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5 Attorneys for Defendants  
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7 GLOBAL EQUITIES, LLC d/b/a  
8 HIGHER EDUCATION GROUP

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 SOUTHERN CALIFORNIA  
12 INSTITUTE OF LAW, a California  
13 corporation,

14 Plaintiff,

15 v.

16 TCS EDUCATION SYSTEM, an  
17 Illinois corporation; DAVID J. FIGULI,  
18 an individual; and GLOBAL  
19 EQUITIES, LLC d/b/a HIGHER  
20 EDUCATION GROUP, a Colorado  
21 limited liability company,

22 Defendants.

Case No. CV10-8026 JAK (AJWx)  
(Assigned to the Hon. John A.  
Kronstadt)

**DEFENDANTS DAVID J. FIGULI'S  
AND GLOBAL EQUITIES, LLC'S  
ANSWER TO SECOND AMENDED  
COMPLAINT**

23 COME NOW Defendants David J. Figuli and Global Equities, LLC d/b/a  
24 Higher Education Group ("Defendants") and hereby respond to Plaintiff's Second  
25 Amended Complaint for Injunctive Relief and Damages ("Complaint") and admit,  
26 deny, and allege as follows:

27 **NATURE OF THE CASE**

28 1. In answer to the allegations in paragraph 1 of the Complaint, Defendants  
deny having "unfettered access to Plaintiff's Dean, faculty and confidential files,"  
misappropriating Plaintiff's confidential information in violation of a confidentiality

1 agreement, using Plaintiff’s confidential information to affiliate with Plaintiff’s  
2 competitor, seeking to “kill off competition,” “destroy Plaintiff’s business” or  
3 increase the cost of tuition, engaging in an unlawful scheme and harming Plaintiff’s  
4 business and future prospects. In all other respects, Defendants are without  
5 knowledge or information sufficient to form a belief as to the truth of the  
6 allegations, and on that basis deny the allegations contained therein.

7 **JURISDICTION AND VENUE**

8 2. In answer to the allegations in paragraph 2 of the Complaint, Defendants do  
9 not presently intend to contest this Court’s jurisdiction over the case and that venue  
10 is proper, although they reserve their right to contest those issues should  
11 information supporting such arguments come to light. Defendants deny engaging in  
12 any wrongful conduct and that any of their conduct was intended to and did cause  
13 injury to Plaintiff.

14 **THE PARTIES**

15 3. In answer to the allegations in paragraph 3 of the Complaint, Defendants are  
16 without knowledge or information sufficient to form a belief as to the truth of the  
17 allegations, and on that basis deny the allegations contained therein.

18 4. In answer to the allegations in paragraph 4 of the Complaint, Defendants are  
19 without knowledge or information sufficient to form a belief as to the truth of the  
20 allegations, and on that basis deny the allegations contained therein.

21 5. In answer to the allegations of paragraph 5 of the Complaint, Defendants are  
22 without knowledge or information sufficient to form a belief as to the truth of the  
23 allegations, and on that basis deny the allegations contained therein.

24 6. In answer to the allegations in paragraph 6 of the Complaint, Defendants  
25 admit the allegations contained therein.

26 7. In answer to the allegations in paragraph 7 of the Complaint, Defendants  
27 admit the allegations contained therein.

28

1 8. In answer to the allegations in paragraph 8 of the Complaint, Defendants  
2 deny that TCS retained Figuli in his individual capacity or that Figuli acted at any  
3 relevant time in any capacity other than as an employee of Global Equities, LLC.  
4 Defendants further deny that Global Equities, LLC served as a broker or “deal  
5 maker” for defendant TCS Education System (“TCS”). In all other respects,  
6 Defendants admit the allegations contained therein.

7 **FACTUAL BACKGROUND**

8 9. In answer to the allegations in paragraph 9 of the Complaint, Defendants are  
9 without knowledge or information sufficient to form a belief as to the truth of the  
10 allegations, and on that basis deny the allegations contained therein.

11 10. In answer to the allegations in paragraph 10 of the Complaint, Defendants are  
12 without knowledge or information sufficient to form a belief as to the truth of the  
13 allegations, and on that basis deny the allegations contained therein.

14 11. In answer to the allegations in paragraph 11 of the Complaint, Defendants are  
15 without knowledge or information sufficient to form a belief as to the truth of the  
16 allegations, and on that basis deny the allegations contained therein.

17 12. In answer to the allegations in paragraph 12 of the Complaint, Defendants are  
18 without knowledge or information sufficient to form a belief as to the truth of the  
19 allegations, and on that basis deny the allegations contained therein.

20 13. In answer to the allegations in paragraph 13 of the Complaint, Defendants are  
21 without knowledge or information sufficient to form a belief as to the truth of the  
22 allegations, and on that basis deny the allegations contained therein.

23 14. In answer to the allegations in paragraph 14 of the Complaint, Defendants  
24 admit that Figuli told Haynes TCS was interested in acquiring or affiliating with a  
25 law school. In all other respects, Defendants deny the allegations contained therein.

26 15. In answer to the allegations in paragraph 15 of the Complaint, Defendants  
27 admit that Figuli and Haynes became acquainted in the course of the negotiations  
28 over TCS’s acquisition of the Santa Barbara Graduate Institute of Psychology,

1 which was completed in or around July 2009. In all other respects, Defendants are  
2 without knowledge or information sufficient to form a belief as to the truth of the  
3 allegations, and on that basis deny the allegations contained therein.

4 16. In answer to the allegations in paragraph 16 of the Complaint, Defendants  
5 admit that they and Haynes identified both Plaintiff and Santa Barbara and Ventura  
6 Colleges of Law (“COL”) as potential candidates for acquisition by, or affiliation  
7 with, TCS in August 2009, approached both schools at around the same time, and  
8 did not tell Plaintiff that they were talking to COL contemporaneously. Defendants  
9 further admit that, to their knowledge, TCS was interested in acquiring or affiliating  
10 with either or both schools and that Defendants and Haynes held discussions with  
11 Plaintiff in the September to November 2009 time period, and with COL from  
12 September 2009 on into 2010. In all other respects, Defendants deny the allegations  
13 contained therein.

14 17. In answer to the allegations in paragraph 17 of the Complaint, Defendants  
15 deny making the asserted representation to Plaintiff. In all other respects,  
16 Defendants are without knowledge or information sufficient to form a belief as to  
17 the truth of the allegations, and on that basis deny the allegations contained therein.

18 18. In answer to the allegations in paragraph 18 of the Complaint, Defendants  
19 deny that Dean Pulle insisted “from the outset of the parties’ discussions” that the  
20 non-public information and documents he shared with Defendants and Haynes be  
21 treated confidentially, and deny that Defendants and Haynes “agreed” to treat such  
22 information and documents confidentially before the Confidentiality and Non-  
23 Disclosure Agreement (“NDA”) was entered on or around September 24, 2009. On  
24 the basis of the attorney-client privilege and work product doctrine, Defendants  
25 refuse to admit or deny the allegations as to the drafting of the NDA and its possible  
26 use in connection with TCS’s acquisitions and affiliations generally. In all other  
27 respects, Defendants admit the allegations contained therein.

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1 19. In answer to the allegations in paragraph 19 of the Complaint, Defendants  
2 state that the NDA speaks for itself as to its content and purpose. In all other  
3 respects, Defendants deny the allegations contained therein.

4 20. In answer to the allegations in paragraph 20 of the Complaint, Defendants  
5 state that the NDA speaks for itself as to its content and purpose. In all other  
6 respects, Defendants deny the allegations contained therein.

7 21. In answer to the allegations in paragraph 21 of the Complaint, Defendants  
8 deny the allegations contained therein.

9 22. In answer to the allegations in paragraph 22 of the Complaint, Defendants  
10 state that the allegations that Defendants and Haynes, “as TCS agents, were  
11 required to comply with [the NDA’s] terms” are conclusions of law, which require  
12 no responsive pleading under the Federal Rules of Civil Procedure. Defendants  
13 admit they had knowledge of the NDA and admit that certain documents were  
14 transmitted to them by Plaintiff in October 2009. In all other respects, Defendants  
15 are without knowledge or information sufficient to form a belief as to the truth of  
16 the allegations, and on that basis deny the allegations contained therein.

17 23. In answer to the allegations in paragraph 23 of the Complaint, Defendants are  
18 without knowledge or information sufficient to form a belief as to the truth of the  
19 allegations, and on that basis deny the allegations contained therein.

20 24. In answer to the allegations in paragraph 24 of the Complaint, Defendants are  
21 without knowledge or information sufficient to form a belief as to the truth of the  
22 allegations, and on that basis deny the allegations contained therein.

23 25. In answer to the allegations in paragraph 25 of the Complaint, Defendants are  
24 without knowledge or information sufficient to form a belief as to the truth of the  
25 allegations, and on that basis deny the allegations contained therein.

26 26. In answer to the allegations in paragraph 26 of the Complaint, Defendants are  
27 without knowledge or information sufficient to form a belief as to the truth of the  
28 allegations as to Pulle’s background, and on that basis deny those allegations. In all

1 other respects, Defendants deny the allegations contained therein.

2 27. In answer to the allegations in paragraph 27 of the Complaint, Defendants are  
3 without knowledge or information sufficient to form a belief as to the truth of the  
4 allegations, and on that basis deny the allegations contained therein.

5 28. In answer to the allegations in paragraph 28 of the Complaint, Defendants are  
6 without knowledge or information sufficient to form a belief as to the truth of the  
7 allegations, and on that basis deny the allegations contained therein.

8 29. In answer to the allegations in paragraph 29 of the Complaint, Defendants  
9 state that the allegations that Figuli was subject to the duties imposed by the NDA  
10 are conclusions of law, which require no responsive pleading under the Federal  
11 Rules of Civil Procedure. Defendants deny that the NDA states that “[t]he purpose  
12 of opening [Plaintiff’s] books and granting unlimited access to TCS was to facilitate  
13 an acquisition of [Plaintiff].” Defendants further deny that TCS had “unlimited  
14 access” to Plaintiff’s “books,” that the purpose of Plaintiff’s disclosure of  
15 information to TCS was to facilitate an acquisition (rather, the purpose was to  
16 facilitate TCS’s consideration of an acquisition), and that the “Information”  
17 supplied by Plaintiff in any way facilitated TCS’s affiliation with COL. In all other  
18 respects, Defendants are without knowledge or information sufficient to form a  
19 belief as to the truth of the allegations, and on that basis deny the allegations  
20 contained therein.

21 30. In answer to the allegations in paragraph 30 of the Complaint, Defendants  
22 admit Figuli met with Pulle and Haynes on November 17, 2009 and visited both of  
23 Plaintiff’s campuses. Defendants recall being briefly introduced to someone but  
24 deny meeting a realtor and discussing all the identified subjects and reviewing  
25 documents during the meeting.

26 31. In answer to the allegations in paragraph 31 of the Complaint, Defendants are  
27 without knowledge or information sufficient to form a belief as to the truth of the  
28 allegations about what Pulle reported about the meeting to Vice Dean O’Neill and

1 Plaintiff's Board of Directors, and on that basis deny those allegations. In all other  
2 respects, Defendants deny the allegations contained therein.

3 32. In answer to the allegations in paragraph 32 of the Complaint, Defendants  
4 admit the allegations contained therein.

5 33. In answer to the allegations in paragraph 33 of the Complaint, Defendants  
6 admit Figuli met with Dean Georgakis and visited both campuses of COL on  
7 November 17, 2009. Defendants deny they had informed Georgakis that TCS was  
8 in discussions with Plaintiff. In all other respects, Defendants are without  
9 knowledge or information sufficient to form a belief as to the truth of the  
10 allegations, and on that basis deny the allegations contained therein.

11 34. In answer to the allegations in paragraph 34 of the Complaint, Defendants  
12 admit the allegations contained therein.

13 35. In answer to the allegations in paragraph 35 of the Complaint, Defendants  
14 admit that they and Haynes did not tell Plaintiff that they were talking to and  
15 meeting with COL contemporaneously. Defendants further admit that they did not  
16 transmit an offer to Plaintiff in December 2009. In all other respects, Defendants  
17 deny the allegations contained therein.

18 36. In answer to the allegations in paragraph 36 of the Complaint, Defendants  
19 admit the allegations contained therein.

20 37. In answer to the allegations in paragraph 37 of the Complaint, Defendants  
21 admit that they did not make a counter-offer to Pulle's proposed price, which Pulle  
22 had indicated was negotiable, that Defendants did not destroy or return Plaintiff's  
23 documents or provide certification of destruction, and that Plaintiff did not request  
24 return of the documents. Defendants deny that no one representing TCS had done  
25 anything prior to January 22, 2010 to "suggest" that Plaintiff's asking price was  
26 unacceptable or unreasonable, that Figuli's January 22, 2010 email was intended to,  
27 or could reasonably be interpreted to, convey that TCS was still considering  
28 Plaintiff, that any provisions of the NDA created an inference that TCS was still

1 considering Plaintiff, and that Defendants intended to, or did, misuse the  
2 “Information” or abuse the “Relationship” between the parties. In all other respects,  
3 Defendants are without knowledge or information sufficient to form a belief as to  
4 the truth of the allegations, and on that basis deny the allegations contained therein.

5 38. In answer to the allegations in paragraph 38 of the Complaint, Defendants  
6 deny the allegations contained therein.

7 39. In answer to the allegations in paragraph 39 of the Complaint, Defendants  
8 state that the allegations that Defendants were subject to the duties imposed by the  
9 NDA are conclusions of law, which require no responsive pleading under the  
10 Federal Rules of Civil Procedure. In all other respects, Defendants deny the  
11 allegations contained therein.

12 40. In answer to the allegations in paragraph 40 of the Complaint, Defendants  
13 deny that they committed any wrongful conduct. In all other respects, Defendants  
14 are without knowledge or information sufficient to form a belief as to the truth of  
15 the allegations, and on that basis deny the allegations contained therein.

16 41. In answer to the allegations in paragraph 41 of the Complaint, Defendants  
17 deny that they participated in any marketing activity for COL at any time. In all  
18 other respects, Defendants are without knowledge or information sufficient to form  
19 a belief as to the truth of the allegations, and on that basis deny the allegations  
20 contained therein.

21 42. In answer to the allegations in paragraph 42 of the Complaint, Defendants  
22 deny that the advantages set forth in the inset portion of paragraph 41 of the  
23 Complaint were discussed with Plaintiff and that those advantages were confidential  
24 ideas originated by, or belonging to, Plaintiff. Defendants further deny that they  
25 have used any “Information” provided by Plaintiff to compete against Plaintiff. In  
26 all other respects, Defendants are without knowledge or information sufficient to  
27 form a belief as to the truth of the allegations, and on that basis deny the allegations  
28 contained therein.



1 43. In answer to the allegations in paragraph 43 of the Complaint, Defendants  
2 deny that they participated in any misappropriation of Plaintiff’s “Information.” In  
3 all other respects, Defendants are without knowledge or information sufficient to  
4 form a belief as to the truth of the allegations, and on that basis deny the allegations  
5 contained therein.

6 44. In answer to the allegations in paragraph 44 of the Complaint, Defendants  
7 admit that Haynes participated in meetings and discussions with Plaintiff in  
8 September to November 2009, in which certain documents were presented by  
9 Plaintiff. In all other respects, Defendants are without knowledge or information  
10 sufficient to form a belief as to the truth of the allegations, and on that basis deny  
11 the allegations contained therein.

12 45. In answer to the allegations in paragraph 45 of the Complaint, Defendants are  
13 without knowledge or information sufficient to form a belief as to the truth of the  
14 allegations, and on that basis deny the allegations contained therein.

15 46. In answer to the allegations in paragraph 46 of the Complaint, Defendants  
16 deny that they wrongfully used Plaintiff’s confidential information and trade  
17 secrets. In all other respects, Defendants are without knowledge or information  
18 sufficient to form a belief as to the truth of the allegations, and on that basis deny  
19 the allegations contained therein.

20 47. In answer to the allegations in paragraph 47 of the Complaint, Defendants  
21 deny that they discussed with Plaintiff that TCS preferred to acquire an existing law  
22 school. In all other respects, Defendants are without knowledge or information  
23 sufficient to form a belief as to the truth of the allegations, and on that basis deny  
24 the allegations contained therein.

25 48. In answer to the allegations in paragraph 48 of the Complaint, Defendants  
26 deny that they committed any wrongdoing or misappropriated Plaintiff’s secrets and  
27 that Plaintiff is entitled to injunctive relief. In all other respects, Defendants are  
28 without knowledge or information sufficient to form a belief as to the truth of the

1 allegations, and on that basis deny the allegations contained therein.

2 **AGENCY ALLEGATIONS**

3 49. In answer to the allegations in paragraph 49 of the Complaint, Defendants  
4 state that the allegations are conclusions of law, which require no responsive  
5 pleading under the Federal Rules of Civil Procedure.

6 50. In answer to the allegations in paragraph 50 of the Complaint, Defendants  
7 deny the allegations contained therein.

8 51. In answer to the allegations in paragraph 51 of the Complaint, Defendants  
9 deny the allegations contained therein.

10 52. In answer to the allegations in paragraph 52 of the Complaint, Defendants  
11 deny the allegations contained therein.

12 **FIRST CLAIM FOR RELIEF**

13 **(Breach of Contract Against TCS)**

14 53-58. As this Claim is brought only against TCS, Defendants are not required  
15 to specifically answer the allegations of these paragraphs.

16 **SECOND CLAIM FOR RELIEF**

17 **(Misappropriation of Trade Secrets Against All Defendants)**

18 59. In answer to the allegations in paragraph 59 of the Complaint, Defendants  
19 incorporate by reference their answer to each and every allegation contained in  
20 paragraphs 1 through 58, inclusive, as though fully set forth herein.

21 60. In answer to the allegations in paragraph 60 of the Complaint, Defendants  
22 admit that certain information provided by Plaintiff to them was not theretofore  
23 known to them. Defendants deny that they wrongfully induced Plaintiff to release  
24 information to them. In all other respects, Defendants are without knowledge or  
25 information sufficient to form a belief as to the truth of the allegations, and on that  
26 basis deny the allegations contained therein.

27 61. In answer to the allegations in paragraph 61 of the Complaint, Defendants  
28 admit that paragraph 22 of the Complaint identifies certain documents also listed in

1 paragraph 61, but Defendants are without knowledge or information sufficient to  
2 form a belief as to the truth of the allegations about the content of those documents,  
3 and on that basis deny the allegations contained therein.

4 62. In answer to the allegations in paragraph 62 of the Complaint, Defendants  
5 deny that Plaintiff discussed with Defendants the subjects alluded to in the last  
6 sentence of paragraph 62. In all other respects, Defendants are without knowledge  
7 or information sufficient to form a belief as to the truth of the allegations, and on  
8 that basis deny the allegations contained therein.

9 63. In answer to the allegations in paragraph 63 of the Complaint, Defendants  
10 deny that they have given COL access to any of the information or documents  
11 identified therein. In all other respects, Defendants are without knowledge or  
12 information sufficient to form a belief as to the truth of the allegations, and on that  
13 basis deny the allegations contained therein.

14 64. In answer to the allegations in paragraph 64 of the Complaint, Defendants  
15 admit that Plaintiff discussed with them the subject of WASC accreditation, but  
16 deny that their discussions with Plaintiff on any subject were “detailed” and that  
17 Plaintiff conveyed any strategies that were not also obvious or readily discernible to  
18 Defendants and TCS. In all other respects, Defendants are without knowledge or  
19 information sufficient to form a belief as to the truth of the allegations, and on that  
20 basis deny the allegations contained therein.

21 65. In answer to the allegations in paragraph 65 of the Complaint, Defendants  
22 state that the allegations that the identified information is trade secrets are  
23 conclusions of law, which require no responsive pleading under the Federal Rules  
24 of Civil Procedure. Defendants deny any insinuation made by this paragraph that  
25 they did not maintain the confidentiality of Plaintiff’s information or that they used  
26 it for any improper purpose. In all other respects, Defendants are without  
27 knowledge or information sufficient to form a belief as to the truth of the  
28 allegations, and on that basis deny the allegations contained therein.

1 66. In answer to the allegations in paragraph 66 of the Complaint, Defendants  
2 deny the allegations contained therein.

3 67. In answer to the allegations in paragraph 67 of the Complaint, Defendants  
4 admit that Haynes participated in the discussions with Plaintiff and assisted in  
5 bringing about the affiliation of TCS with COL. In all other respects, Defendants  
6 are without knowledge or information sufficient to form a belief as to the truth of  
7 the allegations, and on that basis deny the allegations contained therein.

8 68. In answer to the allegations in paragraph 68 of the Complaint, Defendants  
9 deny that Pulle revealed marketing strategies to them, including advertising on  
10 buses. In all other respects, Defendants are without knowledge or information  
11 sufficient to form a belief as to the truth of the allegations, and on that basis deny  
12 the allegations contained therein.

13 69. In answer to the allegations in paragraph 69 of the Complaint, Defendants  
14 state that the allegations that Defendants had contractual and “fiduciary-like  
15 obligations” to Plaintiff are conclusions of law, which require no responsive  
16 pleading under the Federal Rules of Civil Procedure. Defendants deny that they  
17 have “knowledge” of Plaintiff’s “most valuable trade secrets and confidential  
18 information.” In all other respects, Defendants are without knowledge or  
19 information sufficient to form a belief as to the truth of the allegations, and on that  
20 basis deny the allegations contained therein.

21 70. In answer to the allegations in paragraph 70 of the Complaint, Defendants  
22 deny the allegations contained therein.

23 71. In answer to the allegations in paragraph 71 of the Complaint, Defendants  
24 deny the allegations contained therein.

25 72. In answer to the allegations in paragraph 72 of the Complaint, Defendants  
26 deny the allegations contained therein.

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**THIRD CLAIM FOR RELIEF**

**(Violation of the Unfair Competition Law Against All Defendants)**

73. In answer to the allegations in paragraph 73 of the Complaint, Defendants incorporate by reference their answer to each and every allegation contained in paragraphs 1 through 72, inclusive, as though fully set forth herein.

74. In answer to the allegations in paragraph 74 of the Complaint, Defendants deny the allegations contained therein.

75. In answer to the allegations in paragraph 75 of the Complaint, Defendants admit that Plaintiff seeks the specified relief but deny that Plaintiff is entitled to such relief.

**PRAYER FOR RELIEF**

In answer to Plaintiff’s Prayer for Relief, Defendants deny that they have committed any of the asserted violations and that Plaintiff is entitled to injunctive, declaratory, compensatory, punitive, restitutionary, or any other form of relief, including costs, interest and attorneys’ fees.

**AFFIRMATIVE DEFENSES**

76. For a FIRST AFFIRMATIVE DEFENSE, Defendants allege that the Complaint as a whole, and each claim for relief asserted therein, fail to state a claim upon which relief may be granted.

77. For a SECOND AFFIRMATIVE DEFENSE, although Defendants deny that Plaintiff has been damaged in any way and that any defendant committed any wrongdoing, if it should be determined that Plaintiff has been damaged, then Defendants allege that the proximate cause of such damage was the conduct, negligence, or fault of Plaintiff or others for which Defendants were not and are not responsible. Defendants may only be held liable for that portion of any damages which corresponds to their degree of fault or responsibility and may not be held liable for any damage attributable to the conduct, negligence or fault of Plaintiff or any other party.

1 78. For a THIRD AFFIRMATIVE DEFENSE, although Defendants deny that  
2 Plaintiff has been damaged in any way and that any defendant committed any  
3 wrongdoing, if it should be determined that Plaintiff has been damaged, then  
4 Defendants allege that, to the extent any of their conduct caused Plaintiff damage,  
5 Defendants were acting at all relevant times as the agents, attorneys and  
6 representatives of TCS, for its benefit, on its behalf, and under its direction, and to  
7 that extent, TCS is the only party that should contractually and equitably be held  
8 responsible to Plaintiff. Further, Figuli was acting at all relevant times as the  
9 employee of Global Equities, LLC, and to that extent, is not responsible for any  
10 alleged liability in his individual capacity.

11 79. For a FOURTH AFFIRMATIVE DEFENSE, Defendants allege that the  
12 Complaint, and each of the claims for relief therein, are barred by the doctrine of  
13 laches.

14 80. For a FIFTH AFFIRMATIVE DEFENSE, Defendants allege that the  
15 Complaint, and each of the claims for relief therein, are barred by the doctrine of  
16 waiver.

17 81. For a SIXTH AFFIRMATIVE DEFENSE, Defendants allege that the  
18 Complaint, and each of the claims for relief therein, are barred by the Plaintiff's  
19 implied or express consent to Defendants' actions.

20 82. For a SEVENTH AFFIRMATIVE DEFENSE, Defendants allege that  
21 Plaintiff's Complaint, and each of the claims for relief therein, are barred by  
22 California Business & Professions Code section 16600 and other laws protecting  
23 open competition.

24 83. For an EIGHTH AFFIRMATIVE DEFENSE, Defendants allege that even if  
25 the allegedly wrongful conduct had not occurred, the parties would still be in the  
26 same positions they are in today and therefore, no alleged damages are attributable  
27 to any allegedly wrongful conduct.

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1 84. For a NINTH AFFIRMATIVE DEFENSE, Defendants allege that the  
2 Complaint as a whole, and each claim for relief asserted therein, fail to state a claim  
3 that would support an award of compensatory damages.

4 85. For a TENTH AFFIRMATIVE DEFENSE, Defendants allege that the  
5 Complaint as a whole, and each claim for relief asserted therein, fail to state a claim  
6 that would support an award of punitive damages.

7 86. For an ELEVENTH AFFIRMATIVE DEFENSE, Defendants allege that the  
8 Complaint as a whole, and each claim for relief asserted therein, fail to state a claim  
9 that would support an award of attorneys' fees.

10 87. For a TWELFTH AFFIRMATIVE DEFENSE, Defendants allege that the  
11 Complaint as a whole, and each claim for relief asserted therein, fail to state a claim  
12 that would support an award of restitution.

13 88. For a THIRTEENTH AFFIRMATIVE DEFENSE, Defendants allege that the  
14 Complaint as a whole, and each claim for relief asserted therein, fail to state a claim  
15 that would support the granting of injunctive relief.

16 89. For a FOURTEENTH AFFIRMATIVE DEFENSE, Defendants allege  
17 Plaintiff lacks standing to bring its Claim for Relief for violation of Business &  
18 Professions Code section 17200 et seq.

19 90. Defendants allege that they cannot fully anticipate all affirmative defenses  
20 that may be applicable to this action based upon the conclusory allegations of the  
21 Complaint. Defendants' defenses will depend heavily on additional evidence that  
22 comes to light over the course of the litigation. Accordingly, Defendants expressly  
23 reserve the right to assert further defenses, if, and to the extent, such affirmative  
24 defenses become applicable.

25 WHEREFORE, Defendants pray:

- 26 1. That Plaintiff's Complaint be dismissed in its entirety;  
27 2. That Plaintiff take nothing by reason of the Complaint;  
28 3. That judgment be entered in favor of Defendants;

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- 4. That Defendants be awarded attorneys' fees and costs of suit; and
- 5. For such other and further relief as the Court deems just and proper.

Dated: October 31, 2011

STRAZULO FITZGERALD LLP

By /s/ Cody Jaffe  
MAURICE FITZGERALD  
CODY JAFFE  
Attorneys for Defendants DAVID J.  
FIGULI and GLOBAL EQUITIES, LLC  
d/b/a HIGHER EDUCATION GROUP



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who have consented to electronic service are being served with a copy of the foregoing document via Central District of California CM/ECF system on October 31, 2011.

\_\_\_\_\_  
/s/ Cody Jaffe

1 MAURICE J. FITZGERALD (SBN 149712)  
2 CODY JAFFE (SBN 215301)  
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5 Attorneys for Defendants  
6 DAVID J. FIGULI and  
7 GLOBAL EQUITIES, LLC d/b/a  
8 HIGHER EDUCATION GROUP

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 SOUTHERN CALIFORNIA  
11 INSTITUTE OF LAW, a California  
12 corporation,

13 Plaintiff,

14 v.

15 TCS EDUCATION SYSTEM, an  
16 Illinois corporation; DAVID J. FIGULI,  
17 an individual; and GLOBAL  
18 EQUITIES, LLC d/b/a HIGHER  
19 EDUCATION GROUP, a Colorado  
20 limited liability company,

21 Defendants.

Case No. CV10-8026 JAK (AJWx)  
(Assigned to the Hon. John A.  
Kronstadt)

PROOF OF SERVICE

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**PROOF OF SERVICE**

I am a citizen of the United States. My business address is Three Embarcadero Center, Eighth Floor, San Francisco, California 94111. I am employed in the county of San Francisco where this service occurs. I am over the age of 18 years and not a party to the within cause.

On October 31, 2011, I served the following documents(s) described as:

**DEFENDANTS DAVID J. FIGULI'S AND GLOBAL EQUITIES, LLC'S ANSWER TO SECOND AMENDED COMPLAINT**

**X BY MAIL:** I am readily familiar with my employer's normal business practice of collection and processing of correspondence for mailing. Under that practice, correspondence is deposited with the U.S. Postal Service that same day in a sealed envelope(s) with postage thereon fully prepaid at San Francisco, California, in the ordinary course of business.

**BY PERSONAL SERVICE:** I caused such DOCUMENTS to be delivered by hand this date to the addressee(s) listed below.

**BY E-MAIL:** On October 23, 2011, I served a full and complete copy of the above-referenced document(s) by e-mail transmission to the person(s) at the email addresses indicated

**BY OVERNIGHT DELIVERY:** I caused such envelope(s) to be delivered on the same day to an authorized courier or driver or to a regular box or other facility regularly maintained by FEDERAL EXPRESS with delivery fees provided for, addressed to the person(s) on whom it is to be served.

on the interested party(ies) in this action addressed as follows:

**BY U.S. MAIL AND ELECTRONIC SERVICE**

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**STATE:** I declare under penalty of perjury under the laws of the State of

**STRAZULO FITZGERALD LLP**

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California that the above is true and correct.

Executed on October 31, 2011, at San Francisco, California.



\_\_\_\_\_  
Alice Kay