At IAS Part 52 of Supreme Court of the State of New York, New York County, at the Courthouse, on the 27 day of August, 2007.

PRESENT: Hon. PAUL G. FEINMAN Justice

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ADMISSION CONSULTANTS, INC.

Petitioner,

Index No.: 111503/07

-against-

ORDER TO SHOW CAUSE

McGRAW HILL PUBLISHING COMPANY and McGRAW HILL NEWS BUREAUS

Respondent.

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Upon the attached Petition, the affidavit of DAVID PETERSAM, dated August 15, 2007, with attached exhibit and the Petitioner's Memorandum of Law, and sufficient cause having been alleged therefore, it is hereby

ORDERED that RESPONDENTS or their attorney show cause before this Court, at the Courthouse, IAS Part ~~Number~~ 52, Room 289 on 9/5, 2007 at 11:00 a.m., or as soon thereafter as counsel may be heard, why an order should not be made and entered directing the Respondents to provide to the Petitioners the names, e-mail addresses and any other information in their possession necessary to identify and locate the following individuals who uses the following nicknames on the Respondents' internet forum:

a. Mikemike

b. Oxygen08

c. MBA_809

d. J_black

e. stanislaus61

f. globalup

g. Niteking78

h. Downwithdavidp

i. Mberkowitz

j. Downwithac

k. Diverdavis

l. Detailtag

ORDERED that ~~service~~ personal service pursuant to CPLR 311(a) of a copy of this Order together with a copy of the papers upon which it is granted upon respondents at their principal place of business ~~upon the Secretary of State~~, on or before Aug ~~29~~ (twenty-ninth) 2007 shall be deemed good and sufficient service.

~~ENTER~~

Enter:

8/17

J.S.C

Any opposition to be served and filed by 9/4/07.

~~Any reply papers to be served and filed by~~.

Oral argument on 9/5/07

in Room 284 at 80 Centre St. at 11 AM

FILE ALL ORIGINAL PAPERS AND AFFIDAVITS OF SERVICE
WITH THE CLERK OF PART 52 in Room 284 at 80 Centre St.
No courtesy copies.

DO NOT FILE PAPERS
with the Motion or Trial Support Offices or the County Clerk.

So Ordered,

8/17

Paul G. Feinman, J.S.C.

SUPRME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
----------X

ADMISSION CONSULTANTS, INC.

Petitioner, Index No.: 111503/07

-against-

McGRAW HILL PUBLISHING COMPANY and McGRAW HILL NEWS BUREAUS

PETITION

Respondents.

----------X

THE PETITIONER, through its attorneys, PORT and SAVA, submit the following as its verified petition:

1. The Petitioner is a Virginia based corporation.
2. The Respondents are domestic New York Corporations, where their main offices located in the County of New York.
3. The Petitioner provides consultation services to individuals seeking to gain entrance to post-secondary schools. Specifically, the Petitioners seek to assist their clients in gaining admission to prestigious Colleges and Universities.
4. The Petitioner maintains a webpage on the internet, www.Admissionconsultants.com.
5. Prospective clients are directed to the website and from there can sign up for the Petitioner's services.
6. The Respondents publish a magazine which is highly respected and regarded in the business community: BusinessWeek. In addition to the print versions of this magazine, the Respondents own and maintain a website on the internet: www.BusinessWeek.com

7. In addition to the news and commentary, the website also hosts various forums, where individuals may post messages and engage in communications with other people.
8. The messages are posted on the internet and are visible to any person who seeks to visit the Respondent's website.
9. The Respondents do not charge any fee for the use of the forums. However, any person seeking to view or use the forum must fill out a registration form. In this form, the person must provide a name and a valid email address. The registrant can then chose a "nickname" or "handle" by which he would be known in the forums. The Respondents do not require that a registrant use his real name to post any message.
10. Therefore, a poster, may, cloak his identity behind a handle.
11. Additionally, upon information and belief, the Respondents maintain a record of the internet protocol address ("IP address") of each registrant. The IP address is a unique identifier maintained by a person's internet service provider. Using such information, it is possible to locate and identify an individual registrant.
12. On one of the internet forums maintained by the Respondents, B-Schools, there is a message thread which contains many actionable statements that have and will continue to damage the Petitioner's business.
13. Person or persons using the following usernames have posted actionable material in the Respondent's forums. Such messages have caused a decrease and will continue to cause a decrease in the Petitioner's business:
    a. Mikemike
    b. Oxygen08
    c. MBA_809

d. J_black

e. stanislaus61

f. globalup

g. Niteking78

h. Downwithdavidp

i. Mberkowitz

j. Downwithac

k. Diverdavis

l. Detailtag

14. On April 4, 2007, an individual using the nickname "mikemike" started a thread "Do not use www.admissionsconsultants.com." This thread has been used as a vehicle to publish defamatory statements about the Petitioner, to interfere with the Petitioner's prospective business opportunities, to interfere with current contracts, and to commit a prima facie tort.

15. Furthermore, even when an individual has nothing to actually post, he can post a "bump" message. The purpose of the "bump" is to prevent the message thread from being pushed down on the webpage. The most messages placed in a thread, the higher its visibility is on the webpage.

16. The net result of these "bump" messages is to push this defamatory thread higher on the webpage, increase its visibility and make it available to new viewers of the site.

17. Attached hereto as exhibit "1" are messages threads 71981.1 through 71981.125.

18. Many of these posts are actionable. Specifically, and but not inclusively listed, the following statements are false and defamatory:

a. On April 10, 2007, mberkowitz posted message 71981.44: "I agree that this plague that is www.admissionsconsultants.com must be stopped. Down with david and most of all, down with rg8h."

b. On April 10, 2007, downwithdavidp posted message 71981.54:" Thank you. We'll need your help to keep it up at the top. These guys are a bunch of liars and crooks. I didn't even use their services, but I'm angry to see people get treated this way. It is upsetting to just read these posts."

c. On April 5, 2007, stanislaus61, posted message 71981.10: "I don't understand how these guys are still are still in business. Calling it a "bad service" is being kind. Its really more of a scam. Its good that people are putting out more info about these guys because when I did research on them I wasn't able to find any of this negative feedback. (Also check out the feedback they're getting on admissions411). Fortuntely, I had used someone else beforehand who gave me awesome essay adivice and feedback. So the results weren't as disasterous. Still, it was a monumental waste of money and time!"

d. On June 27, 2007, globalup posted message 71981.126: "I agree with you. Their company is not legit. I'm not 100% that poster was fake, but sure seems like a very very high probability. I can't believe how low this company goes. Total losers. I always hate to see companies go out of business, but this is one time I'd love to a company go bust."

e. On July 11, 2007, diverdavis posted message 71981.130: "Wow. These guys sound like complete crooks!"

f. Message 71981.1, dated April 4, 2007, from mikemike: "I used these guys last year and they charged my credit card without permission. When I confronted them about it, they refused to remove the charge. Beware."

g. Message 71981.2, dated April 4, 2007, from oxygen08: "i'm with you on this! I spoke with my consultant and sent him my first draft and was basically given no other feedback other then it was too long and should be rewritten. I called David Petersam directly about it, telling that i was upset with my consultant because i was getting no feedback specific to my profile, just received blanket satements. He refused to give me any refund and I ended up going through the rest of the process getting feedback from friends. I pretty much only used my consultant to check grammar, which by the way he sent to someone else to review....DO NOT USE THEM!"

h. Message 71981.3 dated April 4, 2007, from MBA_809:" Completely agree. DO NOT USE admissionsconsultants.com. i signed up with these guys and they said, I have no chance of getting into any top 15. I had a pretty decent profile and I kept hearing - 'if you want to go to school, consider top 30 -50' ranked schools. BS indeed. I got into a Top 10 School without using any services. One of my friends actually used their services and he feels that his chances were ruined because of them. He got some dumb feedback, he trusted the consultant completely and got dinged at most schools he applied to."

i. Message 71981.5, dated April 5, 2007, from j_black: DO NOT USE ADMISSION CONSULTANTS. I had a horrible experience with them too. What hurts is not that I blew $3,195 on them. What hurts is that the idiotic advice that

my consultant gave me actually kept me out of Harvard and Kellogg. I did Columbia and MIT completely on my own and got in.One time, I sent my essays to the consultant to read and he didn't. Another time, I sent my essays to the consultant to read and he said that they need to be Word attachments (rather than be text in the body of the e-mail) for him to read. Given that he doesn't use "Track Changes" in the word docs -- a norm in the industry -- that I send him, I was surprised at the request. However, I would be willing to accommodate it if I had a feeling that he actually read the essays. A lot of times, I got the feeling that he just suggested to change a few words on the essays and then patted me on the back to get me out the door. His answers were always very wishy-washy and non-committal. "Oh yes, that will work." and "Sure, you could try doing that." were typical answers to most of my questions. There was no strategic thinking, no brainstorming, no guiding on his part. Every time, we talked about the ethical question essay, he would bring up IP rights in China and how I can NOT talk about them. For career goals, he says I needed to become "a major player in a complex organization", which had no relation to my short and long term plans. I complained to David Petersam about it and he completely ignored me too. The sorriest part is that I would gladly have paid twice that amount of money if I felt it would benefit me. Another thing is that a friend (from Stanford GSB, nonetheless) specifically recommended Sandy's consulting services and I ignored my friend. I finally got Sandy's help with both the Columbia and MIT interview (just $300!!!) and I think that really helped. Long story short: If you want to make good friends with and have nice long chats with someone for six months who was the former

Director of Admission at HBS two decades ago, and finally end up as a loser your whole life, go with Admission Consultants. If you want to go with HBS, and in the process are OK with someone making you bleed and cry, talk to Sandy. Welcome to the real world."

j. On April 5, 2007, oxygen08 posted a response to j_black's post, message 71981.7: had the same exact experience!!! You used Doug Braithwaite didnt you? David Petersam: I hope your reading these posts and do something to right these wrongs..."

k. On April 7, 2007, globalup posted message 71981.20: I own a small/medium sized business. A few thoughts ...1. I'm shocked at your response to your upset customers. You are completely unrepentant and arrogant. I guarantee a better response from your customers if you took some responsibility for the shortcomings of your company. How about something like: "I want to apologize to those who have been let down by our company. We are a great company with great people, but we are obviously doing something wrong. I commit to personally contact each of you that have expressed complaints. I would like to get details about your experience so we can make improvements. Blah, blah, blah." 2. I'm even more shocked that you haven't even been reading these posts over the weekend. It shows complete disregard for your customers and frankly, your company. If my company had this type of poor exposure being published on public forum, I would be on the forum, reading responses and doing damage control all day and night. Your response to your customers and your disregard for them is shocking. I'm not one of your

customers, but I can guarantee I will never be one after the recent comments on this forum.

l. On April 8, 2007, Niteking78 posted message 71981.21: "Guys, Last year I used admissionconsultants's 1 hour initial consultation service. It was a phone call that I made to my consultant based in Asia. During that 1 hour call, my consultant was trying to tell me to look for ANOTHER field and not an MBA as with my background I 'll be more suitable for an degree in education because of my unique goal. The whole 1 hour call was about that - DO NOT APPLY TO MBA and if I'm planning to do an MBA I should be looking at the "Indianas" or "Purdues" not at other top schools. The worst part, my consultant doesn't even know what he was talking about. I refused to use their other services or even filling out their 3rd rate survey! Finally, I got in into a top 20 school and waitlisted at another top 5 school, all on my own hard work.

m. On April 9, 2007 downwithdavidp, posted message 71981.30: "am going to make it my personal goal to keep the "Do not use www.admissionsconsultants.com" thread live and well. I want it front and center until David P. decides to come straight with us all."

n. On April 10, 2007, stanislaus61 posted message 71981.38: " I would have graduated from business school in the time my AC consultant would have taken to edit 25 drafts of each of my applications. The reality is that they almost never meet the promised 72 hour turnaround time; at one point it took my consultant almost a month to get through two drafts (and I never took more than a couple days to get my stuff to them). Whenever I would ask about why I wasn't receiving

services in a timely way, they would tell me to back off and that they had already been forced to spend dozens of hours on my essays (implying that they were of poor quality). Then they would return them with minimal comments and edits. I intend to add more detail about my miserable experience with these scammers every couple days or so. Stay tuned."

o. On July 11, 2007 diverdavis posted message 71981.132: "A "bump" post is a post that just keeps the thread active. Looks like this guy ripped off a lot of people!"

p. In addition the following were posted merely as "bumps":

i. Globalup posted message 71981.29 on April 9, 2007.

ii. Downwithdavidp posted message 71981.33 on April 10, 2007.

iii. Downwithac posted message 71981.64 on April 11, 2007.

iv. Mikemike posted message 71981.79 on April 12, 2007.

v. Globalup posted message 71981.80 on April 13, 2007.

vi. Downwithac posted message 71981.84 on April 16, 2007.

vii. Downwithac posted message 71981.89 on April 20, 2007.

viii. Globalup posted message 71981.91 on April 20, 2007.

ix. Globalup posted message 71981.99 on May 2, 2007.

x. Downwithac posted message 71981.116 on May 28, 2007.

xi. Globalup posted message 71981.117 on May 30, 2007.

xii. Globalup posted message 71981.122 on June 9, 2007.

xiii. Detailtag posted message 71981.133 on July 16, 2007.

xiv. Diverdavis posted message 71981.134 on July 23, 2007.

19. These comments are actionable and specifically designed to injure the Petitioner.

20. As a result of these postings, the Plaintiff has lost business and had to field inquires from potential customers who have been influenced by the message thread.

21. The Petitioner seeks to identify these individuals and is requesting that the Respondents provide the names, the valid email addresses of the above referenced posters, their internet protocol addresses ("IPs") and any other information they might possess which would assist the Petitioner in indentifying the posters so that they may be named as defendants in an action or actions sounding in tortuous conduct.

22. The Petitioner cannot commence any action against the individuals who posted such actionable posts until it learns their identities and locations.

23. The Petitioner does not have the ability to identify and locate these individuals without information which is in the possession of the Respondent.

24. Therefore, the Petitioner is seeking an order directing the Respondent to provide all information in their possession regarding any of these posters to include their names, email addresses, IP addresses and any other information which they may possess which would assist the Petitioner in identifying and locating these posters.

WHEREFORE, based upon the foregoing, the Petitioner requests an order directing the Respondents to provide all information in their possession regarding any of the below listed posters to include their names, email addresses, IP addresses and any other information which they may possess which would assist the Petitioner in identifying and locating these posters:

a. Mikemike

b. Oxygen08

c. MBA_809

d. J_black

e. stanislaus61

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g. Niteking78

h. Downwithdavidp

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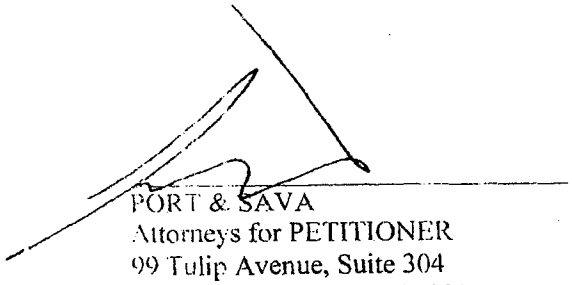
Dated: August 21, 2007
Floral Park, New York



PORT & SAVA
Attorneys for PETITIONER
99 Tulip Avenue, Suite 304
Floral Park, New York 11001
(516) 352-2999

SUPRME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ADMISSION CONSULTANTS, INC.

Petitioner,

Index No.: 111503/07

-against-

McGRAW HILL PUBLISHING COMPANY and McGRAW HILL NEWS BUREAUS

VERIFICATION BY AN ATTORNEY

Respondents.

----------X

I am a member of the firm of Port and Sava, the attorneys for the Petitioner in this proceeding, and I have read and know the contents of the foregoing Petition. The Petition is true to my own knowledge, except as to matters alleged upon information and belief, and as to those matters I believe it to be true.

The sources of my information and grounds of my belief as to all matters in the foregoing document to include matters not stated to be made upon my knowledge are as follows: a close examination of the Respondent's website, personal knowledge as to the internet, and discussions with officers of the Petitioner.

This verification is made by me because this petition involves a procedural issue of pre-action discovery, and that Petitioner is located in the State of Virginia and does not maintain offices or a business presence in the State of New York.

Dated: August 21, 2007
Floral Park, New York

PORT & SAVA
Attorneys for PETITIONER
99 Tulip Avenue, Suite 304
Floral Park, New York 11001
(516) 352-2999

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ADMISSION CONSULTANTS, INC.

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-against-

McGRAW HILL PUBLISHING COMPANY and McGRAW HILL NEWS BUREAUS

Respondents.

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Index Number:

AFFIDAVIT IN SUPPORT OF THE APPLICATION

DAVID PETERSAM, being sworn, deposes and says:

1. I am an officer of the above referenced petitioner and am submitting this affidavit in support of the petitioner's motion pursuant to CPLR 3102(c) to compel the respondents to provide evidence necessary to identify potential defendants in a defamation action.
2. What we are specifically seeking is for the respondent to provide all information in their possession which would lead to the ability to identify the real names certain individuals. This would include all email addresses, names, addresses, IP addresses and any other information which would lead to identifying these individuals.
3. The Petitioner provides consultation services to individuals seeking to gain entrance to post-secondary schools. Specifically, we seek to assist our clients in gaining admission to prestigious Colleges and Universities.

4. Upon information and belief, the Respondents own and/or operate a publication known as "BusinessWeek." As part of their ownership and/or publication of this magazine, the Respondent own and operate a website using the URL www.BusinessWeek.com.
5. On this website, the Respondents operate, maintain and moderate various bulletin board or on-line forums. Without cost, a person can navigate to the website, sign up for a free account, supply a valid email account and provide a nickname or handle. Once registered, a person can post comments to the forums or bulletin board maintained by the respondents on the website.
6. Once such forum caters to person interested in attention a post-secondary school to earn a business degree. On this forum, registered users can start a discussion topic known as a thread.
7. One such forum is entitled "BW B-Schools."
8. On April 4, 2007, an individual using the nickname "mikemike" started a thread "Do not use www.admissionsconsultants.com." This thread has been used as a vehicle to publish defamatory statements about the Petitioner, to interfere with the Petitioner's prospective business opportunities, to interfere with current contracts, and to commit a prima facie tort.
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16. No request for the same or similar relief has been made to this or any other court.

Dated: 15 August 2007

DAVID PETERSAM

Sworn before me this 15 day of August 2007

Notary

MAYA BARBERY
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES DEC. 31, 2007
COMMISSION #334570