

STONE HILTON

Wayne Dolcefino
Dolcefino Consulting
1951 Richmond Ave
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wayne@dolcefino.com

via email and certified mail

September 23, 2024

Re: Mark Keough Defamation Notice and Litigation Hold

Mr. Dolcefino:

Stone Hilton has been retained as counsel for Mark Keough in connection with his claims against you and Dolcefino Consulting (together “You”) regarding your recent publication of false, misleading, malicious, and defamatory statements regarding Mr. Keough. These claims include, but are not limited to, defamation, invasion of privacy, tortious interference (including tortious interference with fiduciary duty), violations of the Texas Civil Wiretap Act, conspiracy, and any other claims that are or may become apparent (the “Dispute”).

I. You Must Cease and Desist Your Ongoing Defamation of Mr. Keough

You are requested to immediately cease and desist all of Your false, misleading, malicious, and defamatory statements or publications and take down or retract any videos, social media posts, websites, or other communications related to Mr. Keough. *See* Tex. Civ. Prac. & Rem. Code §§ 73.055, .057. In particular:

- Your website and video titled “The Sins of a Pastor” dated September 10, 2024, available at <https://dolcefino.com/the-sins-of-a-pastor/> and <https://youtu.be/Hp0RCbVcKrA>. This video contains false and defamatory statements by You and third parties that falsely allege Mr. Keough engaged in sexual harassment, alcohol abuse, domestic violence, abuse of his office, abuse of his position as a pastor, and other immoral conduct, as well as misleading and deceptively edited audio recordings of Mr. Keough that were illegally recorded, obtained, and disseminated.



TEXAS LITIGATORS
600 Congress Ave., Suite 2350, Austin, TX 78701
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- Your X post related to “The Sins of a Pastor” dated September 10, 2024, available at <https://x.com/WayneDolcefino/status/1833560955344785443>. This post falsely accuses Mr. Keough of lying and contains other false and defamatory material including the material described above.
- Your X post dated September 19, 2024, and the video contained therein, available at <https://x.com/WayneDolcefino/status/1836845621871005955>. This post falsely accuses Mr. Keough of lying and contains a deceptively edited audio recording of Mr. Keough that was illegally recorded, obtained, and disseminated.

Each of these statements or publications is defamatory and designed to harass, inflict distress, impugn Mr. Keough’s character, reduce his standing in the community, and inflict other injury to Mr. Keough’s reputation. Accordingly, each statement or publication has inflicted injury on Mr. Keough and constitutes legally actionable defamation.

Your failure to make a sufficient correction, clarification, or retraction may subject You to exemplary damages in litigation. *See* Tex. Civ. Prac. & Rem. Code § 73.059.

II. You Have a Duty to Preserve Documents

This letter further serves as Your notice that You and Dolcefino Consulting’s board, officers, employees, and agents, as well as the other entities and individuals with whom You are coordinating, may have records, information, documents, other tangible materials, and electronically stored information (“ESI”) in Your/their possession, custody, or control that may be relevant to the Dispute for which there is a legal obligation to preserve.

The above-described individuals and entities must immediately take all steps necessary to preserve any such items or information existing in any form that are potentially relevant to the Dispute in any way. These include, but are not limited to, the following:

- All documents, communications, and information regarding Mark Keough or Kim Keough.
- All communications with Susan Kenningham, Chad Pinkerton, Woodlands Bible Church (including any employee, Elder, or representative of Woodlands Bible Church), Gerry Benzel, Steve Scott, Lonnie Harrison, Scott Leaf, or Courtney Gawel.
- All documents and information concerning Susan Kenningham, Chad Pinkerton, Woodlands Bible Church (including any employee, Elder, or representative of



Woodlands Bible Church), Gerry Benzel, Steve Scott, Lonnie Harrison, Scott Leaf, or Courtney Gawel, or shared among or between You and one or any of these individuals.

- All documents, communications, and information that served as the basis, in whole or in part, any of Your above-described publications or statements, including but not limited to any and all audio or video recordings of Mr. Keough.
- All audio and video recordings of the individuals who appear or are referenced in the above-described publications or statements.
- All public information act requests sent to Montgomery County or any official or employee of Montgomery County, as well as any related documents, communications, and information, including but not limited to all documents received in response to such requests.

Your preservation obligations extend to all types of information, including all internal or external communications, whether confidential or not, privileged or not, and whether or not created before or after the date of this letter. It includes duplicates with handwritten notations or other markings or additions. It includes hardware and electronic processing systems, even if they are replaced. It includes emails, internet web activity and history, activity logs, voice communications or messages, text messages, and voicemails. It includes any potentially relevant information of any type that is contained in any file or information-technology system without regard to whether such information exists elsewhere.

Much of the information subject to your preservation obligations may be stored on current and former computer systems or other media and devices, including personal digital assistants, voice-messaging systems, online repositories or drives, and cell phones. By way of example—and not as an exhaustive list—potentially relevant information includes information that is electronically, magnetically, or optically stored as: digital communications (*e.g.*, e-mail, texts, voice mail, instant messaging, Slack); word-processed documents (*e.g.*, Word or WordPerfect documents and drafts); spreadsheets and tables (*e.g.*, Excel or Lotus 123 worksheets); accounting application data (*e.g.*, QuickBooks, Money, Peachtree data files); image and facsimile files (*e.g.*, .PDF, .TIFF, .JPG, .GIF images); databases (*e.g.*, Access, Oracle, SQL Server data, SAP); contact and relationship management data (*e.g.*, Outlook, ACT!); calendar and diary application data (*e.g.*, Outlook PST, Yahoo, blog tools); online access data (*e.g.*, Temporary Internet Files, History, Cookies); presentations (*e.g.*, PowerPoint, Corel Presentations); network access and server activity logs; project management application data; computer aided design/drawing (CAD) files; and backup and archival files (*e.g.*, Zip, .GHO).



You must preserve all potentially relevant information and materials in your possession, custody, or control, regardless of location, and you must ensure that the associated entities and individuals described above do the same. You should immediately instruct all such entities and individuals that their obligations include, but are not limited to, the following:

- Suspend any routine document or data destruction policies, including suspending features of any information system or device that, in routine operation, causes the loss of potentially relevant ESI;
- Preserve the contents of online or browser-based e-mail accounts, mailboxes, or services, such as GMail, Yahoo Mail, etc., including Sent, Deleted, and Archived message folders;
- Cease overwriting, erasing, destroying, or discarding back-up information, drives, tapes, or other media;
- Preserve and not dispose of relevant hardware unless an exact replica of any files or information (*e.g.*, a mirror image) that hardware possesses is made;
- Preserve and not destroy passwords, decryption procedures (and accompanying software), network access codes, ID names, manuals, tutorials, written instructions, and deconstruction or reconstruction software;
- Refrain from deleting any emails or electronic documents, and disable any automatic system that deletes such materials;
- Refrain from discarding any paper documents, and from destroying any part of any existing document (*e.g.*, by hole-punching through handwriting);
- Ensure paper documents are stored securely where they will not suffer damage or otherwise be accidentally destroyed;
- Refrain from discarding, erasing, or otherwise reformatting any electronic device, ensuring that the data on such devices remains intact and accessible; and
- Maintain all other pertinent information and tools needed to access, review, and reconstruct any potentially relevant ESI.

This preservation duty encompasses both tangible things as well as data and ESI, and the failure to preserve such materials may constitute spoliation of evidence. If you dispute any of these



obligations, please immediately notify us so that we can take appropriate action, including obtaining injunctive relief to prevent the destruction of potentially relevant materials.

This letter is not intended to set forth Mr. Keough's entire position regarding the Dispute. Nothing in this letter is a limit on, or waiver of, Mr. Keough's claims, rights, defenses, or remedies, all of which are expressly reserved.

We look forward to Your prompt compliance with our request to cease and desist Your ongoing defamation of our client. If You wish to avoid litigation of this matter, please reach out to us as soon as possible to confirm Your compliance with this request and schedule a time to discuss the other terms of a potential resolution.

Regards,



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