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BY EMAIL

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Re: Biehare Agonafer

Dear Mr. Gutzler and Ms. Haba:

This letter responds to your letters of May 11, each of which responded to my letter addressed to both of you dated May 7. I also acknowledge and address below the substance of Mr. Gutzler's call to me, yesterday.

In my previous letter, I identified four distinct aspects of previous communications to Ms. Agonafer from what are facially your Facebook accounts (or, in one instance, a different account which appeared from its content to be from you) that involved questionable conduct. As previously detailed, those communications contain threats, solicitations, impersonation of a judicial officer (from the "Justice Smith" account) and a misleading representation to Ms. Agonafer about the purportedly privileged nature of the conversation Ms. Haba sought with Ms. Agonafer.

Mr. Gutzler's responsive letter recognizes the wrongfulness of the conduct I described, appreciating that I would be "duty bound" to report it. But, Mr. Gutzler represents, the communications that my letter described are instead "an obvious hoax."

In yesterday's phone call, Mr. Gutzler likewise expressed that his account was hacked and intended to investigate the source of the Facebook posts that our last letter described. However, Mr. Gutzler focused on the Facebook messages from "Justice Smith" —insisting that he was not responsible for those messages. My previously expressed conclusion that you may have been involved in causing the "Justice Smith" messages to be sent, as described in my previous letter, was based on how strikingly similar they are to other messages you have sent, i.e., comparing Ms. Agonafer to Ghislane Maxwell. But, *even if* neither of you are connected to the "Justice Smith" messages, the other messages that each of you appear to have sent from your own accounts remain concerning because they include: (1) solicitation; (2) threats; and (3) misinformation about the confidentiality of communications between each of you and persons you have contacted.

It remains unclear to us whether Mr. Gutzler acknowledges or denies being the source of the Facebook messages that came from his private account. As regards Ms. Haba, we note that *she* does not dispute that the Facebook messages quoted in my previous letter were indeed sent by her.

Mr. Gutzler's May 11 letter also requests "the professional courtesy" of being "alert[ed]" to any other communications known to us that appear to come from him related to Mr. Nygard. In response, I will identify other communications that apparently were sent by him—and then, relatedly, explain our skepticism about your claim that the communications are a hoax.

I am aware of such communications because, in addition to representing Ms. Agonafer with respect to communications apparently sent to her by each of you, we have also been engaged by Mr. Nygard. Our engagement encompasses advice about the various legal proceedings in which he is a party (we have not filed a notice of appearance in any such proceeding).

Some of the other communications by Mr. Gutzler related to the Nygard matter are text messages to Ana Garcea. Those text messages, summarized below, were sent from (314) 541-2529, which is evidently your cell phone number (and the number from which you called me yesterday). Those texts, as explained below, contain what can only be understood as threats.

In one of your messages to Ms. Garcea, you state that you represent over 70 women who "were r---d by Peter Nygard." That message then threatens Ms. Garcea to "com[e] forward" so as to avoid getting "implicated along with Nygard." Your next message reinforced those threats, apprising Ms. Garcea that she "could be protected" from being implicated if she accepted the sender's entreaty to work with him. Thereafter, Ms. Garcea received more texts from this same number, one attaching a link to an article published by the Canadian Broadcasting Company

about Mr. Nygard, and two others attaching links to articles on the website of your law firm, DiCello Levitt Gutzler.

Various Facebook messages sent to Ms. Agonafer, which were the subject of my previous letter, came from your apparent Facebook account. Its content is private and accessible only to those to whom access is given by its owner. It has numerous indicia of being your authentic account, including but not limited to postings of pictures of what appears to be your dog (which you have also posted elsewhere on social media). In addition to the Facebook messages described in my previous letter, you have apparently sent various other Facebook messages to Ms. Agonafer that included the following exchange:

You: I have information that you will want to have.

Ms. Agonafer: I don't know u:

You: Nygard does. So do you.

In another message sent from this account, it was represented to Ms. Agonafer that “discussions you and I have” are “confidential.” The message urged Ms. Agonafer to “com[e] forward”, adding that doing otherwise could leave her “holding the bag like Ghislane Maxwell.” Further attempting to threaten Ms. Agonafer, the message represented to her that the “FBI has access to all records, including phone and bank records, and hundreds of witnesses.”

Thus, all of the messages described here, those facially from your Facebook accounts to Ms. Agonafer and those from the “Justice Smith” account are very similar in content—such as promising confidentiality, referring to your firm and your lawsuits, and making threats that include references to Ghislane Maxwell and the FBI.

Finally, the implication in your letter that *Mr. Nygard* is somehow the source of any of the messages we have complained of is absurd. The messages urge Ms. Agonafer to cooperate with the government in its investigation and prosecution of Mr. Nygard—a message that you, as counsel to persons suing Mr. Nygard, have an evident incentive to send, but which Mr. Nygard plainly would not.

We also observe that the allegations you have made in the media against Mr. Nygard were apparently the product of investigative efforts that included the practices described above.

In sum, to whatever extent you are denying being the sender of Facebook messages to Ms. Agonafer, we remain skeptical. And we have similar concerns about the above-described text messages that also appear to have come from your account. We renew our demands that you cease and desist from all of the above-described conduct. Our position is that the described conduct is potentially sanctionable, at the very least. We demand that both of you preserve *all* messages, sent through Facebook, text messaging, or any other forum, to persons connected with

the Nygard matter that solicit clients, make threats, promise confidentiality to persons you do not represent, or appear to come from others.

Sincerely,



Alan S. Lewis

ASL:bp