

April 30, 2008

Via Facsimile and U.S. Mail

Sam Tyler
Tyler Productions, Inc.
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Phone No.: (805) 451-7440
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Re: Falsehoods and Distortions Portrayed In “Citizen McCaw”

Dear Mr. Tyler:

Prior to the airing of your film, we specifically offered to fact check it, hopefully to prevent just the type of defamation revealed in your final product. You refused, and have shown the film in three locations in Santa Barbara and Northern California. Your refusal to verify several key facts resulted in the publication and distribution of a distorted and false picture of events that harmed the reputation of the News-Press and Mrs. McCaw.

You have now advised that you intend to distribute the film and its falsities to a larger audience and have asked for our documentation of “falsehoods.” We are doing so by this letter which was in process before your “request.” But be aware that malice against the News-Press, its owner, and its co-publishers already is inferred by your conscious refusal of no less than 3 requests to have your so called “documentary” vetted for accuracy.

We have compiled below a list of the major falsehoods in your docudrama. There were documents and objective evidence easily available to you had you chosen to pursue your film in a non-biased way. However, you probably thought the film would not have garnered the same interest had you presented all the facts or quoted from documents that disproved the yarn you were spinning.

FALSE/MISLEADING STATEMENTS

- Film: Mrs. McCaw (or someone at her behest) instituted a gag order which forced the so called 'brave' reporters to organize a union and act to protect themselves. FALSE.

- The facts: Jerry Roberts, the “hero” of your movie himself ordered that the paper’s “confidentiality policy” be toughened more than a month before he left the paper. He then created, reviewed, approved, and instituted the so-called “gag” order himself without any input from Mrs. McCaw. (Attached as Exhibit _____ is Roberts’ e-mail creating the policy aka ‘gag order’ and the subsequent policy distributed to the employees).
- Film: Mrs. McCaw or Mr. von Wiesenberger “killed the sentencing story regarding Mr. Armstrong’s DUI arrest.” FALSE.
 - The facts: Despite that the News-Press never had run a DUI sentencing story where there was no injury, property damage or other crime involved, Mr. Roberts continued to push for a sentencing story for Mr. Armstrong’s DUI. Counsel for the News-Press made the decision that running the story could subject the paper to liability for treating Mr. Armstrong differently than others in the paper’s reporting on prior DUIs. Mr. Roberts was privately told not to run the story because of these concerns. Rather than comply with his confidentiality agreement, Mr. Roberts chose to give the media and the former disgruntled employees the impression that Mrs. McCaw or Mr. von Wiesenberger acted arbitrarily or capriciously. Your film is certainly distorted in that respect. (Attached as Exhibit 620 is the confidential memo sent to Mr. Roberts).
- Film: The reporters “could not prevent [Mrs. McCaw and Mr. von Wiesenberger] reaching into our articles so much that their hands were on our typewriters.” FALSE.
 - The facts: Contrary to this myth that your film helps foster, neither Mr. von Wiesenberger nor Mrs. McCaw have ever edited, re-written, or modified the content of any article.
- Film: Mrs. McCaw destroyed the “wall” by appointing Mr. Armstrong as publisher of the News-Press. FALSE.
 - The facts: Mr. Armstrong was appointed “interim publisher” for one month while Mrs. McCaw and Mr. von Wiesenberger were on vacation. The employees knew it was not permanent. Further, the temporary appointment of Mr. Armstrong as “interim” publisher cannot destroy a “wall” that didn’t exist in the first place. Nowhere do you mention that Mr. Roberts also concurrently served as Publisher and Editor, from September 4, 2003-January 2005, with no “wall.” These same reporters were not crying foul about the destruction of the so called wall then. And, there was no objection when Mr. Cole was Publisher, a member of the editorial

board, and contributed to editorials in the paper as well. No wall existed, and no complaint was raised by the "ethical" Mr. Roberts then. Where is this hypocrisy explained in your film?

- Film: Several statements by Randy Campbell and Marianne Partridge gave viewers the impression the News-Press' suit against the Santa Barbara Independent for copyright infringement was frivolous. Despite your quick written disclaimer at the tail end of your film, you continue to foster this impression. FALSE.
 - The facts: On November 19, 2007, (prior to the release of your film) Federal Judge Edward Rafeedie gave judgment for the News-Press on their copyright allegations. The *Independent* settled the entire lawsuit with the News-Press. The News-Press is entirely satisfied with the order and judgment as well as the settlement. If you were interested in all the facts you would have done a little digging, and all of this would have been obvious. (Attached is the order granting summary judgment for the News-Press).
- Film: Mrs. McCaw's and Mr. Armstrong's views became immediately clear through the editorial page that they had a general disdain for women politicians. Your film attempts to smear Mrs. McCaw and/or Mr. Armstrong as sexist and imply a timeline that did not exist. FALSE.
 - The facts: Mr. Armstrong did not join the paper until January 2002. Mrs. McCaw has always been a member of the editorial board and had input into the editorials. Your timeline is untrue. Mrs. McCaw and Mr. Armstrong have a disdain for any corruption, self-dealing, or manipulation inside or outside of our local government, regardless of whether the politician is a woman or not.
- Film: Mrs. McCaw said "this is war. You're either with us or against us" because Sarah Sinclair went to Randy Alcorn's going away party. FALSE:
 - The facts: Mrs. McCaw never said this, nor did you ask us to deny it.
- Film: Arthur von Wiesenberger is a bon vivant with no journalism experience. Your film implies that people without the journalistic pedigree you profess is necessary to run a newspaper, do not know how to run a paper. FALSE.
 - The Facts: Since 1969 Mr. von Wiesenberger has been involved with journalism, including:

- 1969 -1971, Editor/Publisher of student newspaper at Aiglon College, Switzerland
- 1978 - Author: Oasis (Capra Press, Santa Barbara)
- 1979 - Author of articles for Runner's World, Shape Magazine & Fit Magazine
- 1980 - Consultant to The San Francisco Chronicle
- 1982 - 1988 Publisher of Nippers Newsletter & In Magazine, Author of articles including for The Santa Barbara Independent and Valley Magazine.
- 1985 - 1989 Associate editor, Entree Newsletter
- 1987 - 1992 Author of articles for The San Francisco Examiner, Private Clubs Magazine, Valley Magazine, Market Watch, Epicurean Rendezvous and others
- 1988 - Author: H2O (Woodbridge Press)
- 1989 - 1992 President, International Food Wine & Travel Writers Association
- 1990 - Author: The Santa Barbara Restaurant Guide (Capra Press)
- 1991 - Author: The Pocketguide to Bottled Water (Contemporary Books, Chicago)
- 1992 - Author: Champagne & Caviar (Capra Press)
- 1994 - Author: The Santa Barbara Restaurant Guide (Pacific Books)
- 1995 - Founder / Publisher / Author www.BottledWaterWeb.com & www.Nippers.com
- 1995 - 2003 Author of articles for Town & Country Magazine and Food & Wine Editor for Santa Barbara Magazine. Reporter for KEYT-TV (ABC).
- 2003 - 2006 Restaurant and Lifestyle Columnist, Santa Barbara News-Press
- 2006 - Present Co-Publisher, Santa Barbara News-Press

- The facts: The Union and its supporters tried this same smear tactic during the labor trial (ie. there should be some requirement that an owner and/or publisher have a particular type of journalism expertise prior to owning and/or running a paper). During that trial Professor John Irby testified unrebuted that: there is no requirement that publishers be “schooled in journalism.” In fact, one of the best publishers he worked for ran a trucking company in Bakersfield before he became publisher of the local paper. Across the country there are many papers that are owned by individual “publishers” with little or no journalism pedigree that you laude as the standard. (TEX 917; T 3619-3620.)

- Film: Joe Cole was responsible for bringing Jerry Roberts to the paper. FALSE.

- The facts: Mr. Roberts has testified under oath several times that Mrs. McCaw, former publisher Will Fleet and Mr. Cole were involved in interviewing him and hiring him for the position of editor in 2002. One would assume that since you took the opportunity to lionize Mr. Roberts in your docudrama, he would have provided you with this simple biographical information.
- Film: Joe Cole was “tossed out of the boat by Nipper” because he was jealous of Mr. Cole’s relationship with Mrs. McCaw. FALSE.
 - The facts: After several years of dedicated service, Mr. Cole wanted more flexibility in his schedule and wanted to spend more time with his family. Accordingly, he resigned. Mr. Cole was quoted in a published article about this. (The article is attached as Ex____.) This factual inaccuracy is presumptively designed to craft a fantasy that never occurred.
- Film: The Rob Lowe reprimands were vicious and done simply because Mr. Lowe was “irate.” FALSE.
 - The facts: The editors were told via e-mail prior to running a front page, above the fold story, that Mr. Lowe feared for the safety of his family. (Attached as Exhibit _____ is the e-mail from Mr. Armstrong). The editors chose to disregard Mr. Armstrong’s e-mail and exercised poor common sense. The reprimands were issued by Mrs. McCaw since Mr. Roberts was on vacation and his second in command was one of the people being rebuked. The memos were not vicious. They were sent only after the editors ignored Mr. Armstrong’s e-mail and exercised their poor common sense. No one was suspended. Mrs. McCaw even responded to employees that took issue with the reprimands. (Attached as Exhibit___are the memos).
- Film: Mrs. McCaw “doesn’t like the Mayor [Marty Blum] being quoted in her paper”, and that is the reason that Ms. Davison’s *Walk this Way* article was biased. FALSE.
 - The facts: The News-Press has enjoyed excellent relationships with prior Santa Barbara Mayors, including women like Harriet Miller, who immediately preceded Mayor Blum. The News-Press also has quoted Mayor Blum extensively throughout her tenure as Mayor, but the paper will not turn a blind eye to confronting any Mayor it believes is wrong. Ms. Davison’s article was biased from its inception. Mr. Guiliano, whom you quote extensively in your film, *agreed* that the article was biased. (Attached as Exhibit ___is Guiliano’s e-mail to Mrs. McCaw attesting to Ms. Davison’s bias on the *Walk this Way* article). Apparently, you have no qualms

about putting a liar in your film without confronting him with documents he actually wrote.

- Film: Mr. Armstrong grabbed Mr. Roberts [during his resignation]. FALSE.
 - The facts: Mr. Armstrong never touched, much less “grabbed”, Mr. Roberts to escort him out of the newsroom. Neither Mr. Roberts nor Jane Hulse testified under oath there was any touching by Mr. Armstrong during Mr. Roberts’ resignation and leaving the property. This is another example of how you have gone out of your way to invent falsehoods to smear and malign the News-Press and its management.
- Film: The News-Press printed the “child porn” article to “smear” Jerry Roberts. FALSE.
 - The facts: After pornography was found on computers assigned to Mr. Roberts, the News-Press implemented an investigation into how it was placed on a company computer as required by law. First, the story was about how the City Police were going to destroy the computer hard drive and the company’s lawyers were forced to go to court to stop it. The judge ruled in the company’s favor and ordered no destruction. The News-Press originally tried to seal the courtroom, but the City Attorney objected, and the hearings remained open despite the attempts by the News-Press for privacy.
 - Then your film distorts the truth on the article in question. If you actually read the article, you would realize that the News-Press stated: (1) that the material could have come from a disc; (2) that it could be spam; (3) that the computers were used by other employees; (4) that the Internet access to these computers was not password protected; (5) that Mr. Roberts’ office was not secure where he kept his computer; (6) that Mr. Roberts took and passed a lie detector test; and (7) that Mr. Roberts denied any involvement with the child pornography. However, your film fails to cite any of the above. On the contrary, you included a statement from Anna Davison that Scott Steepleton surreptitiously inserted the article after business hours. That allegation is false, and the News-Press categorically denies it. Publishing such false unfounded speculation, rather than the plain facts of the article, only highlights your patent bias.
- Film: Mrs. McCaw refused multiple requests to participate or give her position. FALSE.

- The facts: On July 6, 2007 (prior to any release of your film), Mrs. McCaw provided you a written position statement. Despite your choice not to include any of that material in your film, you falsely implied that Mrs. McCaw refused to give you her position. We suspect you did this because you were either lazy or decided that her written position did not have the same slant or pizzazz to fit your hit piece. (Attached is another copy of the written statement sent to you on July 6, 2007).

Your entire film's credibility is destroyed by these easily proven flaws. If you or your producers had accepted our offer to fact check the film before it was finalized, we would have corrected these falsehoods, but the truth was something far from your interest.

The assertions, statements and representations from your film cited above were false and/or inaccurate to the point that viewers were entirely misled, and portrayed the News-Press in a negative light. This negative portrayal is further amplified by your failure to include any insight or publication of the News-Press's positions on these and other issues.

There is much more, but we intend to review the entire matter with special counsel and inform Ampersand and Mrs. McCaw of their legal rights. Frankly giving any more attention to this fiction may serve no purpose, but the courts certainly operate in a better fashion to ferret out the truth, a principle ignored by the creators of this film.

Pursuant to your email to me of April 21, 2008, we are submitting the above so that, in accordance with your statement, you can give an "accurate portrayal of [Mrs. McCaw] and events related to her ownership of The Santa Barbara News-Press."

Should you have any further questions, feel free to email me as you have. We reserve all rights to proceed against you and your co-producers for past violations. However, correcting these now in a re-release with the concomitant publicity explaining these to the public, will go a long way in mitigating our damages.

Please cease and desist further distribution, advertising or publication of the current version of the film. You are on notice to warn fellow producers, business venturers, viewers and other distributors/publishers of this demand for retraction/correction of your film.

Very truly yours,
CAPPELLO & NOËL LLP

A. Barry Cappello

Cc: Client