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March 17, 2017

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Re: Materials requested during Deposition/Requests for Documents from Deposition

Mr. Striker:

As you requested during my client's deposition, enclosed are copies of the checks that he has written to my firm throughout the course of this proceeding. There appear to be three early on that he and I have not been able to find, but I think what you have here is sufficient to answer the question you had. I have not yet gotten the information from Mr. Treibitz on the details of the piano decals book he had mentioned.

During the deposition, you referenced several documents that I did not receive copies of prior to the deposition and have not yet received copies of. I am requesting copies of them as we head toward the testimony periods in this proceeding.

- 1) Copies of the search results from my client's website which you had him identify and questioned him about during the deposition
- 2) A copy of the brochure you took from the conference room and had my client identify during the deposition.

I noted from the transcript and discussions with my client afterward that it is apparent you had a bearded individual enter Hollywood Piano and engage Mr. Treibitz in a purported sales conversation regarding a Hardman and a Schiedmayer piano advertised for sale on the showroom floor. Based on the deposition transcript is apparent that this individual took photos of the pianos and also surreptitiously recorded the private conversation between himself and Mr. Treibitz. Apparently, you intended to use that recording and conversation during the deposition.

If you plan on using any portion of the recording, or any information obtained from that recording during the trial period of this proceeding, I remind you that under California Penal Code § 632, it is a crime to record a confidential communication without the consent of all parties to the

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communication. Furthermore, civil liability in the amount of \$5000 or three times actual damages can be assessed for a violation of this statute.

Clearly, the conversation between Mr. Treibitz and your investigator who was posing as a potential buyer was a confidential communication—an ordinary purchaser would reasonably expect that a negotiation involving many thousands of dollars on the showroom floor would remain private between the purchaser and the salesman. Because of this, if you had a recording made, that recording was illegal, and exposes you and the individual you had do the investigation to criminal and civil liability. Because of this, the recording, and any information obtained from it are inadmissible and cannot be used in this proceeding.

If you attempt to admit any evidence from that recording, I will move to have it stricken from the record and held inadmissible, explaining how we believe the evidence was obtained to the Board. Illegally obtained evidence is not admissible, as you know, and so it is critical that the Board be aware of where the information came from.

Furthermore, I demand that you produce the recording and the photographs that were taken by your investigator, as well as the identity of your investigator. If you choose to rely on this evidence, you will have to give me this information anyway as part of the evidence in this proceeding, and demonstrate the appropriate chain of control for the recording that shows that is has not been tampered with.

Please let me know if you have any questions.

Sincerely,

ADAM R. STEPHENSON, LTD.

Adam

Enclosures

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