

# Paul Esselaar

**Legal Consultant**

BA, LLB (Rhodes) LLM (UCT)

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Your Reference: EQMH/cb/T559

Our Reference:

10 September 2004

## **By Email**

To: E.Q.M. Hunter Attorneys  
For Attention: E.Q.M. Hunter

Fax Number: 021 422 1295

Tel Number:

Dear Sir

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**RE: Twin Films South Africa (Proprietary) Limited /  
Alan**

**duly assisted by**

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I write to inform you that I act on behalf of \_\_\_\_\_, duly assisted by Alan \_\_\_\_\_. My client has provided me with your letter dated 27 August 2004, which refers.

To begin with a certain point needs to be clarified. My client has indeed indicated that he is the author of the report that you would appear to refer to, although he has indicated that the appropriate internet URL is not in fact <http://www.freedom.co.za> but <http://www.freedom.co.za/performers-rights/>. The former site is not connected to the latter article.

My client has spent a great deal of time and trouble attempting to enforce his daughter's rights as contained in the International Performers Agreement signed on the 13<sup>th</sup> and 14<sup>th</sup> of April 2004 respectively. While the remainder of the contract appears to have been complied with, section 10.16.4 of the contract has not been fulfilled. In terms of this section: "All and any usage must be communicated in detail, (geography, specific media and specific timing) to the performer within 30 days of first usage". While my client has indicated that he has been informed of the first day of the flighting of the commercial, he has also indicated that the subsequent dates when the commercial were flighted have not been provided to him. As this would seem to be a relatively simple request, and indeed, is my client's only outstanding request, perhaps in an effort to resolve this matter, the dates, geography and specific media used for each occasion when the commercial was used could be provided to my client?

Turning to the question of defamatory comments made by my client against your client, it would be most appreciated if you would be so kind as to indicate the passages which you consider to be defamatory. The writer is hard-pressed to find a passage that could be considered to be defamatory, quite apart from the fact that your client is at no point mentioned in the article. In addition if there is a subliminal innuendo as you allege, it would once again be most appreciated if you would be able to refer to the text and indicate the subliminal innuendo that you consider to be present in the article.

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Legal Consultant

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My client has informed me that he has contacted Proctor and Gamble and Saatchi and Saatchi at some point relating to this matter. The writer is at a loss in determining how this contact could, even with a stretch of the imagination, be considered to be unlawful and further the grounds upon which you would prevent my client contacting your client's clients. As mentioned above my client still requires the information regarding the flighting of the commercial and so it is not accurate that my client has no further basis or reason to contact these companies.

My client has spent a great deal of time and trouble on this matter and regrets that he was forced to take action to protect his Chiara Levin's rights. As a result of the considerable time and trouble my client has expended on this matter he is of the opinion that other performers may do well to learn from his experience. As South Africa, unlike many other jurisdictions in the world, does not have a performers union which would be able to support performers in matters such as these, my client feels that he has a civil duty to assist current and future performers in order to ensure that they are aware of their rights and the pitfalls in this industry and would be able to enforce their rights if necessary. This, of course, is the intention of the article and a brief reading of the article makes this abundantly clear.

Your client is of course entitled to approach the High Court for any relief to which it considers itself to be entitled, but my client has indicated that any such action will be strongly defended.

We await your correspondence.

Yours faithfully

Paul Esselaar