

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

GW EQUITY, LLC,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	3-07 CV 0976-K
v.	)	
	)	
XCENTRIC VENTURES, LLC, <i>ET AL.</i> ,	)	
	)	
Defendants.	)	

**DEFENDANTS' SUPPLEMENTAL BRIEF AND EVIDENCE IN OPPOSITION  
TO PLAINTIFF'S APPLICATION FOR PRELIMINARY INJUNCTION  
REGARDING SUBSTANTIAL TRUTH OF REPORTS POSTED ABOUT GW  
EQUITY, LLC<sup>1</sup>**

Defendants XCENTRIC VENTURES, L.L.C. ("Xcentric") and ED MAGEDSON ("Magedson") respectfully submit the following Supplemental Brief and Evidence Regarding the Substantial Truth of Reports.

Plaintiff GW Equity, LLC ("GWE") has taken the position that statements made about GWE on Rip-Off Report are "false, misleading, disparaging, and/or defamatory". Complaint, ¶ 19, 20, 21, 22, 23, 24. In support of this assertion, GWE included with its Complaint the Affidavit of Ryan Binkley, currently the President of GWE.

At least four of the Reports cited by GWE in its Complaint reference a connection between GWE, Geneva Companies, CitiGroup, and Great Western Business Services, Inc. GWE points to the posting on Rip-off report that states in part that "GW Equity is

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<sup>1</sup> At the urging of the Court, the parties conferred on the submission of additional evidence. The Parties agreed that Defendants would not oppose Plaintiff's (first) Motion to Supplement if Plaintiff did not object to the submission by Defendant of evidence as to truth.

actually a \$120 billion dollar enterprise called Geneva Business Research that settled a \$45 Million dollar class action suit in March of 2003 in Irvine California ‘for defrauding thousands of small businesses out of monies paid in advance.’ They have changed their name to GW Equity and subsequently moved to Dallas, Texas.”

Ryan Binkley asserts that GWE is “in no way related to a company known as Geneva Enterprises which is a subsidiary of CitiGroup.” Affidavit of Ryan Binkley, ¶ 5. He also has asserted that GWE “is not related to Great Western Business Services, Inc.” Affidavit of Ryan Binkley, ¶ 9. Furthermore, in Plaintiffs’ brief, counsel for GWE stated that GWE had no affiliation whatsoever to Great Western Business Services, Inc.

In the short time that Defendants have had to investigate the truth or falsity of the allegedly defamatory statements, a number of inaccuracies have surfaced in GWE’s statements as specifically related to its relationship with Geneva Business Services, Geneva Companies, CitiGroup, and Great Western Business Services, Inc. As it turns out, GWE has an unquestionably strong relationship with the companies discussed in the Reports.

### **Great Western Business Services, Inc.**

The content posted on Rip-off Report includes the following reference: “GW Equity (Great Western).” As stated above, Plaintiff adamantly denies there is any connection between the two companies. However, Great Western Business Services, Inc. (“Great Western”) was founded in 1983 and was purchased in by John H. Binkley, Jr. (Def. Appx. 0001, 0004). Former employees of Great Western include Daniel Binkley (Def. Appx. 0012), Ryan Binkley (Def. Appx. 0010), and Hulon Binkley (Def. Appx.

0005). The Court may recognize the names of these employees as being related to (or, in the case of Ryan Binkley, actually being the same individual) the current president of GWE. In September, 2006, Great Western was acquired by National Business Capital Services. (Def. Appx. 0014).

It is not a stretch for a consumer to represent that two companies, who were run by exactly the same individuals, are either the same company or alter egos of one another.

**Geneva Companies, Inc.**

A posting on Rip-off Report refers to Geneva and GWE as the same “enterprise” that changed its name and moved from California to Dallas. Here again, GWE denies any affiliation between the two companies.

In 2005, Geneva Companies, Inc. changed their name to Citigroup Geneva Capital Strategies, Inc. (Def. Appx. 0015, 16). A number of different subsidiaries of Geneva Companies, Inc. were subsumed into the company known as Citigroup Geneva Capital Strategies, Inc., including Geneva Business Research, LLC; The Geneva Companies, LLC; Geneva Marketing Services, LLC; The Geneva Group, LLC; and Geneva II, LLC. Geneva Companies was located in Irvine California.

Despite GW Equity’s claim of no affiliation, preliminary investigation reveals a strong link between the two companies. GW Equity became authorized to do business in California in February of 2007 and opened an Irvine, California office. (Def. Appx. 0020). So far, Defendants have identified ten executives from Geneva who moved to GW Equity.

A list of current GWE employees has been taken from the GWE website. (Def. Appx. 0025–61). The chart below is demonstrative of the relationship between the Geneva Companies and GWE:

<b>Employee Name</b>	<b>Name of Former Company / Position</b>	<b>Position at GWE (if known)</b>	<b>Related Exhibit</b>
Steve Heimstead	CitiGroup Geneva Capital Strategies, Inc. / Vice President, Mergers and Acquisitions	Managing Director, Mergers and Acquisitions	Def. Appx. 0082, 83
Barry DeWitt	The Geneva Companies / Vice President, Mergers and Acquisitions	Managing Director	Def. Appx. 0062
Robert Brenner	The Geneva Companies / Senior Vice President, Business Analysis	Senior Managing Director	Def. Appx. 0064
Zack Parker	Geneva Corporation / unknown	Senior Vice President and Managing Director	Def. Appx. 0065, 67
Terry Mackin	CitiGroup Geneva Capital Strategies, Inc. / Assistant Vice President, Mergers and Acquisitions	Managing Director	Def. Appx. 0069–70
Brenen Hofstadter	Geneva Corporation / unknown	Managing Director	Def. Appx. 0071, 72
James A. Korreck	The Geneva Companies	Managing Director	Def. Appx. 0074, 76
Stephen Crisham	Geneva Capital Markets / Executive Vice President	Managing Director	Def. Appx. 0077
Art Berry	Geneva Business Services / unknown	Unknown	Def. Appx. 0079
Lori Galloway	Citigroup Geneva Capital Strategies / Managing Director	Managing Director, Mergers & Acquisitions	Def. Appx. 0082

The overlap in executives between Geneva and GW Equity, coupled with GW Equity having added an Irvine office, raises serious questions as to whether GW Equity can ever prove the falsity of the assertions on Rip-off Report that Geneva and GW equity are part of the same “enterprise.” Absent such proof of falsity, GWE cannot prove to this Court a substantial likelihood of success on the merits, and therefore GWE’s Application for Preliminary Injunction must be denied.

DATED this 20<sup>th</sup> day of June, 2007.

**JABURG & WILK, P.C.**

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