

7/1/17

Richard Hernandez, Disciplinary Counsel

The Disciplinary Board of the Supreme Court of Pennsylvania

1601 Market Street, Suite 3320

Philadelphia, PA 19103-2337

RE: Complaint Against Craig R. Tractenberg, Esquire File No. C1-17-514

Dear Mr. Hernandez:

Attached please find the news release “School of Rock Names Rob Price as CEO” and my related blog post (which also contains the email from the School of Rock (SoR) Chairman of the Board regarding Ms. Homan’s departure). I believe the apparent firing of CEO Dzana Homan indicates that the irresponsible actions and counsel of attorney Craig Tractenberg had a significant and negative impact not only on his intended victim (me), but also on his client’s business and Ms. Homan personally.

The news release states that Craig Tractenberg’s client Dzana Homan, CEO of School of Rock, has been replaced and as of Friday, June 30, 2017 she will be pursuing “other opportunities.” Having departed under a cloud of controversy will likely have a negative impact on her job choices and future compensation.

While I can’t say that Craig Tractenberg’s call and threats to me on Dzana Homan’s behalf were the sole cause of her ouster from School of Rock, it seems likely that Tractenberg’s reckless counsel and irresponsible actions were likely significant factors leading to her dismissal as CEO. The complaints the franchisees posted to my site about Ms. Homan weren’t necessarily fatal to her tenure as SoR CEO. If a responsible and credible adviser had counseled her to address the criticisms constructively and lawfully, it’s possible she could have salvaged her position as Chief Executive.

However, it appears to me that instead of counseling Ms. Homan on a prudent and lawful course of action, Craig Tractenberg stoked and inflamed her predilection toward bullying and intimidation. I believe that it is likely that he encouraged Dzana Homan to rely on his unlawful and unethical strategy of threatening and bullying me into removing the online complaints against Ms. Homan. It was a highly imprudent strategy, as I have very openly communicated that I do not back down from threats and that I respond in my own defense using the public forum of my blog.

As Mr. Tractenberg has tried – and failed – to silence me through bullying before, he should have known that the probability of a negative outcome for his client was extremely high – just as it was for the convicted felon Nick Papanier in 2014.

Tractenberg’s flouting of anti-SLAPP legislation in PA underscores the importance of this issue

As you may know, the term *SLAPP* (Strategic Lawsuit Against Public Participation) refers to frivolous lawsuits aimed at stifling free speech and silencing critics. 27 states have passed anti-SLAPP legislation. Currently, PA House Bill 95 (sponsored by state Sen. Larry Farnese of Philadelphia) has received bipartisan support, has been approved by the Senate and is now before the PA House of Representatives. The Pennsylvania Bar Association has officially stated its support for anti-SLAPP legislation. I have a letter stating my support for the bill entered into the official record.

I have been the target of SLAPP suits twice before. Two years ago a baseless suit was filed against me by a California businessman in the amount of \$35M. I fought and prevailed in that suit, and the judge awarded me court costs and attorney fees. When I told this to Mr. Tractenberg in an effort to get him to divert from his threatening approach, he stated: “We’re not in California.”

I believe Mr. Tractenberg’s intended message was that, since the PA Bill has not been passed, he was free to subject me to the cost and distress of a baseless, frivolous lawsuit designed only to silence me. One of Mr. Tractenberg’s stated causes of action was based on his false allegation that he had written proof that I had advised School of Rock franchisees to stop paying royalties. I have never given such advice to any franchisee, as I know it puts them at a legal disadvantage. But Mr. Tractenberg likely knows that I know that the most baseless, fictional allegation can result in tens of thousands of dollars in legal fees and months of unpaid time to defend – enough to bankrupt me and my family. And without the penalty of an anti-SLAPP law, Mr. Tractenberg and his client would seemingly have nothing to lose.

Perhaps because most of his adversaries, for many years, have been franchisees burdened by onerous franchise agreements skewed in his clients’ favor, Mr. Tractenberg seems to have developed the belief that he is free to use whatever means necessary to crush his perceived adversaries without having to answer for his breaches of professional (and human) ethics. It appears to me that Mr. Tractenberg has determined that *financial might makes right*, and no tactics are too dirty to use against a private citizen and his family if he believes it will achieve his aims.

I am truly hoping that The Disciplinary Board of the Supreme Court of Pennsylvania will clearly and authoritatively send a message to Mr. Tractenberg and others with such misconceptions that ethical practices and laws *not only* apply to attorneys, they apply *especially* to attorneys who are sworn to uphold them.

Sean Kelly

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