

September 28, 2020

VIA COURIER DELIVERY SERVICE

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Hon. Mary J Mullarkey
5257 E. 22nd Avenue
Denver, CO 80207

Hon. Jean Dubofsky
1000 Rose Hill Drive
Boulder, CO 80302

Hon. Rollie Heath
2455 Vassar Drive
Boulder, CO 80305

Ms. Josie Heath
2455 Vassar Drive
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Ms. Adele Phelan
834 S. Columbine Street
Denver, CO 80209

Mr. Tom Korson
5257 E. 22nd Avenue
Denver, CO 80207

RE: Your August 11, 2020 Complaint Against the Messner Foundation

Greetings:

On August 11, 2020 you filed a complaint with the Colorado Secretary of State and the Colorado Attorney General. Your complaint advanced two allegations against The Messner Foundation:

(1) That The Messner Foundation, as an entity licensed to conduct raffles for charitable purposes was deceptive in its conduct of such raffles; and

(2) That The Messner Foundation violated the Colorado Charitable Solicitations Act when it stated that the proceeds of charitable raffles it conducted in 2015, 2016 and 2019 would be used to fund scholarships for students it identified.

I was retained by The Messner Foundation (and Messner Reeves LLP) to investigate your allegations. With the assistance of a forensic accounting firm, I reviewed every aspect of The Messner Foundation's operations since its founding in 2009, including its conduct of automobile raffles referenced in your complaint. Simply put, the allegations in your complaint are unsupported by the facts.

I am enclosing with this letter copies of two letters I have sent to the Colorado Secretary of State's and Colorado Attorney General's offices. The first letter, dated August 18, provides a fulsome explanation of why the claims are false. The second letter forwards a report from David Hall of Alvarez and Marsal regarding his firm's forensic investigation of your claims and The Messner Foundation's handling of its funds since its founding.

I am forwarding you these communications with the expectation that you will review them and come to same conclusion as I have: that the allegations in your complaint are unsubstantiated and that they should be withdrawn. I have known you all to place a high value on your personal and public integrity and therefore expect you will consider the enclosed information and agree to withdraw your complaint.

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So there is no confusion please understand that this is a demand and not a request. The allegations made by you in the complaint have done harm to my clients' business and reputation and to the business and reputation of many fine attorneys working at Messner Reeves LLP – one of Colorado's leading law firms. Moreover, your unfounded allegations have denigrated the accomplishments of the exemplary students on scholarship from The Messner Foundation.

The timing of the complaint and related media coverage¹ suggests the complaint was drafted based purely on partisan politics and with the intent to taint Corky Messner's name and to undermine his ongoing political campaign – all of which is evidenced by the fact that you, or someone working on your behalf, provided the complaint to the media, perhaps even before it was filed with the Colorado Secretary of State and the Colorado Attorney General. Given the demonstrable falsity of the allegations in the complaint, should you not withdraw the allegations you make in the complaint, my clients reserve their rights to take legal action against each of you individually for this harm.

I would welcome your call should you wish to discuss these matters. I am also available via e-mail at sgarnett@bhfs.com.

Very truly yours,



Stanley L. Garnett

cc: Jim Smith (via email: jsmith@messner.com)
Corky Messner (via email: corkymessner@gmail.com)
Alissa Gardenswartz (via email: agardenswartz@bhfs.com)

¹ For example, the *Denver Post* story on the complaint was published on August 11, 2020 – the same day you filed the complaint. See Wingerter, Justin, "Denver lawyer accused of charity fraud by former Colorado Supreme Court", *Denver Post*, August 11, 2020.