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June 2, 2009

*By Regular Mail and Fax*  
Beth Silfin, Esq.  
Office of the General Counsel  
Harper Collins Publishers LLC  
10 East 53rd Street  
New York, New York 10022

*Re: Triple Cross*

Dear Ms. Silfin:

In my earlier letters of October 11, November 16, 2007, and September 22, 2008, I outlined in some detail how allegations made in the book, *Triple Cross*, authored by Peter Lance and published by Harper Collins, both defamed me and placed me in a false light. In those letters, I demanded that Harper Collins: (i) cease publication, distribution and sale of the then current version of the book, and withdraw unsold copies from circulation; (ii) issue and publish a clear and unequivocal statement acknowledging that the book contains material false statements about my conduct and making clear that Harper Collins does not stand behind the factual assertions made in the book regarding my conduct; and (iii) agree to refrain from publication of any updated version of the book and take no steps to transfer the rights to any other person or entity to publish the book in any form. You eventually advised me during May of this year for the first time that Harper Collins will in fact publish a further edition of the book. As is clear from the record to date, no retraction of the past book has been issued. Moreover, the book has never been withdrawn from circulation despite the errors pointed out. Indeed, the book in its original form remains for sale on Harper Collins' website even today. Thus, Harper Collins has maintained publication for more than 19 months after being put on notice of the book's falsity and after a demand to cease publication was made. Each day is both a new and continuing defamation.

I write to reiterate my admonition from my first letter to Harper Collins that while I catalogued serious errors in the book, I did "not undertake any obligation to catalogue the entire litany of sensational misstatements of fact contained in the book, which would be a rather strenuous undertaking." (October 17, 2007, letter at p. 3). I then went on to spell out that not only was the book *Triple Cross* wrong but that Harper Collins was on clear notice that "is not a book whose falsehoods are a result of mere negligence or even recklessness. Nor is it a book

whose inaccuracies can be fixed by a redaction of a few offending sentences. The book is a deliberate lie masquerading as truth." (*Id.* at p. 7) I further cited examples in the letter where it is clear that Mr. Lance selectively and precisely misquoted the record in a manner that made his intention to misstate the truth quite clear. (*Id.*)

In my November 16, 2007, letter, I made clear once again that it had not been my intention:

to direct Harper Collins to where the clearest proof of defamation and actual malice in the book lies so as to allow Lance and Harper Collins to leave the defamatory gravamen of the book, remove the extrinsic proof of the actual malice (dismissing it as "clearly inadvertent misdating" and refusing a retraction) and then embrace the book as "an important work of investigative journalism." This is a particularly cavalier approach given that Harper Collins published the first iteration of the book after *National Geographic* severed its ties with Mr. Lance on the same body of work, publicly explaining in a statement issued on or about August 17, 2006, that Mr. Lance had insisted that a National Geographic program on the topic "... include details, accusations and conclusions that we could not independently confirm."

....

As noted in *Edwards v. Paddock Publications*, No 1-00-0599 (Ill. 4th Division 2002), "the spectre of reckless disregard" may be raised when the facts "reveal[] either insufficient information to support ... allegations in good faith or information which creates substantial doubt as to the truth of published allegations," (quoting *Wanless v. Rothballer*, 115 Ill. 2d 158, 172, 503 N.E.2d 316, 322 (1986)). In this case, Harper Collins has both.

I further note as I did in the October letter that I have not undertaken an obligation to do the fact checking Harper Collins failed to do when it published *Triple Cross* the first time. Given that there are any number of statements concerning me in the book that are not true, as well as a number of statements about others I believe not to be true, my focus on the three particular allegations I highlighted should in no way be deemed as tacit acceptance of the truth of anything said in *Triple Cross*. Moreover, I certainly am not in a position to assess what Lance may say in his new "updated" version other than to say that his track record indicates it will not hew to the truth.

It now appears that Harper Collins' standards for publishing have slipped to the standards of Peter Lance. Surely, if it took Harper Collins 19 months to decide to proceed, that ought to tell Harper Collins something about the reliability of the book. To put it plain and simple, if in fact you publish the book this month and it defames me or casts me in a false light, Harper Collins will be sued.

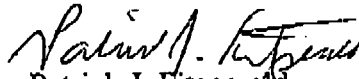
I am copying Mr. Goff, in his capacity as General Counsel (and thus an officer of Harper Collins), and request that this letter (and the prior letters) be shared with any other appropriate corporate officers of Harper Collins responsible for decisions whether to publish books. If it is not so shared, it will be my position that the failure to do so upon specific request would be a waiver of any contention under Illinois law (or other applicable law) that punitive damages can be resisted by Harper Collins on the ground that no officer of the corporation was made aware of the facts constituting the book's falsehood and reckless disregard for the truth. *See Oakview New Lenox School District v. Ford Motor Co.*, 61 Ill. App. 3d 194, 199-200, 378 N.E.2d 544, 548-49, 19 Ill. Dec. 43 (1978). I further repeat my requests to preserve documents set forth in the prior two letters.

I am copying Mr. Lance and make the same request that in anticipation of litigation he preserve the documents specified in the requests contained in the earlier letters and on the same understandings specified in those letters. Because I do not know (nor need to know at this point) the personal address of Mr. Lance, I ask that you forward this correspondence to him.

This demand is not a waiver by me of any right to sue Harper Collins (or anyone else, including Mr. Lance) for tortious conduct committed to date.

Thank you for your kind attention to this matter.

Very truly yours,

  
Patrick J. Fitzgerald

cc: Christopher Goff, Esq.  
Peter Lance