days out of fear. (Onziema Decl. ¶ 40) SMUG began taking additional security precautions

in carrying out their activities, (Onziema Decl. ¶ 41), and began facing difficulties in securing hotel space to host conferences or workshops. (Onziema Decl. ¶ 41)

144. Representatives of SMUG and Freedom and Roam Uganda, and another LGBTI rights activist present at the workshop brought suit against Lokodo. (Sullivan Decl. Ex. 196 at p. 33; Sullivan Decl. Ex. 28 at pp 199:20-200:18) As with Mukasa's case and the *Rolling Stone* case, Ssempe was present at court hearings in this case. (Onziema Decl. ¶ 42) Langa was also present. (Onziema Decl. ¶ 42)

145. On February 22, 2012, Ssempe sent Lively and Langa greetings for the new year, a copy of his newsletter and a link to an op-ed he authored entitled "Sodomites, Prostitutes should not be equated to teachers and doctors." In the op-ed, Ssempe defended Lokodo's raid of the LGBTI workshop as "entirely justified" because "[c]laiming that homosexuality and prostitution is a crime whereas their meetings are legal disregards the law of 'conspiracy to commit a crime whether a felony or misdemeanor.'" (Sullivan Decl. Ex. 138 at Lively 3428) Langa thanked Ssempe for the "great work" and advised he was "holding a parents press conference in two hours time to condemn the statement by Hon. Otafiire last week that the 'government should have no interest in what two consenting adult [sic] do in private.'" (Sullivan Decl. Ex. 138 at Lively 3428)

146. In March 2012, it was reported that Langa announced:

It is now approaching three years since we first raised an alarm and made public the molesting, defilement and recruitment of our children into homosexuality in schools and institutions of higher learning. To date, our children are still vulnerable and no tangible deterrent action has been put in place to safeguard them and the nation from the vice of homosexuality.

(Sullivan Decl. Ex. 204)

147. Lively, Ssempe, and Langa continued to correspond about reactions to their efforts from persons on social media, wherein Lively advised that Bahati should institute legal

action. (Sullivan Decl. Ex. 139 at Lively 3702) Ssempe and Lively were both in the U.S. at the time. (*Id.*)

148. In March 2012, after SMUG filed the instant suit against Lively, he communicated with Langa, Ssempe, and Tuhaise, and later with Buturo and Bahati about it. On March 15, 2012, Lively communicated with Langa and Ssempe about the lawsuit, advising them “these are wicked people enjoying unprecedented new power in this age of increasing apostasy”; Lively also sought assistance in gathering evidence. (Sullivan Decl. Ex. 140 at Lively 3432) Tuhaise wrote to Lively, copying Ssempe and Langa, asking about the case. Lively criticized the lawsuit, calling it “baseless” and “purely political.” (Sullivan Decl. Ex. 141 at Lively 5649 (“The suit is baseless but that doesn’t mean they won’t win if they get a judge who shares their ideology.”)) Ssempe equated allegations in the lawsuit with “the lies Hitler put out on the Jews before they genocided them.” (Sullivan Decl. Ex. 142 at Lively 5651)

149. On April 17, 2012, Lively did a radio interview to discuss SMUG’s lawsuit against him in which he acknowledged he was instrumental in helping to start the Ugandan anti-gay movement:

In 2002, they had the first national pro-family conference on pornography and obscenity. [...] I ended up as a keynote speaker on that and as a result of that became... you know really helped them launch their movement.

(Sullivan Decl. Ex. 19 at p. 385:4-12; Sullivan Decl. Ex. 25) Lively further acknowledged that he went to Uganda in 2009 to help his partners and co-conspirators have an “easier time” strengthening their laws against homosexuals.

In 2009.... They [in Uganda] knew they needed to strengthen their laws and in anticipation of that they held this conference that I went and spoke at. That conference was to educate the leaders of society so that when the law came out they’d have an easier time being able to implement it.

(Sullivan Decl. Ex. 19 at p. 385:13-25; Sullivan Decl. Ex. 25) Lively also admitted that he believed advocacy of LGBTI rights should be prohibited and penalized. When the sympathetic interviewer suggested that SMUG’s allegation that Lively has “actively and intensively worked to eradicate any trace of LGBT advocacy and identity” was false, Lively corrected her:

Well, you know, I am against advocacy. And actually I take the position that homosexuality should be criminalized [...] so that you have a public policy basis to prevent the advocacy that I think should be prohibited – and that is gay pride parades and public school advocacy and promotion of homosexuality to school children. That kind of thing.

(Sullivan Decl. Ex. 19 at pp. 391:14-392:6; Sullivan Decl. Ex. 25) As he had done previously with respect to the Russian anti-propaganda law, Lively again acknowledged that this kind of legislation could not be pursued in the United States:

As an attorney, also, the problem is, if you have, at least in the US, Canada’s got a little different legal context, but in the US you can’t have unequal treatment of like groups. You couldn’t do that in the United States for example...

(Sullivan Decl. Ex. 19 at p. 392:14-21; Sullivan Decl. Ex. 25) Lively also acknowledged that the “use of government authority to silence differing opinion” is a “fascist tactic:”

Yes. That is a central component of fascism. Active suppression of dissent of all opposing voices. And that’s what the Nazis did, that’s what they perfected. That’s what the communists did. That’s what every totalitarian government does....”

(Sullivan Decl. Ex. 19 at pp. 401:23-402:10; Sullivan Decl. Ex. 25)

150. At the same time, Lokodo’s actions against SMUG member organizations continued. On June 18, 2012, SMUG and other LGBTI rights advocates participated in a skills-building workshop being held at the Esella Country Hotel in Kampala, Uganda. (Onziema Decl. ¶ 44) Intended to be a four-day event, the workshop brought together approximately 20 defenders of LGBTI rights from Uganda, Kenya, Tanzania, and Rwanda. (Onziema Decl. ¶ 44.)

151. On the first day, the police raided the workshop. (Sullivan Decl. Ex. 27 at p. 294:7-18; Onziema Decl. ¶ 44).

152. Advocates and workshop organizers, as well as some hotel staff guests, were held in police custody for over three hours while police attempted to identify and detain the participants. (Sullivan Decl. Ex. 196 at p. 33)

153. Following the raid, Lokodo publicly announced, “They are now at large, but we’re following them to make sure that all is done to bring them to book and they receive some verdict. And everybody else would know that at least in Uganda, we have no room here for homosexuals and lesbians.” (Onziema Decl. Ex. E) In response to questions about the raid, Bahati stated “The current legal regime in the penal code act is so weak, that is why we brought in the bill to strengthen it.” (*Id.*).

154. SMUG staff avoided the office for a week after the incident. (Onziema Decl. 46)

155. Later in June, Lokodo announced that he had obtained a copy of a document listing the names of 41 people from 23 non-governmental organizations (NGOs), as having attended a meeting of the Civil Society Coalition on Human Rights and Constitutional Law. (Onziema Decl. ¶ 47) The document further reflected a discussion concerning media and public education strategies to defeat the Anti-Homosexuality Bill. (Onziema Decl. 47) Lokodo announced that the government would ban 38 NGOs for “supporting homosexuality under the guise of fighting for human rights.” (Izama Decl. Ex. A)

156. Lokodo’s announcement of the government’s intention to de-register these organizations caused several to drop out of the Coalition (Onziema Decl. ¶ 47). Lokodo’s announcement also caused many members of the Coalition to decline hosting meetings, making it difficult for the Coalition to continue its operations. (Onziema Decl. ¶ 47)

157. On July 1, 2012, Langa sent Lively a link to an article describing the leak of the Civil Society Coalition's document and Lokodo's subsequent announcement. (Sullivan Decl. Ex. 144 at Lively 3709) The article described Lokodo as claiming that "the NGOs were receiving support from abroad and 'recruiting' young children into the vice," and quoted Bahati as saying, "If it is true that such a document has been [obtained], it serves to strengthen what we have been talking about; these people are deliberately recruiting followers and promoting their actions, taking advantage of a weak law. We now need to move and strengthen the legal regime and make the punishment more stringent." (Sullivan Decl. Ex. 144 at Lively 3709) The article further quoted Bahati, as commenting on the latest campaign against gay activists, by stating that his bill intended "to stop the promotion, recruitment, funding and same sex marriages." (Sullivan Decl. Ex. 144 at Lively 3709)

158. Lively responded: "The govt should go on the offensive with this with a statement to the international community exposing these efforts to undermine the law and sovereignty of Uganda and warning other conservative nations to be on the alert for the operation of these NGOs in their own countries (especially in Africa)." (Sullivan Decl. Ex. 144 at Lively 3709)

159. In November 2012, SMUG took steps to be registered as an entity under Ugandan law, but the Uganda Registration Service Bureau. (Mugisha Decl. ¶ 7) The bureau delayed responding to SMUG's registration request until 2015, *see infra* ¶ 207. (Mugisha Decl. ¶ 7)

160. On July 11, 2012, Lokodo spoke publicly about a health clinic recently established by SMUG's member organization Icebreaker Uganda to provide HIV/AIDS and other medical testing, counseling, and treatment for LGBTI people:

If we find out that it's [the clinic] related to promoting the culture which doesn't conform to our morals as a country, we shall instantly ban and close it. These people [LGBTI] are doing their operations under cover - it's not easy to track

them. However, we shall not allow any social gathering, association, infrastructure or any activities that exist to promote homosexuality.

(Sullivan Decl. Ex. 145 at SMUG032291; Sullivan Decl. Ex. 28 at p. 209:4-18) The location of the clinic was not made public due to fears of attacks by government actors and members of the general public. (Nkyooyo Decl. ¶ 6) While the clinic was still operational after Lokodo's announcement, the inability to make public the clinic's location, coupled with Lokodo's threats, made it difficult for the clinic to serve as much of the LGBTI community as they had originally intended. (Nkyooyo Decl. ¶¶ 8-9)

161. On August 4, 2012, Ugandan LGBTI activists, including SMUG, held their first Pride gathering, an event that celebrates LGBTI culture and pride, at the Botanical Gardens in Entebbe. The police raided the gathering and arrested several of the participants. (Sullivan Decl. Ex. 49 at pp. 107:18-108:19; Lusimbo Decl. ¶ 3) The police stated that they conducted the raid because they had been informed that a gay wedding was taking place at the gathering, which was an untrue allegation. (Lusimbo Decl. ¶ 3; Sullivan Decl. Ex. 49 at pp. 108:15-109:18)

162. On August 14, 2012, Lively emailed Ssempe, Langa, and Tuhaise a link to an article about this Pride gathering, with the subject line "were you aware of this?" (Sullivan Decl. Ex. 146 at Lively 3713) Tuhaise responded that he was not aware of the event but that these "things will continue until we get a law passed by Parliament to stop them." (*Id.*) He informed Lively that Parliament was then debating the budget but that soon they would be pushing for the "Bahati Bill to get priority consideration." (Sullivan Decl. Ex. 146 at Lively 3713)

163. During this time period, Lively also continued to communicate with Langa, Ssempe, Bahati, and Tuhaise about the status of the present lawsuit, (Sullivan Decl. Ex. 147 at Lively 5648), and with Ssempe and Langa on related issues, (Sullivan Decl. Ex. 148 at Lively 3437), including efforts to connect Ssempe, Langa, and Tuhaise, to an individual Lively knew in

the United States who described himself as working in the area of “Christian self-defense” and who wanted to assist anti-LGBT efforts in Uganda. (Sullivan Decl. Ex. 149 at Lively 3466)

164. On November 16, 2012, Bahati stated that he believes all gay people in Uganda are paid to be gay, that they are recruited in schools by foreigners. He also expressed his belief that the AHB focuses on activists, or people who want to make gay issues into a movement, and that is why it contains provisions regarding promotion, inducement, recruitment, and funding to organizations dealing with gay rights. (Declaration of Clare Byarugaba (“Byarugaba Decl.”) Ex. BSullivan Decl.)

165. Between November and December 2012, Lively continued to communicate with Tuhaise, Ssempe, and Langa, about the status of the AHB. On November 24, 2012, Tuhaise advised Lively that things had taken an “unexpected turn” in Uganda and there had been a “row” between the speaker of parliament Rebecca Kadaga and the Canadian foreign minister over the bill and that she had received a hero’s welcome upon her return to Uganda. (Sullivan Decl. Ex. 151 at Lively 3714) Lively also asked Ssempe and Langa for an update regarding the status of the bill. (Sullivan Decl. Exhs. 152-153) On December 5, 2012, Ssempe emailed Lively asking if he had received Langa’s earlier email that had offered thanks for prayers to ensure passage of the AHB and that had provided an update on the status of the bill, while asking for further prayers in support of passage. (Sullivan Decl. Ex. 154 at Lively 3725) Ssempe sent another email that same day to Lively, copying Langa and stating, “this week the bill is supposed to be discussed and passed.” (Sullivan Decl. Ex. 155 at Lively 3727) More particularly, he noted that “[t]he bill on the floor is the oil bill and as soon as it is done, the next in line is the ANTI HOMO BILL.” (Sullivan Decl. Ex. 155 at Lively 3727) He wrote also that he planned to “do a press conference

this week featuring a child who was molested and needs assistance badly.” (Sullivan Decl. Ex. 155 at Lively 3727)

166. On that same day, Lively sent an email entitled “AHB Suggested Language” to Langa, Ssempe, Tuhaise, and Bahati, expressing support for the bill with the death penalty removed and elaborating on “therapy” as a sentencing alternative. (Lively Decl. Ex. 17 at Lively 3728) Tuhaise responded to Lively’s email to explain the technical reasons why counseling could not be part of the AHB. (*Id.*)

167. On December 11, 2012, Lively sent another email to Ssempe, Tuhaise, Langa, and a third party, which contained a prepared statement entitled “Why I Endorse the Revised Anti-Homosexuality Bill in Uganda”; Lively wrote of the importance of “legal power to prevent sex activists from advocating their lifestyles to children in public schools or to flaunt their sins in ‘pride’ parades through the city streets” and justified the law’s provision of jail terms for offenders by stating that homosexuality has always “be[en] [a] crime[] in the eyes of God.” (Sullivan Decl. Ex. 156 at Lively 3732) He also wrote that people could easily avoid being prosecuted under the law if they would simply not engage in homosexual sex. (Sullivan Decl. Ex. 156 at Lively 3733) Ultimately, Lively wrote that, even if the law were harsh, he had no means to redraft it and gave it his “support.” (Sullivan Decl. Ex. 156 at Lively 3733)

168. On December 18, 2012, Ssempe stormed onto a live broadcast of a talk show on which SMUG officer Pepe Onziema was appearing, and claimed that Onziema, through his association, was promoting homosexuality and recruiting others into homosexuality, using funds from abroad. (Onziema Decl. ¶ 48)

169. In January 2013, Lively corresponded with Langa, Ssempe and Tuhaise about getting television coverage in Uganda about the “homosexuality of the Nazis” and encouraged them to use his books as a starting point. (Sullivan Decl. Ex. 157 at Lively 3475)

170. On February 24, 2013, the Red Pepper tabloid again published an issue outing LGBTI activists. With the headline: BUSTED- HOW GAYS OPERATE IN UGANDA, it featured a picture of SMUG staff. (Sullivan Decl. Ex. 49 at pp. 33:7-34:20; Lusimbo Decl. ¶ 5) Following the publication, SMUG staff member Richard Lusimbo received hate messages, was forced to leave his home for security reasons, and unable to find another place to live, left the country for a few months. (Lusimbo Decl. ¶ 5) When he returned to Uganda, he had trouble finding a new home where he could feel secure and his daily transportation expenses increased, as he had to take private cars to ensure his security. (Lusimbo Decl. ¶ 6)

171. The Red Pepper publication also alleged that SMUG member organization Spectrum Initiative Uganda (“Spectrum”) was a recruiting agency for homosexuals in Uganda and identified some of Spectrum’s staff. Spectrum had to move offices as a result. (Ganafa Decl. ¶ 5)

172. In July 2013, Lively communicated with Langa, Ssempe and Tuhaise about the “ignorance” of Archbishop Desmond Tutu’s position against homophobia (which the Archbishop equated with apartheid). (Sullivan Decl. Ex. 158 at Lively 3479) Tuhaise viewed this as particularly problematic because South Africa’s relative economic strength could be used in attempting to make other African countries more tolerant of LGBT rights. (Sullivan Decl. Ex. 158 at Lively 3480)

173. In August and September 2013, Lively communicated with Langa, Ssempe and Tuhaise about the possibility of a suit for defamation against SMUG in Uganda based on the

allegations made in this case. Ssempe agreed to assist and put him in contact with Ugandan lawyers. Langa urged Ssempe to ask the lawyer to verify the legality or legal status of SMUG. (Sullivan Decl. Exs. 159-161)

174. When it began to appear that the AHB would not pass in the Ugandan parliament, Lively began communicating with his partners in Uganda about the possibility of taking a different approach. On August 9, 2013, Lively emailed to Langa, Ssempe and Tuhaise a letter he was planning to send to Russian President Vladimir Putin. In his email, he advised them to “drop the Anti-Homosexuality Bill and adopt the anti-propaganda law that was just passed in Russia.” (Lively Decl. Ex. 18 at Lively 3737) Lively advised it would “accomplish the objective of stopping foreign interference in Uganda, and the destructive propaganda efforts of groups like SMUG” (*Id.*)

175. On August 14, 2013, Lively wrote to Tuhaise, Langa, and Ssempe reporting on the Court’s denial of his motion to dismiss in the instant matter. (Sullivan Decl. Ex. 162 at Lively 5663 (“Not a good sign in that it suggests that the judge is a pro-‘gay’ ideologue.”)). Ssempe copied Buturo in his response to Lively’s commentary. (Sullivan Decl. Ex. 162 at Lively 5663) Buturo then wrote: “Here we go! This case should be handed over to our God! He is the one these poor people are after! It is futile on their part. Have peace brother Scott. It is the Lord’s fight to the end.” (*Id.* Sullivan Decl.at Lively 5664)

176. On October 18, 2013, when Lively was in Moscow for a planning meeting of the World Congress of Families VIII, an event which was to be held at the Kremlin the following year, he sent an email with the subject line “International Coalition Building” to Ssempe, Langa, Tuhaise, Bahati, Buturo, and other members of the Ugandan parliament. (Lively Dec. Ex. 19 at Lively 3740) Lively wrote that he and the planning committee agreed that a high-level

representative of the Ugandan government (perhaps President Museveni) should attend the World Congress in order to build an alliance with Russian leaders against “the homosexual agenda.” (*Id.*) Lively also reiterated his hope that Uganda would adopt the Russian law “banning homosexual propaganda to children” (which he noted he had advocated) as a “practical alternative to the AHB to curb[] the ‘gay’ agenda.” In particular, he wrote that he believed the Russian law would be adopted throughout Africa and that it would be fitting for Uganda to be the first country adopting it. (*Id.*)

- a. Tuhaise responded with concern that the Russian law appeared to only focus on propaganda to children “since similar propaganda to adults appears permissible under the law.” (*Id.* at Lively 3741) Lively responded to make it clear that the Russian law could be implemented in ways that would “encompass activities that are ostensibly for adults.” (*Id.*)
- b. Lively pointed to the fact that “the AHB has never passed and faces major difficulties” but suggested the “Russian law could be easily passed... and then built upon in stages.” (*Id.*)
- c. Langa responded to say he supported the effort regarding the World Congress and provided Buturo’s alternate email address. (*Id.* at Lively 3742)
- d. Buturo then responded to agree that they “must support this coalition building.” He suggested to Hon. Mary Okurut, a member of parliament also cc’d on the email, that she handle planning together with the current Minister of Ethics and Integrity (Simon Lokodo). (*Id.* at Lively 3742) He then suggested to Bahati that he obtain a copy of the Russian law but that they must not give up on the AHB. (*Id.*) Buturo went on to write, “Our Brother

Scott is to be congratulated. Keep up the fight and remember you are not alone.” (*Id.*)

177. On or about October 22, 2013, Witness X¹⁰ and his partner were arrested after private intimate pictures of his partner with another man were taken from a stolen laptop and published in the Red Pepper tabloid. (Witness X Decl. ¶¶ 3-5) While in detention, Witness X was beaten and subjected to an invasive, humiliating and degrading anal examination and HIV testing without his consent by Ugandan authorities. (Witness X Decl. ¶ 6) Though he has been released from detention, he has been subjected to humiliating and inflammatory tabloid coverage and has received numerous threats, resulting in serious harm to his business and reputation. (Witness X Decl. ¶¶ 8-9)

178. On December 9, 2013, the Ugandan Ministry of Health announced the establishment of LGBTI-specific health clinics. The announcement drew a swift and harsh response from Lokodo who said, “We shall not tolerate these clinics. To open these clinics is a recipe for recognizing these behaviours, which are totally unacceptable. We are not obliged to encourage these acts. . . . We shall arrest these people in these clinics and send them for treatment as culprits.” (Sullivan Decl. Ex. 145 at SMUG032294)

179. On December 19, 2013, the Ugandan Parliament passed the Anti-Pornography Act. Lokodo was present to move that the bill be read a second time. His motion was seconded by David Bahati. (Sullivan Decl. Ex. 163) The law called for the establishment of an anti-pornography committee. (*Id.*)

180. The following day, on December 20, 2013, Parliament passed the Anti-Homosexuality Act (AHA). (Sullivan Decl. Ex. 176 at SMUG013768) The timing of the

¹⁰ This witness has been designated “Confidential” pursuant to the terms of the Protective Order entered in this case. Order Regarding Confidentiality of Certain Discovery Material, Dkt. 106.

passage of the two bills was consistent with Buturo's earlier promise to Parliament in 2009 that "because pornography and homosexuality are bedfellows in their campaign to render apart our way of life, a bill on pornography will be presented to this august House very shortly. Soon after that, a Bill on homosexuality will also be tabled." *See, supra*, ¶ 87.

181. During the December 20, 2013 parliamentary session, Member of Parliament Benson Obua-Ogwal, with whom Lively had previously been in contact, *see supra* para. 123. moved for a second reading of the Anti-Homosexuality Bill. (Sullivan Decl. Ex. 176 at SMUG013757) Bahati, who was also present, recommended that the discussion continue without hearing from the minority, referring to those Members of Parliament who opposed the bill. (*Id.* Sullivan Decl. at SMUG013759)

182. In late January 2014, within weeks of the passage of the Anti-Homosexuality Bill, Jackson Rihanna Mukasa and Kim Mukisa were arrested by the police on allegations of being homosexual. (Mukasa Decl. ¶ 3; Mukisa Decl. ¶ 3) The arrests occurred after Kim Mukisa was thrown out of his house on January 27, 2014, based on allegations that he was a "homosexual" and then beaten by local council authorities and local residents. (Mukisa Decl. ¶ 2) The police arrested Jackson Mukasa, a transwoman who was also present at Kim Mukisa's residence at the time of the attack, on or about the same day and used her to call Kim Mukasa to the police station where he was also arrested. (Mukasa Decl. ¶¶ 2-4) The two were held for seven days in police custody without being brought before a judge, in violation of Ugandan law. (Mukasa Decl. ¶ 5; Mukisa Decl. ¶ 4) Kim Mukisa was charged with having carnal knowledge of a person against the order of nature under Section 145(a) of the Ugandan Penal Code Act Cap. 120. (Mukisa Decl. ¶ 5) Jackson Mukasa was charged with permitting a male person to have carnal knowledge of her against the order of nature under the same provision. (Mukasa Decl. ¶ 6) While

in detention, both were paraded before the media as “homosexuals” and both were subjected to HIV tests without their consent. (Mukasa Decl. ¶ 7; Mukisa Decl. ¶¶ 6-7) Jackson Mukasa was further subjected to a highly invasive, humiliating and degrading anal examination used by Ugandan authorities ostensibly to obtain evidence of same-sex sexual activity. (Mukasa Decl. ¶ 8) They remained in pre-trial detention for approximately four months until May 2014, when they were released on bail. (Mukasa Decl. ¶ 9; Mukisa Decl. ¶ 8) The case against them was dismissed by the court on or about October 22, 2014. (Mukisa Decl. ¶ 10; Mukasa Decl. ¶ 9)

183. On February 6, 2014, the Ugandan President signed the Anti-Pornography Act into law. (Sullivan Decl. Ex. 82)

184. On February 24, 2014, the President of Uganda signed the Anti-Homosexuality Bill into law. (Sullivan Decl. Ex. 119) The bill then became the Anti-Homosexuality Act (AHA), officially broadening the criminalization of same-sex acts between consenting adults, including “touching with the intention of committing the act of homosexuality,” which carried sentences of up to life imprisonment. The law also imposed criminal penalties for, inter alia, speech, advocacy, and association and the provision of counseling and health services, by criminalizing the “promotion of homosexuality” (including by an organizations) and “aid[ing], abet[ting], counsel[ing] or procur[ing] another to engage in acts of homosexuality.” (Sullivan Decl. Ex. 119; Sullivan Decl. Ex. 48 at p. 37)

185. On February 25, 2014, the day after the AHA was signed into law, the Red Pepper continued its media outings with the headline EXPOSED! Uganda’s 200 Top Homos Named. Four photos appeared on the front page, with additional photos on the inside pages, along with names, addresses and other identifying information on 200 people that the paper reported to be gay. (Sullivan Decl. Ex. 49 at p. 122:19-25; Onziema Ex. F; Ganafa Decl. ¶ 6) Two of the four

front-page photos were of Sam Ganafa, director of SMUG's member organization Spectrum, and Victor Mukasa, SMUG's founder. (Sullivan Decl. Ex. 34 at pp. 35:13-16, 35:22-39:24, 41:7-18; Ganafa Decl. ¶ 6) Ganafa served as the executive director of Spectrum. (Ganafa decl. ¶ 1) The issue also had three interior pages with more names, photos, and personal information of Ugandans described as LGBTI, such as SMUG staff members Frank Mugisha, Pepe Onziema, and Diane Bakuraira, and former Executive Director of SMUG member organization Freedom and Roam Uganda, Kasha Jacqueline Nabagasera. (Mugisha Decl. ¶ 9, Onziema Decl. ¶ 50, Bakuraira Decl. ¶ 4) Mugisha was forced to leave home and stay in hotels to ensure his security after the publication. (Mugisha Decl. ¶ 9) The home address of SMUG staff member Diane Bakuraira had been printed in the issue, as a result, she received threats at her house and had to move. (Bakuraira Decl. ¶ 4)

186. The next several issues continued to spread anti-gay propaganda including outings by anti-gay pastor Solomon Male, mischaracterizations of statements of LGBTI advocates, and photos, names and addresses of LGBTI Ugandans who were allegedly part of a "homo cabinet." One issue had another feature entitled, "How to prevent your child from becoming a homo." (Onziema Decl. ¶ 51)

187. The February 28, 2014 issue of the Red Pepper publicly identified SMUG staff member, Richard Lusimbo. (Lusimbo Decl. ¶ 7) Lusimbo received threatening calls and mail in the aftermath and was forced to take additional security precautions. (*Id.*) As SMUG's research and documentation manager, Lusimbo's work was hindered by the outing. (*Id.*) He was unable to conduct investigations as people did not want to talk to him; he was afraid to keep notes; he could not have people come to the office; and he faced security issues while traveling for interviews. (*Id.*)

188. Following the enactment of AHA, SMUG and a number of SMUG member organizations have been surveilled, exposed by the media, threatened with closure and calls for attack and/or evicted, and had their members too afraid to attend meetings. As a result, many were forced to minimize or suspend their operations serving Uganda's LGBTI community. (Onziema Decl. ¶¶ 52-53; Senfuka Decl. ¶¶ 9-10; Nkyooyo Decl ¶¶ 10-14; Mulucha Decl. ¶¶ 5-8)

189. On March 11, 2014, representatives of SMUG as well as other human rights advocates, legal experts, and a member of Parliament filed a challenge to the AHA in the Ugandan Constitutional Court. (Onziema Decl. ¶ 54) Buturo, Ssempe, Langa attended the proceedings in this case. (*Id.*)

190. The government initiated an investigation into Refugee Law Project (RLP), a non-governmental organization based at Makerere University that provides legal aid to asylum seekers and refugees in Uganda, to determine if it was violating the new law. (Dolan Decl. ¶ 2) RLP was hosting on the Civil Society Coalition at the time. (Dolan Decl. ¶¶ 5-6) On March 14, 2014, the Minister of Relief, Disaster Preparedness and Refugees wrote to all Refugee Settlement Commandants and Refugee Desk Officers advising them to suspend the activities and services of RLP pending investigation into allegations that the organization was "promoting homosexuality" in the settlements. (Dolan Decl. ¶ 8) On May 5, 2014, Lokodo sent a letter to the Minister of Internal Affairs, copying the dean of Makerere University School of Law, describing RLP's activities as in violation of the AHA and requesting a special investigation of RLP for "recruiting and promoting out young people for anti-social activities and promoting unnatural relationships." (Dolan Decl. ¶ 10) On May 20, 2014, RLP received another letter from the Permanent Secretary, signed off on by the Commissioner for Refugees in the Office Prime

Minister, extending the suspension to RLP's Kampala office. (Dolan Decl. ¶ 11; Sullivan Decl. Ex. 150 at p. 38) The investigation and suspension of RLP disrupted the Civil Society Coalition's operations. (Sullivan Decl. Ex. 28 at pp. 130:11-131:16)

191. On April 3, 2014, Ugandan police raided the Makerere University Walter Reed Project, a U.S.-funded medical research facility in Kampala that conducted HIV research and provided services to LGBTI people, and arrested one of the facility's employees, allegedly for conducting "unethical research" and "recruiting homosexuals." The operations of the clinic were temporarily suspended to ensure the safety of staff and beneficiaries of the programs. (Sullivan Decl. Ex. 150 at p. 38; Sullivan Decl. Ex. 145 at SMUG032296) Thereafter, LGBTI persons who had previously received services from the clinic went elsewhere seeking health support. (Ntebi Decl. ¶ 6)

192. Speaking of the investigations and raids, Lokodo stated,

Some of these organisations have been promoting ideas that are not compatible with our laws. They have been hiding and pretending to be providing humanitarian assistance and research, yet they are promoting homosexuality. We shall not tolerate and entertain homosexuality in Uganda. I am waiting for the outcome of the ongoing investigations. We shall just suspend and close the operations of these organisations. We can't allow them to continue promoting bad morals.

(Sullivan Decl. Ex. 145)

193. On April 20, 2014, Tuhaise sent Lively copies of the AHA and the Anti-Pornography Act "in case [he did] not have the copies already." (Sullivan Decl. Ex. 164 at Lively 4472)

194. In that same email exchange, Lively sent Ssempe, Langa, and Tuhaise a link regarding an event in New York City in which a Ugandan LGBTI rights activist and one of SMUG's lawyers spoke. (Sullivan Decl. Ex. 164 at Lively 4472) Tuhaise responded by asking

for a recording of the event. (*Id.*Sullivan Decl.) Lively warned the group that their “communications, including this conversation and all past emails are now subject to discovery in the SMUG lawsuit and will be viewed by my opponents.” (*Id.* Sullivan Decl.at Lively 4473)

195. On April 26, 2014, Ssempe sought Lively’s permission to use his writings equating homosexuality with fascism for a law school lecture in Uganda. (Sullivan Decl. Ex. 165 at Lively 3488) In response, Lively directed Ssempe to a YouTube video of one of his lectures and the link to one of his books. (*Id.*)

196. On April 28, 2014, Lively warned Langa, Ssempe, and Tuhaise, in the context of discussing an additional potential conference in Uganda, that “[y]ou may think the battle is over because you have the anti-homosexuality law (in your minds a powerful defensive bulwark), but for them this is only the beginning of the next phase of their war to conquer you.” (Sullivan Decl. Ex. 166 at Lively 3499)

197. In late April or early May 2014, Langa visited the United States and met with Lively and his church at length. (Sullivan Decl. Ex. 167 at Lively 4538)

198. On May 5, 2014, Tuhaise sent Langa, Lively, and Ssempe a scanned article on the raid of the Walter Reed Clinic entitled “Makerere project recruited gays - police.” (Sullivan Decl. Ex. 168 at Lively 4523-24)

199. On June 24, 2014, the court issued a ruling in SMUG’s case against Lokodo for raiding their human rights workshop in February 2012. Ruling for Lokodo, the court concluded that the “promotion” of homosexuality is “an unlawful exercise of the right to association and assembly.” (Onziema Decl. Ex. D) The court based its ruling on the following: (i) “FARUG and SMUG[] have previously organized workshops targeting homosexuals which were organized with LGBT organizations which encourage homosexuals and support or fund their projects”; (ii)

“[i]n these workshops, homosexual participants were taught ‘Human Rights’ and Advocacy that it is a human right for persons to practice sex with members of the same sex and encouraged to develop self esteem and confidence about the practices”; (iii) “[t]hey were encouraged to train other homosexuals and to conceal the objectives of training activities from the public and law enforcement officers because the practices are prohibited by the law”; (iv) “participants were trained to similarly train other homosexuals and strengthen their LGBT organizations to achieve the objective of encouraging and supporting homosexuals”; and “participants were also encouraged to train other homosexuals in ‘Human Rights and Advocacy training’, ‘project planning’, ‘Advocacy and leadership’ with the aim to equipping homosexuals with the confidence, knowledge and skills to conduct and promote their same sex practice.” (Onziema Decl. Ex. D) Distinguishing the Rolling Stone case, the court stated:

In fact the [Rolling Stone] case did not involve any allegation of promotion of homosexual practices. Therefore the trial judge in that case was never called upon to consider other sections of the Penal Code Act relating to promotion or incitement of any offence. After consideration of the affidavit evidence on record, there is ample proof that the first, second and third applicants were members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community in Uganda which encourages same sex practices among homosexuals.

(Onziema Decl. Ex. D)

200. The next day, on June 25, Langa sent Lively a link to a Red Pepper article on the court ruling. (Sullivan Decl. Ex. 169 at Lively 4558)

201. On August 1, 2014, the Ugandan Constitutional Court invalidated the AHA on the basis of a parliamentary irregularity. (Onziema Decl. Ex. G)

202. In September 2014, Ssempe corresponded with Lively regarding fundraising for a documentary to respond to “homosexualist lies concerning the facts of Uganda.” Lively replied

on this last point that his donors would like to contribute to the project and he would “very much like to be in the film.” (Sullivan Decl. Ex. 170 at Lively 4616)

203. Langa also corresponded with Lively during his October 2014 trip to Brazil calling Lively’s attention to “the other agenda” that had “take[n] root” there.” (Sullivan Decl. Ex. 170 at Lively 4620)

204. On April 28, 2015, Lokodo spoke at a half-day “sensitization workshop on pornography” that was organized by his Directorate of Ethics and Integrity, the Uganda AIDS Commission, and Stephen Langa’s Family Life Network. (Okoth Decl. Ex. A; Tumwime Decl. Ex. A)

205. In February 2015, the Uganda Registration Service Bureau officially denied SMUG’s 2012 application the register as an organization on the ground that SMUG “is formed to advocate for the rights and well being of lesbian and gay among others, which persons are engaged in activities labeled criminal acts under section 145 of the Penal Code.” (Mugisha Decl. Ex. B) SMUG later filed suit challenging the denial; the case is pending. (Mugisha Decl. ¶ 8)

206. In September 2015, the media reported that while the Ugandan President stated that he would not re-enact the AHA, he explained it was because Uganda did not “need more laws,” because referring to Section 145 of the penal code, criminalizing same-sex sex, “[t]his other law will work.” (Sullivan Decl. Ex. 34 at p. 264:8-14)

207. In April 2016, Ugandan media reported that the Ugandan Ministry of Information and National Guidance appointed Ssempe to the Pornography Control Committee created by the Anti-Pornography Act. (Sullivan Decl. Exs. 192-193). The committee is to work closely with the Ministry of Ethics and Integrity, currently Simon Lokodo, the Uganda Police Force, and other entities and individuals it deems necessary to carry out its functions. (*Id.*)

208. In response to the persecution of the LGBTI community, SMUG has continually diverted its resources toward efforts to counter the repression, targeting, arrests, attacks, harassment, and criminalization facing the LGBTI Ugandans. (Onziema Decl. ¶ 62) While these efforts have resulted in various successes, the LGBTI community still faces substantial threats and hostility. (Onziema Decl. ¶ 62)

209. As a repeated target of persecution, SMUG has faced significant harm to its reputation. (Onziema Decl. ¶ 61) The stigmatization that SMUG has endured has hindered SMUG's ability to conduct advocacy and public education and outreach. (Onziema Decl. ¶ 61)

210. SMUG staff members continue to face harassment, raid, and arrest. On August 4, 2016, police violently raided a pageant being held as part of a weeklong Ugandan LGBTI Pride celebration. A number of attendees were arrested, including Frank Mugisha and Pepe Onziema. (Mugisha Decl. ¶ 11; Onziema Decl. ¶ 58) The police claimed that they had been informed that gay weddings were occurring at the event, and ordered it to stop. Police proceeded to beat attendees in the venue, targeting transgender individuals in particular. (Mugisha Decl. ¶ 12) Upon being arrested, police physically attacked SMUG staff members and other individuals, hitting them, pushing them, and forcing them to the ground beneath a police van. (Mugisha Decl. ¶ 12; Onziema Decl. ¶ 58.)

211. The approximately twenty attendees arrested were taken to the local police station, where they were verbally accosted, threatened, and mocked by officers and inmates. Police proceeded to take photographs of the individuals. (Mugisha Decl. ¶ 13; Onziema Decl. ¶ 58) Several people were brutally beaten by both police officers and inmates, including Onziema, who sustained multiple injuries. (Mugisha Decl. ¶ 14; Onziema Decl. ¶ 59) Individuals were forced to strip and bathe, and some were separated for physical inspection by police officers

during which they would touch the individual's genitals and verbally confirm their sex. (Mugisha Decl. ¶ 16) SMUG staff members and others arrested were released several hours after being detained. (Onziema Decl. ¶ 58) SMUG representatives met with Minister of Ethics and Integrity Simon Lokodo the following day at the police station, at which point Lokodo expressed his intent to have the released individuals re-arrested. Lokodo threatened to enlist the police and civilians to shut down any further Pride events, comparing the participants to terrorists. Police informed SMUG staff that they were operating under Lokodo's authority, and that they would perform arrests if instructed to do so. (Mugisha Decl. ¶ 18) The raid, arrests, and abuse caused severe humiliation, trauma, and physical injury. A planned Pride parade was canceled for fear of further attacks. (Mugisha Decl. ¶ 19)

August 8, 2016

Respectfully submitted,

/s/ Mark S. Sullivan

DORSEY & WHITNEY LLP

Mark S. Sullivan, admitted *pro hac vice*
Joshua Colangelo-Bryan, admitted *pro hac vice*
Daniel W. Beebe, admitted *pro hac vice*
Kaleb McNeely, admitted *pro hac vice*
51 West 52nd Street
New York, New York 10019
Tel.: (212) 415-9200
Fax.: (212) 953-7201
sullivan.mark@dorsey.com

CENTER FOR CONSTITUTIONAL RIGHTS

Pamela C. Spees, admitted *pro hac vice*
Jeena D. Shah, admitted *pro hac vice*
Baher Azmy, admitted *pro hac vice*
Zachery Morris, admitted *pro hac vice*
666 Broadway, 7th Floor
New York, NY 10012
Tel. 212-614-6431
Fax 212-614-6499

pspees@ccrjustice.org

Luke Ryan (MA Bar No. 664999)
100 Main Street, Third Floor
Northampton, MA 01060
Tel. 413-586-4800
Fax 413-582-6419
lryan@strhlaw.com

Attorneys for Plaintiff