



C L A R E L O C K E

L L P

ELIZABETH M. LOCKE, P.C.

libby@clarelocke.com
(202) 628-7402

10 Prince Street
Alexandria, Virginia 22314
(202) 628-7400
www.clarelocke.com

ANDREW C. PHILLIPS

andy@clarelocke.com
(202) 628-7404

August 21, 2019

Via Email

Not for publication or attribution

Susan Webber
Aurora Advisors Incorporated
903 Park Avenue, 8th Floor
New York, NY 10021
Email: webber@auroraadvisors.com

**Re: *False and Defamatory Statements About
Chatham Asset Management***

Dear Ms. Webber:

We write on behalf of our client, Chatham Asset Management, regarding false and defamatory statements concerning Chatham that Naked Capitalism published in a July 15, 2019 article with the headline, “CalPERS’ Hedge Fund With 34% Stake in National Enquirer Parent Alleged To Be “Parking” Rather Than Selling” (the “Article”).¹

In reference to Hudson News Group’s agreement to purchase the National Enquirer from American Media Inc. – of which Chatham is the majority owner – the Article claims that this is not a “real transaction” but instead a “parked transaction,” and speculates that Chatham sold AMI at “an inflated price to Hudson, with the Hudson purchase price then inflated to wash out the AMI overpayment,” and rhetorically asks whether Chatham thinks it “can fool people by saying it sold AMI when its apparently going to own it again.” The obvious implication of these assertions is that the agreed-to sale of the Enquirer is a ruse and that there is an improper, secret agreement for Chatham and AMI to repurchase the Enquirer at a later date.

Naked Capitalism appears to have republished these false allegations after they originally appeared in a July 11, 2019 New York Post story with the headline, “Hedge fund could bid for Hudson news wholesale operation,” and even republished an excerpt from the New York Post article that contains the same false allegations. After the Post published that article, Chatham requested that the Post make changes to it and, without admitting any wrongdoing, the Post agreed to change

¹ <https://www.nakedcapitalism.com/2019/07/calpers-dedicated-hedge-fund-that-holds-34-stake-in-national-enquirer-parent-alleged-be-parking-rather-than-selling.html>.

the article to remove the claim that the sale of the Enquirer was a “parked transaction.” The article has since been updated on the New York Post’s website.² You are hereby on notice of this fact.

The claim that the sale of the Enquirer is a “parked transaction” is completely false, and it is defamatory per se.³ If Chatham had been asked, it would have told Naked Capitalism in no uncertain terms that there is absolutely no agreement, intention, or desire to buy back the Enquirer after the sale is complete. But Chatham was not asked. This was a violation of journalistic ethics, which require that a story subject be fairly confronted with any negative allegations intended for publication and given a meaningful opportunity to comment.⁴ This was also a purposeful avoidance of the truth.⁵

Under settled law, even if the statements were based on the prior New York Post article and contained within a republication of that article, Naked Capitalism is still liable for republishing them.⁶ And liability aside, both journalistic ethics and common decency require Naked Capitalism to follow the Post’s lead and similarly correct its inaccurate story. On behalf of our client, we demand that Naked Capitalism do so without delay.

We look forward to your prompt response.

Sincerely,



Elizabeth M. Locke, P.C.



Andrew C. Phillips

² <https://nypost.com/2019/07/11/hedge-fund-could-bid-for-hudson-news-wholesale-operation/>.

³ See *Luisi v. JWT Group, Inc.*, 488 N.Y.S.2d 554, 557 (N.Y. Sup. Ct. 1985) (statements that disparage a defamation plaintiff’s professional reputation and impute a lack of professional ethics are libelous per se).

⁴ See Sheila Coronel, et al., “Rolling Stone’s investigation: ‘A failure that was avoidable,’” THE COLUMBIA JOURNALISM REVIEW (Apr. 5, 2015), available at https://www.cjr.org/investigation/rolling_stone_investigation.php.

⁵ See *Harte-Hanks Comms. v. Connaughton*, 491 U.S. 657, 692 (1989) (holding that “purposeful avoidance of the truth” by a defamation defendant will support a finding of actual malice); *Eramo v. Rolling Stone, LLC*, 209 F. Supp. 3d 862, 872-76 (W.D. Va. 2016) (evidence that reporter failed to request information from an obvious source that could have corroborated or disproved the source’s claims supported a finding of actual malice).

⁶ See *Cianci v. New Times Pub. Co.*, 639 F.2d 54, 60-61 (2d Cir. 1980) (holding that it is a “black-letter rule” that “one who repeats or otherwise republishes defamatory matter is subject to liability as if he had originally published it.”); *Biro v. Conde Nast*, 883 F. Supp. 2d 441, 461 (S.D.N.Y. 2012) (“It is well settled that Defendants cannot escape liability simply because they are conveying someone else’s defamatory statements”).