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BY AIR MAIL AND BY EMAIL

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Dear Mr. Edge:

I represent Donna Logan, the Director of the School of Journalism and a Professor at the University of British Columbia.

You recently made false and defamatory allegations against Ms. Logan which were calculated to destroy her well-deserved reputation for integrity and trustworthiness. Ms. Logan’s good reputation is the cornerstone of her professional life as an academic and as a journalist.

Your defamatory misstatements were published:

- (a) on the Rafe Mair program on CKNW Radio 980 on the morning of July 3, 2002;
- (b) in emails you sent to Philip Resnick, Department of Political Science, University of British Columbia, and to others whose identity is not yet known to Ms. Logan, with the intention and expectation that the recipients would publish your emails to other persons, which has in fact occurred;
- (c) on your website’s home page (at <http://www.marcedge.com/>) and in a linked article (<http://marcedge.com/rafelogan.html>); and
- (d) by directing recipients of your emails to the “Audio Vault” of CKNW (at <http://209.115.161.208/cgi/vaultfile.cgi?3-9>>) where your defamatory remarks on the July 3 Rafe Mair program were re-published for 7 days.

During the July 3 Rafe Mair program, you falsely and maliciously accused Donna Logan of compromising her integrity as a journalist and her integrity as an academic by giving dishonest testimony to the Canadian Radio-television and

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Telecommunications Commission in order to persuade the CRTC to grant CanWest Global's application for renewal of its broadcasting licence. You falsely and maliciously told Mr. Mair and his listeners that Ms. Logan's price for giving such dishonest testimony was CanWest Global's \$500,000 gift to the School of Journalism. You falsely and maliciously alleged that Ms. Logan was intellectually dishonest in statements she made on the Rafe Mair program the previous week.

Your email and website publish substantially the same defamatory accusations as your statements on the Rafe Mair program.

Ms. Logan, like many Canadians, regards freedom of speech as the cornerstone of our democracy. In the leading Canadian case on the subject of the balancing exercise performed by the law of defamation, the 1995 ruling of the Supreme Court of Canada in *Hill v Church of Scientology of Toronto*, Justice Cory noted that without the freedom to express ideas and to criticize the operation of institutions and the conduct of individuals, democratic forms of government would wither and die. Justice Cory reiterated earlier statements of the Supreme Court of Canada to the effect that a democracy cannot exist without that freedom to express new ideas and to put forward opinions about the functioning of public institutions. Ms. Logan wholeheartedly agrees with those sentiments.

However, freedom of speech is limited in Canada, the United States and other democratic countries to strike a balance between two fundamental democratic values – protection of reputation and freedom of expression.

On the subject of the value of protection of individual reputation, Justice Cory noted that freedom of expression has never been recognized as an absolute right and went on to say that defamatory statements are inimical to the search for truth. *“False and injurious statements cannot enhance self-development nor can it ever be said that they lead to healthy participation in the affairs of the community. Indeed they are detrimental to the advancement of these values and harmful to the interests of a free and democratic society.”*

Justice Cory added that a *“good reputation is closely related to the innate worthiness and dignity of the individual. It is an attribute that must, just as much as freedom of expression, be protected by society's law.... A democratic society, therefore, has an interest in ensuring that its members can enjoy and protect their good reputation so long as it is merited the protection of the good reputation of an individual is of fundamental importance to our democratic society.”*

Ms. Logan entirely accepts that people should be free to criticize her conduct in a lawful way. She entirely agrees that lawful criticism need not be temperate. People should be free to express opinions, should they choose, in caustic, acerbic, or even extravagant and far-fetched language. However, the law did not entitle you, as you have done, to publish malicious misstatements of fact.

Your deliberate lies, reckless invention, malignant distortion are a potent recipe for a massive jury verdict for libel damages.

Contrary to what you have asserted in your defamatory publications, Donna Logan spoke honestly and in good faith and expressed her actual belief when giving testimony to the CRTC and when she appeared on the Rafe Mair program on Friday, June 28, 2002. Donna Logan's honest views on the impact of convergence, as expressed in her testimony to the CRTC and on your program, were previously expressed publicly in interviews with the news media, published material, classroom discussion, and meetings and conferences with other academics and journalists.

Contrary to your reprehensible allegations, at all material times, the School of Journalism at the University of British Columbia enjoyed adequate confirmed funding sufficient to permit the School to continue operations. The School was not suffering financial problems which required it to seek funding from CanWest Global. Donna Logan did not have to raise funds in the private sector to keep the School going.

Donna Logan decided to appear before the CRTC because she understood it was contemplating imposing a strict code relating to journalistic co-operation between the print side of a media organization and the broadcast side of a media organization. She honestly believed such a code to be ludicrous and an unwarranted violation of press freedoms.

Donna Logan did not inform Mr. Leonard Asper or anyone else at CanWest Global that she intended to testify at the CRTC. At no time was she asked by CanWest Global to testify at the CRTC for CanWest Global. Ms. Logan did not appear before the CRTC to testify on behalf of CanWest Global or the Asper family. She was not at any time asked by CanWest Global or by any member of the Asper family to do so.

In addition to Ms. Logan, on April 25, 2001 the CRTC heard testimony from Fred Fletcher, head of the York-Ryerson Culture and Communications Program and from Chris Dornan, head of Carleton's Journalism School, which was substantially similar. The CRTC also heard from Vicky Gabereau.

Your defamatory statements deliberately misrepresent Ms. Logan's statements on Rafe Mair's June 28 program, many of which were either critical of, or unsympathetic to CanWest Global. As you well know, Ms. Logan did not say on the Rafe Mair program "*that the Vancouver newspaper market is very competitive*" -- a false allegation which you employ to ridicule Ms. Logan and hold her up to contempt. You have distorted what she did say about the degree of competition between all broadcast and print media in the Vancouver area.

A malevolent distortion of the views held by a professional will attract substantial pecuniary penalties. In *Myers v Canadian Broadcasting Corporation*, the trial judge found the plaintiff Myers was defamed "*through the distortion of his own words*" which "*has the effect of being especially damaging, since it is much more difficult to explain the truth.*" Similarly in *Murphy v Alexander*, an Ontario judge noted that "*defamation based on a distorted view of the facts is actually more damaging than a reference which is entirely made up, since the latter may be simply denied, while the former may require an extensive explanation.*"

In recent rulings, the Supreme Court of Canada has emphasized the high value attached to reputation in our society. The Court also unanimously endorsed very substantial awards of general, aggravated and punitive damages where defamatory statements are calculated to expose their targets to hatred and contempt. The malicious statements made in your letter clearly fall into that category.

Doubtless you are also aware of the recent decision of the Ontario Superior Court concerning libel on the Internet. On July 8, 2002, in *Reichmann v Berlin*, Court File No. 01-CV-208832, the Ontario Superior Court of Justice awarded the plaintiff \$200,000 general damages, plus \$100,000 aggravated damages plus \$100,000 punitive damages over false allegations published on the Internet that the plaintiff had cheated an innocent man out of an inheritance and that he had lied about doing so.

Justice Sachs noted in his ruling in *Reichmann*:

In this case the mode of publication used was the internet, a method of publication that instantly communicates information to a world-wide audience. The statements were published over a period of more than three and a half years, using seven different websites. Mr. Reichmann testified that people from as far away as Austria and Israel spoke to him about the fact that they had seen the statements. Further, in order to ensure that Mr. Reichmann's immediate neighbours checked the internet, cards were distributed to them giving them an internet siteMr. Reichmann testified about how his children were asked about the cards by the people they knew in the area."

On behalf of Ms. Logan, we must therefore demand:

- (a) that you execute an apology and retraction in the form attached and that you send it to Rafe Mair and to all recipients of your defamatory emails;
- (b) that you provide us with a signed original of the apology and retraction and a list of its recipients by August 6, 2002;
- (c) that you immediately remove any reference to Donna Logan from your website, save and except for the text of the apology and retraction, which you must publish on your website for 45 consecutive days commencing immediately.

Ms. Logan will not tolerate further baseless attacks on her integrity.

I urge you to seek immediate legal advice about the consequences of ignoring this letter.

Yours truly,

Borden Ladner Gervais LLP

By:

Roger D. McConchie

RMC/drh
Enclosure