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In Reply Refer To:

September 9, 2009

VIA FACSIMILE (323) 227-1293  
AND U.S. MAIL

Randy Jackson, Vice President  
CBS Outdoor, Inc.  
1731 Workman Street  
Los Angeles, CA 90031

Dear Mr. Jackson:

This firm represents Consumer Watchdog. It has come to our attention that your company, CBS Outdoor, Inc. has unjustifiably removed our clients' billboard sixteen days prior to the expiration of the contract, a decision for which you have accepted responsibility. This removal is particularly inappropriate considering CBS Outdoor was advised as to the nature of the billboard and the information available on the Consumer Watchdog website prior to entering into the contract. In fact, as you are aware, the billboard had to be approved by your company prior to its display. Having been approved by CBS Outdoor, and not being in violation of any of the terms of the contract, you are estopped from removing it prior to the period paid for under the contract.

Estoppel by contract, as codified in Cal. Evid. Code § 622, states "[t]he facts recited in a written instrument are conclusively presumed to be true as between the parties thereto..." Here, the contract between Consumer Watchdog and CBS Outdoor entitled "CBS Outdoor Terms and Conditions of Advertising Service" specifically states:

**If Copy is furnished and delivered as required above and such Copy is not rejected by Company pursuant to the terms hereof (i) the Copy shall be posted..." (emphasis added)**

The "Copy" furnished and delivered to CBS Outdoor was not rejected and was subsequently posted by CBS Outdoor as required by the terms of the contract. Once posted, it should have remained through the term of the contract as the Copy did not violate any of the terms requiring removal under the contract, i.e., it did not contain "[n]udity, pornographic, profane or obscene copy," which would have precluded its initial posting. And certainly your

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company is not seriously maintaining that a single letter from another CBS Outdoor advertiser's lawyer constitutes "adverse publicity."

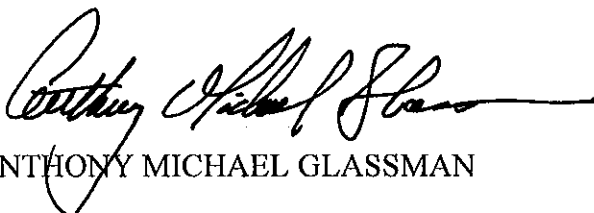
In fact, rather than generating "adverse publicity" it appears that the billboard is receiving positive feedback. And it appears your company is now facing bad publicity for removing it. See today's Los Angeles Times article, attached hereto, entitled "There's something wrong here". In the article, Steve Lopez, perhaps the LA Times most popular and well-known columnist, finds it offensive that "thin skinned bullies" at Mercury used "their clout to have a critic's billboard torn down."

Since you had absolutely no basis under the contract or the law for removing the billboard, and infringing on our client's First Amendment rights to communicate with California's consumers on the critical issue of insurance abuse, we demand that you immediately replace the ad and allow it to remain for sixteen days, the time owed under the contract. Should you fail to do so, we will promptly file a cause of action seeking declaratory and injunctive relief requiring that CBS repost the billboard for the balance of the contractual term.

Sincerely,

GLASSMAN, BROWNING, SALTSMAN & JACOBS, INC.

By:

  
ANTHONY MICHAEL GLASSMAN

cc: David Posy, Esq. via facsimile only

# There's something wrong here

STEVE LOPEZ

The ads weren't far from each other on Wilshire Boulevard in Koreatown.

One, on a billboard, was critical of an automobile and home insurance company.

The other, draped across the sprawling face of a tall building, was a vodka promotion that appeared to include an essential part of the female anatomy.

Any guess which one was torn down because of a complaint?

"Truth is more controversial than pornography," said Harvey Rosenfield, founder of Consumer Watchdog, whose ad was dismantled last week. All the ad said was, "You Can't Trust Mercury Insurance," with a referral to Consumer Watchdog's website, which lays out 10 concerns the organization has with Mercury. And the other billboard?

"If you drive three to four blocks east of where ours was," said Rosenfield's colleague, Jamie Court, "there's a huge Absolut Mango ad, and it's really not a mango."

Court said he was alerted by his wife, who happened upon it while driving and made the following observation:

"There's a five-story vagina on a building."

Having visited the location Tuesday afternoon, I'd like to make a clarification.

There's a 10-story vagina on a building.

Sure, art is in the eye of the beholder, but I know a mango when I see one.

A pedestrian walked by on Wilshire and I asked his thoughts. He gazed up and said:

"What is it, a womb?"

"Close," I said.

Across the street at the non-denominational Christ Church of the Living Christ and the Loving Heart, secretary and longtime congregant Mary Metz said she hadn't noticed the ad. But when she walked out with me and looked up, she gave a little nod and said:

"Oh, yes."

Meaning what?

It certainly could be seen as suggestive, Metz said. And she was not the least bit surprised.

"The world's going to hell in a handbag," she said.



Consumer Watchdog



http://howunoriginal.com

**SIGHTS:** An ad attacking Mercury Insurance was taken down. A suggestive Absolut ad is still getting noticed.

Indeed, I keep lighting candles and it doesn't seem to help.

But let's get back to the billboard that was brought down after Mercury complained to CBS Outdoor. As Rosenfield points out, CBS Outdoor had approved the ad before it went up at Wilshire and Wilton Place. For nearly two weeks, there was no problem, but then Mercury's lawyers complained to CBS and that was the end of it.

But the company may have traded one problem for another: Rosenfield is so ticked off, he says he is thinking about running for state insurance commissioner.

My calls to Mercury and to CBS Outdoor produced zilch. CBS said it had no new comment and referred me to someone in New York, where I left a message. A Mercury spokesman said there was nothing to add to the insurance company's written statement last week:

"CBS apparently has considered our comments and, as a responsible organization, has removed the defamatory statements from their billboard. Consumer Watchdog's claims about Mercury Insurance and its motivation are without merit."

Thanks, but I'd prefer to have someone from Mercury explain exactly what's defamatory and which claims are without merit. I'd like to know, in particular, because I'm a Mercury client and I'm feeling a little oily about it.

Is it true, as Consumer

Watchdog alleges, that Mercury is an "abusive, anti-consumer company"? What's the company's explanation for backing legislation that would undermine key consumer protections? And just why does it dish out so much in campaign contributions? Couldn't the company lower my rates instead?

I passed along my request to speak to Mercury Chairman George Joseph, because I might as well hear from the man at the top. I'm hoping he can work me into his lunch calendar one of these days. That would also give me a chance to ask him what he thinks about the prospect of Harvey Rosenfield running for insurance commissioner, and I suspect the words "worst nightmare" could be popping into Joseph's head right now.

Joseph "has never been willing to respect the will of the voters, and I think it's finally time for a guy like me to get in there and hold a guy like that accountable," said Rosenfield, who reiterated that he's not yet sure whether he can be a bigger pain to the insurance industry as an outsider or an insider.

By the way, Mercury's rates are certainly competitive. I've got Mercury for both auto and home insurance. But I've been conflicted as it is, given Mercury's manipulation of the political process, and now there's the billboard controversy to consider.

Of course, Mercury isn't the only insurance company that plays hardball in Sacramento.

But it's one of the bigger players, bankrolling the campaigns of legislators by the dozens, which never fails to work wonders and boost industry profits.

Fed-up Californians voted themselves some protection in 1988 with Proposition 103, but the way Rosenfield tells it, Mercury has steadily attempted to chip away at those protections. And the insurance giant is now behind a potential ballot initiative that Rosenfield said would put a surcharge on customers who have a lapse in coverage because of unemployment or other factors.

If you'd like more information on all of this, you can go to [www.consumerwatchdog.org](http://www.consumerwatchdog.org), where the agency offers its take on Mercury's record. As soon as George Joseph and I break bread, I'll let you know what he says about it all.

In the meantime, Rosenfield said Consumer Watchdog is talking to lawyers about suing over the removal of its billboard. He said the agency had paid for the ad to appear until Sept. 20.

I'm not sure how long the Absolut ad will be up, but Court pointed out that there's some Internet chatter about that one and about other Absolut ads that use a lemon instead of a mango, much to the same effect.

A blogger named Cheryl, at [HowUnoriginal.com](http://HowUnoriginal.com), spotted the Wilshire ad, took a photo with her BlackBerry and sent it to an ex, wondering if he saw the same thing she saw. Yes, he responded. "Sex sells baby!" So Cheryl wrote a ditty:

*I was driving along,  
Minding my business  
When out of an orange-colored sky,  
Flash! Bam! Alakazam!  
Va-jay-jay caught my eye.*

To be honest, I found the Absolut ad silly rather than offensive.

But thin-skinned bullies at an insurance company, using their clout to have a critic's billboard torn down?

Now that's offensive.

[steve.lopez@latimes.com](mailto:steve.lopez@latimes.com)

## OUR A2 VOICES

Monday: George Skelton  
Tuesday: Hector Tobar  
Wednesday: Steve Lopez  
Thursday: George Skelton  
Friday: James Rainey  
Saturday: Sandy Banks  
Sunday: Steve Lopez