



August 25, 2009

Without prejudice

Mr. Colin Fraser
Nickerson Jacquard
Yarmouth, Nova Scotia

Mr. Fraser,

I am in receipt of your letter of August 20, 2009 in which, on behalf of South West Shore Development Authority, you threaten legal action against me for an alleged misuse of the trade name of the Authority.

Some points you should consider:

- 1.) There is, nor has ever been, a trade name registered by your client.
- 2.) Although South West Shore Development Authority is registered with the Registry of Joint Stocks, SWSDA is not, nor does it appear in the Registry database, nor in any filings made by your client with the registry. You will certainly know and have most likely advised your client that even a provincial registration does not confer ANY proprietary rights to a name.
- 3.) SWSDA does not – nor does it seem to ever had - appear in the logo, logotype, stationery or any other graphic device commonly used by businesses to establish a trade name
- 4.) Had your client determined that trade name protection was in its best interests, a simple registration would have been incumbent upon them, especially as they hold themselves out as an authority in business development. That they have failed to do so might, in fact, be the basis for an action against them for some dereliction of duty or such.
- 5.) You know of course, and have likely advised your client, that a suit cannot be brought for trademark infringement, but would have to be based upon “passing off” standards, which would place a substantially greater burden on your client should the matter ever see the light of a courtroom. Any suit of the sort you mention will be lengthy and expensive and, should I prevail as I as assured I would, I will seek costs and damages from your client.
- 6.) The only protection offered to your client would be if, for some reason, there was a confusion – or an attempt to create a confusion - among potential customers of your client about Shelburne County Today or South West Shore Department of Art offering economic development services to municipal agencies – surely a stretch even in a vivid imagination and something there is – nor will be – any shred of evidence to support.



- 7.) You might also inquire if, as the board of directors has previously mandated, this threat of legal action is sanctioned by the board and not just a unilateral decision by Frank Anderson or some other executive.
- 8.) On the face of it, your threatening letter is merely another in a litany of attempts by SWSDA executives to bully me, including this third threat of a lawsuit, defunding of programs and projects to which I lend assistance, removal from meetings, etc etc. It will not be any more effective, I can assure you. None of the several attempts by your client and others to have me cease or alter my publication of news and satire has been effective to date. That should tell you something.

Given the enormous challenges facing your client, including serious economic difficulties, demands from deputy ministers to reform its organization, multi-million dollar lawsuits, actions for contempt, investigations by provincial and perhaps other bodies, you might advise them to spend more time tending to business and less time bullying those of us who are working for serious and lasting improvements in the civic life of our communities.

Regards,

Timothy Gillespie

And copied to the attached list, various citizens, officials and news sources