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October 4, 2018

Via E-Mail and U.S. Mail

Jeff R. R. Nelson
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jnelson@weintraub.com

Pro Publica Inc.
Attn: Alexandra Zayas
155 Avenue of the Americas
13th Floor
New York, NY 10013

Re: More Than Me Article

Dear Ms. Zayas:

We are litigation counsel to Scipione "Skip" Borghese. We have been made aware that ProPublica and Time intend to publish an article in mid-October discussing Mr. Borghese's role with More Than Me Foundation (the "Article"). The proposed Article's defamatory statements regarding our client falsely portray Mr. Borghese as having participated in a cover up of heinous crimes. This is patently false, highly defamatory, and exposes you to significant liability for libel. We demand that you refrain from publishing false and defamatory statements about our client.

Specifically, the libelous statements claim that Mr. Borghese applied "huge pressure" to "just keep things very silent" about the rape of schoolgirls by Macintosh Johnson "and not even bring it to the police." Any assertion that Mr. Borghese allegedly said "we need to think about how we protect the organization…we need to think about whether this was our responsibility" has no basis in fact. Likewise, the claim that Mr. Borghese allegedly shouted "get off your fucking soap box" to Michelle Spada, the single alleged witness of these remarks, is maliciously untrue. We demand that you remove these statements from the Article before publication.

The Article's false assertions depict our client as having knowingly engaged in a cover up and having hindered the arrest of a depraved individual. The Article makes it appear that Mr. Borghese put the reputation of More Than Me above the safety and wellbeing of the very girls More Than Me empowers and helps. Yet the truth is that our client first became aware of Johnson's criminal acts on June 13, 2014, the same day that More Than Me reported the crimes to the Liberian National Police's Women & Children's Protection unit. The first time that Mr. Borghese spoke with Ms. Spada regarding Johnson's crimes was at approximately 6

p.m. EST on June 16, 2014 during a conference call with More Than Me Board Members and staff. Mr. Johnson had already been arrested earlier that day and was in Liberian National Police custody. Rather than attempt to cover up the abuse, our client and the Board directed More Than Me to distribute a press release disclosing Johnson's crimes. Only days later, Mr. Borghese's wife, More Than Me's Board Chair at the time, emailed Ms. Spada (Exhibit A) offering the Board's full support. The potential extent of damage to our client's reputation from your dissemination of such lies is obvious and cannot be overstated.

The Article's defamatory assertions are recklessly made on the basis of a statement allegedly made by a former employee, who in her own emails with our client stated that More Than Me handled the discovery of Johnson's crimes "BY THE BOOK" (Exhibit B). To this day, Ms. Spada continues to express her pride in More Than Me and continues to send Fellows from Princeton in Africa (where Ms. Spada is now employed) to work with More Than Me. Through your correspondence with Mr. Borghese's representative, Ellen Davis, you are on notice that Mr. Borghese has been gathering facts refuting the claims in your proposed story that he has offered to share. For example, Mr. Borghese's one and only communication with Ms. Spada during the month of June 2014, when he supposedly made these statements to her, was on the aforementioned conference call. Numerous participants were on the call, none of whom heard our client make the statements you attribute to him. Mr. Borghese's email and phone records likewise evidence zero other communication between him and Ms. Spada. If asked, Ms. Spada would be unable to refute this. Furthermore, Mr. Borghese was not in Liberia at the time of the alleged conversation (a fact easily confirmed by immigration records), making phone or email communication the only possible means of conversing with Ms. Spada.

Additionally, as you are aware, the journalist you rely on for the Article, Finlay "Finn" Young, has previously violated journalism's code of ethics. Not only has he provided services to witnesses in exchange for interviewing them, but he lied when confronted about it. Attached to this letter are two transcripts from interviews with Mr. Young. In the first transcript (Exhibit C) Mr. Young admits to making phone calls on behalf of a young woman while seeking her testimony for the Article. Later, Mr. Young denied making the calls he earlier admitted to (Exhibit D). As you know he has lied in the past, his accusations toward Mr. Borghese have no credibility. Publishing this story without thoroughly investigating the facts will lead to your liability for substantial damages. *See Curtis Pub. Co. v. Butts*, 388 U.S. 130, 157 (1967).

Furthermore, even if you were previously unaware that these statements were false, now that you are in receipt of this legal demand you have unquestionably been put on notice of the facts, such that your publication of the statements would be in reckless disregard for the truth. *See Khawar v. Globe Internat.*, 19 Cal. 4th 254, 276 (1998) (stating liability follows where

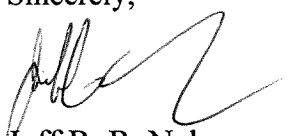
the publisher failed to interview obvious witnesses who could have confirmed or disproved the allegations or to consult relevant documentary sources). Courts are clear that "a publication or broadcast by a member of the news media to the general public regarding a private person is not privileged...regardless of whether the communication pertains to a matter of public interest." *Carney v. Santa Cruz Women Against Rape*, 221 Cal. App. 3d 1009, 1015-16 (1990). And it is undisputed that Mr. Borghese is a private figure. *Gertz v. Robert Welch*, 418 U.S. 323, 351 (1974) (individuals are private figures unless they "assume special prominence in the resolution of public questions"); *Vegod Corp. v. Am. Broad. Cos.*, 25 Cal. 3d 763, 767 (1979) ("[a]bsent clear evidence of general fame or notoriety in the community, and pervasive involvement in the affairs of society, an individual should not be deemed a public personality"). As such, lazy reporting rather than a showing of malice is all that is required to make you liable for our client's damages. *Brown v. Kelly Broadcasting Co.*, 48 Cal. 3d 711, 742 (1989). Please govern yourselves accordingly.

Even though Ms. Spada made these false and defamatory statements to your reporter, be advised that you will be unable to evade liability by claiming that you are merely repeating a lie told to you by Ms. Spada, because you are legally deemed to have adopted the libelous statement as your own. *Khawar, supra*, 19 Cal. 4th at 268 ("one who republishes a defamatory statement is deemed thereby to have adopted it and so may be held liable, together with the person who originated the statement, for resulting injury to the reputation of the defamation victim"). In sum, there is zero proof that Mr. Borghese ever made these statements because he never did. As a result, publication of these unfounded assertions will expose you to substantial liability for defamation.

We demand that ProPublica remove the aforementioned statements referring to Mr. Borghese from the Article before publication. As a reputable publication, we trust that you will comply with these demands and remedy this situation. If you refuse to do so, ProPublica will be exposed to significant liability and damages.

Nothing contained herein is intended as, nor should it be deemed to constitute, a waiver or relinquishment of any of our client's rights or remedies, whether legal or equitable, all of which are hereby expressly reserved.

Sincerely,



Jeff R. R. Nelson
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Enclosure:
Ms. Borghese's email from June 18, 2014
Ms. Spada's email from October 1, 2014
Transcript of interview with Mr. Young from February 6, 2018
Transcript of interview with Mr. Young from October 3, 2018

cc: Scipione "Skip" Borghese
cc: Stephen Engelberg, ProPublica Editor-in-Chief
cc: Robin Fields, ProPublica Managing Editor
cc: Edward Felsenthal, Time Inc. Editor in Chief