

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

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In the Matter of the Application of
MILTON C. AULT, III,

Petitioner,

For an Order pursuant to Section 3102(c) of the Civil Practice
Law and Rules to compel pre-action disclosure from:

STOCKTWITS, INC.,

Respondent,

of the identity of the defendants JOHN DOE(s) being
unknown to the Petitioner, in an action to be commenced.

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VERIFIED PETITION

Index No.

Date Purchased:

Petitioner Milton C. Ault, III (“Ault” or “Petitioner”), by and through his undersigned attorneys, respectfully petitions the Court, pursuant to [New York Civil Practice Law and Rules \(“CPLR”\) § 3102\(c\)](#), for an Order providing for pre-action disclosure from Respondent Stocktwits, Inc. (“Stocktwits” or “Respondent”), and hereby alleges the following:

PARTIES, JURISDICTION AND VENUE

1. Petitioner is an individual residing in the State of Nevada. Petitioner is, among other things, the current Executive Chairman and former Chief Executive Officer of Ault Global Holdings, Inc. (f/k/a DPW Holdings, Inc.) (“DPW”), as well as the founder and Chairman Emeritus of Alzamend Neuro, Inc. Petitioner also holds numerous other executive titles with various other companies. Petitioner is colloquially known as “Todd” as demonstrated on his biography from the DPW website. Attached hereto as [Exhibit 1](#) is a screenshot of Petitioner’s biography from the DPW website, which was accessed on July 12, 2021.

2. Upon information and belief, Respondent is a Delaware corporation with its principal place of business located in the State of New York, County of New York at 1001 6th

Avenue, 7th Floor, New York, New York 10018. Upon information and belief, Respondent is also authorized to do business in the State of New York and has a registered agent for service of process in the State of New York. As such, Respondent is subject to New York's *in personam* jurisdiction pursuant to, *inter alia*, CPLR §§ [301](#) and [302](#) and venue is proper in New York County pursuant to, *inter alia*, CPLR § [503\(c\)](#).

THE STOCKTWITS POSTINGS

3. Stocktwits promotes itself on its LinkedIn page as “the world’s leading social network and community of investors and traders.” Attached hereto as [Exhibit 2](#) is a screenshot from Stocktwits’ LinkedIn Page, which was accessed on July 12, 2021.

4. Its mission, as stated on its LinkedIn page, is to “provide the platform to host the global conversation for investors and traders of all types of assets, styles and experience levels to connect, learn, profit and have fun.” *See* [Ex. 2](#).

5. To that end, upon information and belief, Stocktwits’ platform has approximately five million members and its diverse user base encompasses, *inter alia*, investors with varying degrees of sophistication.

6. Stocktwits allows its users to post regarding various companies and users typically “cashtag” the company by inserting a “\$” before the company’s ticker symbol in their posts.

7. Stocktwits postings, including the ones at issue, are posted with relative anonymity where the users use screennames as aliases and their true identities are not necessarily publicly available.

8. Notwithstanding their anonymity, these postings on Stocktwits’ platform are greatly influential as they are seen by not only Stocktwits’ enormous user base (and, as in the cases below, the public at large), but specifically persons and entities in the financial sector.

9. Recently, a number of users on Stocktwits' platform have been setting forth near continuous posts specifically targeting Ault. These postings by multiple Stocktwits users have accused Ault of criminal activity, pump and dump schemes and other falsities, and have also impugned companies with which Ault is associated.

10. These anonymous users have purposely demeaned any value created, or action taken, by or on behalf of Ault, with the goal of discouraging investment in companies associated with Ault, as well as maligning Ault in his professional capacity as well as personal capacity.

11. Indeed, without any substantiation, many of the below posts recklessly refer to Ault as a criminal notwithstanding that Ault has never been charged or convicted of a misdemeanor or felony. One post even went as far as warning that "I would advise you to not bring your family on this trip," which, on its face, could reasonably be interpreted as a possible threat to Ault and his family.

12. The following Stocktwits users posted the following statements on the dates set forth below:

A user with the username "Bobby720" posted, *inter alia*, the following statements (accessible at www.stocktwits.com/Bobby720):

Bobby720 (posted on June 21, 2021)

[\\$ALZN](#) don't forget that the founder of Alzamend is a criminal. Todd Ault always steals money from shareholders and funnels it into his own pocket. How many shell companies does he and his wife own 10 maybe?

Bobby720 (posted on June 27, 2021)

ok now you can see some small buys from the criminal Todd Ault. The purpose of those buys is to increase shareholders confidence in the company. So. people will say hey if the founder buys shares the company must be real and not overvalued. But it's just nonsense and just a trick to keep shareholders invested.

If the lockup period is over, he and his wife will dump millions of shares which they gave to themselves at 0.0004\$ per share. Everybody knows that preclinical assets aren't worth much.

Just keep in mind that Todd Ault together with his wife got around 30% of the company for around 10000\$.

And Todd was the one who pumped the IPO valuation to over \$400 million even though the company is only worth \$20 million at best.

Can anybody see the connection between giving millions of shares to himself at a ridiculously low price and then increasing the valuation of the IPO to a ridiculous amount?

Who will be the one who profits from it?

Bobby720 (posted on July 2, 2021)

[\\$ALZN](#) the founder is a criminal who owns 30 million shares at a price of 0.0004\$

Bobby720 (posted on July 9, 2021)

[\\$ALZN](#) SEC should be aware that Todd Ault is pumping ALZN so he can sell his own shares at a huge profit. Is that allowed to use money from DPW shareholders to artificially pump the company that he is personally invested in? Family Ault owns 30 million shares bought at 0.0004\$.

Bobby720 (posted on July 9, 2021)

[@BASEflyer](#) [@Drdp29](#) [@IN_N_OUT_TRADER](#) you are bullish about everything that Todd Ault is doing. Kinda suspicious. Why do you like that fat criminal?

Bobby720 (posted on July 9, 2021)

[@jimmyjohns911](#) [@peediddy](#) are you connected to Todd Ault or why are you defending his criminal activities? It's ok to get cheap shares if you start a company. But Todd didn't invest much of his own money. Calculate it on your own how much he invested. It's 30 million x 0.0004\$ That's not much. The rest was funded by other people and DPW shareholders. And now he is pumping the company until he can sell his shares. And no he didn't build a bad ass team behind ALZN. The company has 1 full-time employee and that's the CEO who has zero experience being a CEO or with Alzheimer's. DPW is just filled with Todd's puppets who want to profit of his criminal activities. As I said preclinical assets aren't worth much. Why is the company extremely overvalued? Because Todd is pumping the share price with shareholders money from DPW. Clearly for his own profit. Loosing DPW money is ok as long as Todd is profiting. That is clearly criminal.

Bobby720 (posted on July 9, 2021)

[@jimmyjohns911](#) [@peediddy](#) I will contact the SEC because that is clearly a case of self dealing. He is transferring DPW shareholders money into his own pocket. Can't be more obvious.

A user with the username “peediddy” posted, *inter alia*, the following statements (accessible at www.stocktwits.com/peediddy):

peediddy (posted on July 2, 2021)

And again Uncle Milt, in a complete conflict of interest, uses \$DPW sharehodler monies to attempt to prop up his failing \$ALZN IPO. One would hope the #SEC is paying attention to this blatant self-dealing.

Is this why \$DPW has been tanking?

peediddy (posted on July 2, 2021)

\$DPW AultScamEnd posse all excited because they are only down 4.5% instead of the usual 10%.

peediddy (posted on July 1, 2021)

\$ALZN IPO price should have been in the 1's, if even that high. Milton used DPW sharehodler funds to prop it up by buying 80%. This company has nothing going for it but a low float.

peediddy (posted on July 1, 2021)

[\\$DPW](#) Heya Milt! AultScamEnd needs some more propping up.

peediddy (posted on June 29, 2021)

[\\$DPW](#) Looks like we will see Milt continuing to throw are DPW sharehodler money at his Alzamed conflict of interest. And shorts readily gobbling it up.

peediddy (posted on June 22, 2021)

[\\$ALZN](#) What a crock of shit. Uncle Milt using [\\$DPW](#) sharehodlers money to tryna prop up ALZN sham until his lock-up expires. Shallow Bullshit.

A user with the username “SourPuss” posted, *inter alia*, the following statements (accessible at www.stocktwits.com/sourpuss):

SourPuss (posted on July 9, 2021)

[\\$DPW](#) Boy, Todd is sure milking the BS Alzamed stuff for all it’s worth. Why? Now that everyone has caught on to the DPW scam, he needs a new vehicle to sell more shares so he can

keep lining his pockets with your savings. He and wifey own millions of ALZN shares...doesn't seem conflicted at all, right?

SourPuss (posted on July 6, 2021)

\$DPW There is only one reason for the shareholder meeting to be called off due to lack of quorum...Todd didn't show. He's done this before when he didn't want a vote to happen. What a chicken shit sleazeball.

SourPuss (posted on June 30, 2021)

\$DPW For the sake of you newbies, DPW is nothing but a cheap POS scam run by a serial fraudster. Share price has tanked by more than -99% in barely three years and their accumulated deficit has increased from -15M to more than \$-125,000,000 in the same time period. They're being sued by everybody and their mother (including their own attorneys) and they're under investigation by the SEC. The only reason they are still in business and listed is because of repeated heavily dilutive ATMs and repeated reverse splits. Run, don't walk, away from this turd before serial fraudster Todd pockets your savings.

SourPuss (posted on June 25, 2021)

\$DPW So these scumbags do three things well: - Lie in their press releases to sucker dumbasses - Run massively dilutive ATMs - Put the proceeds in their pockets. They have no inclination nor any idea how to organically grow shareholder value by actually selling anything. Evidence?...their share price has tanked by more than -99% and Accumulated Deficit has increased by more than - \$125,000,000 in barely three years. Seems like a strong buy, right?!

SourPuss (posted on June 25, 2021)

\$DPW is a POS scam run by a serial fraudster. The sooner you accept that FACT and move on, the better. For grins, Google "Milton Todd Ault and fraud" and "Milton Todd Ault and FINRA". He scams people out of their savings for a living. He's a sociopath...it's what he does and he has no remorse.

SourPuss (posted on June 22, 2021)

\$DPW Keep in mind, it's only a matter of time before bag holders, pumpers and liars will do their best to pump this POS scam. Of course, like always, it will immediately crash. Don't get suckered into buying someone else's bags or giving Todd and his pumpers any of your money.

SourPuss (posted on June 22, 2021)

\$DPW is a POS scam run by a serial fraudster. The sooner you accept that FACT and move on, the better. For grins, Google "Milton Todd Ault and fraud" and "Milton Todd Ault and FINRA". He scams people out of their savings for a living. He's a sociopath...it's what he does and he has no remorse.

SourPuss (posted on June 21, 2021)

[\\$DPW](#) Good to see a few new guys helping educate the ill-informed. I've been telling people this is a POS scam run by a serial fraudster for more than three years and saw Todd doing the same long before the DPW scam. It's just what he does and who he is. Thanks guys. By the way, Google "Milton Todd Ault and fraud" and "Milton Todd Ault and FINRA" for grins.

SourPuss (posted on June 14, 2021)

[\\$DPW](#) If Alzamend really had anything interesting going on, they would not have to go public which is not only extremely costly and cumbersome but it means it will be that much harder to keep intellectual property secret. To put it another way, if they had any interesting IP/product, private equity investors and VCs would be absolutely throwing money at them and the company would be able to fix a very high valuation. They have nothing but they need cash to keep paying their high salaries while funneling cash to Todd so they have to IPO because smart money won't touch them with a mile long pole. Scumbag scammers.

A user with the username "Checkmeouta" posted, *inter alia*, the following statements (accessible at www.stocktwits.com/checkmeouta):

Checkmeouta (posted on July 7, 2021)

[\\$DPW](#) ault prob giving shares to shorts to borrow so he personally making killing fkn criminal

Checkmeouta (posted on July 6, 2021)

\$DPW now he's lending shares he bought to shorts how he bought through his company all secret.

Checkmeouta (posted on July 6, 2021)

\$DPW guys I got bad feeling stock is controlled now no more massive pumps Ault has a hand in manipulating stock price.

Checkmeouta (posted on July 6, 2021)

\$DPW yes I know it's not the same company I know things are different but talking to ammatures they need to know how fkn manipulated this stock is....I bet you Todd ault is lending out dpw /his shares in alzn to shorts to make money !!!!! I fkn bet you

A user with the username "logottz1" posted, *inter alia*, the following statements (accessible at www.stocktwits.com/logottz1)

logottz1 (posted on July 9, 2021)

[\\$DPW @Ault](#) is getting his money out right now... are any of you?

logottz1 (posted on July 9, 2021)

[\\$DPW](#) Only .13 cents more and those who have been trapped for about two weeks can just get there koney back. Maybe message [@Ault](#) directly and ask if he'll reach out to his insiders to rise up off this trap for a second....

logottz1 (posted on July 8, 2021)

[\\$DPW](#) does everyone else see \$2.29 pre-market... wonder how and when your stock is being abused? In structured deals that trade outside of hours when private investors can trade. Then a bunch of dreamers buy... and Ault tickles his insiders to pull the floor out from beneath you. We're not here making this shit up. We've just seen it happen to everyone for the last 5 years.

logottz1 (posted on July 6, 2021)

[\\$DPW](#) I would advise not to bring your family on this trip... and I would advise reviewing how this scam has only trapped investors for 4 years. It's attractive because of the tongue and cheek of the CEO. All cashflows are from insider trading manipulating the stock at the cost of most private investors. She's going to the moon all right...ONE WAY...WITH ALL YOUR MONEY. AVOID THIS SCAM.

lgottz1 (posted on June 29, 2021)

The only thing that controls the price movement of [\\$DPW](#) stock is Ault. YOUR money is safe in HIS account. Invest away tools!

lgottz1 (posted on June 28, 2021)

[\\$DPW](#) price doesn't move because of news... it moves when Ault tells it to via insider trading and structured deals when it adversely affects the most private investors.

A user with the username “TheTimeIsNow2021” posted, *inter alia*, the following statements (accessible at www.stocktwits.com/thetimeisnow2021)

TheTimeIsNow2021 (posted on July 8, 2021)

[@bossng](#) [\\$DPW](#) [\\$ALZN](#) Did Ault give you extra shares after the dilution and multiple RS? Several people were on a special listof course I was NOT one of them 🙄 and I think that may be illegal? Why is the company being INVESTIGATED by the commission?

TheTimeIsNow2021 Bearish (posted on July 6, 2021)

[\\$ALZN](#) Ault pumps to \$33 then submits to do a study 🙄 How does the SEC let these people get a way with it... Hopefully, when they INVESTIGATE [\\$DPW](#) they will uncover more 🙄

TheTimeIsNow2021 (posted on July 6, 2021)

[\\$ALZN](#) with this volume we can only assume AULT “playing with himself” 🙄🙄🙄🙄🙄

TheTimeIsNow2021 (posted on July 2, 2021)

[\\$ALZN](#) Get use to it AULT uses his own shares to move this... 🙌🙌🙌

True and correct copies of the aforementioned posts are annexed hereto as Exhibit 3.

13. The above statements are false. Specifically, with respect to the egregious allegations of criminality and criminal conduct, Petitioner has never been charged or convicted of any misdemeanors or felonies.

14. Moreover, the allegations that Ault purportedly “pumped and dumped” stock are also outrageous and have been made about Ault by individuals seeking to damage Ault’s reputation personally and professionally. Not surprisingly, such postings contain no factual assertions to support the appalling claims made therein.

AULT’S MERITORIOUS CAUSES OF ACTION

15. As set forth in the accompanying Memorandum of Law, the conduct described above constitutes libel and libel per se. In particular, Petitioner is able to establish that these false statements tend to expose Ault to public contempt, hatred, ridicule, aversion or disgrace. These false statements were published to third parties, without privilege or authorization, and cast aspersions upon the basic character and integrity of Ault, including accusations of criminality and of Ault in his profession.

16. The foregoing statements, implications, and meanings were compiled and published by these anonymous posters without privilege or authorization in a manner that was false, misleading, and libelous, and moreover were published with actual malice or malicious intent, or with reckless disregard of their truth or falsity, targeted to cause harm to Petitioner and were calculated to damage Petitioner’s business and reputation.

17. By virtue of these false and defamatory statements, Ault's business and reputation have been damaged.

PETITIONER IS ENTITLED TO THE RELIEF REQUESTED

18. The information that Ault seeks from Stocktwits is material and necessary to Ault's claims because Ault is otherwise unable to ascertain the true identity of the person or persons who engaged in these wrongful acts. Indeed, if Ault is denied the relief sought herein, it will foreclose his ability to seek redress from the individuals who have defamed and disparaged him. As set forth above, Ault has meritorious claims for, *inter alia*, libel and libel per se against these unknown authors and as such, has satisfied the requirements for obtaining pre-action disclosure from Stocktwits pursuant to [CPLR § 3102\(c\)](#).

19. Moreover, the relief requested would impose virtually no burden on Stocktwits and Stocktwits should, therefore, be ordered to provide documents regarding the real names, addresses, e-mail addresses, phone numbers, and internet protocol addresses corresponding to each of the Stocktwits usernames and posts set forth above.

20. Pursuant to [CPLR § 2217\(b\)](#), no previous application has been made for the relief requested herein.

* * *

PRAYER FOR RELIEF

WHEREFORE, Petitioner Milton C. Ault, III respectfully requests that this Court: (i) order Respondent Stocktwits, Inc. to disclose the true names, addresses, phone numbers, e-mail addresses, and internet protocol addresses for the usernames and user posts identified in paragraph 12 of the this Petition or, alternatively, grant leave to Petitioner to serve a subpoena *duces tecum* or discovery requests upon Respondent Stocktwits, Inc. narrowly tailored to identify such information, so as to enable Petitioner to commence an action and serve process on the appropriate parties that have published the defamatory statements; (ii) order Respondent Stocktwits, Inc. to preserve all evidence related to the usernames and user posts identified in paragraph 12 of this Petition; and (iii) for such other and further relief as the Court deems just and proper.

Dated: Los Angeles, California
July 15, 2021

Respectfully submitted,

WELTZ KAKOS GERBI
WOLINETZ VOLYNSKY LLP

By: /s/ Robert Volynsky
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Milton C. Ault, III*

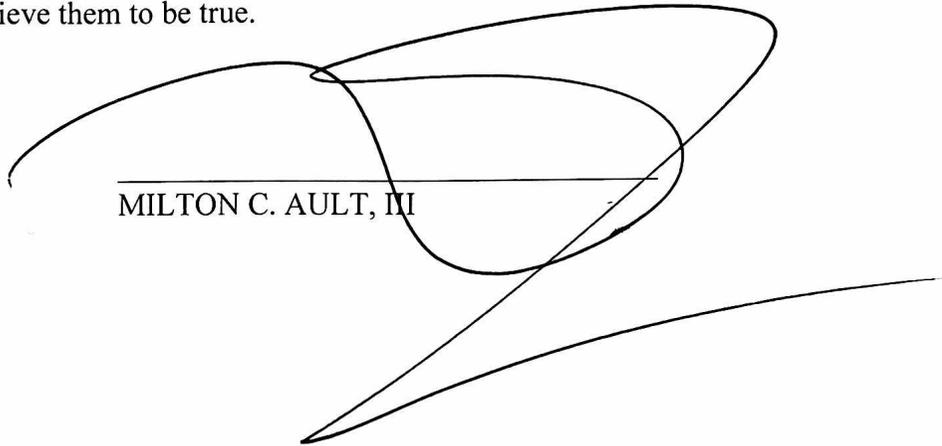
VERIFICATION

STATE OF Nevada)
)ss:
COUNTY OF Clark)

MILTON C. AULT, III, being duly sworn, deposes and says:

I am in the individually named Petitioner in the foregoing Verified Petition.

I have read the foregoing Verified Petition and know the contents thereof. The same are true to my knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.



MILTON C. AULT, III

Sworn to before me on
this 15 day of July, 2021



NOTARY PUBLIC



**CERTIFICATE OF CONFORMITY OF ACKNOWLEDGMENT PURSUANT TO N.Y.
CPLR 2309(c) & NYS RPL § 299-a**

The undersigned does hereby certify that he is an attorney-at-law duly admitted to practice in the State of Nevada; that he is a person duly qualified to make this certificate of conformity pursuant to Section 299-a of the Real Property Law of the State of New York; that he is fully acquainted with the laws of the State of Nevada pertaining to the acknowledgment of oaths and affidavits; that the attached acknowledgment by Milton C. Ault, III, named in the foregoing instrument (a Verified Petition duly sworn to by Milton C. Ault, III) taken and sworn to before Jaclyn Marie Norton, a notary public, on July 15, 2021, is in the manner prescribed by such laws of the State of Nevada, being the State in which it was taken; and that it duly conforms with such laws and is in all respects valid and effective in the State of Nevada.



Joe Laxague, Esq.

**CERTIFICATE OF COMPLIANCE WITH
UNIFORM CIVIL RULES FOR THE SUPREME COURT OF THE STATE
OF NEW YORK, SECTION 202.8-B(A)**

The undersigned attorneys of record for Petitioner Milton C. Ault, III, hereby certify, pursuant to the Uniform Civil Rules for the Supreme Court of the State of New York, Section 202.8-b(a), that the Verified Petition complies with the Rule's 7,000 word count. Specifically, the total number of words in the memorandum of law, inclusive of point headings and footnotes and exclusive of pages containing tables of contents, tables of authorities, captions and signature block, is 3,217. In preparing this certification, I have relied on the word count of the word-processing system used to prepare the aforementioned document.

Dated: Los Angeles, California
July 15, 2021

Respectfully submitted,

WELTZ KAKOS GERBI WOLINETZ
VOLYNSKY LLP

By: /s/ Robert Volynsky

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Attorneys for Petitioner Milton C. Ault, III