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June 5, 2009

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VIA E-MAIL AND FED EX

Ambassador Jonas Hafström
Embassy of Sweden
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Dear Ambassador Hafström:

We represent Dole Food Company, Inc., and certain of its current and former officers and employees ("Dole"). It has recently come to our attention that the Consulate General of Sweden, Los Angeles is hosting two screenings of a documentary by Swedish filmmaker Fredrick Gertten, entitled *Bananas!**, at Film Independent's 2009 Los Angeles Film Festival ("LAFF"). These screenings are presently scheduled for Saturday, June 20, and Tuesday, June 23.

This film contains patently false, and highly defamatory content concerning our clients. The subject of the documentary is a set of lawsuits filed against Dole and other U.S. defendants by Los Angeles plaintiffs' attorney Juan J. Dominguez, on behalf of Nicaraguan citizens who claimed they were exposed to the pesticide DBCP while working on Dole-contracted banana farms in the 1970s, and were allegedly rendered sterile as a result. This documentary demonizes Dole and champions the efforts of its "star" Mr. Dominguez, and purports to be the true story behind this litigation. But its depiction could not be further from the truth, and has been unquestionably discredited by a recent, highly-publicized judicial ruling.

As has been widely reported in the press, in April the Los Angeles Superior Court judge who has overseen all these cases ruled that these lawsuits represent the very worst sort of abuse of the judicial process and amounted to "a conspiracy to defraud this court, to extort money from the defendants, and to defraud the defendants." As reflected in the Court's detailed findings,

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“massive amounts” of credible evidence proved—even beyond a reasonable doubt—that Mr. Dominguez along with fellow Nicaraguan attorneys actively recruited Nicaraguan plaintiffs for DBCP cases whom they knew had never worked on a banana farm, and whom they knew were not sterile. Mr. Dominguez and his associates would then coach these false claimants on how to lie to American judges and juries and seem credible, provide them with training manuals and instructional videos to teach them details about life on Nicaraguan banana plantations, and manufacture counterfeit evidence, including employment records and laboratory reports, to support their false allegations. In addition, to conceal their wrongdoing, the individuals who stood to profit from this fraud went so far as to threaten the lives and physical safety of witnesses who were willing to come forward with evidence of the truth. As the Court found, “Plaintiffs’ and plaintiffs’ attorneys’ misconduct in this record is so outrageous and pervasive and profound that it far exceeds anything described . . . in any of the reported cases.” And based upon this misconduct, the Court ordered the remaining Nicaraguan DBCP cases pending before it terminated, and indicated it would be making referrals to state bars and prosecutorial authorities.

As to the trial in the matter of *Tellez, et al. v. Dole Food Company, Inc., et al.* which is the focal point of the film at issue, the Court found that this same pervasive fraud had “contaminated each and every one of the plaintiffs,” and the Court painted a totally different picture of that lawsuit than the one given in the “documentary” *Bananas!**:

Millions of dollars were expended in that case, and hundreds of hours of court time and attorney time were spent prosecuting a case that was built on somebody’s imagination, a case that was put together with smoke and mirrors. I apologize to all the jurors who had to sit through that case and make a decision based on nothing but the imagination of somebody, dreamed up in a back room of some law office in Chinandega [Nicaragua]. How sad.

The entire theme and premise of the film *Bananas!** is thus false, depicting the fraudulent *Tellez* plaintiffs as “victims” of Dole, and their crooked attorney as a hero. This outrageous falsity appears to permeate every aspect of this film, and based on what we know, *Bananas!** is, as a whole, defamatory beyond repair. The film falsely portrays as fact, allegations that have been found to be the worst sort of fraud—fraud on a court. Under these circumstances, there is no justification for screening this film.

We have made every effort to notify those connected with *Bananas!**, including the film’s production company, WG Film AB, and LAFF of the film’s clearly false and defamatory nature, and of Dole’s intent to seek legal recourse to protect its rights and reputation. As our attempts to engage WG Film AB and the Mr. Gertten in a dialogue regarding *Bananas!** have been rejected, we believe that the responsible course of action is to make those individuals and organizations who have, perhaps unwittingly, sponsored this defamatory film and thereby associated themselves with its message, aware of its patently false and damaging content. In fact, one such sponsor, the Los Angeles Legal Aid Foundation, who was the Consulate General’s

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initial co-host of LAFF's screenings of *Bananas!**, withdrew its support upon learning the truth about the film's subject matter.

In connection with those efforts, we wrote to Consul General, Mrs. Nina Ersman, in an attempt to notify her of our concerns regarding the Consulate General's sponsorship of these screenings, and to provide her with the background necessary to evaluate the appropriateness of that sponsorship. To date we have received no response from Mrs. Ersman. As such we thought it best to bring this matter to your attention, and have attached a copy of our correspondence to Mrs. Ersman. For your convenience we have also attached a copy of the oral ruling discussed above, as well as a copy of recent news articles discussing the Court's findings with respect to the fraudulent litigation featured in this film. We respectfully ask that the Consulate General withdraw its endorsement of this defamatory film, and that the Swedish Embassy take other appropriate steps to limit its damaging impact, including urging the filmmakers, WG Film AB and Mr. Gertten, to act responsibly and halt dissemination of this film in the United States and Europe.

We appreciate your consideration of this matter, and should you have any questions or concerns regarding the issues discussed in this letter, please do not hesitate to contact me.

Best Regards,


Scott A. Edelman

cc: Theodore J. Boutrous, Jr.
Consul General Mrs. Nina Ersman
Michael Donaldson, Esq.
Daniel M. Satorius, Esq.
Richard J. Lee, Esq.