

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
CASE NO.: 2:04-cv-47-FtM-34-SPC

ORIGINAL

WHITNEY INFORMATION NETWORK, Inc.,)
a Colorado corporation,)

Plaintiff,)

vs.)

XCENTRIC VENTURES, LLC, an)
Arizona limited liability company;)
BADBUSINESSBUREAU.ORG, an,)
Arizona limited liability company;)
and, ED MAGEDSON, an individual,)

Defendants.)

Phoenix, Arizona
August 1, 2007
10:00 a.m.

THE VIDEOTAPED DEPOSITION OF EDWARD MAGEDSON

VOLUME 2

Pages 127 - 271

DEBORAH L. TUCKER
Certified Reporter
Certificate No. 50464

U.S. Legal Support
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EXHIBITS (continued)

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| No. 14 | 1-page e-mail series, October 2005 between Russ Whitney and Editor Bates No. XCN WHT-00044 | 197 |
| No. 15 | 11-page document; "class Action Lawsuit Framework in Process" Bates Nos. XCN WHT-0053 through 00064 | 200 |
| No. 16 | 3-page e-mail series, June 2006 between Editor and Robert Paisola Bates Nos. XCN WHT-00278 through 020 | 210 |
| No. 17 | 1-page e-mail from Editor to Robert Paisola Bates No. XCN WHT-000321 | 213 |
| No. 18 | 1-page e-mail from XD700@aol.com to info@RipOffReport.com, October 2006 Bates No. XCN WHT-00328 | 214 |
| No. 19 | 7-page e-mail series, January, February and May 2007 between M.A. Yates and Editor Bates Nos. XCN WHT-00331 through 00337 | 217 |
| No. 20 | 3-page e-mail series, February 2006 between cream bar and Editor Bates Nos. XCN WHT-00325 through 00327 | 225 |

1 THE VIDEOTAPED DEPOSITION OF EDWARD MAGEDSON
2 continued on August 1, 2007, at 3:21 p.m., in the
3 offices of Jaburg & Wilk, PC, 3200 North Central Avenue,
4 Suite 2000, Phoenix, Arizona, before Deborah L. Tucker,
5 a certified reporter, Certificate No. 50464, for the
6 State of Arizona, pursuant to the Rules of Civil
7 Procedure.

8 The Plaintiff, Whitney Information Network,
9 was represented by its attorneys, Rothstein, Rosenfeldt,
10 Adler, by Mr. Steven L. Lippman and Mr. Shawn L. Birken.

11 The Defendants, Xcentric Ventures,
12 Badbusinessbureau.org, and Mr. Magedson, were
13 represented by their attorneys, Jaburg & Wilk, by
14 Ms. Maria Crimi Speth and Mr. Adam S. Kunz.

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Phoenix, Arizona
August 1, 2007
3:21 o'clock p.m.

(The proceedings commenced at 3:21 p.m.)

EDWARD MAGEDSON,
having been previously duly sworn, was further examined
and testified as follows:

(Deposition Exhibit No. 6 was marked for
identification.)

VIDEOGRAPHER: This is the beginning of
Tape No. 2 of the continuing videotaped deposition of
Ed Magedson.

On the record. The time is 3:21 p.m.

E X A M I N A T I O N

BY MR. LIPPMAN:

**Q. Mr. Magedson, I'm handing you what I've marked
as Exhibit 6. And this is another portion of the
Rip-Off Report website, right?**

A. Um-hum, I guess. I can't verify that this is
exactly what's there, but...

Q. You don't know whether it is or it isn't?

A. No, I wouldn't.

1 Q. See on the bottom where it says
2 <http://www.ripoffreport.com?>

3 A. People have spoofed my website in the past.
4 So, I mean, it looks like something that's relatively --
5 it could be it. I'm not -- I can't check every word and
6 couldn't verify every word, so...

7 Q. You can't tell one way or the other?

8 A. I can't tell one way or another.

9 Q. Okay. There is a frequently asked questions
10 portion of the Rip-Off Report, right?

11 A. Yes.

12 Q. Would you mind turning to Page 6 of 8 of
13 Exhibit 6. Do you have that in front of you?

14 A. Okay.

15 Q. And do you see there's a section about midway
16 down the page, "How do I file a Rip-Off Report?" Do you
17 see that, sir?

18 A. Okay.

19 Q. And there's a Section A, "Select the, quote,
20 File your Rip-Off Report, close quote, button." Do you
21 see that?

22 A. Okay.

23 Q. And then, "B, File your report which consists
24 of six easy steps." Do you see that?

25 A. Correct, yes.

1 Q. Do you see Step 4, it says, "Categorize your
2 report by selecting from our list of categories."

3 A. Um-hum.

4 Q. Okay. And this is when you're preparing a
5 report there's a -- I think the term they call it is a
6 drop-down. You kind of click on it and it drops down a
7 number of selections that you can choose and you have to
8 click one of those?

9 A. Yes.

10 Q. And the choices in that drop-down, those
11 choices were created by someone in Xcentric, right?

12 MS. SPETH: Object to form.

13 THE WITNESS: Hum?

14 Q. BY MR. LIPPMAN: I'm sorry?

15 A. What did you say?

16 MS. SPETH: I said "Object to form."

17 THE WITNESS: Oh. Ask the question. What's
18 the question?

19 Q. BY MR. LIPPMAN: When you hit that portion of
20 the categories --

21 A. Um-hum.

22 Q. -- and you click it and it drops down, the
23 alternatives, all of the alternatives that are in there,
24 those were options that were created by somebody at
25 Xcentric?

1 A. Created -- what created -- what was created?

2 Q. Who came up with those options for the
3 categories?

4 A. The consumers.

5 Q. I'll show it to you afterwards.

6 And would you turn to the next page, Page 7 of
7 8 of Exhibit 6?

8 A. Can you repeat that question, what you're
9 asking? Maybe I'm misunderstanding what you're saying.

10 Q. Sure.

11 A. I'm not happy with what your --

12 Q. When you fill out the form to do a -- to file
13 a Rip-Off Report --

14 A. Okay.

15 Q. -- and you hit the category portion and
16 there's the drop-down that we talked about earlier, the
17 various items that are in the drop-down, the various
18 categories that are in the drop-down --

19 A. Okay.

20 Q. -- those categories were created by somebody
21 at Xcentric?

22 A. Oh, created --

23 Q. Right.

24 A. -- the categories?

25 Q. Yeah. Somebody at Xcentric came up with those

1 **categories, right, and then the consumer chooses among**
2 **one of those categories?**

3 A. The answer is yes and no.

4 **Q. Okay.**

5 A. There was -- at the very beginning there was
6 some basic benign categories that were made. Before,
7 what I thought you were asking is who created -- creates
8 the report when you select the category.

9 **Q. Okay.**

10 A. All right. There -- back years ago there were
11 basic categories that were placed. And then there
12 really wasn't categories to really accommodate a lot of
13 people, so they would suggest a category, and it was on
14 the basis of their category of their suggestion that we
15 would create new categories.

16 **Q. Okay. So consumer --**

17 A. So the only way a category gets created --

18 **Q. Um-hum.**

19 A. -- is if somebody sends an e-mail and says,
20 "Oh, I'm trying to file a report on dog watchers," you
21 know, you know, "could you create a category for dog
22 watchers?"

23 **Q. Okay.**

24 A. You know, we may say, well, there is already
25 some -- a category there for animal services, okay, in

1 general, so we may say just go ahead and do that or we
2 would go ahead and create, on their request, create a
3 new category.

4 Q. Okay. So consumers suggest new categories to
5 Xcentric?

6 A. Correct.

7 Q. And Xcentric decides whether the consumer's
8 suggestion is something worthy --

9 A. Right.

10 Q. -- of putting a new category in and adding it
11 or whether it's already covered and not adding it?

12 A. Right.

13 Q. And if you -- and if Xcentric thinks it's
14 worthy in adding it, it adds it to the drop-down list,
15 includes it in there so the next consumer filing a
16 report can choose that category if he wants to or she
17 wants to?

18 A. Right.

19 Q. Okay. Now let's turn to Page 7 of Exhibit --
20 what am I on, 6? Yeah, Exhibit 6. Do you have that,
21 sir?

22 A. You want me to go to 7?

23 Q. Yeah, Page 7.

24 A. We're already on 7. Oh, we were on 6. Okay.
25 All right.

1 Q. Got it?

2 A. Yes.

3 Q. And you see there's a category, the second one
4 down, "What makes a good Rip-Off Report?" Do you see
5 that?

6 A. Um-hum.

7 Q. Okay. And this is trying to give the
8 consumers some guidance on what they should think about
9 in preparing their Rip-Off Reports?

10 A. Right. And being honest and factual. Okay.
11 I see it.

12 Q. And then you go down next, "How can my story
13 be featured on the home page?" Do you see that?

14 A. Okay.

15 Q. And the home page or the front page, this is
16 what we talked about earlier in, for instance, Exhibit
17 2, that were under the top Rip-Off Reports --

18 A. Um-hum.

19 Q. -- and featured Rip-Off Reports, right?

20 A. Go ahead.

21 Q. Correct? That's what we were talking about,
22 right?

23 A. Um-hum.

24 Q. So this section here, "How can my story be
25 featured on the home page?" this is guidance to a person

1 who wants to place a Rip-Off Report as to how his might
2 be deemed worthy of being in the top Rip-Off Reports or
3 featured Rip-Off Reports as we saw on Exhibit 2, right?

4 A. Um-hum.

5 Q. Correct?

6 A. Okay.

7 Q. Yes, sir?

8 A. Yes, sir.

9 Q. Okay.

10 (Deposition Exhibit No. 7 was marked for
11 identification.)

12 Q. BY MR. LIPPMAN: Why don't you give these back
13 to me so we can keep these organized here.

14 I'm handing you now what I've marked as
15 Exhibit 7. And you've seen this document before, right,
16 or you've seen this portion of the --

17 A. Okay.

18 Q. This is another portion of the Rip-Off Report
19 website, right?

20 A. Okay.

21 Q. Is that correct, sir?

22 A. Correct.

23 Q. Okay. This is where you would click to file a
24 report, what you would get, right? Sir?

25 A. I'm just not recognizing this for some reason.

1 Oh, okay, I understand. Okay.

2 Q. Right, sir?

3 A. Yeah, okay.

4 Q. If somebody clicks on "File a report," they
5 would have -- they would get to a place where they would
6 have to provide certain information about themselves,
7 right?

8 A. Yes, um-hum.

9 Q. Who they are, where they are, things of that
10 nature?

11 A. Yes.

12 Q. Okay. And then once they went through that,
13 they would get to this part to prepare the Rip-Off
14 Report they want to file, right?

15 A. Yes.

16 Q. And, as we see, it goes through step by step
17 the information that somebody has to provide in order to
18 file a Rip-Off Report, right?

19 A. Yes.

20 Q. And we see, for instance, in step -- on Page 2
21 of 7, "Step 2, General Report Information." This is
22 where it takes people through the steps of preparing the
23 title for their report, right?

24 A. Hold on.

25 Q. Right, it says "Step 2"?

1 A. I don't see that. Where are you talking
2 about?

3 Q. "Step 2, General Report Information," do you
4 see that?

5 A. Okay.

6 Q. First thing, "Title your Rip-Off Report"?

7 A. Um-hum.

8 Q. Right? It says four things. "A, The name of
9 the company for the individual you are reporting,"
10 right?

11 A. Okay.

12 Q. Correct?

13 A. Correct.

14 Q. Okay. "B, Descriptive words explaining what
15 they did to you," right?

16 A. Correct.

17 Q. "C, The city the company or individual is
18 located in"?

19 A. Yes.

20 Q. And, "D, The state the company or individual
21 is located in," right?

22 A. Yes.

23 Q. That's the guidance provided to somebody
24 wishing to post a Rip-Off Report and preparing the title
25 for the Rip-Off Report, right?

1 A. Correct.

2 Q. And then -- so you go down -- it goes in
3 further detail. For instance, Item B, "Enter
4 descriptive words to your title to describe what the
5 company or individual did to you," right?

6 A. Yeah, where -- what number are you on?

7 Q. Letter B, Capital B.

8 A. Okay.

9 Q. Do you see that?

10 A. Okay. Yes.

11 Q. And the person is instructed "Be creative when
12 using the example words. It will make your report more
13 interesting." You see, "Search other reports to see
14 what others are writing."

15 A. Okay.

16 Q. That's the guidance that Xcentric is providing
17 to people who want to post a Rip-Off Report as to how to
18 prepare a title, right?

19 A. Okay.

20 Q. Correct?

21 A. Yes.

22 Q. And if you would turn to Page 5 of 7, please.
23 Do you have that, sir?

24 A. Yes.

25 Q. Okay. And you see here, "Step 4, categorize

1 report"?

2 A. Correct, yes.

3 Q. It says "Categorize your Rip-Off Report"?

4 A. Um-hum.

5 Q. And then you see down there where it says
6 first choose a topic, then locate the best category that
7 suits your report, right?

8 A. Okay, yes.

9 Q. And then these are the drop-downs that we
10 talked about earlier? These are the --

11 A. Well, it's like a ----

12 Q. -- the topics somebody chooses and then the
13 category they choose, right?

14 A. Right.

15 Q. And the selection among the topics and the
16 categories, what's in those two areas, topic and
17 category -- well, I'm not -- let me start all over
18 again. I'm totally butchering that. And if you
19 followed me I'd be surprised.

20 But, in the first item, first choose a topic,
21 do you see that?

22 A. Yes.

23 Q. And the alternatives under "Topic," for
24 instance, do you see the first one there, "Outrageous
25 and popular Rip-Off," or the second one, "Unusual

1 Rip-Off," those options were selected by Xcentric,
2 correct?

3 The available options were selected by
4 Xcentric. The person chooses which of those available
5 options they want to choose. Right?

6 A. Right.

7 Q. Okay. Same thing under the second item,
8 "Choose a category." "Attorneys" -- "Attorney generals,
9 auto dealers, BBB, Better Business Bureau," et cetera,
10 those alternatives were selected by Xcentric Ventures,
11 and then the individual chooses among those
12 alternatives, correct?

13 A. Correct.

14 Q. And as we see in the next step, Step 5, "Add
15 Report Link" -- but you have to put the entity that
16 you're reporting on at the end of your report because
17 that will link it to all of the other reports on the
18 Rip-Off Report about that entity?

19 A. You don't have to.

20 Q. Oh, you don't have to? That's an option
21 somebody has?

22 A. That's right. You don't have to do that.

23 Q. Okay. And, again, somebody would fill all
24 this out, get to the end and hit, like we see on Page 6
25 of 7, "Submit your report," and that's how -- the

1 process somebody goes through in submitting a Rip-Off
2 Report, right?

3 A. Right.

4 (Deposition Exhibit No. 8 was marked for
5 identification.)

6 Q. BY MR. LIPPMAN: I'll trade with you.

7 A. No.

8 Q. I'm now handing you what I've marked as
9 Exhibit 8. Do you know, have you seen this document
10 before?

11 A. I don't know what you -- oh, I mean --

12 Q. Well, let me tell you. See, in the lower
13 right-hand corner where it says XCN WHT-00011?

14 A. Oh, okay. Yes, I have actually, yeah.

15 Q. You've seen this document before, right?

16 A. Yes, I do remember this.

17 Q. And I will represent to you, this document was
18 produced to us in this litigation. That's where you see
19 the --

20 A. Okay. I remember it. That's why -- okay. I
21 do remember it. Okay. Okay.

22 Q. Now, when I say this document shows, I'm going
23 to say for lack of a better term, a little blurb of
24 information with regard to the various Rip-Off Reports
25 that were posted on the Rip-Off Report website, that

1 pertained to Whitney or Russ Whitney, right?

2 A. It looks like that, yes.

3 Q. Okay. And we see, for instance, like on the
4 first page of Exhibit 7 -- I was going to look at the
5 first -- excuse me, the first page of Exhibit 8. I'm
6 just going to look at the first item where it says "Date
7 4-5-2007, 5:21:21 p.m.," that means that this particular
8 Rip-Off Report posting was posted on April 5th, 2007 at
9 5:21 and 21 seconds p.m., right?

10 A. Yeah.

11 Q. Okay. And the title of it is "Russ Whitney,
12 Building Wealth, comma, Whitney Education Group SCAM,"
13 et cetera. That's -- that would be -- in other words,
14 if I went to that Rip-Off Report that's what the title
15 of it would be, right?

16 A. Correct.

17 Q. Okay. And then underneath it where it says
18 "Seminar Programs," do you see that?

19 A. Right.

20 Q. Seminar programs, that's one of the topic
21 categories that would come in the drop-down that
22 somebody has to select, right?

23 A. Right.

24 Q. So, again, we'd see on their Rip-Off Report
25 under the category, it would say -- it would say

1 "Semester Programs," correct?

2 A. Correct.

3 Q. That's contained in the report that gets
4 posted and published, right?

5 A. Um-hum.

6 Q. Sir?

7 A. Yes.

8 Q. Okay. And then we see on the right-hand side
9 where it says "Author," in this instance, "Moon
10 Township, Pennsylvania," right? That tells me who
11 posted that particular Rip-Off Report?

12 A. It just tells you the city and state.

13 Q. And where they're located?

14 A. Right.

15 Q. But Moon, that's supposed to designate who the
16 person is, right, and then the township?

17 A. No, it's not the name. That's the town. Moon
18 Township.

19 Q. Oh, okay. I understand. So it says "Author,
20 Moon Township, Pennsylvania." That just means where the
21 person is?

22 A. Right.

23 Q. Like in the one below that we see "Author," it
24 says "Los Angeles, California" --

25 A. Right.

1 Q. -- that tells me where that person is located?

2 A. Right.

3 Q. Okay, I gotcha. Now, if you could go down
4 just a little bit further on the same first page of
5 Exhibit 8, the third -- for instance, the third posting
6 there, you see the one on March 17th, 2007 at 8:56 p.m.?

7 A. Right.

8 Q. "Russ Whitney Education Group Scam," right?
9 And it continues on. Do you see that?

10 A. Right.

11 Q. And the category that this was put under is
12 "Con artist," right?

13 A. Okay.

14 Q. Correct?

15 A. I see it, yes.

16 Q. Okay. And, again, that con artist category,
17 that's one of the categories that Xcentric Ventures
18 offers that somebody has to choose among?

19 A. Yes, the consumer chooses that.

20 Q. Okay. And the same thing on the one below
21 that, the fourth one on May -- excuse me, March 8th,
22 2007 at 4:52 p.m., the category there is "Corrupt
23 Companies," right?

24 A. I see that, yes.

25 Q. And, again, that's one of the topics that

1 Xcentric Ventures offers as one of the alternatives for
2 a consumer to select in posting his Rip-Off Report,
3 right?

4 A. Yes, correct.

5 Q. And then if you would turn to the fourth page
6 -- and, I'm sorry, they're not -- just so you know, the
7 fourth page of Exhibit 8, it says on the bottom -- it's
8 00014.

9 A. Okay.

10 Q. Do you have that?

11 A. Yes.

12 Q. And, again, the seventeenth report,
13 October 28, 2006, do you see that?

14 A. All right.

15 Q. "Russ Writ" -- "Russ Whitney ripped off
16 another hard worker." Do you see that?

17 A. Correct, yes.

18 Q. And the category for this Rip-Off Report was
19 again "Corrupt Companies," right?

20 A. Okay, I see that.

21 Q. Correct?

22 A. Correct.

23 Q. Okay. Again, "Corrupt Companies" is one of
24 the topic categories that Xcentric Ventures makes
25 available to people to utilize in posting a Rip-Off

1 **Report, right?**

2 A. My answer hasn't changed.

3 **Q. "Yes"?**

4 A. Correct, yes.

5 **Q. And if you would flip over to the next page of**
6 **Exhibit 8 you'll see there's an entry 28, September 7th,**
7 **2006. Do you see that?**

8 A. No. 28, okay.

9 **Q. "Russ Whitney, aka, Whitney Education**
10 **Services," do you see that one?**

11 A. "Aka Wealth Intelligence" --

12 **Q. Yes.**

13 A. -- "Academy."

14 **Q. Yes. And the category that this one, this**
15 **Rip-Off Report, was posted under was "False TV**
16 **Advertisements," right?**

17 A. Okay, yes, I see that.

18 **Q. Okay. And false TV advertisements is a number**
19 **-- another one of the categories that Xcentric offers as**
20 **one of the choices that a consumer has to use to post a**
21 **Rip-Off Report, correct?**

22 A. I see that.

23 **Q. Is that correct?**

24 A. Correct.

25 **Q. If you wouldn't mind, turn over two more pages**

1 to the page that ends at 00017. Do you have that?

2 A. I see it.

3 Q. Do you see -- again, Report 31, March 16th,
4 2006, "Russ Whitney Scam Alert." Do you see that one?

5 A. Um-hum.

6 Q. Again, the category there was "False TV
7 Advertisements," right?

8 A. I see that.

9 Q. As well as No. 34 on October 11th, 2005, also
10 the category for that one was "False TV Advertisements,"
11 right?

12 A. I see that.

13 Q. And "False TV Advertisements" is one of the
14 other topics that Xcentric Ventures offered as an
15 alternative for a consumer to use for posting a Rip-Off
16 Report?

17 A. Correct.

18 Q. Would you flip to the next page? It's 00018.
19 Do you have that?

20 A. Okay. I'm at 00018.

21 Q. Okay. Do you see Exhibit -- excuse me -- Item
22 36, the category for that one was "False TV
23 Advertisements," right?

24 A. Correct.

25 Q. And for 37, "Corrupt Companies"?

1 A. Correct.

2 Q. 38, "Corrupt Companies"?

3 A. Correct.

4 Q. For 39, "Corrupt Companies"?

5 A. Correct.

6 Q. For 40, "False TV Advertisements"?

7 A. Correct.

8 Q. For 42, "Corrupt Companies"?

9 A. "Home based business" -- oh. No, corrupt

10 business.

11 Q. Correct?

12 A. Correct.

13 Q. And for 45, again, the category was "Corrupt

14 Companies," correct?

15 A. Financial services?

16 Q. No, the one below it. Four -- it's Aug- --

17 four -- No. 45, August 31, 2003.

18 A. Okay.

19 Q. Do you see that? The category was "Corrupt

20 Companies"?

21 A. Yes.

22 Q. And, again, these two categories, "False T's"

23 -- "False TV Advertisements" and "Corrupt Companies" are

24 two of the alternatives that Xcentric Ventures offers to

25 a consumer to use as a category under which they need to

1 post a Rip-Off Report, right?

2 A. Correct.

3 Q. And if I can have you flip two more pages to
4 the page ending in 00020, do you have that?

5 A. Okay.

6 Q. And again we see for posting No. 46 the
7 category was "Corrupt Companies," right?

8 A. Multi level marketing?

9 Q. No. "No. 46, Russ Whitney Rip-Off, dishonest,
10 fraudulent, no service."

11 A. I'm having a hard time seeing. Okay.

12 Q. Do you see that?

13 A. Is that the top one?

14 Q. Yes, sir.

15 A. Yes, I see it.

16 Q. "Corrupt Companies" is the topic for this one,
17 right?

18 A. Correct, yes, I see.

19 Q. And the next one below it, 47, the topic is
20 "False TV Advertisements," right?

21 A. I see "Multi Level Marketing."

22 Q. No, the one above it. That's 48.

23 A. Okay.

24 Q. The one above it, 47, on January 31st, 2003.

25 A. Okay.

1 Q. Do you see where the topic is "False TV
2 Advertisements"?

3 A. Yes.

4 Q. Again, as we talked about before, corrupt
5 companies and false TV advertisements are two of the
6 various topics that Xcentric Ventures makes available to
7 a consumer to choose among in posting a Rip-Off Report,
8 right?

9 A. Yes.

10 MS. SPETH: You're doing fine now? Sorry.

11 THE WITNESS: I'm tired.

12 Q. BY MR. LIPPMAN: I'll switch with you again.
13 (Deposition Exhibit No. 9 was marked for
14 identification.)

15 Q. BY MR. LIPPMAN: I'm handing you now what I've
16 marked as Exhibit No. 9. And this is another part of
17 the Rip-Off Report website, right?

18 A. Yes.

19 Q. And this portion of the Rip-Off Report website
20 deals with the corporate advocacy business program?

21 A. Corporate advocacy business remediation and
22 customer satisfaction program, yes.

23 Q. Okay. I've seen that referred from time to
24 time as the CAP.

25 A. Correct.

1 Q. Can we refer to that as CAP? Otherwise, I'll
2 run out of breath if I have to keep saying it.

3 A. All right. I'll let you do that.

4 Q. You're going to be nice to me?

5 A. Yes.

6 Q. Okay. So if I refer to CAP, we're talking
7 about the Rip-Off Report corporate advocacy business
8 remediation and consumer satisfaction program, right?

9 A. Right.

10 Q. And in order to participate in the CAP, an
11 entity or person against whom a Rip-Off Report has been
12 posted pays a fee for that, right?

13 A. Ask the question -- ask -- ask me the question
14 again.

15 Q. Sure. In order to participate in the CAP, the
16 entity or person against whom a Rip-Off Report has been
17 posted pays a fee?

18 A. I'm going to say no to that question --

19 Q. Okay.

20 A. -- because the way you're asking it is -- is,
21 you're twisting around in a way, and I'm not --

22 Q. I'll ask it differently.

23 A. All right. Go ahead. All right.

24 Q. The CAP is -- the people who participate in
25 the CAP are individuals or entities to whom Rip-Off

1 Reports have been posted about, the subject of a Rip-Off
2 Report?

3 A. Yes.

4 Q. Okay. And in order for that individual or
5 entity to participate in the CAP, they pay Rip-Off
6 Report a fee, correct?

7 A. Well, they have to do other things before they
8 pay the fee, so...

9 Q. But one of the -- one of the prerequisites of
10 participating in the CAP program is paying a fee?

11 A. Yeah, but we just don't take the fee. They
12 have to do certain things in order to pay the fee.

13 Q. Okay. But --

14 A. So --

15 Q. -- they have to do certain things and pay a
16 fee? It's one of the things they need to do is pay a
17 fee?

18 A. Okay, yes.

19 Q. Right?

20 A. It's one of the things.

21 Q. Okay. I mean, you can do the other things --
22 I understand if you pay the fee but don't do the other
23 things you don't get in the CAP program, right? In
24 other words, you can't just pay and not do the other --
25 do the other things?

1 A. Right. You have to -- I'll let you ask me the
2 questions and I'll just --

3 Q. Okay. In order to participate in the CAP, the
4 person can't just pay the fee and not do the other
5 things it needs to do?

6 A. Correct.

7 Q. Just as well, it can't just do the other
8 things and not pay the fee, correct?

9 A. Right.

10 Q. You have to fulfill all the requirements, do
11 the other things and pay the fee to participate in the
12 CAP?

13 A. The fee is for our services.

14 Q. Okay. Now, if you look along the right-hand
15 side of Exhibit 9, in particular on the second page of
16 Exhibit 9, it says on the right-hand side, there's a box
17 there that says "Prescription Drug," or, like the second
18 one down, www.ZoomTalent.com, do you see that?

19 A. Correct, I see that.

20 Q. That's -- this is an advertisement that
21 somebody places on the Rip-Off Report?

22 A. Right.

23 Q. But this is like what we talked about earlier
24 where we saw the -- the rates for the advertising?

25 A. No. No.

1 Q. "No"?

2 A. Ask me the question again. I want to make
3 sure I'm understanding it correctly.

4 Q. Sure. Remember we saw earlier on Exhibit 4
5 the rates for the advertising on the Rip-Off Report?

6 A. Right.

7 Q. And we talked about people placing ads on the
8 Rip-Off Report? This is one of those ads, right?

9 A. No.

10 Q. This is not one of those ads?

11 A. No.

12 Q. Okay. Why is this any different than the ads
13 on --

14 A. Because I told you before --

15 Q. Yeah.

16 A. -- that's very old.

17 Q. Yeah.

18 A. This is a little bit more recent, but that's
19 way old. And it never lasted but maybe a few months.

20 Q. Okay.

21 A. And it was pulled. And that's going back five
22 years ago maybe. And this is -- these are different
23 ads. This is under a different test or --

24 Q. Okay. These folks would pay to have their ads
25 on the Rip-Off Report website, right?

1 A. No. These ads weren't -- these ads -- these
2 ads were not paid for.

3 **Q. These were ads put on for free?**

4 A. Yeah, they weren't paid for. I didn't receive
5 cash for them.

6 **Q. Were you supposed to receive cash and they**
7 **just didn't pay you?**

8 A. No, no.

9 **Q. You did it for free?**

10 A. I did it for free.

11 **Q. Why did you do that?**

12 A. I'm just a nice guy.

13 **Q. Now --**

14 A. Is there a question there? You asked me why I
15 did it?

16 **Q. Yeah.**

17 A. I'm a nice guy. I mean, just -- I did it. I
18 placed the ads.

19 **Q. Okay. All of these ads you placed for free?**

20 A. Right, all of those ads I placed for free.

21 **Q. Now, if I'm an entity and I participate in the**
22 **CAP, that means that when a Rip-Off Report is posted**
23 **about me, Xcentric will investigate the truth of that**
24 **Rip-Off Report, right?**

25 A. When new reports come in.

1 Q. When a new report comes in. In other words,
2 not before I became a member of -- participated in the
3 CAP, but after the time I partic- -- I become a member
4 of the CAP?

5 A. Right, correct.

6 Q. Okay. And so let's assume on January 1, 2007
7 my company, ABC, Inc., becomes a member of the CAP.

8 Okay?

9 A. Okay.

10 Q. And on January 10th, 2007 somebody posts a
11 Rip-Off Report about my company, ABC, Inc.?

12 A. Right.

13 Q. Then, as a member of CAP, Xcentric, operator
14 of the Rip-Off Report, would investigate whether or not
15 what is contained in that Rip-Off Report is true or not,
16 correct?

17 A. No.

18 Q. Okay. What would you do?

19 A. Well, we sent -- because part of the CAP, the
20 company agrees --

21 Q. Um-hum?

22 A. -- first off, the company agrees, anyone who's
23 filed an existing report, they're going to make them a
24 hundred percent satisfied. And even if that means a
25 refund. That's everyone that filed a Rip-Off Report.

1 We -- they agree to an e-mailing. We e-mail them out.
2 That's number one.

3 **Q. Um-hum?**

4 A. So then we send them out the e-mail. And we
5 do a mass e-mail out to all the consumers that filed a
6 Rip-Off Report on the particular company. And we send
7 them an e-mail, look, the company -- whatever the
8 company's giving us in writing that they are committing
9 to that we can put in a report about them, they're
10 giving us in writing their commitment to good customer
11 service, how they've changed, maybe they fired people,
12 maybe they made more hours for their customer service,
13 and everything else like that. But they have to give us
14 a stated commitment in what they're doing --

15 **Q. Okay.**

16 A. -- to make -- for the program, in order to do
17 the program.

18 Then, after that, the -- and then after that,
19 then anything new that comes in, the company agrees that
20 anyone running across a Rip-Off Report or filing in a
21 report because they're upset, whether it be from the
22 past or just in the present, they were wronged by the
23 company, the company agrees that they're going to take
24 care of the problem.

25 Not ten percent, not five percent, no

1 arbitration, they're going to make them figure out
2 what's -- and they're going to get it resolved quickly.
3 No dragging it out. No lawyers, no arbitration, none of
4 that garbage. They're going to make things right and
5 move on.

6 And the program really works. And everybody
7 that's on it likes it. I know I'm telling you more than
8 you need to know.

9 But the business has to -- we -- so what we
10 end up doing with that report is, we e-mail that person
11 as soon as they filed the report, we e-mail them and
12 tell them, look, I don't know if you read what --
13 basically, I'm just giving you the roundabouts, like if
14 you read what was written, what we've posted about the
15 company, or why you're trying to file a new report, but,
16 look, the company is willing to make things right with
17 you and somebody will contact you within three to five
18 business days. We try to give them some statistics
19 about the company, some changes that they made. This is
20 slipping through the cracks, probably. Company
21 executives are going to want to take care of this with
22 you, and somebody will get to you within three to five
23 business days. If it's a holiday time, we even give
24 them, you know, 10 to 14 days, depending upon if there's
25 a, you know, a holiday period. So we give the company

1 time to get back to them within a reasonably soon time.
2 And so the company -- so the consumer is satisfied and,
3 hopefully, the consumer doesn't want the report to still
4 be posted.

5 So, hopefully, taking care of the problem is
6 avoiding new problems, consumers get to see how a
7 business took care of the problems, their commitment.
8 And most of the companies that go on the program, the
9 more they admit to doing wrong, meaning, you know, like
10 when your child does something wrong and they try to
11 tell you, "Dad, I just didn't do that," and you know
12 damn well they lied and you want to punish them, well,
13 it doesn't work any different even when you're a
14 politician. Look, I take responsibility and, you know,
15 for that, I did that wrong and I should have never voted
16 for the war.

17 Okay. Well, your trust level maybe goes up a
18 little bit at least. Now we're talking politicians now.
19 But in a regular business, it's always better when a
20 consumer can read and see the history. I don't care if
21 it's 10,000 reports on the company.

22 And even like a company like Russ Whitney
23 who's got how many reports, and they're all over the
24 country. I mean, how many reports do they have? A
25 couple of dozen? Three dozen? Four dozen? It's really

1 not that bad.

2 So a -- consumers need to understand that --
3 we explain to the consumer, look, this is a small
4 fraction of their business. You know, you might have
5 gotten a bad representative, a salesman that's rotten.
6 You know, there's good, there's bad people all over the
7 place. The company executives are going to want to take
8 care of this. And the company takes care of it, even if
9 they're -- they shouldn't be, they take care of it in
10 the name of good customer service. Because, in all
11 honesty, most of these -- a lot of times consumers, they
12 think they were wronged. You're a consumer, too. You
13 go to a place of business and you walk out the door, you
14 think you were wronged. And maybe you weren't, you were
15 just being a jerk that day.

16 Is that possible? You know him better than I
17 do.

18 But, you know, you walk into a business and
19 you think -- well, who knows whatever -- whatever reason
20 you think they did wrong, but they didn't.

21 The program really shows a business how to
22 make -- how to change their image. With or without
23 Rip-Off Report, with or without it, Russ Whitney, and
24 every other company around that does things wrong, or
25 consumers think they do wrong, are going to get

1 complaints. I don't care who you are. You can't
2 satisfy everybody all the time.

3 So, with or without Rip-Off Report, people are
4 going to get complaints. Whether they put them on
5 whatever they're going to put them on, and they're free
6 to put whatever they want, you can call them all kinds
7 of corrupt this or dirty that, or they'll call them, you
8 know, seminar programs, to whatever. Consumers are
9 going to do it. And today, with the internet, consumers
10 want to hear a third-party opinion. They want to see
11 how a business took care of business.

12 So, it's -- most everybody who's on the
13 program -- everybody that's on the program, they're glad
14 the Rip-Off Report's there because it shows how they
15 took care of business and it completely turns around
16 their business. That's why the program does so well.
17 But businesses -- some businesses, like your company
18 that you're representing, wants to think that Rip-Off
19 Report is this bad thing, we extort. There's no
20 extortion. You know, we make up the reports like I'm
21 sitting around making up the reports. It's ridiculous.
22 The program really works.

23 All right. I'm finished.

24 MS. SPETH: I bet you you don't know what the
25 question was anymore.

1 THE WITNESS: Did I answer? I answered the
2 question.

3 MS. SPETH: I don't know if you did or didn't.
4 I don't remember.

5 THE WITNESS: No, he asked -- the question he
6 asked was --

7 Q. BY MR. LIPPMAN: Let me -- let me move on.

8 MS. SPETH: That's all right. You don't have
9 -- you don't have to remember.

10 Q. BY MR. LIPPMAN: The -- I just want to
11 understand the process, though.

12 If I'm a CAP member and somebody posts a
13 report about me, I understand they're going to get an
14 e-mail from you saying, "Hey, these guys are pretty
15 good. They'll address your thing. Somebody will
16 contact you in X numbers of days." I know -- I know
17 we're -- I'm making this --

18 A. Right. We -- right.

19 Q. That's up to them --

20 A. And we try to calm them down.

21 Q. Okay.

22 A. Because we know -- Rip-Off Report knows.
23 They've -- they've already agreed to it in writing.

24 Q. Okay.

25 A. They're going to take care of the problem. A

1 consumer cannot come back and tell us that, "You know
2 what, they didn't take care of us."

3 MS. SPETH: Ed, let him finish his question.

4 THE WITNESS: I'm sorry. Okay.

5 MS. SPETH: Just answer the question.

6 Q. BY MR. LIPPMAN: Now, I understand that's step
7 one. The consumer gets that e-mail. I assume -- I, as
8 the -- as the CAP member, I get a copy of the Rip-Off
9 Report, as well, so I know what I need to address and
10 who I need to speak to, right?

11 A. Yes, you get a copy of exactly what we're
12 sending them.

13 Q. Okay. And if I satisfy the consumer, does the
14 -- the report doesn't get posted?

15 A. It's up to the consumer.

16 Q. Okay.

17 A. It's a date --

18 Q. Okay. So, in other words, I can --

19 A. To date, no one's ever said, "Oh, I" -- you
20 know, after -- why would they want it? I mean, the
21 company took care of them. They realized it --

22 MS. SPETH: Ed.

23 THE WITNESS: -- and apologized. Okay.

24 MS. SPETH: Ed, please answer the question.

25 Q. BY MR. LIPPMAN: So, generally, the way it

1 works is the CAP member gets a copy of the Rip-Off
2 Report. It's not yet posted. It's filed but not yet
3 posted. They get a copy of it. If they satisfy the
4 consumer, it doesn't get posted, right?

5 A. Right. If they don't --

6 Q. If they don't --

7 A. Even if they do --

8 Q. -- it does get posted?

9 A. -- when the consumer wants it posted --

10 Q. The consumer can still post it?

11 A. And -- yeah. And then -- and then, of course,
12 the company's asking us to please explain --

13 Q. Right.

14 A. -- well, the company did give them back a
15 refund and they did apologize, they realized they made a
16 mistake.

17 Q. Okay.

18 A. And -- and, you know, that kind of thing would
19 take place.

20 Q. And Rip-Off Report posts that?

21 A. Right -- well, yeah, because they're
22 instructing -- you know, they're instructing us to
23 please tell the truth.

24 Q. Okay. And I think you alluded to earlier that
25 most of the time when a consumer posts his Rip-Off

1 Report it's a CAP member, and the CAP member takes care
2 of it, the consumer usually decides not to go ahead and
3 post the report?

4 A. Right. We've never been asked. Never been
5 asked.

6 Q. To post a report after it's been taken care
7 of?

8 A. Never been asked. Because then --

9 Q. Okay. I just want to clarify a couple of
10 things.

11 A. Okay.

12 Q. I want to make sure I understand. If I'm a
13 CAP member, in order to be a CAP member, I'm saying that
14 regardless of what the consumer complains about, whether
15 he's right or wrong, I'm going to make him happy? I'm
16 going to do what he wants me to do?

17 A. You know, it sounds kind of crazy and like you
18 think that's just totally ludicrous.

19 Q. It does.

20 A. You know what?

21 Q. But that's what they're committing to do?

22 A. You know what? You know, one -- every company
23 would think -- every company would think --

24 MS. SPETH: Ed, it's a yes or no question.

25 THE WITNESS: It's a -- well -- so what's the

1 question? Well, I really to explain.

2 MS. SPETH: I know you want to explain.

3 Q. BY MR. LIPPMAN: The question is, in order --
4 if I'm a CAP member --

5 A. Um-hum.

6 Q. -- in order to remain in the CAP program, I'm
7 committing that regardless of what the complaint is,
8 whether the complaint is legitimate or illegitimate,
9 whether the customer's right or wrong, or whether what
10 he wants is -- a normal person would look at as a
11 ridiculous request, I'm going to do it to make that
12 customer happy?

13 A. You -- so, you said -- well, yeah. Yes, the
14 business -- that's what the business ends up doing.

15 Q. That's -- but that's what they're committed to
16 do to be a member of the CAP, right?

17 A. No -- well, within reason. What we've -- we
18 don't have an issue with --

19 Q. And who decides the within reason part?

20 A. We haven't had an issue.

21 Q. Okay. But Rip-Off Report would decide that?

22 A. You know what, the business -- you know what,
23 if they're not satisfied on Rip-Off Report --

24 Q. Yeah.

25 A. -- they're going to go somewhere else and just

1 file.

2 Q. Okay. But -- I understand. But I'm talking
3 about -- I'm trying to understand this.

4 If I'm a member of the CAP program, part of
5 being a member of CAP program means I give my
6 commitment, among other things, among other things I
7 have to do and among paying the fee, but I give my
8 commitment that when somebody files a Rip-Off Report,
9 you are going to send this notice that we agree upon
10 the language of, and you are going to send to me the
11 actual Rip-Off Report, and I'm going to make that
12 customer happy regardless of whether his complaint is
13 legitimate --

14 A. What they want --

15 Q. -- illegitimate, whatever, whatever it takes,
16 I'm going to make this person happy?

17 A. Yes.

18 Q. And if I don't do that, I can't participate in
19 the CAP program?

20 A. No, you could still participate. The report
21 gets posted.

22 Q. Okay.

23 A. And the report will get posted and --

24 Q. And you're going to make a determination,
25 "you" meaning the Rip-Off Report, essentially is going

1 to make a determination when this person posts it,
2 whether you're going to post something that says, "Hey,
3 wait a minute. This business tried to make amends and
4 the customer wasn't willing to do it," or "This business
5 didn't try to make amends," right?

6 A. Well, haven't had the problem.

7 Q. It's never occurred?

8 A. No, I haven't had --

9 (Court reporter clarification.)

10 Q. BY MR. LIPPMAN: That never occurred?

11 A. It has -- it has not occurred.

12 Q. Okay. I mean, you will -- and I think you
13 alluded to this earlier. Sometimes consumers make
14 complaints and they're just wrong, right? What they're
15 complaining about it is not an appropriate complaint.
16 Maybe they were having -- they were having a bad day or
17 -- or --

18 A. No, I don't agree with that.

19 Q. You think every complaint a consumer makes --

20 A. I believe -- I believe -- I believe that most
21 consumers -- I believe that most consumers feel in their
22 heart that they're wrong, even if they're not wrong.
23 That's what I try to say to you before. You're a
24 consumer. How many times have you gone and walked out
25 of a store and you might have said -- you know, you went

1 to Circuit -- I don't want to say which store. Any
2 store.

3 **Q. Right.**

4 A. You go to, you know, some -- some retail store
5 and you said, you know, "Those dirty bastards, they
6 should have given me my money back." Or, you know,
7 "They sold me a warranty," da, da, da, da, you know, and
8 -- you know, maybe you didn't read -- you're a lawyer
9 and you didn't even read the writing on it. And you
10 know the way they have some other lawyer worded it,
11 you're really screwed because -- and it's really a rip
12 off because that's not the way the employees presented
13 it to you. And that happens a lot.

14 **Q. That's --**

15 A. So the consumer, he don't care what it says.
16 "This is not what they told me." You know, I would get
17 a replacement computer if I brought it in, versus, you
18 know, yeah, well, it has to -- you know, with all these
19 other different things.

20 **Q. Okay. But -- and I appreciate that people**
21 **could disagree, but you've got to agree with me, as**
22 **well, just as I said there are consumers out there who**
23 **try and take advantage of opportunities like that and**
24 **maybe go in and ask for things that they know they're**
25 **not entitled to?**

1 A. Here's the analogy.

2 Q. Correct? Would you agree with me that people
3 do that?

4 A. Yes.

5 Q. It's -- it's not unheard that people --

6 A. Oh, of course.

7 Q. -- come in and ask for things that they know
8 they're not entitled to?

9 A. And there's people that file phony lawsuits
10 also.

11 Q. People do that, too.

12 A. Every day they file frivolous lawsuits.

13 Q. And people -- and people could file Rip-Off
14 Reports that they know are inaccurate --

15 A. Right.

16 Q. -- right?

17 And yet if I'm a CAP member under this
18 program, no matter how -- a consumer may file a Rip-Off
19 Report that that person knows is wrong and they're
20 asking for something that's totally ridiculous, and yet
21 in order for me to remain a CAP member I've got to make
22 that person happy?

23 A. Umm, and I'm -- I'm going to say within --
24 within reason. It is --

25 Q. Okay. Okay. But now --

1 MS. SPETH: Wait, wait. Before you ask the
2 next question, are you done with your answer?

3 THE WITNESS: I'm not sure.

4 MS. SPETH: Okay. Both of you, I'm just
5 telling you right now you are killing this court
6 reporter. Slow down.

7 THE WITNESS: She told us to give her us -- a
8 run for her money.

9 MS. SPETH: You read that.

10 THE WITNESS: Okay.

11 MR. LIPPMAN: No, no, no, no. Wait a second.
12 Read it.

13 MS. SPETH: He read it.

14 MR. LIPPMAN: No, read it out loud. What's on
15 there?

16 MS. SPETH: Excuse me. Since when is there no
17 longer attorney/client privilege?

18 MR. LIPPMAN: There's not a privilege when
19 somebody's on the witness stand, ma'am. You're going to
20 read that right now. You're going to read that into the
21 record.

22 MS. SPETH: Can I just tell you something,
23 Steven?

24 MR. LIPPMAN: You're going to read that into
25 the record.

1 MS. SPETH: Can I just tell you something?

2 MR. LIPPMAN: You can tell me anything.

3 MS. SPETH: You do not tell me what to do.

4 MR. LIPPMAN: Okay.

5 MS. SPETH: There is certainly a privilege.

6 There was no question pending.

7 MR. LIPPMAN: Read that -- read that on the
8 record.

9 MS. SPETH: It's not going to happen.

10 MR. LIPPMAN: Fine. Then I would like that --
11 then put it in an envelope and seal it and I want it
12 part of the transcript.

13 MS. SPETH: It's attorney/client privilege.
14 It's not going to happen.

15 MR. LIPPMAN: Put it in --

16 MS. SPETH: It's not going to happen.

17 MR. LIPPMAN: You have no right to speak to a
18 witness while he's sitting there.

19 MS. SPETH: Show me a rule that says that.

20 MR. LIPPMAN: This is just like he's sitting
21 on a witness stand.

22 MS. SPETH: Show me a rule that says that.

23 MR. LIPPMAN: Okay. Well, then you're going
24 to -- you're going to explain to a federal judge that
25 you're entitled to walk up to a witness in the middle of