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October 31, 2006

BY FACSIMILE (817-332-6818) & FEDEX

J. Shelby Sharpe, Esq.
Sharpe Tillman & Melton
6100 Western Place
Suite 1000
Fort Worth, TX 76107

Re: Bill Moyers

Dear Mr. Sharpe:

I have your letter of October 20, which was delayed in transit and arrived on October 27.

I do not know what authorities you consulted but the uncontested definition of defamation includes attacks on honesty and integrity – particularly in a context that diminishes reputation in a trade or profession. See for example, the definition of "defamation" in *Black's Law Dictionary*: "The taking from one's reputation. The offense of injuring a person's character or reputation by false and malicious statements." See also Smolla, *Law of Defamation* at Section 4:1, which quotes universally accepted sources:

The Restatement (Second) of Torts indicates that "a communication is defamatory if it tends so to harm the reputation of another as to lower him in the esteem of the community ..." William Prosser emphasized a popular common sense definition, stating that which is defamatory 'tends to injure 'reputation' in the popular sense, to diminish the esteem, respect, good-will or confidence in which the [person defamed] is held, or to excite adverse, derogatory or unpleasant feelings or opinions against him." [Footnotes omitted.]

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Your client defamed Mr. Moyers by purporting to state factually that Mr. Moyers told him that he "hoped to use this program to divide the evangelical vote and return control of Congress to the Democrats in November's elections," thereby attacking his integrity as a journalist. There is no "opinion" reflected in this statement, contrary to your letter. And if you have any doubt about the damaging effect, please refer to the many blogs and blog commentaries now on the web that now have repeated the lie or accepted its truth and attacked Mr. Moyers's reputation as a result.

The statement falsely attributed to Mr. Moyers was not only never made by him, but also defies logic. Why would Dr. Beisner remain for the interview after hearing such a statement? Dr. Beisner has never claimed, as you now assert for the first time, that Mr. Moyers made these statements after his interview. Rather, as Dr. Beisner explicitly stated in his third e-mail to Mr. Moyers on October 18:

...what I reported that you told me is, to the best of my memory, an accurate summation of some things you told me during our roughly fifteen to twenty minutes of get-acquainted conversation...*before the interview*... [Emphasis added.]

Moreover, he has never corrected Mr. Moyers's e-mail, sent on October 17, which initially made the point that Dr. Beisner's contention has no ring of truth for this reason alone.

As you know, your client has already admitted that his memory is imperfect and both retracted and apologized for the other half of what he falsely reported in the ISA newsletter earlier this month. Your new suggestion that Mr. Moyers's statement was made "on the way to the airport following the interview" may be taken as evidence either that your client continues to make up stories as he goes or else that his memory is subject to constant fluctuation.

As I have stated in my correspondence with Dr. Beisner, his admissions have already demonstrated the likely presence of actual malice, i.e., knowing falsehood, or knowing disregard for truth or falsity, which includes a high degree of awareness of probable falsity or serious doubts as to truth. *Garrison v. Louisiana*, 379 U.S. 64, 74 (1967); *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). Moreover, it is well-established that assertions of good faith will not likely persuade when allegations are "inherently improbable" or there are obvious reasons to doubt the truthfulness of the accuracy of a statement: *St. Amant v. Thompson*, above.

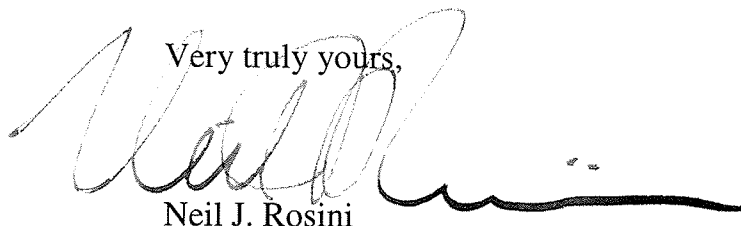
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Actual malice brings with it the potential for presumed and punitive damages. *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 349 (1974). Your client's continuing refusal to retract his untruth increases his liability by the day.

Nothing in this letter should be construed as a limitation of Mr. Moyers's rights or remedies, all of which are expressly reserved.

Very truly yours,

A handwritten signature in black ink, appearing to read "Neil J. Rosini", with a long horizontal flourish extending to the right.

Neil J. Rosini

NJR/aws

cc: Bill Moyers

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