

ATTACHMENT D-3

(Excerpts from 2017 Correspondence)

Michael Shames <michael@sandiegocan.org>

Feb
17

to sherry flax

Ms. Flax -

I am in receipt of a "confidential settlement communication" dated February 14th that I received the 16th. You demand a response by the 17th which is patently unreasonable, but with which I will comply largely because I take legal threats seriously.

First, I do not accept your designation of the letter as confidential and, if I choose, I will share it with others. If your client chooses to make legal threats, your client needs to stand behind it publicly.

Second, your letter identifies only two "characterizations" that you dispute. First, you claim that Mr. Mampilly is not a "known investment scammer" notwithstanding that you do not contest that he has been affiliated with other investment sites that we've designated as scams in other blogs. However, as a courtesy, I have removed the specific language that you site in your letter.

Third, you object to our use of the word "illegally". Said word does not exist on the blog we authored. And you did not dispute the fact that Mampilly offers no disclaimer to potential investors, thus potentially violative of the law. However, we do point out that investment disclaimers are legally required and the absence of said disclaimer is "illegal". We will remove the word you implicitly reference in your letter for the time being. However, we will follow up with additional research to support our contention that the absence of a disclaimer is, in fact, illegal and that your client offers no such disclaimer. Until you present evidence of such a disclaimer, we will stand behind our evaluation.

There are no other statements of fact or opinion that you cite in your letter as defamatory and untrue. We believe that this communication is sufficiently responsive to your letter and that there are no other aspects of the blog which are problematic. In the absence of further communication, we will so conclude.

Michael Shames <michael@sandiegocan.org>

Feb
24

to Sherry Flax

Ms. Flax -

I am in receipt of your letter dated February 20th in which you raise some new facts contained on our blog that you claim are inaccurate and defamatory. I will address each one:

"Is a known Internet investment scammer" - This statement refers to Mr. Mampilly's financial relationships with other sites that have engaged in activities that we deem to be deceitful. We have revised the language to better state our concerns. We note [Mr. Mampilly's hawking of Yahoo stock claiming it'd increase by 75%](#) back in 2015 when Yahoo's stock value was \$37.3 billion. (published by Stansberry Research -- a dubious investment outfit that we've noted in other blogs). Mr Mampilly is quoted as stating that Yahoo stock "is still dirt cheap" and recommends that readers buy Yahoo stock. But, [as Yahoo Finance confirms](#), Yahoo stock was valued at about \$50

at the start of 2015 and dropped to under \$30 per share in one year. Even today, on the eve of its purchase by Verizon, Yahoo stock is still below the \$50 per share value. Most of the investors who had followed Mr. Mampilly's advice would have lost money -- some by as much as 40% if they'd sold their shares in the intervening months. This is but one example of the dubious stock investment claims that leads us to question Mr. Mampilly's overstated financial claims.

In regards to the "disclaimer required by law" - We refer to [SEC disclosure guidelines](#) to which we have now specifically referenced in the blog.

You also claim that I did not address your concerns regarding a blog entitled "*SCAM ALERT: Internet Investing Hanky Panky*". I have thoroughly reviewed your February 14th letter and there is no such reference to this blog nor any defamatory language in that blog. Please provide a specific reference in that February 14th letter to that language which you claim has inaccurate facts, as we are unable to respond to requested corrections that we cannot discern. Please advise as to any other factual inaccuracies and we will continue to review, accordingly.

Please also be aware that while we are happy to correct any materially factual errors, we are not going to simply refrain from all mention of Sovereign as we continue to be concerned about its overstated marketing approaches. Please also know that if your client chooses to litigate this matter, it will not serve you well to file the complaint in another state, such as Florida, which has lax SLAPP remedies. We will successfully argue that any complaint you file in another state be removed to California jurisdiction.

While we continue our willingness to work with anyone who asserts that my blogs can be made more accurate, we have and will always, vigorously and successfully fight back against anyone seeking to intimidate SDCAN through an abusive civil tactics. **Please be advised that we continue to reject your characterization of your letters as confidential and we do not so subscribe to that characterization.**

Michael Shames

Michael Shames <michael@sandiegocan.org>

Mar
10

to Sherry Flax

Ms. Flax -

I am in receipt of your letter dated February 27th. As I explained to you in a previous email, your decision to file a complaint in Florida federal court compelled me to consult with counsel prior to any response. However, I continue to serve as SDCAN's primary counsel, so you are not in violation of any legal ethics by continuing to communicate with me.

In your letter, you indicate that your client objects to my characterization that he does not offer a disclaimer and that the SEC guidance to which I cited does not recommend disclaimer language. I base the facts that I assert upon the following advertisement by your client at <https://pro.sovereignsociety.com/p/PRL2/EPRLS627> and upon common practice by investment websites that include disclaimers when giving investment advice. Moreover, it is well established law that the SEC requires a disclaimer that past performance is not an indication of future investment returns and that an investment adviser makes no guarantees as to future profitability. I note that Mr. Mampilly's past performance is touted at [Stansberry's web site](#). All Mr. Mampilly needs to do is link his web advertisements to this, already existing, disclaimer. But I've seen no evidence that he's done so.

My concerns about Sovereign's advertising strategy is heightened by Mr. Mampilly's recent ads for "Extreme Fortunes" which makes reckless claims [of a possible 1000% return](#) based upon, in part, a stock that is [likely to do very poorly](#) and his exaggerated claims about geothermal power and specifically one geothermal company

(probably Ormat). This is a topic about which I am very knowledgeable and I find Mr. Mampilly's assertions to be unfounded. I will modify the blog to better express my concerns about these inflated statements.

In regard to your concerns about the *Investing Hanky Panky* blog, thank you for providing references to specific language that you find injurious. I have modified the language of that blog to comport with my other blog on Sovereign.

I trust that you'll find the edits address your concerns about actual facts that are in dispute between us.

Flax, Sherry H. <SFlax@saul.com>

Mar
20

to Michael

Dear Mr. Shames – Thank you for your correspondence. The defendant named in the referenced case is Michael Shames, not SDCAN. Please advise if you are representing yourself in this case.

Sovereign is interested in resolving this matter amicably. However, the Court has entered a Scheduling Order and deadlines are coming up. Attached is the Complaint and exhibits filed in the United States District Court for the Southern District of Florida. We are preparing to serve process of the summons and Complaint. In the meantime, we propose that this matter can be resolved with your agreement to permanently take down the statements that we allege are defamatory and agreed not to make any public statement about the lawsuit. We will continue to review your statements and will take any action deemed necessary to protect the interests of Sovereign and its affiliates, employees, and agents. In the alternative, we can agree to engage in private mediation in an effort to resolve the case.

I look forward to receiving your response to this email by no later than close of business on Wednesday, March 22, 2017. Thank you.

Sherry Flax

Michael Shames <michael@sandiegocan.org>

Mar
22

to Sherry Flax

Ms Flax -

We have endeavored to work amicably with you to resolve your concerns about the accuracy of the facts contained in SDCAN's blogs regarding your client. To date, there are no outstanding disputed facts about which we are aware. Your request that SDCAN "permanently take down the statements that we allege are defamatory" makes no sense as we have responded to each and every disputed fact and have received nothing from you suggesting that our modifications are factually inaccurate. It is impossible for us to comply with your "settlement" demand because we are not aware of any remaining disputed facts.

Please be reminded that, as we informed you in previous correspondence, as soon as I am served with your threatened complaint, SDCAN's attorneys will move to change the venue to California.

Up and until you formally serve the complaint, we remain open to addressing your clients concerns. We both share an interest in ensuring that the public is given accurate and documented facts and there's no reason that the two parties can't agree upon a common set of facts. However, SDCAN will not engage in that process during the pendency of a high profile lawsuit. So the choice is completely yours. If you present a list of disputed facts to us,

we will endeavor to address them. If you serve your complaint, then the civil process that we've outlined for you in previous correspondence will commence.

Flax, Sherry H. <SFlax@saul.com>

Mar
27

to Michael

Dear Mr. Shames – Thank you for your March 22 correspondence, to which this email responds. You have again asked for the facts for which we are requesting compliance. You have made a series of legally insignificant edits to your posts that have not ameliorated their defamatory nature. Specifically:

1. In your October 25, 2016, post, you continue to falsely assert that Sovereign is breaking the law:

“It is well established law that the SEC requires a disclaimer that past performance is not an indication of future investment returns and that an investment adviser makes no guarantees as to future profitability.”

*As we have stated previously, there is no such law. Period. Sovereign is not breaking the law. Please remove this statement and the following directly related statements:

“All Sovereign needs to do is link his web advertisements to this, already existing disclaimer.”and

“We note that the Securities Exchange Commission’s own guidelines encourage investment advisers to let potential “investors” know what they realistically could expect to make.”

*There is absolutely no requirement that Sovereign link its website to anything, so Sovereign *need* not do anything. This statement is false.

* The SEC guidance says nothing whatsoever about disclaimers advising potential investors what they can expect to realize. This statement is false.

2. In your November 17, 2016, post, the following phrases and statements go beyond an expression of your opinion:

“Highly disreputable”

“Propound scare tactics”

“They especially target seniors ... scare mongering.”

“Are they scams? Probably NOT ...”

“Their investors can’t have achieved anything close to their advertised returns.”

If these issues are resolved and you agree not to make public statements about the lawsuit, we will withdraw the Complaint. We look forward to your prompt response.

Michael Shames <michael@sandiegocan.org>

Ap
r 5

to Sherry Flax

Ms. Flax -

We've reviewed your two requests above. All references to your clients have been removed from the November 17, 2106 post.

The October 25, 2016 post has been revised to clarify SEC rules regarding disclaimers and disclosures.

Both of these revisions comply with your demands. **There are no remaining factual disagreements about which we are aware.**

Flax, Sherry H. <SFlax@saul.com>

Ap
r 6

to Michael

Dear Mr. Shames – We appreciate that you have made some slight revisions to your posts. However, you have not addressed the substance of the false statements identified in our March 27, 2017, correspondence:

October 25, 2016- <http://www.sandiegocan.org/2016/10/25/scam-alert-paul-mampillys-7-tech-stock-gamble/>

- “All Sovereign needs to do is link his web advertisements” to a disclosure. THERE IS ABSOLUTELY NO REQUIREMENT THAT SOVEREIGN *NEEDS* TO LINK ITS WEBSITE TO ANYTHING. YOUR STATEMENT IS FALSE.
- “We note that the Securities Exchange [sic] Commission’s own guidelines encourage investment advisers to let potential ‘investors’ know what they realistically could expect to make.” THE SEC GUIDANCE SAYS NOTHING WHATSOEVER ABOUT DISCLAIMERS ADVISING POTENTIAL INVESTORS WHAT THEY CAN EXPECT TO REALIZE. YOUR STATEMENT IS FALSE.

November 17, 2016- <http://www.sandiegocan.org/2016/11/17/scam-alert-internet-investing-hanky-panky/>

- “Highly disreputable”
- “Propound scare tactics”
- “They especially target seniors ... scare mongering.”
- “Are they scams? Probably, [should say “Probably not”] but they walk a fine line.
- “Their investors can’t have achieved anything close to their advertised returns.”

• Although you have removed Mr. Mampilly’s name, you refer specifically to:

- The Sovereign Society
- Profits Unlimited (which appears as a hyperlink, and which links to the October 25, 2016 post about Mampilly: <http://www.sandiegocan.org/2016/10/25/scam-alert-paul-mampillys-7-tech-stock-gamble/>)
- Bill Bonner
- Agora Financial
- Stansberry
- Palm Beach Newsletter
- Laissez Faire

To the extent that this post contains false statements, the removal of Mr. Mampilly’s name does not ameliorate their defamatory nature.

We look forward to your prompt response.

Michael Shames <michael@sandiegocan.org>

Apr
11

to Sherry Flax

We've removed references to your clients in the October 25th post; thank you for pointing out that oversight. However, you've not identified any additional factually inaccurate statements pertaining to your clients, only opinions. If you have any additional factual inaccuracies relating to your clients that you wish to identify, we are receptive to them. Otherwise, we consider this matter closed.