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April 6, 2018

Via Email: Editor@CulverCityObserver.com

Mr. Stephen L. Hadland
Publisher
Culver City Observer
4346 Sepulveda Boulevard
Culver City, CA 90230

Re: Demand for Retraction

Dear Mr. Hadland:

The undersigned requests an adequate and conspicuous retraction/correction of statements the *Culver City Observer* (*Observer*) published on the front and third pages of its April 5, 2018 edition. In substance, the *Observer* and you have wrongfully accused me of violating Rule 3.10 of the California Rules of Professional Conduct by allegedly threatening you with filing criminal charges in letters to both the Culver City City Attorney and the Culver City Police Department (CCPD). This letter is not intended to deal with all relevant activities of the *Observer* and you.

In the April 5, 2018 article entitled "Observer Publisher Files Complaint with State Bar," the *Observer* states, *inter alia*:

Culver City Observer Publisher Stephen Hadland has filed a complaint with the California State Bar against attorney Les Greenberg, Esq. for requesting criminal charges be filed against him and Culver City Councilman Jim Clarke.

Greenberg sent letters to both City Attorney Carol Schwab and Police Chief Scott Bixby. Schwab has already rejected the request.

In requesting the investigation, Mr. Hadland stated: "In each case, Mr. Greenberg, Esq. threatened and requested that Councilmember Clarke and myself be subject to criminal prosecution for exercising our right to Free Speech and challenging the freedom of the Press.

...

Mr. Hadland went on to quote Section 3.10 of the Rules of Professional Conduct of the State Bar: "Attorneys cannot use their position to threaten criminal action simply because of a civil dispute. There are probably other sections relating to attorneys who abuse their position by making unfounded threats.' (sic) (Emphasis added.)

Rule 3.10 states, *inter alia*:

(a) A lawyer shall not threaten to present criminal ... charges to obtain an advantage in a civil dispute.

...

(c) As used in this rule, the term "civil dispute" means a controversy or potential controversy over the rights and duties of two or more persons under civil law whether or not an action has been commenced.

First, Rule 3.10 deals with "threats" of future action directed to actual or potential opposition vis-à-vis communications to governmental authorities. I have never communicated with the *Observer* or you as to my future plans, if any, with regard to your recent articles. Thus, I issued no "threat" to you or anyone. By way of a copy of letters, I only informed you of what had occurred in the then past, not any then threatened future action.

Second, at the times the letters were written, there was no "civil dispute" as to which the Ad Hoc Committee for Culver City Residents First sought an "advantage." What is the alleged "controversy or potential controversy ... under civil law"? I did not communicate with you until after the letters were written to the CCPD and the City Attorney. As to the CCPD letter, I asked for prosecution based upon passed acts, not some future "advantage."

Third, my March 23, 2018 letter to the City Attorney does not deal with or relate to any allegation of a crime. It deals with Civil Code § 52.1. The *Observer* describes the letter as requesting "a Bane Act lawsuit," i.e., not a criminal prosecution. Thus, the statement, "in each case," is undeniably false.

Fourth, even if a "threat" was made directly to you in a civil dispute, it does not necessarily constitute a violation of Rule 3.10. The Comment to Rule 3.10 states, *inter alia*:

[I]f a lawyer believes in good faith that the conduct of the opposing lawyer or party violates criminal or other laws, the lawyer may state that if the conduct continues the lawyer will report it to criminal ... authorities.

I reported your activities to the CCPD because I believe that they constitute a crime. CCPD has interviewed me, examined my evidence and forwarded my complaint to the Los Angeles District Attorney.

In *Flatley v. Mauro*, 39 Cal.4th 299 (2006), the Supreme Court addressed a situation similar to Rule 3.10. "The threat to report a crime may in and of itself be legal." (*Id.*, at pp. 326-327.) However, here, there was no threat to you or the *Observer* to report a crime.

Mr. Stephen L. Hadland

April 6, 2018

Page 3

You should be able to understand that I did not threaten the *Observer* or you. I did not communicate with you until after I communicated with the CCPD and the City Attorney.

Fifth, certain speech is not protected by any Constitutional right, e.g., accusing one of a crime and threatening to expose one's identity for public condemnation, unless the person ceases Constitutionally-protected activity.

The third-page of the April 5, 2018 *Observer* contains an article entitled "City Attorney Rejects Claims to File Criminal Charges Against Observer Publisher & City Councilman." The *Observer* states, *inter alia*:

Carol Schwab, the City Attorney of Culver City, rejected requests by local resident Les Greenberg to file criminal charges against Culver City Observer Publisher Stephen Hadland and Culver City Councilman Jim Clarke in regard to an election article published in the Culver City Observer.

...

To further clarify her view, Schwab added: "The evidence you cited ... is not a sufficient basis for a Bane Act lawsuit." (Emphasis added.)

As set forth above, I have never requested that the City Attorney file "criminal charges against ... Hadland" or "Clarke." The *Observer's* contrary statement is undeniably false. A "Bane Act lawsuit" does not involve "criminal charges."

I have previously provided you with a copy of the California Civil Jury Instruction No. 1722 (Retraction: News Publication or Broadcast) regarding the issue of retraction/correction. Please note the highlighted reference to "an adequate correction" and "correction was not substantially as conspicuous as original."

I request the *Observer* promptly, adequately and conspicuously retract all statements stating or implying: (1) I violated any of the Rules of Professional Conduct and, in particular, I made any threat to the *Observer* or you, and (2) I requested the City Attorney file any "criminal charge[s]."

Please communicate with me if further information is required.

Very truly yours,



LES GREENBERG

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