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**Via Federal Express**

November 26, 2010

Elizabeth Combier  
315 E 65<sup>th</sup> Street, Apartment 4C  
New York, New York, 10065-6849

RE: **Violation of Dr. Robert F. Drake's ("Dr. Drake's") Valuable Rights By Elizabeth Combier, herself and acting by and through her related entities and a/k/a's, including without limitation, Theater Kids, Inc., and ParentAdvocates.org**

Dear Ms. Combier:

We represent Dr. Drake. We have learned that, on or about November 17, 2010, [www.parentadvocates.org](http://www.parentadvocates.org) at <http://www.parentadvocates.org/index.cfm?fuseaction=article&articleID=7851> (collectively, the "Combier Website"), published a photograph of our client, Dr. Drake, along with a story falsely identifying him as someone who was charged with the crime of "aggravated[sp] harassment charges" (collectively, with the falsehoods below, the "False Identification"). Specifically, the False Identification includes the unauthorized use of a copyrighted photograph of Dr. Drake copied from his website at <http://www.bobdrake.net> (published in 2008; the "Photograph") along with excerpts taken out of context from his copyrighted material contained in his correspondence, which originated as a "takedown notice" under the Digital Millennium Copyright Act (the "DMCA"). In so doing, you have put our client in a false light. The False Identification also wrongly states that Dr. Drake was fired from 3 different jobs, and handed out yellow ducks outside the school he taught at, among other falsehoods. And, incredibly, in the quintessence of irresponsibility, Combier Website then provided substantial copies of Dr. Drake's creative works that were copied from his private email (together with the Photograph, the "Creative Works"), and furthermore such emails were taken out of context in response to your emails (which were not printed on the Website) – all of which putting Dr. Drake in false light. The registrant of the Website is "Betsy Combier" from the organization Theater Kids, Inc., a New York for profit company created on October 31, 1994.

Back in August 2005, my client corresponded with you via email, whereby he notified you to takedown the Van Caplan letter, which contained personally identifiable information from the Combier Website. You agreed to remove same, but the material remained on the Combier Website until last week. **Despite numerous and fruitless requests by my client, you finally responded on November 16, 2010 (see attached) demanding Dr. Drake pay your "web person" as "much as my web guy wants" to remove the Van Caplan letter.**

In order to avail yourself of the safe harbor provisions under the DCMA (§512(c) of the Copyright Act), you must other things, (1) designate an agent to receive "takedown" notices by registering contact information with the Copyright Office and by posting such information on the service provider's website in a location accessible to the public and (2) promptly remove infringing material at the request of a the lawful copyright holder. **Not only is has the Combier Website failed to comply with such requirements, your intentional posting of this slanderous material, posting the False Identification, and demanding payment for removal of same only can be interpreted as willful and malicious. Takedown under the DMCA is to be without payment!**

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It has also come to my client's understanding that you have obtained his resume and list of references from his website and contacted certain individuals in an effort to discredit my client. If proven true, your actions could amount to slander and tortious interference of contract in an effort to block his job opportunities.

The cumulative effect of your conduct has been catastrophic to Dr. Drake. Your intentionally reposting the False Identification on the Combiar Website is tortiously interfering with his contractual relationships, engaging in unfair competition and jeopardizes my client's ability to generate revenue in the future.

Additionally, you are utilizing my client's likeness for commercial purposes in violation of his right of publicity. **Furthermore, as you neither asked for nor received permission to use the Creative Works, you and your company are willfully infringing my client's proprietary rights under the copyright act, 17 U.S.C. Section 101 et seq. and could be liable for statutory damages as high as \$150,000 for each unlawful display of my client's Creative Works, as set forth in Section 504(c)(2) therein.**

**It is important to note, that as that neither you nor Theater Kids, Inc. have registered an agent with the Copyright office, so you are immediately liable for direct copyright infringement. Furthermore, as that you have posted this information personally outside the scope of your employment with Theater Kids, Inc., you can be held personally liable for all damages.**

In view of your activities, we request, without waiving Dr. Drake's other rights and remedies, that you **IMMEDIATELY** **render** **the** **page,** <http://www.parentadvocates.org/index.cfm?fuseaction=article&articleID=7851>, **inoperable**, returning an Error 404 and/or Error 410 (and removing the article from the home page), and that you **IMMEDIATELY CEASE AND DESIST the intentional use and distribution of the False Information and Creative Works**, and all copies of it, and that you destroy such copies immediately, and that you desist from this or any other infringement of my client's rights in the future. **Furthermore, you are to remove all links and references to the Combiar Website from the Google and Yahoo caches using their website removal tools.**

We request that you respond to us in writing no later than 5:00 p.m. EST on Friday, December 3, 2010. You are further directed to: (i) notify our firm, within five (5) days hereof, confirming that you have complied with the directives of this letter and that you have taken steps to prevent any of the False Information and Creative Works from being published and/or disseminated in the future; and (ii) provide us with a complete listing of individuals or entities to whom you have provided the False Information and/or Creative Works for further publication. In addition, inasmuch as your continued use of the False Information and/or Creative Works has benefited and enriched your business, we hereby demand records reflecting the number of "hits" the Combiar Website has generated, links from where your web visitors came from in order to view the Combiar Website, how much time Internet users spent reading the Combiar Website, how many users forwarded or e-mailed links to the Combiar Website, and a web daily traffic report from November 16, 2010 through the date of this letter.

This letter is not intended to set forth an exhaustive statement of the facts or of our client's legal position in this matter. Nothing herein is to be construed as a waiver of any of our client's rights or remedies, all of which are expressly reserved.

Sincerely yours,



Enclosures

cc: Media 3 Technologies, LLC, 33 Riverside Drive, Pembroke, MA 02359 (by fax, (781) 826-1513)