

EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

WHITNEY INFORMATION NETWORK,
INC., a Colorado corporation,

Plaintiff,

vs.

CASE NO. 2:04-CV-47
Ftm-34-SPC

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

Defendants.

DEPOSITION OF RONALD STEVEN SIMON

DATE TAKEN: December 3, 2007

TIME: 10:01 a.m. to 2:06 p.m.

PLACE TAKEN: Whitney Education Group
1612 East Cape Coral Pkwy
Cape Coral, Florida

TAKEN BY: Counsel for the Defendants

REPORTER: Lisa M. Boyd, RPR
Notary Public, State of Florida
at Large

FORT MYERS COURT REPORTING
2231 First Street
Fort Myers, Florida 33901
(239) 334-1411 Fax (239) 334-1476

1 also.

2 Q Okay. Would it be fair to say that the
3 report that was filed on June 14th, 2003 that purports
4 to be authored by Leilani, that as to that report you
5 have no reason to believe that anyone from XCentric
6 Ventures authored that particular report?

7 MS. STERN: Object to form.

8 THE WITNESS: I have no idea.

9 BY MS. SPETH:

10 Q Didn't you tell me that there was actually a
11 student named Leilani --

12 A Right, and I don't know if she got together
13 with your people and wrote something up, or if she
14 submitted something and drafts went up and back, I
15 have no idea.

16 Q So let me put it this way, do you have any
17 evidence or any reason to believe that my client
18 authored this particular report that we've been
19 talking about?

20 A I have no reason to believe that they
21 authored it, and I have no reason to believe that they
22 didn't assist in it.

23 Q Fair. I understand your position. You just
24 don't know either way on this particular report,
25 correct?

1 A Because every single piece of evidence I have
2 in the file is contrary to that category, the
3 statement in the category.

4 Q Every piece of --

5 A There is nothing to indicate in any of her
6 writings to us or any of her dealings with us where
7 she indicated that we were corrupt. In fact, it was
8 just the opposite.

9 Q Is there anything to indicate in what the
10 report actually says that she believes that you were
11 corrupt?

12 A No, the report doesn't say that either.

13 Q The report says she was sucked into a sales
14 pitch. Did you see that?

15 A Where does it say that?

16 Q I again was sucked into this sales pitch
17 because I was hungry for this information.

18 A Then what did she go on to say?

19 Q They only feed you enough so you want the
20 rest of it.

21 A Then what did she say?

22 Q The rest of it cost me another \$6,990.

23 A So she was sucked into a sales pitch, but she
24 spent \$6,990, and then later on she upgraded it to
25 \$20,000. And she went to those courses, she enjoyed

1 A Correct.

2 Q Do you know who categorized it under the
3 category corrupt companies?

4 A I believe the categories are done by your
5 editors.

6 Q Why do you believe that?

7 A This is what I was told.

8 Q From? Do you have any evidence of that, that
9 my client -- I don't know what you mean by -- you know
10 what, let's back up. What do you mean by done by my
11 editor?

12 A The categories, okay, were created by your
13 editors.

14 Q What about the decision to place this
15 particular report under that category, do you know
16 anything about that?

17 A Well, I know that it wasn't the company's
18 decision and probably not --

19 MS. STERN: The company being?

20 THE WITNESS: Whitney Education Group, Whitney
21 Information Network. I would doubt very much if it
22 was the person that posted the information.

23 BY MS. SPETH:

24 Q Why do you doubt it was the person posting
25 the information?

1 those courses, and she had one thing that she -- she
2 continuously bought stuff from us, and she bought one
3 thing at the end that she bought for four thousand,
4 forty-two hundred or something, and she asked for a
5 refund, and she got the refund two days later.

6 Q She also said that she never received a
7 receipt or was told that she had a right to rescind so
8 she could dispute it. She also said she felt very
9 strongly that what she thought she was going to
10 receive was a far cry from what she actually got. If
11 those are the things that she wrote why would it
12 surprise you that she would --

13 A Those are untrue.

14 Q Let me finish my question. I didn't say it
15 was true or false, but you said you don't think she
16 would categorize it under a corrupt company. She said
17 a lot of things in this report that would lead anyone
18 reading this report to believe that she would in fact
19 categorize it as a corrupt company.

20 MS. STERN: Object to form.

21 BY MS. SPETH:

22 Q What you're saying is, well, my file doesn't
23 show that. But if she wrote this report why is it --

24 A Maybe she was coached.

25 MS. STERN: Object to form.

1 BY MS. SPETH:

2 Q Do you have any evidence she was coached?

3 A No.

4 MS. STERN: Objection.

5 BY MS. SPETH:

6 Q Do you have any evidence that she didn't
7 choose the category corrupt companies?

8 MS. STERN: Objection.

9 THE WITNESS: No, it's just a feeling.

10 BY MS. SPETH:

11 Q We talked a little bit earlier about the
12 difference between fact and opinion. I want to direct
13 your attention to Exhibit 3, a rebuttal submitted
14 6-14-2003. Referring to Russ Whitney, the author of
15 this particular report said he always seemed a little
16 too slick for my taste. You highlighted that. Would
17 you agree with me that that's an opinion?

18 MS. STERN: Objection, calls for a legal
19 conclusion.

20 THE WITNESS: Are you saying I don't answer
21 that or --

22 MS. STERN: If you know you can answer.

23 THE WITNESS: It seems defamatory to me.

24 BY MS. SPETH:

25 Q I understand that. And I understand that you

1 submitted April 8th, 2003, entitled Whitney Education
2 Group, Inc., deceptive company leads you to believe
3 you can make money in real estate easily, in the body
4 of the report someone who identified herself as Carol
5 said that we too are sitting here paying a debt of
6 eleven thousand on our credit card for the famous Russ
7 Whitney program. You highlighted for the famous Russ
8 Whitney program. What's false about that?

9 A Can I see that?

10 Q Sure, of course.

11 A In this instance I thought she was being
12 sarcastic, and I thought that was defamatory.

13 Q So you think sarcasm is defamatory?

14 MS. STERN: Objection.

15 THE WITNESS: I know sarcasm is defamatory in
16 many cases. I use it often.

17 BY MS. SPETH:

18 Q I use it often too, I understand. One thing
19 that I've seen many, many times throughout the
20 postings on RipoffReport is that the people who posted
21 claimed that they either paid for or attended what was
22 supposed to be a seminar and it was more of an
23 infomercial. You highlighted that as a false
24 statement. The three-day seminar that Whitney
25 Information Network provides, I take it you do not

1 said earlier that you weren't really thinking what was
2 opinion and what was fact when you highlighted this,
3 or said something similar to that. So I'm asking you
4 now, do you think when somebody says that somebody
5 seems a little too slick for my taste, do you think
6 that's an opinion or do you think that's a fact?

7 MS. STERN: Same objection.

8 THE WITNESS: It would depend upon the
9 particular individual saying it.

10 BY MS. SPETH:

11 Q What do you mean?

12 A That's what I mean.

13 Q You mean some people could say he seemed a
14 little too slick for my taste and it would be a fact,
15 and some people could say he seemed a little too slick
16 for my taste and it would be an opinion?

17 MS. STERN: Same objection.

18 THE WITNESS: No, that's not what I'm saying.

19 BY MS. SPETH:

20 Q Okay. I think you just don't want to answer
21 my question. Is it an opinion when someone says
22 somebody seems a little too slick for my taste? It's
23 either an opinion or a fact.

24 A It would seem to be an opinion.

25 Q Looking now at Exhibit 3, at a report

1 believe it's an infomercial, I imagine you do not,
2 correct?

3 A Twenty-four hours of classroom experience
4 you're saying is an infomercial?

5 Q No, I'm asking you if you believe it's an
6 infomercial.

7 A Absolutely not.

8 Q Is there any portion of that twenty-four
9 hours of materials that is spent up-selling to another
10 product in the three-day class?

11 A Is there any portion that is spent up-selling
12 to another product?

13 Q Uh-huh.

14 A I'm not sure what you mean by another
15 product.

16 Q Up-selling to -- is there any portion of the
17 class, of the twenty-four hour of class time that is
18 spent with the instructor encouraging students to take
19 another Whitney seminar?

20 MS. STERN: Objection, outside the scope.

21 THE WITNESS: And I'm sorry, which particular
22 class are we talking about?

23 BY MS. SPETH:

24 Q Well, I'll use this as an example. I was
25 talking more generally, but I'll use this as an

1 MS. STERN: Object to scope.
 2 THE WITNESS: Depending upon the class, some
 3 of them go through a six -- some go through a three
 4 to six-month training. They go out with other
 5 instructors until they are proficient.
 6 BY MS. SPETH:
 7 Q Is part of the training if somebody is going
 8 to be an instructor teaching them how to sell advanced
 9 seminars?
 10 MS. STERN: Same objection.
 11 THE WITNESS: The people that do take our
 12 three-day -- the particular three-day training that
 13 you're speaking of where they get exposed to all the
 14 other classes, these people would have to have the
 15 knowledge of each one of these subjects in order to
 16 be proficient to communicate that knowledge to the
 17 students.
 18 BY MS. SPETH:
 19 Q Right, but my question is are they trained in
 20 some way by Whitney how to sell other classes?
 21 A No.
 22 Q How do you know -- what do you do to
 23 ensure -- let's be practical here. You want a student
 24 to take another class, I mean, maybe you think I'm
 25 passing judgment on this, and maybe that's why you're

1 sort of resisting me on this --
 2 A There is nothing wrong --
 3 Q Let me finish the question.
 4 A Okay.
 5 Q Right, there's nothing wrong with it. If you
 6 want a student to take another class don't you need to
 7 train the instructor on how to present that to the
 8 student? People don't put salespeople out in the
 9 world without giving them some guidance or experience
 10 or training on how to sell. I'm trying to figure out
 11 does Whitney provide some sort of training to the
 12 instructors on how to sell more advanced classes?
 13 MS. STERN: Object to form and scope.
 14 BY MS. SPETH:
 15 Q If they don't, they don't. If they do, they
 16 do. I just want to know.
 17 A A lot of instructors have their own personal
 18 trainers in this regard.
 19 Q People who work for the company?
 20 A No, outside people.
 21 Q Okay.
 22 A That they use to develop speaking techniques,
 23 their communication skills, and their sales
 24 techniques.
 25 Q Do class instructors get commissions based

1 upon how many people go on to take more advanced
 2 classes?
 3 MS. STERN: Object to scope.
 4 THE WITNESS: Based upon how many people --
 5 BY MS. SPETH:
 6 Q Is the compensation of an instructor in any
 7 way tied or related to the students taking future
 8 classes from Whitney?
 9 MS. STERN: Same objection.
 10 THE WITNESS: Yes.
 11 BY MS. SPETH:
 12 Q In Exhibit 3 there is a report submitted
 13 September 17th, 2003. And it is -- it talks about
 14 Russ Whitney being a convicted violent felon, and it
 15 talks about him being sued numerous times, and it is
 16 categorized under the category of financial services.
 17 Do you believe my client chose that category as well?
 18 A I don't believe or disbelieve at this point.
 19 Q You just don't know. Fair enough.
 20 A Was this a rebuttal for something in
 21 financial services?
 22 Q No, it's an actual report.
 23 A Okay. Is that the question?
 24 Q My question is whether you think my client
 25 chose that category too. You said earlier that you

1 thought my client chose corrupt companies. And my
 2 question is do you think he also chose for this
 3 particular report financial services?
 4 A I don't know.
 5 Q You don't, okay. There is a rebuttal
 6 submitted September 1st, 2003, entitled Whitney
 7 supporters or employees. You have put sort of a
 8 highlight down the bottom of the page. Would it be
 9 fair to say that you're indicating that everything
 10 that is beside that highlight down the bottom of the
 11 page is false?
 12 A Can I see that?
 13 Q Sure.
 14 A This is the same one we talked about before?
 15 I have a friend who is a Whitney employee --
 16 Q Yes.
 17 A So that's -- I just recognized it as --
 18 Q I see, that's why you did that. So the
 19 highlighting would be the same as the highlighting in
 20 the other one?
 21 A Right.
 22 Q I gotcha.
 23 A Not necessarily --
 24 Q Assuming that --
 25 A That particular one yes, and the one

1 A That was part of the whole thing in context.
 2 MS. STERN: Why don't you look at the entire
 3 statement in context before you answer the question.
 4 BY MS. SPETH:
 5 Q So you're not disagreeing that he spent time
 6 with a real estate attorney, you're disagreeing that
 7 the techniques were not workable in Colorado, you just
 8 highlighted a little bit more than just that?
 9 A Right.
 10 Q See, one of the reasons I asked you to
 11 highlight only what you thought was false is so that
 12 we wouldn't be covering things that you didn't think
 13 was false. I understand you felt you needed a context
 14 here is why you did that, right?
 15 A Yeah, I mean --
 16 MS. STERN: Ron, why don't you take a look at
 17 the entire statement before --
 18 MS. SPETH: Yeah, it's right there.
 19 THE WITNESS: Okay.
 20 BY MS. SPETH:
 21 Q You have no reason to believe that this guy
 22 didn't spend three hours with a real estate attorney,
 23 correct?
 24 A No, I have no reason to believe he didn't.
 25 Q But you do dispute the fact that the system

1 is unworkable in Colorado?
 2 A Absolutely.
 3 Q What do you base that on?
 4 A I base that on we have very, very successful
 5 students in Colorado.
 6 Q Thank you.
 7 A And maybe the fellow didn't communicate to
 8 the attorney what he was taught.
 9 Q The very final paragraph of this same report
 10 says, all materials, tapes, study guides and software
 11 packages have been returned to the Whitney
 12 organization. You highlighted that as a false
 13 statement. Would it be fair to say that you know who
 14 this Ron is if you know he didn't return his
 15 materials?
 16 A No, I'm saying that I don't know that he did.
 17 Q So you highlighted it as a false statement
 18 just because you don't know either way?
 19 A Right.
 20 Q Do you have any reason to believe that a
 21 student named Ron didn't return his materials to the
 22 organization?
 23 A If you can give me some more information
 24 about this particular student and I can find it on a
 25 database, then I could find out whether we have

1 receipts for materials that he sent back. Otherwise I
 2 don't know if he sent them back or not.
 3 Q I understand that. I don't expect you to
 4 know what you don't know. I'm just trying to figure
 5 out what you contend and what your position is in this
 6 case. And I don't know who Ron is, you don't know who
 7 Ron is, but you think it's false that he didn't send
 8 the materials back, I'm trying to figure out why.
 9 A I don't know that he did.
 10 Q Fair enough.
 11 A You said to do things that were untrue,
 12 false, defamatory, whatever.
 13 Q Right. So when you weren't sure, in some
 14 cases you highlighted it just because you didn't know?
 15 A I didn't know if it was true or not true,
 16 yes.
 17 Q During the three-day classes are students
 18 taken out of the class and met with on an individual
 19 basis regarding whether they want to take future
 20 classes? I know you said there's somebody at the back
 21 of the room that the students can voluntarily go talk
 22 to. Does somebody go to the student and say come talk
 23 to us, and take them away from the class?
 24 MS. STERN: Objection to scope.
 25 THE WITNESS: Not to my knowledge.

1 BY MS. SPETH:
 2 Q Do you remember any of the six people that
 3 you did identify as actual students?
 4 A Yes, that one we talked about, that Leilani
 5 Wright, or whatever her name was.
 6 Q Right.
 7 A And I'm not certain -- I would just be
 8 guessing if I had any names at this point.
 9 Q As you were going through Exhibit 3 did any
 10 of them strike you as, you know, ones that you
 11 recognized as one of the six other than Leilani?
 12 A I don't think so. I don't think we had
 13 complete packages on them at this point. Still
 14 working up the information.
 15 Q Now, the statements that you highlighted in
 16 Exhibit 3 as false, is it your position that my client
 17 authored some or all of those statements?
 18 MS. STERN: Objection to form.
 19 THE WITNESS: At this point I have no
 20 knowledge one way or another.
 21 BY MS. SPETH:
 22 Q Do you have any reason to believe that my
 23 client authored any of the statements that are
 24 contained in Exhibit 3 that you have identified as
 25 false?

1 A Just a personal opinion.
 2 Q And your personal opinion is?
 3 A My personal opinion is yes, they were.
 4 Q And what do you base that personal opinion
 5 on?
 6 A That some of the things in there could not
 7 possibly happen the way these people said it did.
 8 Q So you have a personal opinion that because
 9 they're not accurate they were authored by my client,
 10 that there is a relationship in your mind between them
 11 not being accurate and being --
 12 A I think they were all designed to defame our
 13 company in one way or another.
 14 Q Okay. But why in your mind does that then
 15 give you an opinion that my client wrote them?
 16 A That's what your client is in business for.
 17 Q What do you mean by that?
 18 A To attract people to his web site to sell
 19 stuff.
 20 Q Okay. To sell what?
 21 A Whatever he's selling on his web site.
 22 Q And what do you base that on, the statement
 23 that he's selling stuff on his web site?
 24 A Russ Whitney is a big, big name, and people
 25 use his name to attract customers to their web sites

1 so they can make money.
 2 Q What evidence do you have that my client
 3 authored any of these statements?
 4 A At this point I don't have any evidence other
 5 than what I surmise or what I've been -- what people
 6 have told me.
 7 Q When you say what people have told you -- I
 8 don't want to ask you about your conversations with
 9 your attorneys, but other than your attorneys who has
 10 told you my client has authored these statements, if
 11 anyone?
 12 A I don't recall at this point.
 13 Q Do you think that someone has told you that
 14 my client authored these statements other than your
 15 attorneys?
 16 A It's possible.
 17 Q And do you think that person was someone who
 18 had any personal knowledge? Let me do it this way,
 19 has either Ed Magedson or anyone who works for
 20 XCentric Ventures ever told you that an employee or an
 21 agent of XCentric Ventures authored these statements?
 22 A I have not spoken to him.
 23 Q So if it's possible that somebody has told
 24 you this, is it possible that the somebody who told
 25 you this is somebody who had personal knowledge of who

1 authored the statements?
 2 A Anything is possible at this point.
 3 Q I know, but what is it you are remembering
 4 when you say what people told you?
 5 A I don't know. At this point I don't have a
 6 clear recollection.
 7 Q Okay. But are you reasonably certain that no
 8 one who works for XCentric Ventures or Mr. Magedson
 9 ever told you that they authored the statements?
 10 A At this point, yes.
 11 Q Let's just take a look at the deposition
 12 notice. I think it was Exhibit 1. Let's make sure
 13 we've covered the categories in there. We talked
 14 extensively about the first category, which is the
 15 statements that are contended to be false. The second
 16 category is the subject of the person who has the most
 17 knowledge regarding who authored statements at issue
 18 in this lawsuit that Whitney Information Network
 19 claims to be false and defamatory. Are you the person
 20 within Whitney Information Network who has the most
 21 knowledge regarding who authored the statements that
 22 you claim are false and defamatory?
 23 MS. STERN: Objection to form. We'll
 24 stipulate he's been designated as the corporate rep
 25 on that topic.

1 BY MS. SPETH:
 2 Q But my question is are you the -- is there
 3 somebody else within the company that has more
 4 knowledge than you on that issue? Let's ask it that
 5 way.
 6 MS. STERN: Other than counsel.
 7 THE WITNESS: I don't believe so.
 8 BY MS. SPETH:
 9 Q Do you have any knowledge regarding any
 10 changes or modifications made to reports that are
 11 posted on RipoffReport by a consumer? In other words,
 12 if a consumer posts a report, and I think you guys
 13 have made some allegations that my client makes
 14 modifications or changes to the report, what evidence
 15 or information do you have about any changes that may
 16 have been made to a report?
 17 A Well, at this point we have very little
 18 except when we compare the information to -- if we're
 19 able to compare the information to our records and
 20 what's on the report we get different things. We can
 21 make comparisons and find differences. If we can find
 22 the original postings and compare them to what's on
 23 the web site I think we'd find market differences.
 24 Q What do you base that on?
 25 A Intuition.

1 Q Anything else?
 2 A No. I think we're going to continue to look
 3 for people and continue to find differences.
 4 Q Have you had any situation where you've
 5 spoken to -- you or somebody who works for you had
 6 spoken to an author of a report on RipoffReport?
 7 A No, because we're unsure who the authors are.
 8 Q I'm saying has there been any instance where
 9 you have identified an author and spoken to them?
 10 A As I said we just recently found these six,
 11 we're continuing to look.
 12 Q So thus far you haven't had any conversations
 13 with any authors of any reports?
 14 A Not to my knowledge.
 15 Q And I did mean --
 16 A When you say you --
 17 Q I meant the company, anyone within the
 18 company.
 19 A The company has had continuous conversations
 20 with people who have had complaints. Pages and pages
 21 of conversations with people who have had complaints.
 22 We will continue to talk to them and continue to work
 23 with them.
 24 Q But have you had any conversations with any
 25 of the authors of the reports about the reports, about

1 the fact that they posted or whether they posted or
 2 what they posted?
 3 A Not to my knowledge.
 4 Q Okay. The only thing that we have not done
 5 that I needed to do is, you know, the highlighting of
 6 Exhibit 4. Exhibit 4 is in many instances duplicative
 7 of Exhibit 3, but there is some additional information
 8 in there. I think probably what makes sense is we
 9 take our lunch break and you go through it during the
 10 lunch break, and then take a couple of minutes after
 11 lunch to ask you about it, if necessary, because I
 12 don't need to go back over what we've gone over. But
 13 I do need to know if there are additional statements
 14 in there that you contend are false.
 15 MS. STERN: Based on how long it took to go
 16 through the other exhibit, which was much smaller,
 17 that's probably going to take Ron a couple of hours.
 18 We have a deposition with Russ in fifteen minutes.
 19 I know Ron has other places to be this afternoon.
 20 He assumed as of 1:30 it was Russ's turn and he was
 21 done for the day.
 22 MS. SPETH: It is duplicative. Everything in
 23 Exhibit 3 is in Exhibit 4. So he doesn't have to
 24 highlight again. But there is additional
 25 information in Exhibit 4.

1 MS. STERN: Additional information that he's
 2 going to have to read it to know it's duplicative.
 3 MS. SPETH: I understand. And my position is
 4 I have a right to know what you claim to be false
 5 statements of fact in Exhibit 4. That's my
 6 position. I understand we have another deposition,
 7 I'm willing to put off the other deposition a little
 8 longer to finish this.
 9 MS. STERN: This will take several hours
 10 though based on how long it took to do the other
 11 one. I know that Russ Whitney is also a very busy
 12 man, he planned on coming in at 1:30. I don't know
 13 that he'll be able to start a lot later. I don't
 14 know how long you anticipate taking with him.
 15 MS. SPETH: The other thing we can do is take
 16 Russ's, and then when Russ is done we can finish up
 17 with Ron.
 18 MS. STERN: Ron is not available this
 19 afternoon.
 20 MS. SPETH: My position is that I've asked for
 21 this deposition, I've asked for this information. I
 22 clearly designated this as the number one most
 23 important topic, and I have a right to get the
 24 answer to the question.
 25 MS. STERN: You set the deposition for three

1 or four hours. You didn't have to schedule a second
 2 deposition at 1:30 if you thought you would need so
 3 much time. You're now saying you need longer than
 4 you anticipated, unfortunately we have scheduling
 5 issues.
 6 MS. SPETH: I thought when I identified that
 7 as a topic I thought that the witness would come
 8 prepared to tell me what the false statements were,
 9 and instead what I got is show me what you have and
 10 I'll tell you. So I was not able to get any answers
 11 from the witness as to what you contend is a false
 12 statement without handing you a pile of documents
 13 which is everything that's ever been posted on my
 14 client's web site and saying, okay, show me from
 15 that.
 16 So I had no way of knowing that he would be
 17 completely and utterly unprepared to answer -- there
 18 is only six topics I was asking him about today. So
 19 the fact that he was not able to answer that
 20 question without going through the document that you
 21 identified in your interrogatory as the responsive
 22 document, you know, is not my issue. I'm happy to
 23 continue the deposition until this afternoon. I'm
 24 happy to continue it in any way that you want, but
 25 I'm not going to say, okay, you just don't have to