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10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

11 **LISSA UVIZL,**

12  
13 Plaintiff,

14 vs.

15 **DONALD J. MYERS,**

16  
17 Respondent.

18 **LEWIS MIRANDA,**

19  
20 Plaintiff,

21 vs.

22 **DONALD J. MYERS,**

23  
24 Respondent.  
25  
26  
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28

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**OF ORIGINAL FILED**  
Los Angeles Superior Court

OCT 23 2008

Shirley A. Clarke, Executive Officer/Clerk

By *[Signature]* Deputy  
**GLORIETTA ROBINSON**

Case Nos. **BS116340 /BS116339**

**Hon. Richard E. Rico**

**DEFENDANT'S TRIAL BRIEF**

(C.C.P. §527.6)

**DATE: Friday, October 24, 2008.**

**TIME: 8-30 a.m.**

**DEPT: 76**

Action Filed: August 11, 2008

Trial Date: Friday, October 24, 2008

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

This duplicitous action is an outrageous abuse of the legal system by that controversial organization trading as the corporations and Churches of Scientology - a dangerous cult, commercial organization and seditious political movement forever committed, by its own irrevocable policies, to the violation of the civil rights of both its own members and its many critics around the world. The plaintiffs herein are merely the *alter-egos* of this criminal cult and its leader, David Miscavige. Plaintiffs and their counsel, Kendrick L. Moxon, Esq., have obtained the *ex parte* relief herein by perpetrating a fraud upon this court. However, this court need not even reach that, or any other relevant, issue.

The gist of plaintiff's fallacious case is that defendant is a large, crazed, and violent man within the meaning of Code of Civil Procedure §527.6 (b). There is no credible history or evidence that he is either crazed or violent. However, nothing could be further from the truth. Mr. Myers has never been arrested for any alleged offense. However, after nearly three months of regularly engaging in first amendment activity, that serves a "legitimate purpose" on the public sidewalk outside the Church of Scientology middle management and Office of Special Affairs offices at 6331 Hollywood Boulevard, Los Angeles, California, he has been targeted by Scientology's ferocious and infamous litigation juggernaut. The Church of Scientology, through its office of Special Affairs ("OSA") has a long and documented history of abusing the judicial system with vexatious and frivolous litigation for the purpose of harassing and destroying its critics, even framing them. This is a further example of this sordid anti- social history.

Essentially, this is a case about a powerful tax-exempt commercial and political organization pursuing its institutional policies to suppress all criticism, whether inside or outside, of the organization. Rather than accept both the benefit and the burdens of the First Amendment

1 under which it claims to be a church, plaintiff is misusing the California harassment statute to try  
2 and silence Mr. Myer's public criticism of the Church of Scientology's abusive practices and  
3 criminal conduct. He has not attacked their claimed religious beliefs. However, at the end of the  
4 day, it will be seen that it is plaintiffs and their organization who is harassing Mr. Myers, and not  
5 vice versa. The proceedings herein are being followed on a daily basis by tens of thousands of  
6 outraged and concerned people around the world via various Internet message boards, chat rooms,  
7 Websites, blogs, archives and news sites.

## 8 **II. SUMMARY OF ARGUMENT**

- 10 **A.** Constitutionally protected activity cannot constitute harassment. Code of Civil Procedure  
11 §527.6 (b). It serves a legitimate purpose;
- 12 **B.** Public issue picketing is protected by the First Amendment. *Frisby v. Schultz*, 487 U.S.  
13 474, 101 L.Ed.2d 420, 108 S.Ct. 2495 (1988);
- 14 **C.** The Fourteenth Amendment has made applicable to the States the First Amendment's  
15 guarantee of free speech. *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546, 43  
16 L.Ed.2d 448, 95 S.Ct. 1239 (1988);
- 17 **D.** City streets and sidewalks are traditional public fora. *Collins v. Jordan*, 110 F.3d 1363,  
18 1371 (9th Cir. 1996);
- 19 **E.** As Mr. Meyer's activities are constitutionally protected, the only proper inquiry is what  
20 limits can be placed upon his speech rights. Under current First Amendment analysis, the  
21 analytical framework is "whether the challenged provisions of the injunction burden no  
22 more speech than necessary to serve a significant government interest." *Madsen v.*  
23 *Women's Health Center, Inc.*, 512 U.S. 753, 129 L.Ed.2d 593, 606 (1994);
- 24  
25  
26  
27  
28

- 1 **F.** There is no right of an individual to be free from public criticism of his business practices.  
2 *Organization For a Better Austin v. Keefe*, 402 U.S. 415, 419-20, 29 L.Ed.2d 1, 5, 91 S.Ct.  
3 1575 (1971);
- 4 **G.** In the event the Plaintiffs herein prevail at an evidentiary hearing herein, the State's  
5 interests in public safety and order can be adequately addressed by the imposition of a  
6 nominal (10 foot) fixed buffer zone around the doorways, driveways, and driveway  
7 entrances of Scientology buildings. *Schenck v. Pro-Choice Network of Western New*  
8 *York*, 519 U.S. 357, 137 L.Ed.2d 1, 117 S.Ct. 855 (1997);
- 9  
10 **H.** A 5 foot buffer zone would ensure that people and vehicles trying to enter or exit  
11 Scientology property or parking lots can do so and ensure that Mr. Myer's message is of  
12 some consequence. Courts have consistently insured that alternative means of  
13 communication exist. *Portland Fem. Women's H. Ctr. v. Advocates For Life*, 859 F.2d 681  
14 (9<sup>th</sup> Cir. 1988);
- 15  
16 **I.** Ample alternative channels of communication do not exist if a speaker's target audience is  
17 altogether insulated from the speaker's message. *Prisoners Union v. Department of*  
18 *Corrections*, 135 Cal.App.3d 930, 936 (1982);
- 19  
20 **J.** Injunctive relief is an equitable remedy rarely granted to restrain speech or publication.  
21 Weil & Brown, *Cal. Practice Guide, Civil Procedure Before Trial*, 9:708.
- 22 **K.** Plaintiff's conduct estops application of the equitable relief he seeks to enforce. Witkin,  
23 *California Procedure (4th Edition) Provisional Remedies*, §342.

### 24 **III. FACTUAL BACKGROUND**

25 Mr. Myers believes that sometimes it is right to do what more timid and easily-cowered  
26 citizens would consider the wrong thing - to make a stand for truth, justice and the American Way  
27 even though, as here, that means directly engaging the dangerous and criminal cult, commercial  
28



1 enterprise and treasonous political organization masquerading as the churches and corporations of  
2 Scientology.

3 Prompted by public controversy, public issues and public interest surrounding the very  
4 controversial and secretive Church of Scientology, in February 2008 Mr. Myers examined this so-  
5 called Church of Scientology which had previously been of no interest to him. He discovered a  
6 mafia-like international commercial enterprise maintaining the post-founding pretense of  
7 religiosity in order to operate tax-free in countries where it was convenient to do so. It led him to  
8 join the public pickets and protests against Scientology. Among other things, Mr. Myers learned:  
9

- 10 **A.** That L. Ron Hubbard had been found by a Los Angeles Superior Court, upheld upon  
11 appeal, to be "a pathological liar when it comes to his history, background and  
12 achievements" and he was in hiding at the time of his death which was accompanied by  
13 many irregularities;
- 14 **B.** That the Church of Scientology had instituted its "Operation Snow White" and "Project  
15 Target Dodell" to conduct the largest known infiltration of the United States government,  
16 and at least 12 of its major departments, including the I.R.S. and the Justice Department.  
17 Eleven of L. Ron Hubbard's senior subordinates, including his wife, received prison  
18 sentences for their parts in these vast criminal activities which included theft of U.S.  
19 government documents, obstruction of justice, and other "fair game" related activities  
20 against the United States government. Moreover, and pursuant to stipulation signed by the  
21 Church of Scientology defendants and attorneys, Scientology's attorney herein was a  
22 named un-indicted co-conspirator in these matters and his material role in the obstruction  
23 of justice and falsifying of documents discussed in the 284-page stipulation of evidence;  
24
- 25 **C.** In 1992, the Church of Scientology had become the first religious organization in Canada  
26 to be convicted of criminal conduct. Specifically, stealing documents from law firms,  
27  
28

1 public associations and government entities -- and breach of trust. In addition, in the  
2 Casey Hill litigation, Scientology was ordered to pay millions of dollars to Canadian  
3 lawyer, Casey Hill (now a Canadian High court judge), for slandering his reputation;  
4 **D.** In 1996, former French Scientology leader, Jean-Jacques Mazier, was convicted of fraud  
5 and driving Scientologist Patrice Vic to suicide (negligent homicide). Thirteen other  
6 Scientologists were convicted of fraud and other misdemeanors in the same trial;  
7  
8 **E.** In 1978, L. Ron Hubbard was convicted of criminal fraud in France, and sentenced to a  
9 four-year prison term. Although convicted *in absentia*, Mr. Hubbard never exercised his  
10 right to go to France and contest the conviction. The same judgment condemned Henry  
11 Zaarhuis (Scientology's Executive Director for France), Jacqueline Valentin (President of  
12 Scientology, France) and Georges Andreu to prison sentences of one to three years;  
13  
14 **F.** The President of the Church of Scientology, Heber Jentzsch, was arrested in Spain in 1988  
15 and, after 30 days in prison, was freed on \$1million bail pending trial, along with many  
16 other Scientologists, on criminal charges that included infiltrating government agencies,  
17 stealing government documents and tax fraud;  
18  
19 **G.** Scientologists had been convicted of Scientology-related criminal conduct, including  
20 fraud, in Italy and Switzerland;  
21  
22 **H.** Evidence of Scientology-related instructions to commit murder, suicides and financial  
23 frauds was all over the Internet as a result of the *Church of Scientology International v.*  
24 *Fishman & Geertz* case. Indeed, allegations of over 270 Scientology- related mysterious  
25 deaths, suicides and psychotic breaks (PTS type III in Scientology jargon) had been made  
26 in the case before it was voluntarily dismissed by the Church on the eve of trial.  
27 Defendant's counsel herein was also the lead defense counsel in the "Fishman" case and he  
28 was thereafter targeted for "utter destruction" pursuant to the Church of Scientology's

1 policies and practices for handling "Suppressive Persons," which are collectively referred  
2 to as Scientology's Fair Game Policies (see Berry Moving Declaration, C.C.P. §425.16  
3 motion, exhibit I);

4 **I.** Scientology had chosen not to be a church in Greece where it traded as  
5 "Centre for Applied Philosophy;"

6 **J.** In France, the Ministre de l'Interior et des Cultes had stated that it was totally out of the  
7 question to consider any Church of Scientology application for religious tax exempt status.  
8 Moreover, an Assemble Nationale (Senate) report on cults concluded that Scientology  
9 appears to be one of the most "dangerous" groups;

10 **K.** In 1998, Scientology was ordered to close permanently and liquidate in Greece. The Greek  
11 court of appeal described Scientology as an organization with totalitarian structures and  
12 trends, aiming at power and money and applying dangerous methods without preventing  
13 the possibility of suicide of its members who were brainwashed. In addition, it held that  
14 Scientology was an economic enterprise and not a religion.

15 **L.** For more than ten years, Scientology has been under court approved police surveillance in  
16 Germany which considers it to be a threat to democracy as a totalitarian conspiratorial  
17 movement with global political aims.

18 **M.** L. Ron Hubbard's sacred scriptures provided for Scientology to "takeover the control or  
19 allegiance of key political figures, the heads or proprietors of all news media, those who  
20 monitor international finance and to "clear the planet"; exterminate undesirables (such as  
21 homosexuals) and rule the world according to Scientology technology (e.g., "Targets,  
22 Defense: HCOPL 16 Feb 1969, reiss. 24 Sept. 1987). Those who stood in the way, or who  
23 criticized Scientology, were to be labeled criminals and liars. Indeed, on March 24, 1964,  
24 Hubbard introduced his 10-step plan to world domination and it is now a sacred  
25  
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1        Scientology scripture. In Scientology's twisted jargon, its misleading objective of a "clear  
2        planet," "without crime" and "with ethics" really means a world ruled by Scientology,  
3        without opponents and critics being destroyed by the fair game doctrine and the application  
4        of other sacred Scientology scriptures;

- 5        **N.** Scientology had been denied tax exempt status in many German states because it is a  
6        commercial enterprise -- "an organization which under the guise of a religious group  
7        combines elements of business crimes and psycho-terror against its own members with  
8        economic activities sectarian traits. The focal point of their activities appears to be in the  
9        area of economic crimes."  
10
- 11       **O.** A high ranking member of Scientology's Office of Special Affairs, Kurt Weiland, had  
12       twice been convicted of criminal slander (of another religion) in Germany, fined and  
13       threatened with imprisonment;  
14
- 15       **P.** The English High Court (Justice Latey) had held that Scientology is immoral, socially  
16       obnoxious, corrupt, sinister and dangerous. Its essential practice, auditing "is a process of  
17       conditioning, brainwashing and indoctrination;"  
18
- 19       **Q.** Scientology had been banned in Rhodesia and in certain states in Australia. Restrictions  
20       had been placed on it, and Scientologists, in Great Britain and New Zealand;  
21
- 22       **R.** Scientology was not permitted to run schools in Lausanne, Switzerland, because the  
23       Scientology methods of teaching were "dangerous;"  
24
- 25       **S.** Scientology did not operate as a Church in either Israel, Sweden or Mexico;  
26
- 27       **T.** Scientology had framed critic Paulette Cooper on false bomb threat charges which were  
28       only dropped after the F.B.I. discovered the relevant documentary evidence of  
      Scientology's involvement during its 1977 raids on Scientology. Scientology called this  
      attack against Paulette Cooper "Operation Freak-out;"

1 U. Scientology's tax-exempt status in the United States was the product of fraud and the tax  
2 settlement agreement (reducing Scientology's tax liability from a possible \$1 billion to \$12  
3 million) was being violated daily. Indeed, an affidavit of Andre Tabayoyan, available on  
4 the Internet, alleged that Scientology had concealed 12 sea containers of documents from  
5 the I.R.S. and that celebrity Scientologist, Tom Cruise, had benefited from Scientology tax  
6 fraud in the form of 'inurnment;'

7 V. There were numerous affidavits on the Internet, containing testimony that: (1)  
8 Scientology's desert base was heavily "armed" and "dangerous" and that it housed one of  
9 Scientology's Rehabilitation Project Force camps-- referred to as "concentration camps" or  
10 "gulags" by former Scientologists; (2) Scientology's base at Hemet was heavily guarded;  
11 (3) Numerous female Scientologists at the Hemet base had been ordered and coerced to  
12 have abortions because babies, like "family time", interfere with "production" and making  
13 money.  
14

15 W. One of the alleged trade secret documents Mr. Meyers saw on the Internet was NOTS  
16 Series 34 ("The Sequence for Handling a Physical Condition). NOTS 34 is a Scientology  
17 "process" involving the use of the Church of Scientology's E-meter to cure bodily illnesses.  
18 Many consider NOTS 34 to be yet another example of the Church of Scientology being  
19 engaged in the unlawful practice of medicine. Others had posted it to the Internet "in order  
20 to aid the public interest by warning against the public against an unobvious danger of  
21 harm, established by a previous order." This previous order is an order issued by Judge  
22 Gesell in *United States v. an Article or Device (Hubbard) Electrometer, et al.*, 333 F.  
23 Supp. 357 (D. D.C. 1971) which "forbids the Church of Scientology and all related  
24 organizations from claiming to heal using an "E-meter."  
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1 X. In November 1995, the late Lisa McPherson, a Scientologist, was engaged in a traffic  
2 accident. She stripped off her clothes, walked naked down the street saying "I wanted  
3 help. I wanted help." She was taken to a psychiatric hospital and was removed, against  
4 medical advice, by Scientology staffers. Seventeen days later, after being kept under a 24-  
5 hour watch, and put on Scientology's "introspection" or "isolation" run-down, she was  
6 dead. She had spit out food, banged violently on the walls of her room (cell) and  
7 hallucinated. She was covered with cockroach bites. The Coroner found that she had been  
8 deprived of water for at least her last five to ten days and died of a blood clot brought on  
9 by severe dehydration. The Clearwater police have recommended the Church be indicted  
10 criminally (negligent homicide). Civil proceedings (wrongful death) are pending. The  
11 mysterious deaths of Lisa McPherson, and other Scientologists, fueled media scrutiny and  
12 picketing. "Scientology Kills" became a picketing slogan;

14 Y. The Church of Scientology is currently closed and under criminal prosecution in Brussels,  
15 Belgium on four principal charges: (1) Being a criminal organization; (2) fraud; (3) the  
16 illegal practice of medicine; (4) violations of the privacy laws. Similarly, Scientologists  
17 Feline Butcher is currently on trial in Los Angeles Criminal Court for engaging in the  
18 illegal practice of medicine (which included a consultation with Tom Cruise) [see Berry  
19 Moving Decl., C.C.P. §425.16 motion herein page 186, para. 357];

21 Z. Scientology even had drills (e.g., "TR-L -- Training-Routine Lying," "Know-not Know,"  
22 "How to tell an acceptable truth," and "Hatting the Witness") to teach Scientology staffers  
23 how to lie, even on the witness stand, in a convincing manner.

25 **IV. THE TWO PLAINTIFFS ARE THE ALTER EGOS OF THE CHURCH OF**  
26 **SCIENTOLOGY AND ITS LEADER, DAVID MISCAVIGE**

27 The two plaintiffs are apparently members of the Scientology sea-organization, and, as  
28 such, they will have signed a solemn contract to serve Scientology for one billion years! They are

1 not seeking a permanent restraining order because of a course of conduct Mr. Myers has  
2 specifically directed at these two Plaintiffs personally and specifically. In reality, they are seeking  
3 a permanent restraining order against Mr. Myers because they have been ordered to do so by their  
4 "seniors" or "terminals," and by O.S.A. Legal Unit staffer Kendrick Moxon, Esq.

5        Scientology is a para- military organization with various command and communication  
6 lines. Orders go down-lines. Money goes up-lines. At the top of the Scientology command chart  
7 is David Miscavige ("DM"), the successor to L. Ron Hubbard. He resides at the Hemet Base.  
8 DM is chairman of Religious Technology Center which gives him authority to, among other  
9 things, put these two plaintiffs on "lower ethics conditions", send them to the Rehabilitation  
10 Project Force (or Gulag), or even to expel them, and deny their eternity for failing to obey an order  
11 to "shut down" Mr. Myer's picketing of Scientology facilities. Similar horrible punishments await  
12 them if they provide any court testimony against the interests of the Church of Scientology or any  
13 other Scientologists. This is part of the fundamental Church of Scientology policy called "Keep  
14 Scientology Working No.1" ("KSW 1"). In this connection, see Section II.C above. Because  
15 Scientologists truly believe that the only way to the next life on this planet is via the Scientology  
16 Bridge to Total Freedom, Scientologists will do anything they are told to stay on The Bridge.  
17 Because the Sea Organization, with DM at its head, has the power to deny a Scientologist the  
18 Bridge to Total Freedom, DM's power is totally absolute. He controls people, such as the plaintiffs  
19 herein, with fear, if only the fear of being sent to the R.P.F. or being "over-boarded" into the  
20 shallow lake at the Hemet base. Accordingly, as a matter of Scientology doctrine, a single  
21 individual, "Sea Org" Captain and RTC's Chairman of the Board, wields unchallenged control  
22 over all Scientology matters -- including the instant litigation -- unhampered by such bothersome  
23 details as corporate boundaries. Indeed, the United States Claims Court, in attempting to untangle  
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1 the corporate web in *Church of Spiritual Technology v. United States*, 26 Cl. Ct 713, 718 (1992),  
2 affd, 991 F.2d 812 (Fed. Cir. 1993), declared:

3 “After carefully examining the record and attempting to  
4 understand the nominal corporate structure of Scientology it  
5 is apparent to the court that it is something of a deceptis  
6 visus. Real control is exercised less formally, but more  
7 tangibly, through an unincorporated association, the  
8 Sea Organization, more commonly referred to as the Sea Org.”

9 Similarly, in *Wollersheim v. Church of Scientology, et al.*, Los Angeles County Superior  
10 Court Case No. C882027, a multi- million dollar judgment against Church of Scientology  
11 California was amended to add Religious Technology Center and Church of Scientology  
12 International. In so doing, the court accepted an *alter ego* argument and held, among other things,  
13 that "RTC's present chairman and highest officer in the power hub, "Sea Org", David Miscavige,  
14 supervised and controlled the defense." In 1997 the 1993 IRS-Scientology Closing Agreement was  
15 published. In this document, the IRS itself disregards Scientology's corporate structures and agrees  
16 to deal directly with David Miscavige and the Church Compliance Tax Committee, to which the  
17 IRS amazingly delegated tax compliance responsibility! Scientology, through Kendrick Moxon's  
18 "Plan 100", filed 50 cookie-cutter lawsuits against the Cult Awareness Network ("CAN") which it  
19 bankrupted, took over and now operates as a front group. Subsequently, Mr. Moxon said on  
20 CBS's "60 Minutes" that it was mere coincidence that 50 Scientologists (including then  
21 scientologist Garry Scarff) all retained his law firm to file 50 near identical lawsuits. However,  
22 there is no such thing as individual initiative in the Sea Org. The argument that Scientology  
23 staffers, such as Garry Scarff, individually sued CAN is as fallacious as an argument that  
24 American helicopters were in Iran to rescue hostages without the knowledge and approval of  
25 President Carter. The two plaintiffs herein are no more individuals within the meaning of Code  
26 Civ. Proc. §527.6 (a) than those unfortunate helicopter pilots were on an individual rescue mission  
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1 in the Iranian desert. Only natural persons may seek relief under Section 527.6 (b). *Diamond*  
2 *View, Ltd. v. Herz*, 180 Cal.App.3d 612, 618-19 (1986). As plaintiffs are clearly operating as *alter*  
3 *egos* of the Church of Scientology, they have no standing to assert the instant claim.

4 **V. MR. MYERS HAS BEEN TARGETED FOR DESTRUCTION BY THE TWO**  
5 **PLAINTIFFS AND THE ORGANIZATION THEY REPRESENT HEREIN**

6 Mr. Myers is deemed by these *two alter ego* plaintiffs and their Scientology  
7 organization to be a "Suppressive Person" because he has engaged in "acts calculated to  
8 impede or destroy Scientology or a scientologist." As such, Mr. Myers is subject to Scientology's  
9 Fair Game Doctrine. It is beyond question that numerous reported court decisions and United  
10 States Department of Justice documents establish that Scientology has developed a "fair game  
11 doctrine" to punish persons who Scientology believes have injured the organization. The "fair  
12 game doctrine" "permits a suppressive person to be tricked, sued or lied to or destroyed . . . [or]  
13 deprived of property or injured by any means by any Scientologist. . . ." (*Church of Scientology v.*  
14 *Armstrong*, 232 Cal.App.3d 1060, 1067 (1991). See also *Church of Scientology v. Armstrong*,  
15 *supra*, at 1063-67, ["the Court also determined that Armstrong . . . believed the Church threatened  
16 to harm him and his wife . . . Commencing in February 1982 the international Church of  
17 Scientology issued a series of 'suppressive persons declares' in effect labeling Armstrong an  
18 enemy of the Church . . . These 'declares' subjected Armstrong to the 'Fair Game Doctrine' of the  
19 Church, which permits a suppressive person to be 'tricked, sued, or lied to or destroyed . . . [or]  
20 deprived of property or injured by any means by any Scientologist.' In early May 1982,  
21 [Armstrong] became aware of private investigators watching his house and following him. These  
22 events caused Armstrong to fear that his life and that of his wife were in danger . . . Following  
23 commencement of the instant action, Armstrong was pushed or shoved by one of the Church's  
24 investigators. In a later incident, his elbow was struck by an investigator's vehicle; still later, the  
25 same investigator pulled in front of Armstrong on a freeway and slammed on his brakes. This  
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investigator's vehicle also crossed a lane line as if to push Armstrong off the road."]; *Wollersheim v. Church of Scientology*, 212 Cal. App. 3d 872, 888-91; 260 Cal. Rptr. 331, 341-43 (1989). ["Substantial evidence supports the conclusion Scientology leaders made the deliberate decision to ruin Wollersheim economically and possibly psychologically. . . . [Wollersheim] was bankrupted by a campaign his former religion carefully designed with the specific intent it bankrupt him." *Allard v. Church of Scientology*, 58 Cal.App.3d 439, 443 n. 1, 447, ["One such policy, to be enforced against 'enemies' or 'suppressive persons' was that formerly entitled 'fair game.' That person 'may be deprived of property or injured by any means by any scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed' . . . Evidence of such policy statements were damaging to [the Church of Scientology], but they were entirely relevant. They were not prejudicial. A party whose reprehensible acts are the cause of harm to another and the reason for the lawsuit by the other cannot be heard to complain that its conduct is so bad that it should not be disclosed."]; *United States v. Katter*, 840 F.2d 118, 125-26 (1st Cir. 1988). [In the late 1970s, the United States successfully prosecuted a number of high-level Scientologists operatives for various crimes involving illegal break-ins, burglaries and wire taps . . . In its sentencing memorandum . . . submitted to the federal court in 1980, the Justice Department characterized the defendants' [Scientologists] 'brazen and persistent burglaries and thefts' as 'but one minor aspect of the defendants' wanton assault upon the laws of this country,' and noted the defendants' crimes were 'of a breadth and scope previously unheard.' . . . The sentencing memo accused the Church and its members of considering themselves 'above the law.' with 'carte blanche' to violate the rights of others, [and] to frame critics in order to destroy them.' The Church, according to the U.S. Attorney, 'launched vicious smear campaigns against those perceived to be enemies of Scientology.' The Church's methods for this included subornation of perjury. The sentencing memo also acknowledged the existence of the Fair Game Doctrine as the active

animating philosophy of the Church."]; *Van Schaick v. Church of Scientology*, 535 F.Supp. 1125, 1131 n. 4 (D. Mass 1982); *Christofferson v. Church of Scientology*, 57 Ore. App. 203, 644 P.2d 577, 590-92 (1982). Some of Scientology's other illegal activities are described in *Church of Scientology v. Commissioner*, 83 U.S. Tax Ct. Rpts. 381, 429-42 (1984), ["Petitioner [Church of Scientology of California], its agents, and others willfully and knowingly conspired to defraud the United States by impairing, obstructing, and defeating the lawful functions of petitioner and from other Scientology organizations and officials. The conspiracy began in 1969 and continued until approximately July 7, 1977 when the FBI. pursuant to a warrant, searched petitioner's premises for evidence of the conspiracy and related crimes. . . . During and after the documented years, petitioner's Guardian Offices in the United States and the United Kingdom planned and executed a scheme to infiltrate the IRS, seize records pertaining to Scientology-related tax matters pending before the IRS, and conceal petitioner's connection to these covert, illegal activities. . . . Pursuant to Scientology's Guardian Order 1361, the IRS offices in Washington, D.C., were burglarized and documents relating to petitioner and other Scientology churches were taken and forwarded to petitioner's Guardian Office. . . . The conspiracy spanned 8 years . . . The Scheme involved manufacturing and falsifying records to present to the IRS, burglarizing IRS offices and stealing Government documents, and subverting Government processes for unlawful purposes. For example, Freedom of Information Act requests were planned for the purpose of having the IRS amass records in one central place where they would be easier to steal. . . . In pursuit of the conspiracy, petitioner filed false tax returns, burglarized IRS offices, stole IRS documents, and harassed, delayed, and obstructed IRS agents who tried to audit the Church's records. Petitioner gave false information to and concealed relevant information from the IRS about its corporate structure and relationship to OTS. . . . Petitioner's course of conduct between 1969 and 1977 constitutes a violation of 18 U.S.C. §371 . . . a venerable and major Federal criminal statute. . . .

1 Petitioner's conspiratorial efforts were systematic and long lived. . . . Church officials at the  
2 highest level of the hierarchy, not just ordinary Church members, participated in the conspiracy.  
3 Indeed, some high Church officials were finally convicted for their illegal activities."]; *United*  
4 *States v. Hubbard*, 474 F. Supp. 64, 70-77, 79, 83-84 (D.C. 1979). Scientology attorney Moxon  
5 herein was named, pursuant to stipulation, as an un-indicted co-conspirator in this case. His  
6 criminal conduct is repeatedly referred to in the 284 page stipulation of evidence, U.S.D.C. Dis. of  
7 Columbia Criminal Case No. 78-401. This case involved the largest ever-known infiltration and  
8 subversion of the United States Government. The evidence in other cases, such as *Church of*  
9 *Scientology International v. Fishman & Geertz*, U.S.D.C., C.D. Cal. Case No. 91-6426 HLH, also  
10 indicates that the illegal activities of the Church and its attorneys continue. For example, the  
11 deposition testimony of Garry Scarff in that case also allegedly connected the Church and its  
12 attorneys (Bowles & Moxon) to similar conduct including: conspiracy to murder the President of  
13 the Cult of Awareness Network and acts done in furtherance of that conspiracy; a conspiracy to  
14 murder opposing counsel, the burglarizing of opposing counsel's offices, the filing of a phony  
15 State Bar Complaint against opposing counsel, the preparation of perjured declarations, the  
16 funding of false lawsuits and a plan to have 100 false lawsuits on file against the Church's  
17 perceived enemies, as part of Bowles & Moxon's "Plan 100". Bowles & Moxon was then the in-  
18 house legal unit of CSI's Office of Special Affairs (OSA). Gary Scarff testified in the *Fishman-*  
19 *Geertz* case that Timothy Bowles (former Kendrick L. Moxon's law partner) established  
20 Scientology's witness school which allegedly coaches Scientology witnesses to lie and commit  
21 perjury. Moreover, that he was involved in the intimidation of Judge Jones in the case of  
22 *Cristofferson v. Church of Scientology*, 57 Ore. App. 203, 664 P.2d 577, 590-92 (1982). In  
23 addition, it was alleged, under oath in the *Fishman-Geertz* case, that it was Kendrick Moxon, Esq.  
24 who ordered the killing of Judge Swearingen's dog during *Wollersheim v. Church of Scientology*.  
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1 [See also, *Church of Scientology v. Wollersheim*, 42 Cal.App. 4<sup>th</sup> 628, 49 Cal. Rptr. 620 (1996)].

2 The Church of Scientology International voluntarily dismissed the Fishman-Geertz case on the eve  
3 of trial and obtained an order sealing the court files and other evidence therein. Subsequently, the  
4 Washington Post newspaper obtained a copy of the court files from the Clerk and the documents  
5 ended up all over the Internet where they remain today.

6 **VI. PLAINTIFFS AND THEIR SCIENTOLOGY ORGANIZATION ABUSE ITIGATION**  
7 **FOR THE PURPOSES OF HARASSMENT**

8 The corollary to the "Fair Game" Doctrine is the "Religious Practice" set forth in the  
9 cults' "Scripture" known as the "Level O check sheet" which provides that:

10 "The purpose of the suit is to harass and discourage rather than to  
11 win. The law can be used very easily to harass and enough  
12 harassment on somebody who is simply on the thin edge anyway,  
13 well knowing that he is not authorized, will generally be sufficient  
14 to cause his professional decease. If possible, of course, ruin him  
utterly. (Emphasis added.)"

15 That is the purpose of this lawsuit against Mr. Myers. The cult is so anxious to abuse  
16 process against a solitary picketer that it claims it needs *ex parte* relief, unconstitutional restraining  
17 orders and "a head upon a pike," to again quote L. Ron Hubbard." In 1996, the Ninth Circuit held,  
18 in an unpublished decision, that scientology "was playing 'fast and loose' with the judicial system."  
19 Scientology's massive over-litigation and abuse of the judicial system were also documented and  
20 discussed in *Church of Scientology v. Wollersheim*, 42 Cal.App.4th 628, 648-49 (1996). Finding  
21 that the Church of Scientology had engaged "in a course of oppressive litigation conduct", the  
22 court stated that, "When one party to a lawsuit continuously and unsuccessfully uses the litigation  
23 process to bludgeon the opponent into submission, those actions must be closely scrutinized for  
24 constitutional implications." Upon remand, the trial court awarded approximately \$500,000 in  
25 attorney's fees against the Church of Scientology.  
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## **VII. ARGUMENT**

### **A. CONSTITUTIONALLY PROTECTED ACTIVITY CANNOT CONSTITUTE HARASSMENT**

"Harassment" is a "knowing and willful course of conduct directed at a specific person which seriously alarms, annoys or harasses the person, and which serves no legitimate purpose." C.C.P. § 527.6 (b). Emphasis added. This course of conduct "must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff." C.C.P. §527.6 (b); *Schraer v. Berkeley Property Owners Ass'n*, 207 Cal.App.3d 719 (1989); *Schild v. Rubin*, 232 Cal.App.3d 755, 763 (1991) (there must be medical, psychological, or other evidence establishing that the "harassing" activity is the cause of "substantial emotional distress" within meaning of C.C.P. 527.6 (b)). "Course of conduct" is defined as a "pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose." C.C.P. §527.6 (b); see also *Leydon v. Alexander*, 212 Cal.App.3d 1, 5 (1989) (single incident in which former city employee verbally abused plaintiff and another employee could not meet statutory requirement of course of conduct). A trial court may not issue an injunction against harassment unless it finds by clear and convincing evidence that unlawful harassment already exists in fact. C.C.P. §527.6 (d); *Schraer, supra*, 207 Cal.App.3d 719. However, as constitutionally protected activity is excluded from the meaning of "course of conduct", C.C.P. §527.6 (b), there is no need to entertain the traditional inquiry as to whether clear and convincing evidence warrants injunctive relief.

### **B. MR. MYER'S ACTIVITIES ARE CONSTITUTIONALLY PROTECTED**

The true inquiry herein is whether Mr. Meyer's activities are constitutionally protected and if so what limits can be placed upon his speech rights. First, public issue picketing is an activity protected by the First Amendment. *Frisby v. Schultz*, 487 U.S. 474, 101 L.Ed.2d 420, 108 S.Ct. 2495 (1988) (holding that restrictions on picketing are subjected to careful scrutiny);

1 *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 909, 73 L.Ed.2d 1215, 1233, 102 S.Ct. 3409  
2 (1982). Under current First Amendment analysis, the extent to which a defendant's rights of speech  
3 may be curtailed begins with identifying the forum used by the defendant to communicate his or  
4 her message." It has been clearly established since time immemorial that city streets and sidewalks  
5 are public fora." *Collins, supra*, 110 F.3d at 1371. "No particularized inquiry into the precise  
6 nature of a specific street is necessary; all public streets are held in the public trust and are properly  
7 considered traditional public fora." *Frisby*, 487 U.S. at 481. "The 'public forum' doctrine holds that  
8 restrictions on speech should be subject to higher scrutiny when, all other things being equal, that  
9 speech occurs in areas playing a vital role in communication - such as in those places historically  
10 associated with first amendment activities, such as streets, sidewalks, and parks-especially because  
11 of how indispensable communication in these places is to people who lack access to more  
12 elaborate (and more costly) channels." Tribe, *American Constitutional Law* (2d ed. 1988) §§12-  
13 24, p. 987. "In places which by long tradition or by government fiat have been devoted to assembly  
14 and debate, the rights of the State to limit expressive activity are sharply circumscribed. At one  
15 end of the spectrum are streets and parks which have immemorially been held in trust for the use  
16 of the public and, time out of mind, have been used for purposes of assembly, communicating  
17 thoughts between citizens, and discussing public questions. In these quintessential public forums,  
18 the government may not prohibit all communicative activity." *Perry Ed. Assn. v. Perry Local*  
19 *Educator's Assn.*, 460 U.S. 37, 45, 74 L.Ed. 2d 794, 804-05, 103 S.Ct. 948 (1983). As the instant  
20 controversy involves the use of a public forum, the proper First Amendment analysis is "whether  
21 the challenged provisions of the injunction burden no more speech than necessary to serve a  
22 significant government interest." *Madsen, supra*, 129 L.Ed.2d, 606.

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1 **C. THERE IS NO SIGNIFICANT GOVERNMENT INTEREST AT STAKE THAT**  
2 **CANNOT BE PROTECTED WITH NOMINAL RESTRICTIONS ON SPEECH**

3 As the threshold consideration, the court is directed to look to the government's purpose  
4 in regulating speech. *Madsen, supra*, L.Ed.2d at 606. In the present case, the only conceivable  
5 state interests are the State's interests in protecting individuals from harassment and the  
6 maintenance of public safety and order. With regard to the State's interests in protecting the  
7 individual, the purpose of C.C.P. §527.6 is to provide quick relief to harassment victims  
8 threatened with great or irreparable injury. *Grant v. Clampitt*, 56 Cal.App.4th 586 (App. 2 Dist.  
9 1997). Section 527.6 is not designed to be used as a sword to silence critical speech. Evidencing  
10 such, C.C.P. §527.6 (b) provides that constitutionally protected activity is excluded from its scope.  
11 Picketing is an activity also implicating free speech rights under the California Constitution,  
12 Article I, §§2-3, *Robins v. Pruneyard Shopping Center*, 23 Cal. 3d 899 (1979) aff'd. sub. nom.  
13 *Pruneyard Shopping Center v. Robins*, 447 U.S. 74, 64 L.Ed. 2d 741 (1980).  
14

15 Plaintiff also has no right to be free from public criticism. "No prior decisions support  
16 the claim that the interest of an individual in being free from public criticism of his business  
17 practices in pamphlets or leaflets warrants use of the injunctive power of a court." *Organization*  
18 *For a Better Austin v. Keefe*, 402 U.S. 415, 419-20, 29 L.Ed.2d 1, 5, 91 S.Ct. 1575 (1971). In  
19 *Organization for a Better Austin v. Keefe*, members of an organization distributed leaflets in a  
20 residential community that were critical of respondent's real estate practices. The distribution of  
21 the leaflets was on all occasions conducted in a peaceful and orderly manner, did not cause any  
22 disruption of pedestrian or vehicular traffic, and did not precipitate any fights, disturbances or  
23 other breaches of the peace. The Court noted that the fact that "the expressions were intended to  
24 exercise a coercive impact on respondent does not remove them from the reach of the First  
25 Amendment." *Id*; see also *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 73 L.Ed.2d 1215,  
26  
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1 1234 (1982) ("Speech does not lose its protected character, however, simply because it may  
2 embarrass others or coerce them into action.").

3 With regard to the State's interests in public safety and order - "if only because of the  
4 dangerous situation created by the interaction between cars and protesters", *Schenck, supra*, 137  
5 L.Ed.2d at 20, such concerns can be adequately addressed by the imposition of a nominal fixed  
6 buffer zone around the doorways, driveways, and driveway entrances as the one approved  
7 by the *Schenck* court, 15 feet. Such a buffer zone would ensure that people and vehicles accessing  
8 church property can do so and ensure that Mr. Myer's message is still of consequence.  
9

10 **D. ANY INJUNCTIVE RELIEF CANNOT BURDEN ANY MORE SPEECH THAN**  
11 **NECESSARY TO SERVE THE SIGNIFICANT GOVERNMENT INTEREST**

12 "Any system of prior restraints of expression comes to this Court bearing a heavy  
13 presumption against its constitutional validity." *Freedman v. Maryland*, 380 U.S. 51, 13 L.Ed.2d  
14 649, 85 S.Ct. 734 (1965); *Organization for a Better Austin, supra*, 29 L.Ed.2d at 5; *Southeastern*  
15 *Promotions, Ltd., supra*, 43 L.Ed.2d 448. An order issued in the area of First Amendment rights  
16 must be couched in the narrowest terms that will accomplish the pinpointed objective permitted by  
17 constitutional mandate and the essential needs of the public order. The Order may not employ  
18 "means that broadly stifle fundamental personal liberties when the end can be more narrowly  
19 achieved." The Order must be tailored as precisely as possible to the exact needs of the case.  
20 *Carroll v. President and Commissioners of Princess Anne*, 393 U.S. 175, 32 L.Ed.2d 325, 89 S.Ct.  
21 347 (1968).  
22

23 **1. This Court Should Allow Only a Minimal Intrusion on Speech Rights**

24 In *Madsen, supra*, 129 L. Ed. 2d 593, following a trial court evidentiary hearing, the  
25 Florida Supreme Court issued an amended permanent injunction which prohibited abortion  
26 protesters, and all persons acting "in concert" with them, from (1) "congregating, picketing,  
27 patrolling, demonstrating, or entering", apart from specified exceptions, the public right-of-way  
28

1 "or private property" within a 36-foot buffer zone around the property line of the clinic; (2)  
2 physically approaching, within 300 feet of the clinic, any persons seeking clinic services, unless  
3 such person indicated a desire to communicate; and (3) picketing within 300 feet of the residences  
4 of clinic staff. *Id.* at p. 594. The Supreme Court held that under the standard of whether "the  
5 challenged provisions of the injunction burdened no more speech than necessary to serve a  
6 significant government interest", the provision establishing a 36-foot buffer zone around the clinic  
7 entrances and driveway was found constitutional, but the following provisions were  
8 unconstitutional: the 36-foot buffer zone as applied to "private property" on the back and side of  
9 the clinic, the prohibition against uninvited approaches of persons seeking the services of the  
10 clinic, and the prohibition against picketing within 300 feet of the residences of clinic staff. *Id.* at  
11 p. 594. The 36-foot fixed buffer zone from clinic driveways and entrances was affirmed in the  
12 context of the trial court's factual finding that the protestors "repeatedly had interfered with the  
13 free access of patients and staff" and that the "state court seems to have had few other options to  
14 protect access given the narrow confines around the clinic." *Id.* at p. 605. On balance of these  
15 factors, the Court held that the 36-foot buffer zone around the clinic entrances and driveway  
16 burdens no more speech than necessary to accomplish the governmental interest at stake - to  
17 protect access to the clinic and to facilitate the orderly flow of traffic. *Id.* at p. 611. With regard to  
18 the 300-foot buffer, the state court was attempting to prevent clinic patients and staff from being  
19 "stalked" or "shadowed" by the petitioners as they approached the clinic. However, "absent  
20 evidence that the protesters' speech is independently prescribable or is so infused with violence as  
21 to be indistinguishable from a threat of physical harm . . . as a general matter, we have indicated  
22 that in public debate our own citizens must tolerate insulting, and even outrageous, speech in order  
23 to provide adequate breathing space to the freedoms protected by the First Amendment." *Id.* at p.  
24 613. Emphasis added.

1 In the event that Mr. Myers does not prevail upon either his pending anti-SLAPP statute  
2 motion (C.C.P. §425.16), or at a subsequent evidential hearing, he will only agree to a nominal  
3 fixed buffer zone from the ingresses and egresses of the Scientology buildings to ensure the free  
4 flow of traffic. Mr. Myers does not believe that the 36-foot buffer applied in Madsen would be  
5 necessary in this case because "unlike *Madsen*, there is no extraordinary record of pervasive  
6 lawlessness." *Schenck, supra*, 137 L.Ed.2d at p. 25. The 15-foot fixed buffer [or less] allowed in  
7 *Schenck* appears more appropriate for the current fact pattern. In *Schenck*, the District Court issued  
8 a preliminary injunction which, among other matters, generally banned demonstrating against the  
9 abortion clinic within (1) 15 feet of the clinic's doorways or doorway entrances, parking lot  
10 entrances, driveways, and driveway entrances (a "fixed buffer"); and (2) 15 feet of any person or  
11 vehicle seeking access or leaving the clinic (a "floating buffer"). Upon review, the Supreme Court  
12 upheld the fixed buffer, based on the factual record that this was the "only way to insure access to  
13 the clinics." However, the floating buffer was overturned as the floating buffer zone "burdened  
14 more speech than was necessary to serve the relevant governmental interests." 137 L.Ed.2d at p.2.

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16  
17 With respect to the 15-foot floating buffer zone, such zones were found to prevent the  
18 protestors "from communicating a message from a normal conversational distance or handing out  
19 leaflets on the public sidewalks." *Id.* at p. 10. Emphasis added. Protesters on the public sidewalks,  
20 who wish to communicate their message to a targeted individual and to remain as close as  
21 possible, must move as the individual moves maintaining 15 feet of separation. In *Schenck*, the  
22 lack of certainty as to how to remain in compliance with the floating buffer zone, in addition to  
23 leading to a substantial risk that much more speech will be burdened than the injunction by its  
24 terms prohibits, also create the problem of certainty (i.e. the problems with its compliance required  
25 protesters to back peddle as patrons approach.) *Id.* at p. 10. These same concerns raised with  
26 regard to floating buffer zones raised in *Schenck* have reared their ugly head in the present case.  
27  
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1 Plaintiff's use of the floating buffer as a sword (e.g., Mr. Moxon and the Scientology enterprise  
2 abusing and unilaterally seeking to extend the terms of the T.R.O. against Mr. Myers from 6331  
3 Hollywood Boulevard to L. Ron Hubbard Way, Sunset Boulevard and several locations in  
4 Riverside County). Consequently, the TRO has had a chilling effect on Mr. Myer's speech rights  
5 and it should be lifted immediately.

6 **2. The Court Must Ensure That Alternative Means of Communication Are Maintained**

7  
8 Courts have consistently insured that alternative means of communication exist. For  
9 example, in *Portland Fem. Women's H. Ctr. v. Advocates for Life*, 859 F.2d 681 (9th Cir. 1988),  
10 the injunction removed picketers from the 25 feet of sidewalk immediately in front of the  
11 clinic's doors only. *Id.* at pp. 684, 686. However, picketers were free to use the area to either side  
12 of that strip in view of persons entering the clinic. *Ibid.* Again, in *National Anti-Drug Coalition,*  
13 *Inc. v. Bolger*, 737 F.2d 717 (7th Cir. 1984), the court upheld a federal regulation prohibiting  
14 solicitation on Postal Service property but concluded the regulation "provides more than ample  
15 alternative channels for the free expression of speech." *Id.* at p. 727. The court pointed out that  
16 the regulation allowed citizens who complied with state law to solicit contributions or sell  
17 literature on the municipal sidewalks adjacent to postal property. *Ibid.*

18  
19 These cases, and their progeny, consistently provide the constitutional directive that  
20 requires ample alternative means of communication before speech in a public forum can be  
21 restricted. It has been widely recognized that ample alternative channels of communication do not  
22 exist if a speaker's target audience is altogether insulated from the speaker's message. See, e.g.,  
23 *Prisoners Union v. Department of Corrections*, 135 Cal.App.3d 930, 936 (1982); *Albany Welfare*  
24 *Rights Organization v. Wyman*, 493 F.2d 1319, 1323 (2d Cir. 1974) cert. den., 419 U.S. 838, 42  
25 L.Ed.2d 64, 95 S.Ct. 66; *Wolin v. Port of New York Authority*, 392 F.2d 83, 90 (2d Cir. 1968) cert.  
26 den., 393 U.S. 940, 21 L.Ed.2d 275, 89 S.Ct. 290). "It has been widely recognized that ample  
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1 alternative channels of communication do not exist if a speaker's target audience is altogether  
2 insulated from the speaker's message." *Chico Feminist Women's Health Center v. Scully*, 208  
3 Cal.App.3d 230, 246 (1989). That is the case here where there is no history of violence as in the  
4 abortion clinic cases! By removing Mr. Myers from the street near the premises (a 100 yard ban  
5 under the T.R.O), he has been unconstitutionally deprived of his first amendment rights because  
6 he has no effective means of reaching his target audience - the brainwashed members of the  
7 Scientology cult or individuals who may be getting solicited for cult membership. Under C.C.P.  
8 §527.6 (a) it is incumbent on the Church of Scientology, and its *alter egos* herein, to "show  
9 satisfactorily that sufficient grounds exist" for the issuance of the injunction. (See 6 Witkin,  
10 *California Procedure*, Provisional Remedies, 307, pp. 260-261; see *Casmalia Resources, Ltd. v.*  
11 *County of Santa Barbara*, 195 Cal. App. 3d 827, 838 (1987). Since the availability of alternative  
12 means of communicating is indispensable to the injunctive relief sought by the Scientology  
13 through Plaintiffs, it is Plaintiffs burden to show the available alternative. They cannot, unless they  
14 stipulate to a limited buffer zone for access only.

15  
16  
17 **E. THE TEMPORARY RESTRAINING ORDER IS VAGUE AND OVERBROAD**

18 In *Smith v. Silvey*, 149 Cal.App.3d 400 (1983), plaintiff, owner of a mobile home park,  
19 filed a petition for an injunction against defendant, a former tenant. The pleadings alleged that  
20 defendant, while a tenant, became dissatisfied with plaintiff's operation of the park, made a  
21 number of complaints to governmental agencies over a period of years, brought a legal action to  
22 force re-inspection of park improvements, and, unless enjoined, would continue to harass plaintiff  
23 by phone calls, letters, and personal visits to employees and officials of public agencies, and  
24 would attempt, by false statements and threats to those persons, to initiate unwarranted  
25 administrative action against plaintiff. The trial judge, on a showing by declarations, made an  
26 order (1) restraining defendant from initiating complaints with public agencies concerning  
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1 plaintiffs operation of the park, and (2) restraining defendant from contacting the residents of the  
2 park. The Court of Appeal reversed. The part of the order restraining defendant from "contacting"  
3 residents of the Park was overbroad: it could be interpreted as prohibiting not only physically or  
4 verbally threatening acts, but also constitutionally protected speech. (149 Cal.App.3d 407.)  
5 Similarly, in the present case the wording of the injunction is also overbroad.

6 **F. PLAINTIFF'S CONDUCT ESTOPS APPLICATION OF ANY EQUITABLE RELIEF**

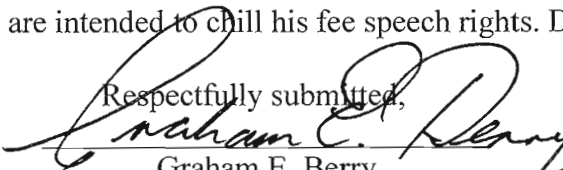
7 Injunctive relief is an equitable remedy rarely granted to restrain speech or  
8 publication. Weil & Brown, *Cal. Practice Guide, Civil Procedure Before Trial*, 9:708. "As in  
9 other equitable proceedings, the plaintiff's wrongful conduct in the same transaction is a bar to  
10 equitable relief." Witkin, *California Procedure (4th Edition) Provisional Remedies* §342. As  
11 discussed in this Trial Brief, the Defendant's C.C.P. §425.16 special motion to strike, and the  
12 supporting declarations of Defendant, Garry Scarff and Florian Schwarnert, the plaintiffs herein,  
13 as *alter egos* of the Church of Scientology and church attorneys Moxon and Paquette, have  
14 routinely engaged Mr. Myers with "unclean hands." Indeed, former Scientology attorney Joseph  
15 A. Yanny, Esq. was quoted in the May 6, 1991, Time magazine cover story 'Scientology, Thriving  
16 Cult of Greed and Power' that the church "has so subverted justice and the political system that it  
17 should be barred from seeking equity in any court." Exhibit A hereto. As such, plaintiffs conduct,  
18 is a bar to any enforcement or issuance of Injunction chilling Mr. Myer's free speech rights.

19 **VIII. CONCLUSION**

20 The evidence to be presented herein is intended, and expected to establish, that the  
21 material allegations plaintiffs make against Mr. Myers, under C.C.P. §527.6, are lacking in both a  
22 factual and a legal basis, and are intended to chill his free speech rights. Dismissal is appropriate.

23 Dated: October 23, 2008.

24 Respectfully submitted,

25   
26 Graham E. Berry  
27 Attorney for Defendant Donald J. Myers  
28

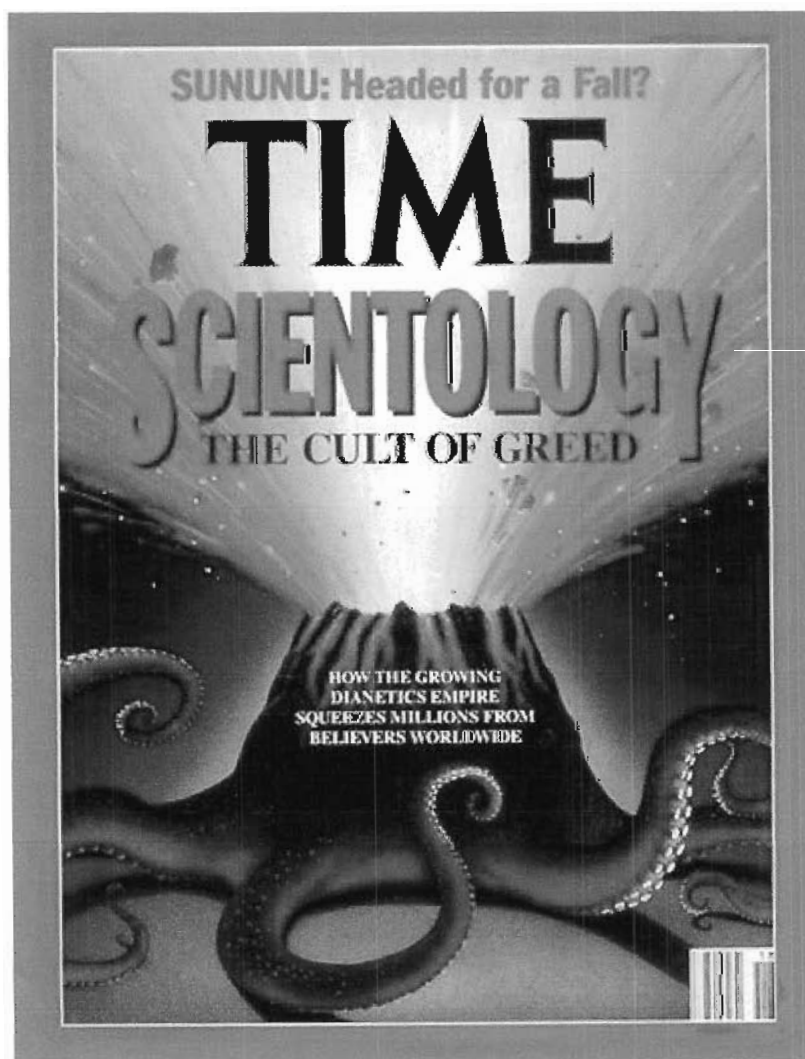
**EXHIBIT A**

Operation Clambake presents:



# The Thriving Cult of Greed and Power

- UPDATE JAN 13 2001: Time wins approval of libel suit dismissal



*Time Magazine May 6, 1991 page 50.  
Special Report (cover story)  
Copyright © 1991 Time Magazine*

**Ruined lives. Lost fortunes. Federal crimes.**

**Scientology poses as a religion but really is a ruthless global scam -- and aiming for the mainstream**

**by Richard Behar**

By all appearances, Noah Lottick of Kingston, Pa., had been a normal, happy 24-year-old who was looking for his place in the sun. On the day last June when his parents drove to New York City to obtain his body, they were nearly catatonic with grief.

This young Russian-studies scholar had jumped from a 10th-floor window of the Milford Plaza Hotel and bounced off the hood of a stretch limousine. When the



police arrived, his fingers were still clutching \$171 in cash, virtually the only money he hadn't turned over to the Church of Scientology, the self-help "philosophy" group he had discovered just seven months earlier.

His death inspired his father Edward, a physician, to start his own investigation of the church. "We thought Scientology was something like Dale Carnegie," Lottick says. "I now believe it's a school for psychopaths." Their so-called therapies are manipulations. They take the best and the brightest people and destroy them." The Lotticks want to sue the church for contributing to their son's death, but the prospect has them frightened. For nearly 40 years, the big business of Scientology has shielded itself exquisitely behind the First Amendment as well as a battery of high-priced criminal lawyers and shady private detectives.

The Church of Scientology, started by science-fiction writer L. Ron Hubbard to "clear" people of unhappiness, portrays itself as a religion. In reality the church is a hugely profitable global racket that survives by intimidating members and critics in a Mafia-like manner. At times during the past decade, prosecutions against Scientology seemed to be curbing its menace. Eleven top Scientologists, including Hubbard's wife, were sent to prison in the early 1980s for infiltrating, burglarizing and wiretapping more than 100 private and government agencies in attempts to block their investigations. In recent years hundreds of longtime Scientology adherents -- many charging that they were mentally or physically abused -- have quit the church and criticized it at their own risk. Some have sued the church and won; others have settled for amounts in excess of \$500,000. In various cases judges have labeled the church "schizophrenic and paranoid" and "corrupt, sinister and dangerous."



Yet the outrage and litigation have failed to squelch Scientology. The group, which boasts 700 centers in 65 countries, threatens to become more insidious and pervasive than ever. Scientology is trying to go mainstream, a strategy that has sparked a renewed law-enforcement campaign against the church. Many of the group's followers have been accused of committing financial scams, while the church is busy attracting the unwary through a wide array of front groups in such businesses as publishing, consulting, health care and even remedial education.

In Hollywood, Scientology has assembled a star-studded roster of followers by aggressively recruiting and regally pampering them at the church's "Celebrity Centers," a chain of clubhouses that offer expensive counseling and career guidance. Adherents include screen idols Tom Cruise and John Travolta, actresses Kirstie Alley, Mimi Rogers, and Anne Archer, Palm Springs mayor and performer Sonny Bono, jazzman Chick Corea and even Nancy Cartwright, the voice of cartoon star Bart Simpson. Rank-and-file members, however, are dealt a less glamorous Scientology.

According to the Cult Awareness Network, whose 23 chapters monitor more than 200 "mind control" cults, no group prompts more telephone pleas for help than does Scientology. Says Cynthia Kisser, the network's Chicago-based executive director: "Scientology is quite likely the most ruthless, the most classically terroristic, the most litigious and the most lucrative cult the country has ever seen. No cult extracts more money from its members." Agrees Vicki Aznaran, who was one of Scientology's six key leaders until she bolted from the church in 1987: "This is a criminal organization, day in and day out. It makes Jim and Tammy [Bakker] look like kindergarten." To explore Scientology's reach, TIME conducted more than 150 interviews and reviewed hundreds of court records and internal Scientology documents. Church officials refused to be interviewed. The investigation paints a picture of a depraved yet thriving enterprise. Most cults fail to outlast their founder, but Scientology has prospered since Hubbard's death in 1986. In a court filing, one of the cult's many entities -- the Church of Spiritual Technology -- listed \$503 million in income just for 1987. High-level defectors say the parent organization has squirreled away an estimated \$400 million in bank accounts in Liechtenstein, Switzerland and Cyprus. Scientology probably has about 50,000 active members, far fewer than the 8 million the group claims. But in one sense, that inflated figure rings true: millions of people have been affected in one way or another by Hubbard's bizarre creation.

Scientology is now run by David Miscavige, 31, a high school dropout and second-generation church member. Defectors describe him as cunning, ruthless and so paranoid about perceived enemies that he kept plastic wrap over his glass of water. His obsession is to obtain credibility for Scientology in the 1990s. Among other tactics, the group:

- Retains public relation powerhouse Hill and Knowlton to help shed the church's fringe-group image.
- Joined such household names as Sony and Pepsi as a main sponsor of Ted Turner's Goodwill Games.
- Buys massive quantities of its own books from retail stores to propel the titles onto best-seller lists.
- Runs full-page ads in such publications as Newsweek and Business Week that call Scientology a "philosophy," along with a plethora of TV ads touting the group's books.
- Recruits wealthy and respectable professionals through a web of consulting groups that typically hide their ties to Scientology.

The founder of this enterprise was part storyteller, part flimflam man. Born In Nebraska in 1911, Hubbard served in the Navy during World War II and soon afterward complained to the Veterans Administration about his "suicidal inclinations" and his "seriously affected" mind. Nevertheless, Hubbard was a moderately successful writer of pulp science fiction. Years later, church brochures described him falsely as an "extensively decorated" World War II hero who was

crippled and blinded in action, twice pronounced dead and miraculously cured through Scientology. Hubbard's "doctorate" from "Sequoia University" was a fake mail-order degree. In a 1984 case in which the church sued a Hubbard biographical researcher, a California judge concluded that its founder was "a pathological liar."

Hubbard wrote one of Scientology's sacred texts, *Dianetics: The Modern Science of Mental Health*, in 1950. In it he introduced a crude psychotherapeutic technique he called "auditing." He also created a simplified lie detector (called an "E-meter") that was designed to measure electrical changes in the skin while subjects discussed intimate details of their past. Hubbard argued that unhappiness sprang from mental aberrations (or "engrams") caused by early traumas. Counseling sessions with the E-meter, he claimed, could knock out the engrams, cure blindness and even improve a person's intelligence and appearance.

Hubbard kept adding steps, each more costly, for his followers to climb. In the 1960s the guru decreed that humans are made of clusters of spirits (or "thetans") who were banished to earth some 75 million years ago by a cruel galactic ruler named Xenu. Naturally, those thetans had to be audited.

An Internal Revenue Service ruling in 1967 stripped Scientology's mother church of its tax-exempt status. A federal court ruled in 1971 that Hubbard's medical claims were bogus and that E-meter auditing could no longer be called a scientific treatment. Hubbard responded by going fully religious, seeking First Amendment protection for Scientology's strange rites. His counselors started sporting clerical collars. Chapels were built, franchises became "missions," fees became "fixed donations," and Hubbard's comic-book cosmology became "sacred scriptures."

During the early 1970s, the IRS conducted its own auditing sessions and proved that Hubbard was skimming millions of dollars from the church, laundering the money through dummy corporations in Panama and stashing it in Swiss bank accounts. Moreover, church members stole IRS documents, filed false tax returns and harassed the agency's employees. By late 1985, with high-level defectors accusing Hubbard of having stolen as much as \$200 million from the church, the IRS was seeking an indictment of Hubbard for tax fraud. Scientology members "worked day and night" shredding documents the IRS sought, according to defector Aznaran, who took part in the scheme. Hubbard, who had been in hiding for five years, died before the criminal case could be prosecuted.

Today the church invents costly new services with all the zeal of its founder. Scientology doctrine warns that even adherents who are "cleared" of engrams face grave spiritual dangers unless they are pushed to higher and more expensive levels. According to the church's latest price list, recruits -- "raw meat," as Hubbard called them -- take auditing sessions that cost as much as \$1,000 an hour, or \$12,500 for a 12 1/2-hour "intensive."

Psychiatrists say these sessions can produce a drugged-like, mind-controlled euphoria that keeps customers coming back for more. To pay their fees, newcomers can earn commissions by recruiting new members, become auditors themselves (Miscavige did so at age 12), or join the church staff and receive free

counseling in exchange for what their written contracts describe as a "billion years" of labor. "Make sure that lots of bodies move through the shop," implored Hubbard in one of his bulletins to officials. "Make money. Make more money. Make others produce so as to make money . . . However you get them in or why, just do it."

Harriet Baker learned the hard way about Scientology's business of selling religion. When Baker, 73, lost her husband to cancer, a Scientologist turned up at her Los Angeles home peddling a \$1,300 auditing package to cure her grief. Some \$15,000 later, the Scientologists discovered that her house was debt free. They arranged a \$45,000 mortgage, which they pressured her to tap for more auditing until Baker's children helped their mother snap out of her daze. Last June, Baker demanded a \$27,000 refund for unused services, prompting two cult members to show up at her door unannounced with an E-meter to interrogate her. Baker never got the money and, financially strapped, was forced to sell her house in September.

Before Noah Lottick killed himself, he had paid more than \$5,000 for church counseling. His behavior had also become strange. He once remarked to his parents that his Scientology mentors could actually read minds. When his father suffered a major heart attack, Noah insisted that it was purely psychosomatic. Five days before he jumped, Noah burst into his parents' home and demanded to know why they were spreading "false rumors" about him -- a delusion that finally prompted his father to call a psychiatrist.



Noah Lotticks

It was too late. "From Noah's friends at Dianetics" read the card that accompanied a bouquet of flowers at Lottick's funeral. Yet no Scientology staff members bothered to show up. A week earlier, local church officials had given Lottick's parents a red-carpet tour of their center. A cult leader told Noah's parents that their son had been at the church just hours before he disappeared -- but the church denied this story as soon as the body was identified. True to form, the cult even haggled with the Lotticks over \$3,000 their son had paid for services he never used, insisting that Noah had intended it as a "donation."

The church has invented hundreds of goods and services for which members are urged to give "donations." Are you having trouble "moving swiftly up the Bridge" -- that is, advancing up the stepladder of enlightenment? Then you can have your case reviewed for a mere \$1,250 "donation." Want to know "why a thetan hangs on to the physical universe?" Try 52 of Hubbard's tape-recorded speeches from 1952,



The Lotticks lost their son, Noah, who jumped from a New York City hotel clutching \$171, virtually the only money he had not yet turned over to Scientology. His parents blame the church and would like to sue but are frightened by the organization's reputation for ruthlessness.

titled "Ron's Philadelphia Doctorate Course Lectures," for \$2,525. Next: nine other series of the same sort. For the collector, gold-and-leather-bound editions of 22 of Hubbard's books (and bookends) on subjects ranging from Scientology ethics to radiation can be had for just \$1,900.

To gain influence and lure richer, more sophisticated followers, Scientology has lately resorted to a wide array of front groups and financial scams. Among them:

- **CONSULTING.** Sterling Management Systems, formed in 1983, has been ranked in recent years by Inc. magazine as one of America's fastest-growing private companies (estimated 1988 revenues: \$20 million). Sterling regularly mails a free newsletter to more than 300,000 health-care professionals, mostly dentists, promising to increase their incomes dramatically. The firm offers seminars and courses that typically cost \$10,000. But Sterling's true aim is to hook customers for Scientology. "The church has a rotten product, so they package it as something else," says Peter Georgiades, a Pittsburgh attorney who represents Sterling victims. "It's a kind of bait and switch." Sterling's founder, dentist Gregory Hughes is now under investigation by California's Board of Dental Examiners for incompetence. Nine lawsuits are pending against him for malpractice (seven others have been settled), mostly for orthodontic work on children.



Press image to enlarge

Many dentists who have unwittingly been drawn into the cult are filing or threatening lawsuits as well. Dentist Robert Geary of Medina, Ohio, who entered a Sterling seminar in 1988, endured "the most extreme high-pressure sales tactics I have ever faced." Sterling officials told Geary, 45, that their firm was not linked to Scientology, he says. but Geary claims they eventually convinced him that he and his wife Dorothy had personal problems that required auditing. Over five months, the Gearys say, they spent \$130,000 for services, plus \$50,000 for "gold-embossed, investment-grade" books signed by Hubbard. Geary contends that Scientologists not only called his bank to increase his credit card limit but also forged his signature on a \$20,000 loan application. "It was insane," he recalls. "I couldn't even get an accounting from them of what I was paying for." At one point, the Gearys claim, Scientologists held Dorothy hostage for two weeks in a mountain cabin, after which she was hospitalized for a



THE ROWE FAMILY SPENT \$23,000 on Dianetics treatment. Like many dentists, Glover Rowe

nervous breakdown.

was drawn in by Sterling Management, which does not publicize its ties to Scientology.

Last October, Sterling broke some bad news to another dentist, Glover Rowe of Gadsden, Ala., and his wife Dee. Tests showed that unless they signed up for auditing Glover's practice would fail, and Dee would someday abuse their child. The next month the Rowses flew to Glendale, Calif., where they shuttled daily from a local hotel to a Dianetics center. "We thought they were brilliant people because they seemed to know so much about us," recalls Dee. "Then we realized our hotel room must have been bugged." After bolting from the center, \$23,000 poorer, the Rowses say, they were chased repeatedly by Scientologists on foot and in cars. Dentists aren't the only ones at risk. Scientology also makes pitches to chiropractors, podiatrists and veterinarians.



HARRIET BAKER, 73, LOST HER HOUSE after Scientologists learned it was debt free and arranged a \$45,000 mortgage, which they pressured her to tap to pay for auditing. They had approached her after her husband died to help "cure" her grief. When she couldn't repay the mortgage, she had to sell.

- **PUBLIC INFLUENCE.** One front, the Way to Happiness Foundation, has distributed to children in thousands of the nation's public schools more than 3.5 million copies of a booklet Hubbard wrote on morality. The church calls the scheme "the largest dissemination project in Scientology history." Applied Scholastics is the name of still another front, which is attempting to install a Hubbard tutorial program in public schools, primarily those populated by minorities. The group also plans a 1,000 acre campus, where it will train educators to teach various Hubbard methods. The disingenuously named Citizens Commission on Human Rights is a Scientology group at war with psychiatry, its primary competitor. The commission typically issues reports aimed at discrediting particular psychiatrists and the field in general. The CCHR is also behind an all-out war against Eli Lilly, the maker of Prozac, the nation's top-selling antidepressant drug. Despite scant evidence, the group's members -- who call themselves "psychbusters" -- claim that Prozac drives people to murder or suicide. Through mass mailings, appearances on talk shows and heavy lobbying, CCHR has hurt drug sales and helped spark dozens of lawsuits against Lilly.

Another Scientology linked group, the Concerned Businessmen's Association



of America, holds antidrug contests and awards \$5,000 grants to schools as a way to recruit students and curry favor with education officials. West Virginia Senator John D. Rockefeller IV unwittingly commended the CBAA in 1987 on the Senate floor. Last August author Alex Haley was the keynote speaker at its annual awards banquet in Los Angeles. Says Haley: "I didn't know much about that group going in. I'm a Methodist." Ignorance about Scientology can be embarrassing: two months ago, Illinois Governor Jim Edgar, noting that Scientology's founder "has solved the aberrations of the human mind," proclaimed March 13 "L. Ron Hubbard Day." He rescinded the proclamation in late March, once he learned who Hubbard really was.

- **HEALTH CARE.** HealthMed, a chain of clinics run by Scientologists, promotes a grueling and excessive system of saunas, exercise and vitamins designed by Hubbard to purify the body. Experts denounce the regime as quackery and potentially harmful, yet HealthMed solicits unions and public agencies for contracts. The chain is plugged heavily in a new book, *Diet for a Poisoned Planet*, by journalist David Steinman, who concludes that scores of common foods (among them: peanuts, bluefish, peaches and cottage cheese) are dangerous.

Former Surgeon General C. Everett Koop labeled the book "trash," and the Food and Drug Administration issued a paper in October that claims Steinman distorts his facts. "HealthMed is a gateway to Scientology, and Steinman's book is a sorting mechanism," says physician William Jarvis, who is head of the National Council Against Health Fraud. Steinman, who describes Hubbard favorably as a "researcher," denies any ties to the church and contends, "HealthMed has no affiliation that I know of with Scientology."

- **DRUG TREATMENT.** Hubbard's purification treatments are the mainstay of Narconon, a Scientology-run chain of 33 alcohol and drug rehabilitation centers -- some in prisons under the name "Criminon" -- in 12 countries. Narconon, a classic vehicle for drawing addicts into the cult, now plans to open what it calls the world's largest treatment center, a 1,400-bed facility on an Indian reservation near Newkirk, Okla. (pop. 2,400. At a 1989 ceremony in Newkirk, the Association for Better Living and Education presented Narconon a check for \$200,000 and a study praising its work. The association turned out to be part of Scientology itself. Today the town is battling to keep out the cult, which has fought back through such tactics as sending private detectives to snoop on the mayor and the local newspaper publisher.
- **FINANCIAL SCAMS.** Three Florida Scientologists, including Ronald Bernstein, a big contributor to the church's international "war chest," pleaded guilty in March to using their rare-coin dealership as a money laundry. Other notorious activities by Scientologists include making the shady Vancouver stock exchange even shadier (see box) and plotting to plant operatives in the World Bank, International Monetary Fund and Export-Import Bank of the U.S. The alleged purpose of this scheme: to gain inside information on which countries are going to be denied credit so that Scientology-linked traders can make illicit

profits by taking "short" positions in those countries' currencies.

In the stock market the practice of "shorting" involves borrowing shares of publicly traded companies in the hope that the price will go down before the stocks must be bought on the market and returned to the lender. The Feshbach brothers of Palo Alto, Calif. -- Kurt, Joseph and Matthew - have become the leading short sellers in the U.S., with more than \$500 million under management. The Feshbachs command a staff of about 60 employees and claim to have earned better returns than the Dow Jones industrial average for most of the 1980s. And, they say, they owe it all to the teachings of Scientology, whose "war chest" has received more than \$1 million from the family.

The Feshbachs also embrace the church's tactics; the brothers are the terrors of the stock exchanges. In congressional hearings in 1989, the heads of several companies claimed that Feshbach operatives have spread false information to government agencies and posed in various guises -- such as a Securities and Exchange Commission official -- in an effort to discredit their companies and drive the stocks down. Michael Russell, who ran a chain of business journals, testified that a Feshbach employee called his bankers and interfered with his loans. Sometimes the Feshbachs send private detectives to dig up dirt on firms, which is then shared with business reporters, brokers and fund managers.

The Feshbachs, who wear jackets bearing the slogan "stock busters," insist they run a clean shop. But as part of a current probe into possible insider stock trading, federal officials are reportedly investigating whether the Feshbachs received confidential information from FDA employees. The brothers seem aligned with Scientology's war on psychiatry and medicine: many of their targets are health and bio- technology firms. "'Legitimate short selling performs a public service by deflating hyped stocks,'" says Robert Flaherty, the editor of Equities magazine and a harsh critic of the brothers. "But the Feshbachs have damaged scores of good start-ups."

Occasionally a Scientologist's business antics land him in jail. Last August a former devotee named Steven Fishman began serving a five-year prison term in Florida. His crime: stealing blank stock-confirmation slips from his employer, a major brokerage house, to use as proof that he owned stock entitling him to join dozens of successful class-action lawsuits. Fishman made roughly \$1 million this way from 1983 to 1988 and spent as much as 30% of the loot on Scientology books and tapes.

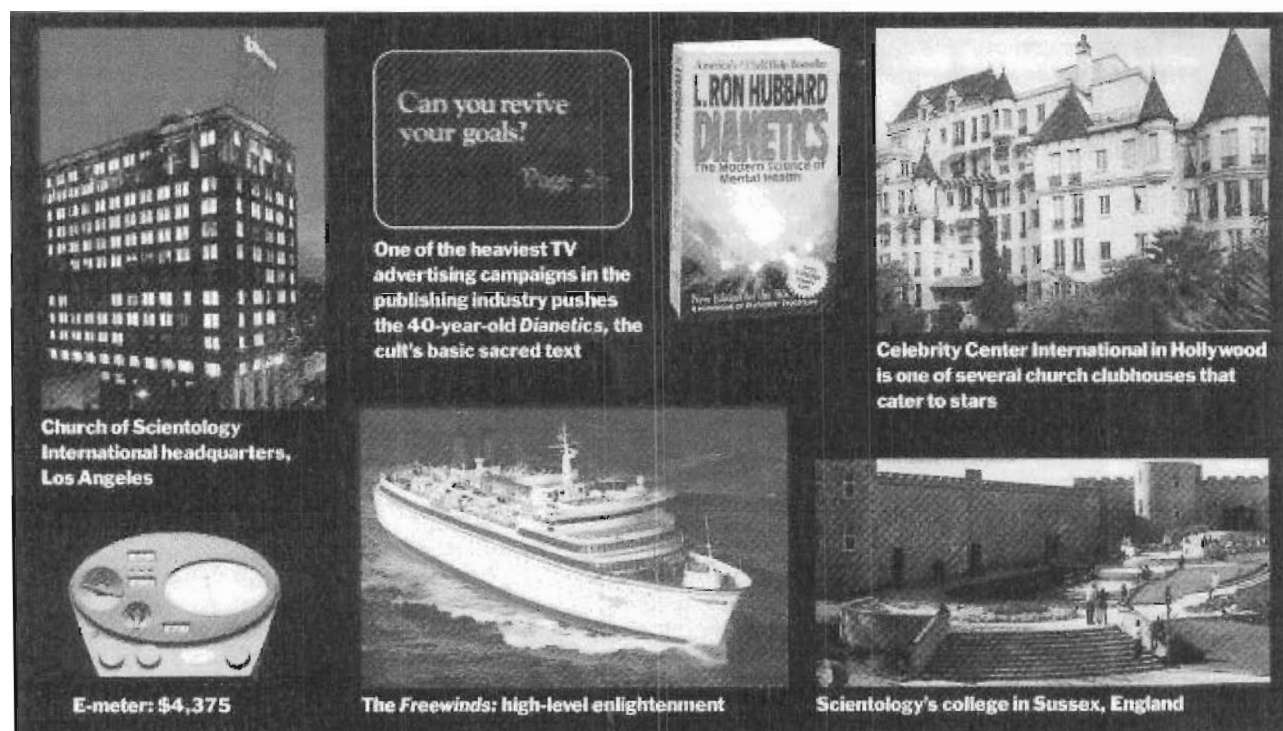
Scientology denies any tie to the Fishman scam, a claim strongly disputed by both Fishman and his longtime psychiatrist, Uwe Geertz, a prominent Florida hypnotist. Both men claim that when arrested, Fishman was ordered by the church to kill Geertz and then do an "EOC," or end of cycle, which is church jargon for suicide.

- **BOOK PUBLISHING.** Scientology mischiefmaking has even moved to the



book industry. Since 1985 at least a dozen Hubbard books, printed by a church company, have made best-seller lists. They range from a 5,000-page sci-fi decology (Black Genesis, The Enemy Within, An Alien Affair) to the 40-year-old Dianetics. In 1988 the trade publication Publishers Weekly awarded the dead author a plaque commemorating the appearance of Dianetics on its best-seller list for 100 consecutive weeks.

Critics pan most of Hubbard's books as unreadable, while defectors claim that church insiders are sometimes the real authors. Even so, Scientology has sent out armies of its followers to buy the group's books at such major chains as B. Dalton's and Waldenbooks to sustain the illusion of a best-selling author. A former Dalton's manager says that some books arrived in his store with the chain's price stickers already on them, suggesting that copies are being recycled. Scientology claims that sales of Hubbard books now top 90 million worldwide. The scheme, set up to gain converts and credibility, is coupled with a radio and TV advertising campaign virtually unparalleled in the book industry.



Scientology devotes vast resources to squelching its critics. Since 1986 Hubbard and his church have been the subject of four unfriendly books, all released by small yet courageous publishers. In each case, the writers have been badgered and heavily sued. One of Hubbard's policies was that all perceived enemies are "fair game" and subject to being "tricked, sued or lied to or destroyed." Those who criticize the church journalists, doctors, lawyers and even judges often find themselves engulfed in litigation, stalked by private eyes, framed for fictional crimes, beaten up or threatened with death. Psychologist Margaret Singer, 69, an outspoken Scientology critic and professor at the University of California, Berkeley,

now travels regularly under an assumed name to avoid harassment.

After the Los Angeles Times published a negative series on the church last summer, Scientologists spent an estimated \$1 million to plaster the reporters' names on hundreds of billboards and bus placards across the city. Above their names were quotations taken out of context to portray the church in a positive light.

The church's most fearsome advocates are its lawyers. Hubbard warned his followers in writing to "beware of attorneys who tell you not to sue . . . the purpose of the suit is to harass and discourage rather than to win." Result: Scientology has brought hundreds of suits against its perceived enemies and today pays an estimated \$20 million annually to more than 100 lawyers.

One legal goal of Scientology is to bankrupt the opposition or bury it under paper. The church has 71 active lawsuits against the IRS alone. One of them, *Miscavige vs. IRS*, has required the U.S. to produce an index of 52,000 pages of documents. Boston attorney Michael Flynn, who helped Scientology victims from 1979 to 1987, personally endured 14 frivolous lawsuits, all of them dismissed. Another lawyer, Joseph Yanny, believes the church "has so subverted justice and the judicial system that it should be barred from seeking equity in any court." He should know: Yanny represented the cult until 1987, when, he says, he was asked to help church officials steal medical records to blackmail an opposing attorney (who was allegedly beaten up instead). Since Yanny quit representing the church, he has been the target of death threats, burglaries, lawsuits and other harassment.

Scientology's critics contend that the U.S. needs to crack down on the church in a major, organized way. "I want to know, Where is our government?" demands Toby Plevin, a Los Angeles attorney who handles victims. "It shouldn't be left to private litigators, because God knows most of us are afraid to get involved." But law-enforcement agents are also wary. "Every investigator is very cautious, walking on eggshells when it comes to the church," says a Florida police detective who has tracked the cult since 1988. "It will take a federal effort with lots of money and manpower."

So far the agency giving Scientology the most grief is the IRS, whose officials have implied that Hubbard's successors may be looting the church's coffers. Since 1988, when the U.S. Supreme Court upheld the revocation of the cult's tax-exempt status, a massive IRS probe of church centers across the country has been under way. An IRS agent, Marcus Owens, has estimated that thousands of IRS employees have been involved. Another agent, in an internal IRS memorandum, spoke hopefully of the "ultimate disintegration" of the church. A small but helpful beacon shone last June when a federal appeals court ruled that two cassette tapes featuring conversations between church officials and their lawyers are evidence of a plan to commit "future frauds" against the IRS.

The IRS and FBI have been debriefing Scientology defectors for the past three years, in part to gain evidence for a major racketeering case that appears to have stalled last summer. Federal agents complain that the Justice Department is unwilling to spend the money needed to endure a drawn-out war with Scientology

or to fend off the cult's notorious jihads against individual agents. "In my opinion the church has one of the most effective intelligence operations in the U.S., rivaling even that of the FBI," says Ted Gunderson, a former head of the FBI's Los Angeles office.

Foreign governments have been moving even more vigorously against the organization. In Canada the church and nine of its members will be tried in June on charges of stealing government documents (many of them retrieved in an enormous police raid of the church's Toronto headquarters). Scientology proposed to give \$1 million to the needy if the case was dropped, but Canada spurned the offer. Since 1986 authorities in France, Spain and Italy have raided more than 50 Scientology centers. Pending charges against more than 100 of its overseas church members include fraud, extortion, capital flight, coercion, illegally practicing medicine and taking advantage of mentally incapacitated people. In Germany last month, leading politicians accused the cult of trying to infiltrate a major party as well as launching an immense recruitment drive in the east.

Sometimes even the church's biggest zealots can use a little protection. Screen star Travolta, 37, has long served as an unofficial Scientology spokesman, even though he told a magazine in 1983 that he was opposed to the church's management. High-level defectors claim that Travolta has long feared that if he defected, details of his sexual life would be made public. "He felt pretty intimidated about this getting out and told me so," recalls William Franks, the church's former chairman of the board. "There were no outright threats made, but it was implicit. If you leave, they immediately start digging up everything." Franks was driven out in 1981 after attempting to reform the church.

The church's former head of security, Richard Aznaran, recalls Scientology ringleader Miscavige repeatedly joking to staffers about Travolta's allegedly promiscuous homosexual behavior. At this point any threat to expose Travolta seems superfluous: last May a male porn star collected \$100,000 from a tabloid for an account of his alleged two-year liaison with the celebrity. Travolta refuses to comment, and in December his lawyer dismissed questions about the subject as "bizarre." Two weeks later, Travolta announced that he was getting married to actress Kelly Preston, a fellow Scientologist.

Shortly after Hubbard's death the church retained Trout & Ries, a respected, Connecticut-based firm of marketing consultants, to help boost its public image. "We were brutally honest," says Jack Trout. "We advised them to clean up their act, stop with the controversy and even to stop being a church. They didn't want to hear that." Instead, Scientology hired one of the country's largest p.r. outfits, Hill and Knowlton, whose executives refuse to discuss the lucrative relationship. "Hill and Knowlton must feel that these guys are not totally off the wall," says Trout. "Unless it's just for the money." One of Scientology's main strategies is to keep advancing the tired argument that the church is being "persecuted" by antireligionists. It is supported in that position by the American Civil Liberties Union and the National Council of Churches. But in the end, money is what Scientology is all about. As long as the organization's opponents and victims are successfully squelched,

Scientology's managers and lawyers will keep pocketing millions of dollars by helping it achieve its ends.

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## Mining Money in Vancouver

### [Sidebar; page 54]

One source of funds for the Los Angeles-based church is the notorious, self-regulated stock exchange in Vancouver, British Columbia, often called the scam capital of the world. The exchange's 2,300 penny-stock listings account for \$4 billion in annual trading. Local journalists and insiders claim the vast majority range from total washouts to outright frauds.

Two Scientologists who operate there are Kenneth Gerbino and Michael Baybak, 20-year church veterans from Beverly Hills who are major donors to the cult. Gerbino, 45, is a money manager, marketmaker and publisher of a national financial newsletter. He has boasted in Scientology journals that he owes all his stock-picking success to L. Ron Hubbard. That's not saying much: Gerbino's newsletter picks since 1985 have cumulatively returned 24%, while the Dow Jones industrial average has more than doubled. Nevertheless Gerbino's short-term gains can be stupendous. A survey last October found Gerbino to be the only manager who made money in the third quarter of 1990, thanks to gold and other resource stocks. For the first quarter of 1991, Gerbino was dead last. Baybak, 49, who runs a public relations company staffed with Scientologists, apparently has no ethics problem with engineering a hostile takeover of a firm he is hired to promote.

Neither man agreed to be interviewed for this story, yet both threatened legal action through attorneys. "What these guys do is take over companies, hype the stock, sell their shares, and then there's nothing left," says John Campbell, a former securities lawyer who was a director of mining company Athena Gold until Baybak and Gerbino took it over.

The pattern has become familiar. The pair promoted a mining venture called Skylark Resources, whose stock traded at nearly \$4 a share in 1987. The outfit soon crashed, and the stock is around 2 cents. NETI Technologies, a software company, was trumpeted in the press as "the next Xerox" and in 1984 rose to a market value of \$120 million with Baybak's help. The company, which later collapsed, was delisted two months ago by the Vancouver exchange.

Baybak appeared in 1989 at the helm of Wall Street Ventures, a start-up that announced it owned 35 tons of rare Middle Eastern postage stamps -- worth \$100 million -- and was buying the world's largest collection of southern Arabian stamps (worth \$350 million).



Steven C. Rockefeller Jr. of the oil family and former hockey star Denis Potvin joined the company in top posts, but both say they quit when they realized the stamps were virtually worthless. "The stamps were created by sand-dune nations to exploit collectors," says Michael Laurence, editor of Linn's Stamp News, America's largest stamp journal. After the stock topped \$6, it began a steady descent, with Baybak unloading his shares along the way. Today it trades at 18 cents.

ATHENA GOLD'S WILLIAM JORDAN  
Cult member got cheap stock, then ran him  
out of the company

Athena Gold, the current object of Baybak's and Gerbino's attentions, was founded by entrepreneur William Jordan. He turned to an established Vancouver broker in 1987 to help finance the company, a 4,500-acre mining property near Reno. The broker promised to raise more than \$3 million and soon brought Baybak and Gerbino into the deal. Jordan never got most of the money, but the cult members ended up with a good deal of cheap stock and options. Next they elected directors who were friendly to them and set in motion a series of complex maneuvers to block Jordan from voting stock he controlled and to run him out of the company. "I've been an honest policeman all my life and I've seen the worst kinds of crimes, and this ranks high," says former Athena shareholder Thomas Clark, a 20-year veteran of Reno's police force who has teamed up with Jordan to try to get the gold mine back. "They stole this man's property."

With Baybak as chairman, the two Scientologists and their staffs are promoting Athena, not always accurately. A letter to shareholders with the 1990 annual report claims Placer Dome, one of America's largest gold-mining firms, has committed at least \$25.5 million to develop the mine. That's news to Placer Dome. "There is no pre-commitment," says Placer executive Cole McFarland. "We're not going to spend that money unless survey results justify the expenditure."

Baybak's firm represented Western Resource Technologies, a Houston oil-and-gas company, but got the boot in October. Laughs Steven McGuire, president of Western Resource: "His is a p.r. firm in need of a p.r. firm." But McGuire cannot laugh too freely. Baybak and other Scientologists, including the estate of L. Ron Hubbard, still control huge blocks of his company's stock.

[ **Caption:** ATHENA GOLD'S WILLIAM JORDAN. Cult members got cheap stock, then ran him out of the company ]

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[The following part was only in the international version of TIME]

## Pushing Beyond the U.S.:

### Scientology makes its presence felt in Europe and Canada

By Richard Behar

In the 1960s and '70s, L. Ron Hubbard used to periodically fill a converted ferry

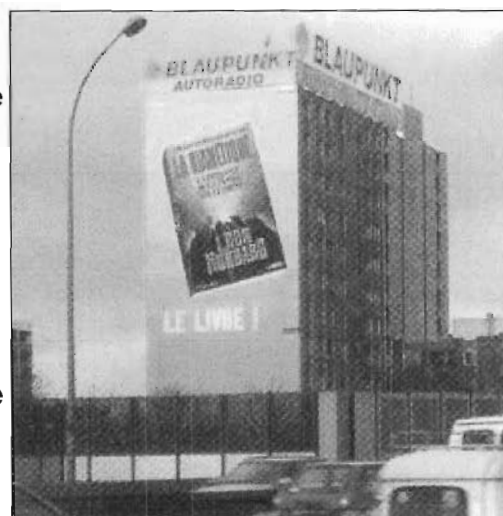
ship with adoring acolytes and sail off to spread the word. One by one, countries -- Britain, Greece, Spain, Portugal, and Venezuela -- closed their ports, usually because of a public outcry. At one point, a court in Australia revoked the church's status as a religion; at another, a French court convicted Hubbard of fraud in absentia.

Today Hubbard's minions continue to wreak global havoc, costing governments considerable effort and money to try to stop them. In Italy a two-year trial of 76 Scientologists, among them the former leader of the church's Italian operations, is nearing completion in Milan. Two weeks ago, prosecutor Pietro Forno requested jail terms for all the defendants who are accused of extortion, cheating "mentally incapacitated" people and evading as much as \$50 million in taxes. "All of the trial's victims went to Scientology in search of a cure or a better life," said Forno, "But the Scientologists were amateur psychiatrists who practiced psychological terrorism". For some victims, he added, "the intervention of the Scientologists was devastating."

The Milan case was triggered by parents complaining to officials that Scientology had a financial stranglehold on their children, who had joined the church or entered Narconon, its drug rehabilitation unit. In 1986 Treasury and paramilitary police conducted raids in 20 cities across Italy shutting down 27 Scientology centers and seizing 100,000 documents. To defend itself in the trial, the cult has retained some of Italy's most famous lawyers.

In Canada, Scientology is using a legal team that includes Clayton Ruby, one of the country's foremost civil rights lawyers, to defend itself and nine of its members who are to stand trial in June in Toronto. The charges: stealing documents concerning Scientology from the Ministry of the Attorney General, the Canadian Mental Health Association, two police forces and other institutions. The case stems from a 1983 surprise raid of the church's Toronto headquarters by more than 100 policemen, who had arrived in three chartered buses; some 2 million pages of documents were seized over a two-day period. Ruby, whose legal maneuvers delayed the case for years, is trying to get it dismissed because of "unreasonable delay."

Spain's Justice Ministry has twice denied Scientology status as a religion, but that has not slowed the church's expansion. In 1989 the Ministry of Health issued a report calling the sect "totalitarian" and "pure and simple charlatanism." The year before, the authorities had raided 26 church centers, with the result that 11 Scientologists stand accused of falsification of records, coercion and capital flight. "The real god of this organization is money," said Madrid examining magistrate Jose Maria Vasquez Honrnbia, before referring the case to a higher court because it was too





complex for his jurisdiction. Eugene Ingram, a private investigator working for Scientology claims he helped get Honrubia removed from the case for leaking nonpublic documents to the press.

In France it took a death to spur the government into action: 16 Scientologists were indicted last year for fraud and "complicity in the practice of illegal medicine" following the suicide of an industrial designer in Lyon. In the victim's house investigators found medication allegedly provided to him by the church without doctor's prescription. Among those charged in the case is the president of Scientology's French operations and the head of the Paris-based Celebrity Centre, which caters to famous members.

Outside the U.S., Scientology appears to be most active in Germany where the attorney general of the state of Bavaria has branded the cult "distinctly totalitarian" and aimed at "the economic exploitation of customers who are in bondage to it." In 1984 nearly 100 police raided the church in Munich. At the time, city officials were reportedly collaborating with U.S. tax inspectors and trying to prove that the cult was actually a profitmaking business. More recently, Hamburg state authorities moved to rescind Scientology's tax reduced status, while members of parliament are seeking criminal proceedings. In another domain, church linked management consulting firms have infiltrated small and middle sized companies throughout Germany, according to an expose published this month in the newsmagazine DER SPIEGEL; the consultants, who typically hide their ties to Scientology, indoctrinate employees by using Hubbard's methods. A German anticult organization estimates that Scientology has at least 60 fronts or splinter groups operating in the country. German politics appears as well to attract Hubbard's zealots. In March the Free Democrats, partners in Chancellor Helmut Kohl's ruling coalition in Bonn, accused Scientology of trying to infiltrate their Hamburg branch. Meanwhile the main opposition party, the Social Democrats, has been warning its members in the formerly com-munist eastern part of the country against exploitation by the church. Even federal officials are being used by the church: one Scientology front group sent copies of a Hubbard written pamphlet on moral values to members of the Bundestag. The Office of Foreign Minister Hans-Dietrich Genscher unwittingly endorsed the Scientologists' message: "Indeed, the world would be a more beautiful place if the principles formulated in the pamphlet, a life characterized by reason and responsibility, would find wider attention."

[end of International Edition-only section]

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## **The Scientologists and Me**

**[Sidebar, page 57]**

Strange things seem to happen to people who write about Scientology. Journalist Paulette Cooper wrote a critical book on the cult in 1971. This led to a Scientology plot (called Operation Freak-Out) whose goal, according to church documents, was

"to get P.C. incarcerated in a mental institution or jail." It almost worked: by impersonating Cooper, Scientologists got her indicted in 1973 for threatening to bomb the church. Cooper, who also endured 19 lawsuits by the church, was finally exonerated in 1977 after FBI raids on the church offices in Los Angeles and Washington uncovered documents from the bomb scheme. No Scientologists were ever tried in the matter.

For the TIME story, at least 10 attorneys and six private detectives were unleashed by Scientology and its followers in an effort to threaten, harass and discredit me. Last Oct. 12, not long after I began this assignment, I planned to lunch with Eugene Ingram, the church's leading private eye and a former cop. Ingram, who was tossed off the Los Angeles police force in 1981 for alleged ties to prostitutes and drug dealers, had told me that he might be able to arrange a meeting with church boss David Miscavige. Just hours before the lunch, the church's "national trial counsel," Earle Cooley, called to inform me that I would be eating alone.



Church attorney Cooley

Alone, perhaps, but not forgotten. By day's end, I later learned, a copy of my personal credit report -- with detailed information about my bank accounts, home mortgage, credit-card payments, home address and Social Security number -- had been illegally retrieved from a national credit bureau called Trans Union. The sham company that received it, "Educational Funding Services" of Los Angeles, gave as its address a mail drop a few blocks from Scientology's headquarters. The owner of the mail drop is a private eye named Fred Wolfson, who admits that an Ingram associate retained him to retrieve credit reports on several individuals. Wolfson says he was told that Scientology's attorneys "had judgments against these people and were trying to collect on them." He says now, "These are vicious people. These are vipers." Ingram, through a lawyer, denies any involvement in the scam.

During the past five months, private investigators have been contacting acquaintances of mine, ranging from neighbors to a former colleague, to inquire about subjects such as my health (like my credit rating, it's excellent) and whether I've ever had trouble with the IRS (unlike Scientology, I haven't). One neighbor was greeted at dawn outside my Manhattan apartment building by two men who wanted to know whether I lived there. I finally called Cooley to demand that Scientology stop the nonsense. He promised to look into it.

After that, however, an attorney subpoenaed me, while another falsely suggested that I might own shares in a company I was reporting about that had been taken over by Scientologists (he also threatened to contact the Securities and Exchange Commission). A close friend in Los Angeles received a disturbing telephone call from a Scientology staff member seeking data about me -- an indication that the cult may have illegally obtained my personal phone records. Two detectives contacted me, posing as a friend and a relative of a so-called cult victim, to elicit negative statements from me about Scientology. Some of my conversations with them were taped, transcribed and presented by the church in affidavits to TIME's

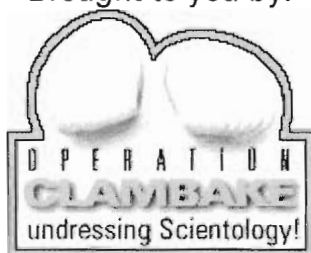


lawyers as "proof" of my bias against Scientology.

Among the comments I made to one of the detectives, who represented himself as "Harry Baxter," a friend of the victim's family, was that "the church trains people to lie." Baxter and his colleagues are hardly in a position to dispute that observation. His real name is Barry Silvers, and he is a former investigator for the Justice Department's Organized Crime Strike Force. (RB)

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**EXHIBIT B**

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**October 23, 2008**

## **Boston Scientology: Sorry No Head On Pike For You**

*By Stephen Underwood*

The Suffolk County DA's office today dropped charges of criminal harassment against Gregg Housh, of the Greater Boston Area, related to protests outside the Church of Scientology's Boston headquarters.

.....

However, a Boston Municipal Court judge continued for one year charges against Housh of disturbing an assembly of worship and disturbing the peace. The ruling means Housh has to stay away from the church's current headquarters and its planned new offices in the South End or the case could be brought to trial, according to the Suffolk County DA's office. In a statement, the office explained the decision to drop the criminal-harassment charge:

After a review of the evidence, prosecutors determined they could not meet their burden of proof beyond a reasonable doubt on this charge [of criminal harassment] and could not in good faith move forward with it.

Had the case gone to trial, prosecutors would have introduced evidence and testimony to show that Housh and others entered the Church of Scientology's Beacon Street building in a boisterous manner during a March 1 protest, disturbing the proceedings and alarming those inside.

Critics say that the charge was brought on because Mr. Housh was the pervoyor of the permits for the first Boston Protest. Scientology, by searching through public record, implicated him by stating he was harassing Scientologists. The ONLY reason he was brought up on charges was because he filed his name with the city in order to reserve public space on the Common for a gathering of Anonymous. This is a public filing and Scientology's lawyers used it to finally get a name of someone in

Anonymous here in Boston. They then turned their full attention to him because he is the only person they had any information to go on. This case right here proves of Fair Game, which the church claims that it was dismissed 40 years ago, but its right here in the open. The policy was further extended in an October 1967 Policy Letter (HCOPL 18 Oct 67 Issue IV, Penalties for Lower Conditions), where

Fair Game is a law which is based in Scientology where Hubbard defined the "penalties" for an individual deemed to be in a "Condition of Enemy":

**ENEMY - SP Order. Fair game. May be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed.**[7]

This lawsuit was the purpose in the form of harassment where the person getting sued, Mr. Housh, had to spend lots of money to just defend himself against a trumped up charge in a court room for months. Housh has endured 10 pre-trial dates for charges including harassment and disturbing the peace. Estimates of the cost of his defense is unknown at the time. However, since Boston Scientology took too long on a case where there was huge doubt, restitution can be in order for Mr. Housh. WBCN, a radio station in Boston, even made a 3 day series about Scientology during its most popular radio hours - the Toucher and Rich show. The radio show tapes prove in favor of Housh. Mr. Housh was unavailable for comment at the time.

The Complete WBCN RADIO TAPES:  
[youtube.com/nalasmithee](http://youtube.com/nalasmithee)

Boston Show (Scientology vs.  
Housh):<http://www.youtube.com/watch?v=xtAsd6Kwa5A>

Part II: <http://www.youtube.com/watch?v=fQtvHqe-JI>

Authors Bio: I am a fighter for civil rights, to expose evils that are not seen by the media. Want to tell the truth and act independently. Very ethical.

[Back](#)

**PROOF OF SERVICE BY HAND**

STATE OF CALIFORNIA

ss.:

COUNTY OF LOS ANGELES

*Lissa Uvizl & Lewis Miranda v. Donald J. Myers, LASC Case No. BS 116339/116340*

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3384 McLaughlin Avenue. Los Angeles, CA 90066.

On October 23, 2008, I served on interested parties in said action the within:

**DEFENDANT'S TRIAL BRIEF**

By faxing a copy to Plaintiff's counsel at (213) 487-5385 and emailing a copy to

[kmoxon@earthlink.net](mailto:kmoxon@earthlink.net)

**Kendrick L. Moxon, Esq.  
Moxon & Kobrin  
3055 Wilshire Boulevard, Suite 900  
Los Angeles, CA 90010**

Attorneys for Plaintiffs,  
Lissa Uvizl and Lewis Miranda

Executed on October 23, 2008, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Graham E. Berry

(Signature)

3384 McLaughlin Avenue, Los Angeles, CA 90066.