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February 28, 2023

Via E-mail and U.S. Mail

D. Colton Boyles
Boyles Law PPLC
P.O. Box. 1242
Sandpoint, ID 83864

Re: Your February 6 correspondence regarding Center for Self Governance

Dear Mr. Boyles:

As you know, this firm represents the Southern Poverty Law Center (SPLC), a nonprofit organization that monitors and reports to the public about extremism throughout the United States. We have reviewed your February 6, 2023 "Demand for Retraction and Preservation of Evidence" in which you object to the inclusion of your client the Center for Self Governance (CSG) on a list of 488 anti-government groups in the United States. For the reasons stated below, SPLC declines to remove CSG from this list.

Your correspondence raises two objections to the SPLC publication, ANTIGOVERNMENT MOVEMENT, available at https://www.splcenter.org/fighting-hate/extremist-files/ideology/antigovernment (the "Article"). First, you object to CSG appearing on SPLC's list of nearly five hundred anti-government groups, and one of ten such organizations based in Washington State. It is the only reference to CSG in the Article. CSG requests that SPLC remove any reference to its being "an antigovernment group, an extreme antigovernment group, or a non-profit antigovernment group." Second, you allege that the Article actionably defamed CSG by stating in the opening paragraph of the Article that "[a]ntigovernment groups were linked up with other hard-right groups in 2021, as they often targeted the same marginalized communities and engaged in actual or threats of political violence."

On the first point, SPLC analysts identified CSG as an antigovernment group based on its own public statements, including on social media, and its participation in events like the conspiracy-focused Patriot Summit Network. CSG and its founder Mark Herr make clear that CSG is deeply skeptical of the government. They routinely sound the alarm about alleged efforts within government to "overthrow our U.S. Layer Cake system," labeling this as the "Marble Cake Revolution," and tweeting from its account @tnselfgov with the

hashtags #MARBLECAKEFEDERALISTS and #LAYERCAKEFEDERALISM. CSG invokes the history of lynching to decry what it says is "#LABELLYNCHING" by Democrats. It warns about the "weaponization of government," and it champions the actions of individuals who challenge the government, including through a four-part *Governed v. Governing* documentary series about the Bundy and Finicum families' standoff against local, state and federal government. Its social media has amplified a new antigovernment conspiracy theory called "The Great Reset." *See, e.g.*, "Great Reset," Wikipedia, https://en.wikipedia.org/wiki/Great_Reset ("[Great reset] theories include baseless claims that the COVID-19 pandemic was created by a secret group in order to seize control of the global economy, that lockdown restrictions were deliberately designed to induce economic meltdown, or that a global elite was attempting to abolish private property while using COVID-19 to enslave humanity with vaccines."). And so forth.

With all due respect, the First Amendment clearly protects the right for SPLC to characterize CSG's positions as "anti-government." As one court explained, in holding that "allegations of hostility to labor" constituted protected speech:

> To say that one is unfair to labor is not a statement of a fact, but of an opinion. Likewise to say of one: you are reactionary, you are undemocratic, you are a nationalist, you are an isolationist, you are a New Dealer, you are a Union Leaguer, you are opposed to labor, you are a coddler of labor, is similarly to express an opinion.

Guilford Transp. Indus., Inc. v. Wilner, 760 A.2d 580, 598 (D.C. 2000) (quoting *Montgomery Ward & Co. v. McGraw-Hill Publ'g Co.*, 146 F.2d 171, 176 (7th Cir. 1944)); *see also, e.g., Standing Comm. on Discipline v. Yagman*, 55 F.3d 1430, 1440 (9th Cir. 1995) (calling a judge "anti-Semitic" was a non-actionable opinion). Indeed, courts have routinely found that SPLC's characterizations are non-actionable. *Center for Immigration Studies v. Cohen*, 410 F. Supp. 3d 183 (D.D.C. 2019) ("[D]efendants' designation does not concern a 'fact' – whether or not SPLC adhered to its definition to designate [plaintiff] to be a hate group is an entirely subjective inquiry."), *aff'd*, 2020 U.S. App. LEXIS 13432 (D.C. Cir., Apr. 24, 2020); *Coral Ridge Ministries Media, Inc. v. Amazon.com, Inc.*, 406 F. Supp. 3d 1258, 1277-78 (M.D. Ala. 2019) ("[I]s the statement that [plaintiff] is a 'hate group' provable as false? No, it is not."), *aff'd* 6 F.4th 1247 (11th Cir. 2021); *King v. S. Poverty Law Ctr.*, 594 F. Supp. 3d 1272 (M.D. Ala. 2022). Accordingly, stating that your client is "an antigovernment group, an extreme antigovernment group, or a non-profit antigovernment group," is a non-actionable statement of opinion.

Nevertheless, if CSG believes it has been misunderstood, SPLC will of course consider any additional information CSG wishes to provide.

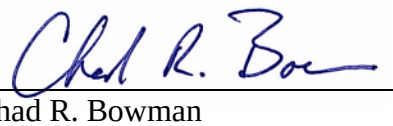
On the second objection to a single sentence in the Article's 2,700-word essay that precedes the list of 488 anti-government groups, an essay that never mentions CSG, we think your interpretation is strained. The sentence—"Antigovernment groups were linked up with other hard-right groups in 2021, as they *often* targeted the same marginalized communities and engaged in actual or threats of political violence" (emphasis added)—does not state that *all* antigovernment groups targeted marginalized communities or that *all* "engaged in actual or threats of political violence." The sentence states that such groups "often" engage in such conduct. Nor does the sentence specifically identify your client, which is just one of 488 groups on a list of those that, in SPLC's view, espouse anti-government views. A statement must be both reasonably understood as conveying the allegedly defamatory meaning, and it must be "of and concerning" a particular entity in order to be defamatory. *See Sims v. Kiro, Inc.*, 20 Wn .App. 229, 234 (Wash. Ct. App. 1978) ("One cannot by implication identify himself as the target of an alleged libel if the allegedly false statement does not point to him."). Here, the sentence does neither.

Because your correspondence asserts that "legal action is likely to be taken" and includes two pages of demands to preserve evidence, we are constrained to note that Washington protects speech on matters of concern through what is commonly referred to as an Anti-SLAPP Statute—that is, a statute meant to deter strategic lawsuits against public participation ("SLAPP lawsuits"). Washington's statute, the Uniform Public Expression Protection Act, Rev. Code Wash. § 4.105.010 *et seq.*, allows defendants facing meritless lawsuits on speech on a matter of public concern to "file a special motion for expedited relief to dismiss the cause of action." Rev. Code Wash. § 4.105.020(2). Upon dismissal, the statute further provides for the mandatory award of attorney's fees and costs to the prevailing defendant. *Id.* § 4.105.090(1). Although we are confident that this letter will resolve your Client's concerns and that litigation will not be necessary in this matter, SPLC is prepared vigorously to defend its constitutional right to monitor extremism.

This of course is not intended to be a complete statement of SPLC's potential claims and defenses in any litigation, all of which SPLC expressly reserves.

Sincerely,

BALLARD SPAHR LLP



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