

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

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 BARUCH GOLDSTEIN, a/k/a BORIS GOLDSTEIN, : **SUMMONS**
 :
 Plaintiff, : Index No. _____/2018
 :
 - against - : Date Purchased: 2/6/2018
 :
 GUARDIAN NEWS & MEDIA, LLC, d/b/a THE : Plaintiff designates New York
 GUARDIAN and JONATHAN SWAINE, : County as the place of trial
 : pursuant to CPLR 503(a), (c)
 Defendants. :
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TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED, to answer the Verified Complaint in this action and to serve a copy of your Answer on the Plaintiff's attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after the completion of service or service made in any manner other than personal delivery within the State of New York. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: Uniondale, New York
February 6, 2018

RUSKIN MOSCOU FALTISCHEK P.C.
Attorneys for Plaintiff

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JONATHAN SWAINE
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Defendants.	:
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Index No. _____/2018
VERIFIED COMPLAINT

Plaintiff, Baruch Goldstein, also known as Boris Goldstein ("Goldstein"), by and through his attorneys, Ruskin Moscou Faltischek, P.C., as and for his Verified Complaint against defendants Guardian News & Media, LLC, doing business as The Guardian ("The Guardian"), and Jonathan Swaine ("Swaine," and together with The Guardian, "Defendants"), alleges as follows:

NATURE OF THE ACTION

1. Goldstein brings this action for an order directing the retraction of, and to recover damages stemming from, an article authored by Swaine and published by The Guardian making numerous false, malicious, and defamatory statements against Goldstein, including that he was business partners with Irakly Kaveladze ("Kaveladze"), who is alleged to have engaged in money laundering activities, and that Goldstein has purported connections to the former Soviet Union's Komiteet Gosudarstvinoy Bezopasnosti ("KGB").
2. Defendants' statements about Goldstein in the Article are false, a fact Defendants conceded by revising some, but not all, of the statements after the initial publication.

3. The truth is Goldstein was never a business partner with Kaveladze; Goldstein was never involved in any money laundering scheme; and Goldstein never employed nor had any ties to any former KGB officials.

4. As a direct and proximate result of Defendants' malicious, reckless and/or negligent making and publication of the false statements, and the false impressions they have created, Goldstein has suffered substantial injury to his reputation, both in the business community and privately, and his ability to conduct his businesses.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the Defendants pursuant to CPLR § 301.

6. Venue in New York County is proper pursuant to CPLR §§ 503(a) and (c) based on the parties' residences and principal place of business.

FACTS COMMON TO ALL CAUSES OF ACTION

A. The Parties

7. Goldstein is an individual residing in the State of New York, County of New York.

8. Over the past several years, Goldstein, a successful entrepreneur, has formed, operated, and/or invested in a number of private businesses.

9. The cornerstone of Goldstein's success, and the linchpin to his continued success, is his ability to attract outside institutional investors in his companies which, in turn, is largely dependent on his reputation in the industry as an honest and legitimate businessperson.

10. Upon information and belief, The Guardian is a foreign limited liability company, formed under the laws of the State of Delaware, authorized to conduct business in the State of

New York, with its principal place of business located in the State of New York, County of New York.

11. The Guardian is a print and online newspaper with millions of subscribers and readers throughout the world, including in the United States of America and, more specifically, New York.

12. Swaine is an individual who, upon information and belief, resides in the State of New York, County of New York.

13. Upon information and belief, Swaine is, and at all relevant times has been, employed by The Guardian as a reporter or he has otherwise written or contributed to articles published by The Guardian.

B. The Defamatory Statements in the Article

14. On July 21, 2017, The Guardian published an article, with the headline “Russian man at Trump Jr meeting had partner with Soviet intelligence ties” (the “Article”).

15. Swaine authored the Article in the course of his employment by The Guardian.

16. Upon information and belief, Swaine represented to The Guardian that the statements in the Article were true and accurate.

17. The “standfirst,” or sub-headline, of the Article states that “*Irakly Kaveladze’s partner Boris Goldstein* was a Soviet-born banker whose *ties to former KGB officials* attracted interest from US investigators in the 1990s” (emphasis added).

18. In the body of the Article, Defendants state that:

- a. “A Russian participant in the notorious meeting held by Donald Trump’s son [identified in the Article as Kaveladze] . . . had a *business partner* [identified in the Article as Goldstein] *who is linked by US authorities to former Soviet intelligence officials;*”

- b. “According to US officials, *Kaveladze’s partner in [a money laundering] operation was Boris Goldstein*, a Soviet-born banker whose *ties to former KGB officers* attracted interest from US investigators after he moved to California in the early 1990s;”
- c. “Before moving to the US in 1991, *Goldstein had founded a bank* in his native Latvia that merged with a bank run by *Edmunds Johansons*, the former chairman of the KGB in Latvia;”
- d. “US intelligence sources cited in a 1999 investigation by the Pulitzer-winning investigative reporter Knut Royce said that *Goldstein employed ‘as many as five former Latvian KGB officers;’*” and
- e. “After moving to the US in 1991, Goldstein bought a \$1m stake in Commercial Bank of San Francisco in 1994. According to GAO investigators, *Goldstein signed a contract with Kaveladze for Kaveladze to incorporate shell companies in Delaware for Russian clients;*”

(emphasis added) (the “Statements”).

19. The Statements authored by Swaine and published by The Guardian – claiming that (i) Goldstein was or is a business partner with Kaveladze, (ii) that Goldstein signed any contracts with Kaveladze, and (iii) that Goldstein employed former KGB officers – are all false.

20. Goldstein was never a business partner with Kaveladze.

21. Goldstein never signed any contracts with Kaveladze, and especially any contracts to form shell companies in furtherance of a money laundering scheme, as the Article implies.

22. Goldstein never employed nor did he have any ties to any former KGB officials.

23. Goldstein never met or spoke with Edmunds Johansons.

24. Goldstein advised Swaine of the falsity of these statements during an interview before the Article was published.

25. Although Goldstein told Swaine the Statements were false, Defendants still published the Article.

26. Defendants knew, or should have known, the falsity of the Statements before they were published.

C. **The Article's Adverse Effect on Goldstein's Reputation and Business Dealings**

27. At all relevant times before the Article was published, Goldstein's reputation in the business community was above reproach, and he enjoyed unfettered access to a number of institutional investors from whom he could generate interest in investing in Goldstein's companies.

28. In fact, over the past several years, Goldstein was able to work with and generate millions of dollars in investments from institution investors, such as well-known banking institutions like Wells Fargo Bank, N.A. Citibank, N.A., and Signature Bank.

29. Goldstein's reputation in the community and his ability to generate investments for his businesses changed dramatically shortly after the Article was published, as potential investors with whom Goldstein was in negotiations withdrew their interest in investing and other investors with whom Goldstein had done business in the past would not speak with Goldstein.

30. Prior to Defendants publication of the Article, Wells Fargo Bank, N.A. Citibank, N.A., and Signature Bank had extended credit to Goldstein or invested in his business, however, as a direct and proximate result of the Article, those institutional investors subsequently refused to extend any credit to Goldstein or invest in his business, and declined to enter into any business engagement with Goldstein, which they otherwise would have done.

31. On multiple occasions, potential and past investors, including Wells Fargo Bank, N.A. Citibank, N.A., and Signature Bank, told Goldstein they would not do business with him or any company with which he was involved because of the Article and, more specifically, the Statements.

32. The Article also created an undue strain on Goldstein's marriage and caused significant embarrassment to his entire family, including his wife and children.

D. Defendants' Admission and Refusal to Retract The Article

33. On January 9, 2018, Goldstein, by and through his attorney, sent a letter to Defendants identifying the false and defamatory Statements in the Article and demanding that they be retracted or corrected.

34. By letter dated January 10, 2018, Defendants admitted some, but not all, of their misstatements about Goldstein in the Article and promised to revise the Article accordingly but, incredibly, outright refused to retract the false, malicious, and defamatory Statements.

35. On January 10, 2018, The Guardian posted online a revised version of the Article that corrected the headline and sub-headline to note that Kaveladze is only "alleged" to have been business partners with Goldstein, thus conceding the falsity of the original version of the Article.

36. Defendants, however, did not make any revisions to the body of the Article, thus perpetuating the publication and dissemination of the false, malicious, and defamatory Statements.

37. The Article, in both its original form and as revised, has caused Goldstein to suffer substantial damage to both his reputation and his ability to conduct his businesses.

AS AND FOR A FIRST CAUSE OF ACTION
(Defamation (Libel) – Against All Defendants)

38. Goldstein repeats and realleges all of the prior allegations as if fully stated herein.

39. Defendants authored, edited and/or published the Article.

40. The Statements in the Article concerning Goldstein's purported business relationship with Kaveladze and his alleged ties to KGB officers are false, substantially false, and/or significantly misleading.

41. Defendants published the Statements, without privilege or authorization, to the public maliciously, with knowledge of their falsity and/or misleading nature, with reckless disregard for the truth, or negligently.

42. The Statements tend to expose, and did expose, Goldstein to public contempt, ridicule, aversion or disgrace, or induce an evil opinion of him in the minds of right-thinking persons, and to deprive him of their friendly intercourse in society and their business dealings.

43. The Statements tend to injury Goldstein in his trade, business and profession.

44. The Statements cast a strong negative stigma on Goldstein's professional standing, and greatly deterred Goldstein's ability to obtain funding and investors.

45. The Statements have caused institutional investors to withdraw their offers of investment and made it impossible for Goldstein to obtain institutional funding for his business ventures.

46. As a direct and proximate result of the publication of the false, misleading, and defamatory Statements, Goldstein has been, and continues to be, greatly injured in his reputation and credit, and has suffered great loss of custom in his business.

47. As a direct and proximate result of the publication of the false, misleading and defamatory Statements, Goldstein has been, and continues to be, deprived of substantial gains and profits, which otherwise he would have made.

48. By reason of the foregoing, Goldstein has suffered damages in an amount to be determined at trial, but believed to be not less than \$10,000,000.

49. Defendants' conduct was so outrageous, wanton, willful and malicious, and so injurious to the public's trust in accurate news reporting, that Goldstein should be awarded punitive damages in an amount to be determined at trial, but believed to be not less than \$10,000,000.

AS AND FOR A SECOND CAUSE OF ACTION
(Defamation (Libel Per Se) – Against All Defendants)

50. Goldstein repeats and realleges all of the prior allegations as if fully stated herein.

51. Defendants authored, edited and/or published the Article.

52. Defendants published the Statements, without privilege or authorization, to the public maliciously, with knowledge of their falsity and/or misleading nature, with reckless disregard for the truth, or negligently.

53. The Statements in the Article concerning Goldstein's purported business relationship with Kaveladze and his alleged ties to KGB officers are false or substantially false.

54. The Statements are libelous *per se* because they tend to injury, and have injured, Goldstein in his trade, business and profession by causing the public apprehension about doing business with him or any companies in which he is involved.

55. The Statements are libelous *per se* because they exposed, and tend to expose, Goldstein to public contempt, ridicule, aversion or disgrace, or induce an evil opinion of him in the minds of right-thinking persons, and to deprive him of their friendly intercourse in society and their business dealings.

56. The Statements are libelous *per se* because they falsely imply that Goldstein committed a crime.

57. As a direct and proximate result of the publication of the false, misleading, and defamatory Statements, Goldstein has been, and continues to be, greatly injured in his reputation and credit, and has suffered great loss of custom in his business.

58. As a direct and proximate result of the publication of the false, misleading and defamatory Statements, Goldstein has been, and continues to be, deprived of substantial gains and profits, which otherwise he would have made.

59. By reason of the foregoing, Goldstein has suffered damages in an amount to be determined at trial, but believed to be not less than \$10,000,000.

60. Defendants' conduct was so outrageous, wanton, willful and malicious, and so injurious to the public's trust in accurate news reporting, that Goldstein should be awarded punitive damages in an amount to be determined at trial, but believed to be not less than \$10,000,000.

WHEREFORE, Goldstein respectfully demands judgment as follows:

- a. An injunction directing The Guardian to issue a public retraction of the Article and to remove the Statements from any future publication of the Article;
- b. An award of compensatory damages against Defendants, jointly and severally, in an amount to be determined at trial believed to be not less than \$10,000,000; and
- c. An award of punitive damages against Defendants, jointly and severally, in an amount to be determined at trial believed to be not less than \$10,000,000; together with
- d. Pre-judgment interest on each of the foregoing damage awards at the statutory rate of 9% per annum starting from the date the Article was first published (*i.e.*, July 21, 2017); and

e. Such other and further relief as the Court deems just and proper.

Dated: Uniondale, New York
February 5, 2018

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