

May 6, 2010

GoDaddy Legal Department
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Scottsdale, AZ 85260
legal@godaddy.com

CC:

Okke Ornstein
PMB-PTY 4640
357 NW 82nd Ave.
Doral, Florida 33122-1027

RE: GoDaddy Hosted Website bananamarepublic.com

Dear Sir or Madam:

I represent the interests of Silva Tree Panama S.A. ("Silva Tree"), a company organized under the laws of the country of Panama and the United Kingdom. Silva Tree provides consumers with a sustainable investment project wherein investors may purchase hectares of land upon which Paulownia, a fast-growing hardwood tree, will be planted and later harvested. The Paulowina tree, whose timber can be harvested and sold in only 5 years, is a highly desired tree that, when planted upon unproductive farm land, can reduce carbon pollution and provide a return on investment. As such, Silva Tree has been able to offer investors guaranteed returns of 13.7% p.a. over the course of 20 years through a liability guarantee insurance policy.

It has recently come to our attention that a user of your services has posted defamatory comments specifically identifying Silva Tree on its website at bananamarepublic.com. Specifically, this website states that Silva Tree's Business Development Manager, Patrick Visser, "was previously in the business of ripping off people in the Spanish real estate market." See <http://www.bananamarepublic.com/?p=574>. Further, this website states that Siva Tree is "another great example of how just about any foreign swindler can set up shop on Panama." See <http://www.bananamarepublic.com/?p=574>. These comments, in combination with additional defamatory comments made at <http://www.bananamarepublic.com/?p=602>, rise to the level of defamation under United States law.

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Under Florida law, the purported location of the bananamarepublic.com website, a plaintiff in a defamation lawsuit must prove four elements: (1) that the defendant published a false statement; (2) the statement concerned the plaintiff; (3) the statement was made to a third party; and that (4) the falsity of the statement caused injury to the plaintiff. See *Border Collie Rescue v. Ryan*, 418 F. Supp. 2d 1330, 1348 (M.D. Fla. 2006). Further, the Florida Supreme Court has defined defamation per se as words that are injurious on their face without the aid of extrinsic proof. See *Boyles v. Mid-Florida Television Corp.*, 431 So. 2d 627 (Fla. 5th DCA 1983) (approved in *Mid-Florida Television Co. v. Boyles*, 467 So. 2d 282 (Fla. 1985)). Words that are defamatory per se include those that imply that the plaintiff has performed criminal actions.

It is clear that the operator of the bananamarepublic.com website has published false statements concerning Silva Tree that have caused injury. These statements are actionable per se, as they imply that Silva Tree and Mr. Visser are involved in criminal conduct. Despite Mr. Patrick Visser's attempts to correct these false statements (See the comments at <http://www.bananamarepublic.com/?p=574>, "Do your proper due diligence and you will find that I have never been associated with fraud or theft"; "As you can see, all I am asking is that you do your proper Due Diligence on our project before you publish them online."), the operator of the bananamarepublic.com website has not removed or retracted his posts. These statements, and their subsequent republication and indexing in numerous search engines, **has harmed our client's business and caused damages of over \$200,000**. Our client is currently proceeding with legal action against bananamarepublic.com in Panama and is further contemplating legal action in the United States in the State of Florida.

Additionally, the bananamarepublic.com website is in violation of the GoDaddy Terms of Use Agreement. Under that agreement's ¶ 2, registrants of domain names and users of GoDaddy's web hosting services agree

not to engage in unacceptable use of any Services, which includes, without limitation, use of the Services to: ...

ii. disseminate or transmit any material that, to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening, or malicious.

Accordingly, the bananamarepublic.com website is in violation of your Terms of Use Agreement. This violation provides GoDaddy with the right to "terminate [bananamarepublic.com's services] in its sole discretion and for any reason...."

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These posts have inflicted significant harm to my client and have caused untold damage to its business. Understand that these posts have subjected the poster to liability under the law of the United States for defamation and defamation per se. Further, despite the immunity granted to Internet Service Providers under § 230 of the Communications Decency Act, we believe that you face liability for exercising control over and failing to take action to remove these defamatory posts from your service. As such, we hereby demand that you remove this website from your service and suspend its domain name immediately.

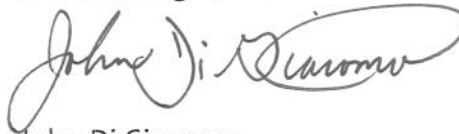
In light of these tortuous actions and your potential liability for the republication of these posts, we request that you comply with the following **no later than May 12, 2010**:

1. Terminate the web hosting service of bananamarepublic.com;
2. Lock the bananamarepublic.com domain name so that it may not be transferred to another registrar; and
3. Take any and all steps to cease the republication of the defamatory statements identified in this letter.

We ask for your cooperation and assistance in this matter. Understand that our client does not intend for this matter to remain unresolved and that he will take any and all legal action necessary to remove these posts from your service. Please do not hesitate to contact me directly if you have any questions.

Very truly yours,

Traverse Legal, PLC

A handwritten signature in black ink, appearing to read "John Di Giacomo". The signature is fluid and cursive, with a large loop at the end.

John Di Giacomo

john@traverselegal.com