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Rip-Off Report

425/333/23

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GW EQUITY, LLC,

Plaintiff,

v.

XCENTRIC VENTURES, LLC, *ET AL.*,

Defendants.

)
)
) CIVIL ACTION NO.
) 3-07 CV 0976-K
)
)
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)
)

**DECLARATION OF EDWARD MAGEDSON IN SUPPORT OF
DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION**

EDWARD MAGEDSON state the following upon my personal knowledge:

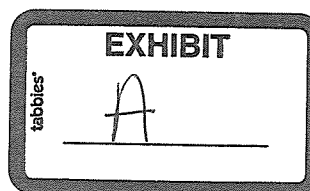
1. My name is Edward Magedson. I am a resident of the State of Arizona, am over the age of 18 years, and if called to testify in court I could and would truthfully testify to the following information based upon my own personal knowledge.

2. I am the manager of Defendant XCENTRIC VENTURES, L.L.C., ("Xcentric") which is based in Tempe, Arizona. Xcentric operates a website known as "The Rip-Off Report" which is located at www.ripoffreport.com and www.badbusinessbureau.com ("ROR").

HISTORY/BACKGROUND OF RIPOFF REPORT

3. ROR is a free resource available to the public as well as government officials, the FBI, state and local, law enforcement, attorneys general, and so forth. This website has been in operation since 1998 and we currently receive millions of hits every week.

10297-1/DSG/DSG/591880_v1



Def. Appx. 0001

4. As of June 2007, ROR contains almost 250,000 individual reports. Including “rebuttals” (responses to a report), the site contains more than one million unique entries, and we receive approximately 500–800 new reports/rebuttals every day.

5. There is no fee to view reports, search reports, post reports or post rebuttals.

HOW REPORTS ARE POSTED ON RIPOFF REPORT

6. When a user wants to post a new report, they must first sign up for an account with Rip-Off Report. This process is absolutely free, and we ask the user to provide truthful and accurate information, but it is possible for individuals to sign up for an account using forged or fraudulent names, phone numbers, etc. Given the enormous volume of traffic to the website, like any other popular site with such a high level of traffic, other than a valid email address which is required to obtain an account, we cannot and do not verify the authenticity of the personal information provided by each user.

7. Any time a user wishes to write a report or rebuttal, they must sign in with their username and password and submit their report using an online form. When they do so, our server logs the personal account information provided by the user (which is only as accurate as the information originally provided by the user). The server also logs the internet protocol or “IP” address of the user which is a unique number comprised of four sets of one to three digits each called “octets”. When any person logs onto the Internet, their computer is automatically assigned a unique IP address by their Internet Service Provider (“ISP”) which identifies that computer. While it is possible for a user to provide forged or fake personal information such as a name, it is very difficult, though not impossible, to forge an IP address.

8. When the user is done writing their report, they click a button to post their story to the ROR Sites. There is no charge for submitting a report. As part of the process of submitting their report, the user creates a title or heading for the report. Once this is done, the story is held until it can be briefly reviewed by Xcentric’s staff of editors before it is posted online for other users to view. When a report is reviewed, it is only to confirm that the report does not contain blatantly illegal, inappropriate, or offensive material (i.e., images of pornography, social security

numbers, credit card numbers, or other inappropriate material). Any report that contains such material may be deleted or redacted at the discretion of Xcentric staff. Otherwise, reports posted by users of the ROR Sites are not checked for accuracy. As a matter of policy, Xcentric staff does not add to, or rewrite, any of the reports posted by users.

REPORTS ABOUT PLAINTIFF GW EQUITY

9. Among the 250,000 reports on the ROR Sites, as of June 2007, I have located six (6) reports that have been posted on Rip-Off Report regarding the Plaintiff in this matter, GW EQUITY, L.L.C. ("GW Equity"). These six reports are reflected in the table below which shows the results returned by performing a search for "GW EQUITY" on Rip-Off Report:

Date/Time	Title	Report #
1. 6/9/2007 8:41:00 AM	<u>GW Equity Slick presentation at Four Seasons Hotel makes you want to give them 30k Ripoff Dallas Texas</u> Author: Doss, Texas Small Business Services : GW EquityTexas	253345
2. 3/2/2007 7:55:14 AM	<u>Gw Equity, Citibank, Citigroup, Citi Commerce Solutions M&A / Business Consulting, paid \$30,000 for an inflated analysis of my company that has yielded no results New York New York*Consumer Suggestion ..Real brokers work on contingency.</u> Author: New York, New York Business Consulting : Gw Equity, Citibank,citigroup,citi Commerce SolutionsNew York	222795
3. 11/29/2006 2:25:00 AM	<u>GW Equity Wrongful Termination - Scam - perpetuating a fraud on the general public Dallas Texas</u> Author: Dallas, TexasBusiness Consulting : GW EquityTexas	222793
4. 11/26/2006 4:37:01 AM	<u>GW Equity - Geneva Business Research - Geneva Companies - Geneva Marketing Services - Geneval Consulting Services ripoff defrauded my company out of \$30,000 for retainer to sell my business Dallas Texas*UPDATE *UPDATE ..You sir are a LIAR and have no connection with GW Equity whatsoever.</u> Author: Saint Paul, MinnesotaCorrupt Companies : Gw Equity - Geneva Business ResearchTexas	218734
5. 12/8/2006 2:03:19 PM	<u>Gw Equity, Geneva Corporate Finance, Geneva Capital Markets, wasted eight hours of my time then hit me up for \$30K Dallas Texas*Consumer Comment ..GW Equity article found in Inc. Magazine</u> Author: Rockford, MinnesotaFinancial Services : Gw Equity, Geneva Corporate FinanceTexas	219512

6. 12/8/2006 1:45:46 PM Gw Equity, Citibank, Citigroup, Citi Commerce Solutions Big company Wasting Small Companies Time & Money New York New York*Consumer Comment ..Due Diligence **222796**
Author: Rockford, Minnesota Business Consulting : Gw Equity, Citibank, citigroup, citi Commerce Solutions New York

10. I understand that an individual named RYAN BINKLEY, the President of GW Equity ("Mr. Binkley"), has submitted an affidavit in this case attached to which were several reports about GW Equity (including those above) which GW Equity alleges were written by me. Those allegations are entirely untrue and provably false.

11. Attached as Exhibit 3 to Mr. Binkley's affidavit is a report dated November 2, 2006 with the heading "GW Equity ... Geneva Consulting Services rip off defrauded my company out of \$30,000 for retainer to sell my business ... The Truth about GW Equity and Geneva." Although not reflected in Mr. Binkley's affidavit, this report is #218734¹ and is available at: <http://www.ripoffreport.com/reports/0/218/RipOff0218734.htm>. This report is also #4 in the above table.

12. As Exhibit 3 to Mr. Binkley's affidavit shows, Report #218734 consists of three parts:

- 1.) Initial report submitted on 11/2/2006 by "Jim, St. Paul, Minnesota"
- 2.) Rebuttal entitled "The Truth about GW Equity [sic] and Geneva" submitted on 11/15/2006 by "Ray Wood, Office of General Counsel, GW Equity, LLC", and
- 3.) Second rebuttal entitled, "You sir are a LIAR and have no connection with GW Equity whatsoever." submitted on 11/25/2006 by "Greg, Rockwall, Texas".

Collectively this initial report and the two corresponding rebuttals are referred to as Report #218734.

¹ Report numbers are automatically generated by the ROR Site servers when a report is submitted and are useful for locating the actual report on our site. As an example, a Report #123456 would be located at the address: <http://www.ripoffreport.com/reports/0/218/RipOff0123456.htm>.

NO REPORTS WERE WRITTEN BY DEFENDANTS

13. Upon learning of GW Equity's claim that I wrote **Report #218734**. I reviewed the server logs for Rip-Off Report and located the "Administrator Version" or "Admin Version" of **Report #218734**. The "Admin Version" is an internal version of public reports which, in addition to the text of the report itself, contains the personal contact information (name, telephone number, and internet protocol or "IP" address) logged by our servers for each person who posted a report or rebuttal to a report. This personal contact information is available only to me and my employees and is not publicly available.

14. The Admin Version of **Report #218734** is attached hereto as **Exhibit A** (Def. Appx. 000). As this document shows, our server logged the personal information for each of the authors involved in the creation of the initial report and two rebuttals in **Report #218734**:

ADMIN COPY INFORMATION — REPORT #218734			
Date	Author	Email	IP Address
11/2/2006	Greg Sinclair	hurtbygwequity@comcast.net	76.184.169.187
11/15/2006	Ray Wood	rwood@gwequity.com	12.193.241.34
11/25/2006	Greg Sinclair	hurtbygwequity@comcast.net	76.184.169.187

15. As this table shows, the original report dated 11/2/2006 was filed by someone who called himself "Greg Sinclair" using an email address listed as hurtbygwequity@comcast.net from a computer with an IP address of 76.184.169.187. According to a search of internet records attached hereto as **Exhibit B**, this IP address was assigned by Road Runner HoldCo LLC which was the user's Internet Service Provider (ISP).

16. I did not author any part of **Report #218734** or the rebuttals thereto. I did not add content about GW Equity to any of these reports or rebuttals, and I did not author or modify any of the titles to the reports. Moreover, I have never received internet service from Road Runner, and I have never had an email account with ComCast.net.

17. Attached hereto as **Exhibits C-G** (Def. Appx. 000) are Admin Versions for the five other reports about GW Equity on Rip-Off Report. The table below reflects the actual Report # for all six of the reports at issue:

ADMIN COPY SUMMARY		
Exhibit	Report #	Appendix Pages
A	218734	
C	253345	
D	222795	
E	219512	
F	222796	
G	222793	

18. None of these reports were authored by me, nor did I author any of the rebuttals under these reports. I have reviewed all of the email addresses and IP addresses listed in these copies and have confirmed that none of this information corresponds with my email address or IP address.

19. I have discussed this report with my staff of editors and based on those discussions and my own personal knowledge, none of these reports and/or rebuttals were authored or posted by any of Xcentric's editorial staff. It would be a clear violation of Xcentric's rules for any agent of Xcentric to author or post a report or rebuttal, or to add any content to any report or any report title, without my express permission. All of these reports and/or rebuttals were written by independent third-party users of the ROR Sites.

THE REAL AUTHOR — DICKSON WOODARD

20. Although GWE has alleged that I wrote the reports at issue in this case, I believe these reports were actually created by a former employee of GWE named DICKSON WOODARD ("Mr. Woodard"). I have previously spoken to Mr. Woodard in the past regarding the Rip-Off Report website and on June 11, 2007, I had a telephone conversation with Mr. Woodard in which he admitted to me that he authored all of the reports which are the subject of the current lawsuit against me.

DEFENDANTS DO NOT SOLICIT DEFAMATORY REPORTS

21. I understand that GW Equity has claimed in this lawsuit that notwithstanding the federal Communications Decency Act, I should be held liable for the statements posted by users of the ROR Sites because I have directly "solicited" these reports. Although the ROR Site generally encourages people to write complaints when they have been victimized, we have never encouraged anyone to submit false complaints. In fact, before a user is allowed to submit any report or rebuttal to the ROR Sites, they are required to first agree to a statement that includes the representation that "By posting this report/rebuttal, I attest this report is valid."

22. If a user is not willing to agree to this statement, he/she is not permitted to submit a report under any circumstances. Also, on the very first page of the website I clearly explain that just because a company has been reported does not mean that it should be avoided:

DOING BUSINESS WITH THE COMPANY OR INDIVIDUAL REPORTED
Consumers, just because a company or individual is reported on Rip-off Report™ does not necessarily mean you should not do business with them. By reading the experiences of other consumers, you will now be able to make more educated decisions, because now you know what to watch for.

23. In addition, the website clearly explains to its users the following policy:

Thank you for visiting our Rip-off Report web site. By viewing this site you agree that you will not hold the Rip-off Report, the bad Business Bureau, or any of their owners, employees or entities responsible for any information contained herein. The Rip-off Report is a non-substantiated source of information. The information provided in the Rip-off Report is the sole creation of consumers from the general public. Please verify any claims that are made in this site, and make your own decisions about any companies and individuals listed within. Warning! The content within may be offensive, due to the unedited nature.

24. Based on these terms/disclaimers, I feel that I have made it very clear to all users/viewers of the site that although Xcentric does not accept responsibility for the accuracy of content posted by third parties, we also do not allow or endorse anyone filing false complaints against anyone. It is my belief that the usefulness and credibility of the ROR Sites is directly dependent upon the users of the site posting true and accurate information, and for that reason I have adopted the above policies to encourage people to submit only true complaints.

25. It is also important to note that companies who have been the subject of a Rip-Off Report are welcomed and encouraged to post a rebuttal explaining their side of the story if they believe the report is inaccurate in any way. The ROR Site charges nothing for this.

DEFENDANTS HAVE NOT EXTORTED PLAINTIFF

26. I understand that GW Equity has alleged in ¶ 26 of its Complaint that "in a series of emails", I engaged in (attempted) extortion because GW Equity claims I made a demand that GW Equity pay money "for remedying the falsities pursuant to the 'Rip-Off Report Corporate Advocacy Business Remediation & Customer Satisfaction Program". This allegation is false.

27. First, I have searched my emails and have found no correspondence between me and GW Equity other than the email from GW Equity's attorney mentioned above, and a second email from Ray Wood who informed me that he was from GW Equity's "Office of General Counsel". At no time during any of my communications with GW Equity did I ever ask for or demand money; any such claims are purely and simply false.

28. Xcentric does offer something called the "Corporate Advocacy Business Remediation & Customer Satisfaction Program", but this program is not extortion. Rather, when a company has received complaints on Rip-Off Report and wants to demonstrate its commitment to improving its customer service, it can become a member of my Corporate Advocacy Program or "CAP". This is a voluntary service whereby companies pay me to act as a sort of "mediator" between them and their unhappy customers.

29. When a company joins the CAP program, I personally contact all unhappy customers and determine what can be done to satisfy them. This often involves the member-company making refunds to customers, but it may also involve other things. Of course, I always explain to companies that contact me regarding complaints on Rip-Off Report that they are free to use their own time and resources to contact their customers, and sometimes they will do this, but many companies believe that their interests would be better served by having this work done by a neutral third party such as Xcentric.

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30. As far as I am aware, the companies who have joined my CAP program are thrilled with the services they have received from me and are very pleased with their improved customer relations. The fact that I do charge for my time in helping these companies is not extortion.

I declare under penalty of perjury that the foregoing is true and correct

EXECUTED ON: June 11 2007.


Edward Magedson