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ANTHONY MICHAEL GLASSMAN

August 13, 2012

VIA EMAIL

Maureen Orth
Special Correspondent
Vanity Fair

Re: **Vanity Fair and the Church of Scientology International**

Dear Ms. Orth:

We represent the Church of Scientology International and we write regarding your upcoming story on Tom Cruise and the Church for *Vanity Fair*.

We first take issue with your inaccurate account of events regarding your communications with the Church, specifically the implication that the Church delayed in responding to you. You first contacted the Church about your story on August 9, 2012 at 6:01 p.m. EST. The Church promptly responded, calling *Vanity Fair* Friday morning at the start of "business hours" in New York to the number you specified – yet the Church had a difficult time reaching you. The Church first reached an answering machine, it then contacted a receptionist who failed to connect the Church with you, and, after obtaining an email address from reception, the Church immediately contacted you to request written questions and the identity of your sources.

Despite having worked on the story for weeks, on Friday, August 10, you set your "absolute latest deadline" of Thursday, August 16. It is clear from your timing and lack of accessibility that your request to interview David Miscavige, the ecclesiastical leader of the Scientology religion, was a disingenuous gesture to pacify the magazine's attorneys. Yesterday Wayne Lawson sent the Church 31 fact-checking questions, which indicate you ignored the Church during the reporting of your story and the questions likewise were sent only to appease the magazine's attorneys.

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Contrary to your journalistic duties, you set out to write a slanted story. According to the questions you put forth to the Church thus far, you obviously intend to publish false and scurrilous allegations about Scientology and its leader, Mr. Miscavige. That you would not include the Church during the reporting phase and that you do not intend to identify your sources or other information sufficient for the Church to appropriately respond highlight your bad faith and abandonment of journalistic ethics. As the Church informed you, even though it has declined to give any interviews, it is willing to respond to your allegations in writing. Yet, of the 31 questions Mr. Lawson sent, the majority relate to an unnamed mystery woman and therefore preclude the Church from providing a meaningful response. (It appears you have not identified the source of the mystery-woman allegations because the source is part of a group of biased and unreliable apostates on whom you relied for your article, as discussed below.)

Vanity Fair has an obligation to its readers to allow the Church to address the allegations, which would include the proffer of evidence demonstrating the allegations you raised are false. *See, e.g.*, The Society of Professional Journalists' Code of Ethics ("Diligently seek out subjects of news stories to give them the opportunity to respond to allegations of wrongdoing. ") Without identifying the mystery woman, the Church cannot appropriately respond and provide the sort of information you are duty-bound to print in order for your readers to make an informed judgment about the article's subjects.

Vanity Fair also has an ethical duty to its readers to report its sources' prejudice and unreliability. *See, e.g.*, The Society of Professional Journalists' Code of Ethics ("Identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability.") Without identifying the sources of your allegations to the Church, you are denying your readers valuable information regarding the now-anonymous sources whom your readership will assume were fully vetted. Anonymous sources inherently put the public at a disadvantage. Pertinent information needed to judge the veracity or reliability of information is unavailable. If an anonymous source intends to smear someone by saying something negative, derogatory or just plain false about them, that person has little or no recourse other than to offer an opposing view. And the readers are denied of their right to consider any agendas, decide for themselves on the integrity of the sources and ultimately ascertain who is telling the truth.

It is not without good reason that myriad codes of journalistic ethics acknowledge that, although anonymity in special circumstances is necessary, anonymous sources must be used thoughtfully and sparingly, not used as a carrot to induce sources to make potentially smearing comments they might not make if they had to put their name to them. The Society of Professional Journalists' Code of Ethics cautions against using anonymous sources, and contemplates the promising of anonymity only after a source has been vetted:

Identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability.

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Always question sources' motives before promising anonymity.
Clarify conditions attached to any promise made in exchange for
information. Keep promises.

The New York Times Company's Confidential News Sources Policy makes clear that anonymous sources are disfavored and anonymity "is reserved for situations in which the newspaper could not otherwise print information it considers reliable and newsworthy." *Times* reporters do not routinely promise anonymity to their sources:

In routine interviewing that is, most of the interviewing we do -
anonymity must not be automatic or an assumed condition. In that
kind of reporting, anonymity should not be offered to a source.

National Public Radio's ("NPR") Ethics Handbook espouses extreme caution when using anonymous sources:

Unidentified sources should rarely be heard at all and should never
be heard attacking or praising others in our reports

In our coverage, anonymous or unnamed sources generally cannot
make pejorative comments about the character, reputation, or
personal qualities of another individual, or derogatory statements
about an institution. We don't use such material in our stories, with
rare exceptions.

In a libel action brought by the Church against you and *Vanity Fair*, the Church may be able to discover the identity of your anonymous sources. *See Mitchell v. Superior Court*, 37 Cal. 3d 268 (1984); *Rancho Publ'ns v. Superior Court*, 68 Cal. App. 4th 1538 (1999). And, if the Church is precluded from learning the identities of the anonymous sources, you and *Vanity Fair* may be subject to a variety of sanctions, including the entry of judgment against you both. *See Mitchell v. Superior Court*, 37 Cal. 3d 268, 274 (1984).

Accordingly, we request that you now identify your sources for each allegation against the Church that you intend to publish. If given the opportunity, the Church expects to demonstrate that your sources are admitted liars, severely biased against Scientology, motivated by financial gain or otherwise unreliable. The Church will also provide evidence that many of the sources have no knowledge about the topics for which they were interviewed, as many left the Church before 2004.

On August 9, you confirmed that you interviewed a small group of excommunicated apostates ("...I have spoken to many people, and not just the self-published group you refer to.") Perhaps you or the magazine have not done your homework on these sources, as it is hard to believe that a publication the caliber of *Vanity Fair* would stake its reputation on admitted perjurers and liars. For example, after departing the Church in 2004, Marty Rathbun admitted as

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a matter of public record to conspiring with Mike Rinder to suborn perjury as well as destroying evidence in a legal case. Mr. Rathbun was also caught lying on national television during an interview with ABC, and he further demonstrated his character when he was arrested in New Orleans for drunk and disorderly conduct. Mr. Rinder is likewise on record for lying. On NBC, Mr. Rinder had the following exchange with correspondent Kate Snow:

SNOW: Here's what someone might ask. If you lied before how do we know you're telling the truth now?

RINDER: You don't. You've just got to look at me and decide.

Marc Headley (another ubiquitous anti-Scientologist) pled his allegations against the Church in a federal lawsuit that he lost after the court dismissed his claims. The dismissal of his claims was recently affirmed by the Ninth Circuit Court of Appeals. When deposed by the Church during the action, Mr. Headley admitted to selling the same stories he has likely told you to the tabloids, including the now defunct *News of The World*. He also included the allegations of "auditions" in his self-published book, which was part of the court record and for which he continues to unsuccessfully promote.

We remind you that one who repeats or otherwise republishes a libel is subject to liability as if he had originally published it. *See Ringler Assocs. v. Md. Casualty Co.*, 80 Cal. App. 4th 1165, 1180 (2000); Rest.2d Torts, § 578. To prove a cause of action for libel, the plaintiff must show: a publication, in writing, that is false, defamatory and unprivileged and has a natural tendency to injure or that causes special damage to a person. 5 Witkin, Summary of Cal. Law (10th ed. 2005) Torts, §§ 529-530, pp. 782-783; Cal. Civ. Code, §§ 45, 46.

It is undisputed that some of your likely sources are admitted liars and vehement anti-Scientologists. By receipt of this letter, *Vanity Fair* has personal knowledge that Mr. Rathbun, Mr. Rinder and Mr. Headley are inappropriate and unreliable sources about the Church. Accordingly, should *Vanity Fair* publish false and defamatory statements about the Church using one of these sources (or another anonymous source who is unreliable and biased against the Church) without the benefit of the Church's impeaching evidence, the Church will easily establish that *Vanity Fair* published the offending statements with actual malice, i.e., knowledge of their falsity or reckless disregard that they were false. *See Harte-Hanks Communications v. Connaughton*, 491 U.S. 657, 688 (1989) ("If a false and defamatory statement is published with knowledge of falsity or a reckless disregard for the truth, the public figure may prevail. ")

In other words, *Vanity Fair* has knowledge of falsity, or the magazine will act in reckless disregard of falsity, to satisfy the constitutional malice standard required of public figures to prevail on a defamation claim and prayer for punitive damages. *See St. Amant v. Thompson*, 390 U.S. 727, 732 (1968) ("[R]ecklessness may be found where there are obvious reasons to doubt the veracity of the informant or the accuracy of his reports."); *see also Overstock.com v. Gradient Analytics*, 151 Cal. App. 4th 688, 711 (2007) ("This model supports an inference of

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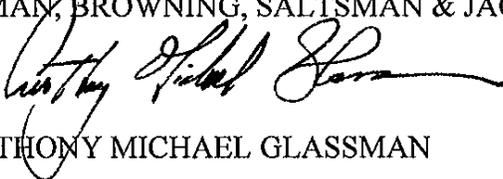
malice, namely that Gradient relied on information from biased sources, made statements in its reports without doing the necessary investigation and due diligence, and made statements with defamatory implication to achieve a preconceived result."); *Readers Digest Association v. Sup. Ct.*, 37 Cal. 3d 244, 257-258 (1994) ("[E]vidence of negligence, of motive and of interest may be adduced for the purpose of establishing, by cumulation and by appropriate inferences, the fact of a defendant's recklessness or of his knowledge of falsity. [citations.] A failure to investigate [citation], anger and hostility toward the plaintiff [citation], reliance upon sources known to be unreliable [citations], or known to be biased against the plaintiff [citations]-such factors may, in an appropriate case indicate that the publisher himself had serious doubts regarding the truth of his publication."); *Harte-Hanks v. Connaughton Communications, Inc.*, 491 U.S. 657 (1989).

In closing, we demand that *Vanity Fair* **fully** apprise the Church of all allegations it intends to publish about Scientology, its ecclesiastical leadership, the Church and the "various members of the church" you said are the subject of this article-including the identity of the mystery woman described in questions 13-31 – and provide the Church ample time (ie., more than four days) to meaningfully respond. We further demand the identification of all persons who are the sources for the allegations against the Church that you intend to publish. We look forward to receipt of this information and responding accordingly in order to accurately inform your readers.

Sincerely,

GLASSMAN, BROWNING, SALTSMAN & JACOBS, INC.

By:


ANTHONY MICHAEL GLASSMAN

AMG:rnk

cc: Wayne Lawson, Executive Literary Editor
Vanity Fair