



***An Attempt to Mend a Broken Network
& Save the Cause of Christ from Reproach***

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Tommy Shelton
Danny Shelton
Danny's Apologists
Leonard Westphal
Litigation, etc.
Gerald Duffy
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Gerald Duffy to Gailon Joy: "Cease & Desist!"

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In desperation at the growing crisis, not wanting to consider stepping aside, unwilling to explain the growing number of allegations, wishing to silence any and all opposition, and resistant to the idea of apologizing for his many alleged lies, Danny Shelton secured a cease and desist letter from a Minneapolis law firm. This letter was sent to Gailon Arthur Joy on January 30, 2007.

Added on 4/1/2007
Furniture

Why a Minneapolis law firm when D. Michael Riva of West Frankfort is usually the one who handles such things? Perhaps Gailon Joy is not quite as bumbling and fumbling as Danny Shelton would have us believe, and thus Danny has to resort to a firm with greater expertise.

Added on 3/28/2007
Defy the Board
Board Action

Yet the fact that the law firm was out of Minneapolis and has been used in the past by Garwin McNeilus, a long-time supporter of 3ABN, is troubling. We trust that McNeilus is not involved in any way in the cover up of the various allegations of the Danny Shelton Corruption Scandal.

Added on 3/22/2007
Book Deals
Emails
Financial Aff.

Added on 3/20/2007
The Lost Bet

One thing that is definitely certain is that the cease and desist letter below makes no threat whatsoever of litigation, suggesting that there probably is no legal basis for its demands.

Added on 3/17/2007
Walt Admits: No
Evidence

Comments will follow.

Added on 3/16/2007
Pregnancy Test

"Cease & Desist!"

Added on 3/15/2007
Dan & Brandy
Abused You?

Must Read:
Mom in Pain #1

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January 30, 2007

Gailon Arthur Joy	<i>VIA E-MAIL - Gabbjoy@comcast.net</i>
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and

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NOTICE: This letter Constitutes a confidential legal communication, which is not for publication. The contents of this communication are subject to common law copyright and may not be reproduced, in whole or in part, in any form or media, without the express, written permission of the author.

Gailon Arthur Joy:

This law firm represents Mr. Danny Shelton and the Three Angels Broadcasting Network, Inc. ("3ABN"), which has informed us that you are involved in the use and exploitation of 3ABN's trademarked, copyrighted name in your website, "www.save3abn.com." Use of 3ABN's name without our client's license or other authorization to do so constitutes an illegal misappropriation of the same, in violation of state and federal copyright and trademark laws. Additionally, use of the phrase "3ABN" in your domain name is likely to cause confusion among the public as to the source,

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sponsorship or affiliation of your website, resulting in dilution of 3ABN's trademark, which is a separate and additional violation of federal law.

It has also come to our attention that you have inappropriately copied and posted a lengthy excerpt from a 3ABN broadcast on the website referred to above. This action constitutes a violation of 3ABN's exclusive copyright on all audio and video productions created by the Network and on all television transmissions of the same, and is a blatant violation of federal law. Moreover, the presence of this excerpted broadcast serves to heighten the likelihood that the public will be confused into believing that your website is somehow sponsored by or affiliated with 3ABN, which only furthers 3ABN's claim of trademark dilution.

Finally, we have been informed that you have maliciously published outrageous, highly damaging and defamatory statements about both Danny Shelton and 3ABN on this same website. These despicable statements include, but are not limited to:

- 3ABN, through its board chairman has "admitted in writing that Danny [Shelton] had been involved in a cover up" of criminal conduct
- Danny Shelton knowingly lied regarding a feud between Tommy Shelton and Glenn Dryden
- 3ABN directed an attorney to use "intimidation tactics to cover up allegations of child molestation"
- Danny Shelton attempted to cover up and silence child molestation allegations
- Danny Shelton "abuses his power" and "steam roll[s]"

over alleged victims of his brother Tommy's sexual misconduct."

(hereinafter the "Statements").

The obvious meaning of these horrendous falsehoods is that Danny Shelton and 3ABN participated in an orchestrated effort to cover up alleged criminal conduct. The actions you falsely attribute to our clients would be a crime and, as I am sure you are aware, false accusations of criminal conduct constitute defamation *per se* by you.

Therefore, on behalf of Three Angels Broadcasting Network and Mr. Danny Shelton, we hereby demand that you immediately cease and desist from the use of the domain name "save3ABN.com" and that you voluntarily surrender and transfer registration of the domain to 3ABN. You are also informed and hereby notified that you are not authorized to use and are, in fact, expressly prohibited from using, Three Angel [*sic.*] Broadcasting Network's name, or its trademarked nominer "3ABN" in any future website domain name or URL.

We hereby also demand that you immediately remove, from any and all websites to which you have author access, including "www.save3abn.com," any recorded excerpts of any 3ABN broadcasts.

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We also hereby demand that you immediately cease and desist from the publication of false statements concerning Danny Shelton and 3ABN and that you immediately remove such statements from the "www.save3abn.com" website. In the event that you receive any inquiries from any person or entity about the Statements, we demand you notify the inquiring party that you have been put on notice by Danny Shelton and 3ABN that the statements are false and defamatory.

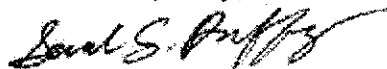
While 3ABN is in no manner whatsoever beholden to explain itself to you, we proudly withstand the ongoing judgment of God and the continuing examination by our supporters and viewers. As evidenced both by the continued paths of ministry that God has opened at our feet and by the

unwavering financial support and testimonials we receive from our supporters and viewers, we believe our ministry has more than satisfied the surveillance of both. Though it is a private enterprise, 3ABN has, for over 22 years, proudly engaged itself as a thoroughly transparent ministry, both in its message and administration. 3ABN has always invited the theological, operational, and financial scrutiny of its loyal and generous supporters and viewers. Unless constrained by legal obligations otherwise, 3ABN has provided financial and administrative information to inquiring parties and has opened its doors and offered access to independent auditors and investigative reporters. More than ever, we stand behind the legal propriety, moral correctness, intellectual honesty, financial soundness, and operational appropriateness of each and every business decision 3ABN has ever made.

As part of its commitment to passionately and effectively spread the Gospel and Good News of the Lord, 3ABN has always welcomed honest feedback, constructive criticism, and suggestions for improvement of the ministry. But its Christian commitment to the Truth will not allow 3ABN to tolerate factually unfounded allegations of impropriety, baseless and prurient gossip, inflammatory innuendo, and unjustified attacks on the organization. 3ABN does not approach such assaults as an objective effort to unmask "truth," but as the divisive and destructive work of the Enemy designed to hinder and frustrate God's work. 3ABN will not quietly resign itself to any effort to obstruct God's message.

Your reckless, willful and malicious activity must cease immediately; you proceed at your own peril. Moreover, your compliance with the demands contained in this letter does not constitute a waiver, relinquishment or abandonment of any right to remedy or enforcement, either legal or equitable, to which our clients are otherwise entitled.

Yours very truly,



Gerald S. Duffy

/jmw

Comments

Common Law Copyright

Duffy seeks to prohibit the publication of his letter through the invoking of "common law copyright." Besides giving credence to the accusation that there is a cover up going on, his invoking of common law copyright is really the invoking of a "legal doctrine" that was "repudiated" by the United States in 1834:

Common law copyright is the legal doctrine which contends that copyright is a natural right and creators are therefore entitled to the same protections anyone would be in regard to tangible and real property. The doctrine was repudiated by the courts in the United Kingdom (*Donaldson v. Beckett*, 1784) and the United States (*Wheaton v. Peters*, 1834). ("Common law copyright")

3ABN's Trademarked Name Used in Domain Name

"Confusion ... As to the Source, Sponsorship or Affiliation of Your Website"

On February 7, 2003, a rather famous case as far as the internet is concerned was decided by the U.S. Sixth Circuit Court of Appeals, *The Taubman Company v. Webfeats, et al.* Here is a quote from that Appeals Court decision which directly addresses one of Duffy's stated concerns:

"Under Lanham Act jurisprudence, it is irrelevant whether customers would be confused as to the origin of the websites, unless there is confusion as to the origin of the respective products."

The questions is, which holds sway? First Amendment free speech rights or the Lanham Act which governs trademark issues in the U.S.? The Court quoted the following from the Lanham Act:

Any person who shall, without the consent of the registrant
a) use in commerce any reproduction, counterfeit, copy, or

colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive

The court then noted:

- If the use of the trademark is not commercial speech, then the Lanham Act does not apply.
 - The Lanham Act has jurisdiction if there is advertising on the site, such as links that go to commercial sites.
 - The Lanham Act applies if there has been a habit of reselling at high prices domain names that contain trademarks.
- The presence of a disclaimer and the use of "sucks" in the domain name reduces the likelihood of confusion.
- Even if a website is intended to cause economic harm, it must also create confusion as to the origin of respective goods.
- The defendant in the case was not peddling competing goods.

As far as Save3ABN.com goes:

- There is no advertising on this website, and we are not selling anything.
- We do not buy such domain names and sell them at a high profit margin.
- There is a disclaimer on our home page, and the domain name is prefixed by the word "Save."
- This site is not intended to cause economic harm, and everyone can plainly see that we are not 3ABN.

Is the "Save" Really Necessary in Save3ABN.com?

On April 4, 2005, a decision by the U.S. Ninth Circuit Court of Appeals in the case of *Bosley Medical v. Michael Steven Kremer* was filed. We quote from that opinion:

Defendant Michael Kremer was dissatisfied with the hair restoration services provided to him by the Bosley Medical Institute, Inc. In a bald-faced effort to get even, Kremer started a website at www.BosleyMedical.com, which, to put it mildly, was uncomplimentary of the Bosley Medical Institute. The problem is that "Bosley Medical" is the registered trademark of the Bosley Medical Institute, Inc., which brought suit against Kremer for trademark infringement and like claims. Kremer argues that noncommercial use of the mark is not actionable as infringement under the Lanham Act. Bosley responds that

Kremer is splitting hairs.

Like the district court, we agree with Kremer. We hold today that the noncommercial use of a trademark as the domain name of a website — the subject of which is consumer commentary about the products and services represented by the mark — does not constitute infringement under the Lanham Act. (*Bosley Medical v. Michael Steven Kremer*)

Perhaps, our domain name wouldn't even have to be prefixed with the word "Save," and it would still be all right.

Excerpts of Broadcasts Posted on Website

Duffy's assertions conflict with 3ABN's own, posted copyright notice:

Copyright Statement and Acceptable Use Policy

Except where otherwise noted, all content within the domain of www.3abn.org is owned by and under the copyright of Three Angels Broadcasting Network, Inc. (3ABN).

Use of any content on this site — including use of online media, logos, graphics, names, or information — to impersonate 3ABN or act as an unauthorized representative of 3ABN is prohibited. Use of the 3ABN logo without express permission from 3ABN is prohibited. Any slanderous, obscene, or immoral use of any content on this site is prohibited.

3ABN permits the not-for-profit recording and distribution of television and radio programs produced by 3ABN, provided such distribution meets the criteria specified in the preceding paragraph. (However, not all programs aired on 3ABN are produced by 3ABN; some programs produced by other organizations may be protected by additional copyright restrictions.) (<http://www.3abn.org/copyright.cfm>, accessed Feb. 4, 2007)

The only possibility for problems appears to be if the posted video itself is "slanderous." But then, why would 3ABN broadcast programs that are slanderous?

The Judgment of God

Duffy wrote, "... we proudly withstand the ongoing judgment of God and the continuing examination by our supporters and viewers." Doesn't "withstand" mean to "defy" or "resist"? Did Duffy really want to say a thing like that?

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World's E-Mail Address From AOL Keyword: aol.com
 World's Internet Number: (612) 337-6206

January 30, 2007

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January 29, 2007
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January 29, 2007
Page 1

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Yours very truly,

Gerald S. Duffy

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Save3ABN.com
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***"Truth invites examination & needs no defense.
Lies hide in darkness & blame everyone else."***