

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

11 CV 0942

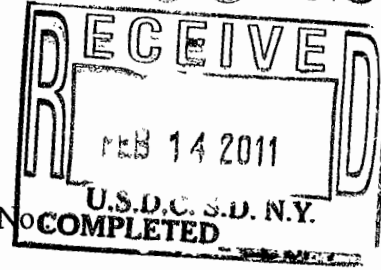
NAKED COWBOY)
D/B/A NAKED COWBOY ENTERPRISES)

Plaintiff,)

v.)

CBS and BELL-PHILLIP TELEVISION)

Defendants.)



Case No

Judge:

February 11th, 2011

**COMPLAINT FOR TRADEMARK INFRINGEMENT, UNFAIR COMPETITION,
FALSE DESCRIPTION, FALSE ADVERTISING, PASSING OFF, DILUTION OF
FAMOUS TRADEMARK, COMMERCIAL MISAPPROPRIATION, FRAUD,
DECEPTIVE ACTS & PRACTICES AND INJURY TO BUSINESS REPUTATION**

DEMAND FOR JURY TRIAL

Plaintiff Robert John Burck a/k/a "Naked Cowboy" of Naked Cowboy Enterprises (hereinafter "Naked Cowboy" or "Plaintiff"), by his attorneys, as and for their Complaint against Defendants, CBS and BELL-PHILLIP TELEVISION, alleges as follows:

I. JURISDICTION AND VENUE

1) This is an action for Trademark Infringement under the Lanham Act, 15 U.S.C. § 1051 et seq.; 15 U.S.C. § 1114(a); Unfair Competition, Passing Off, False Advertising and False Designation of Origin under the Lanham Act, 15 U.S.C. § 1125(a); violation of N.Y.S. Civil Rights Law §§ 50 and 51; and Dilution of a Famous Mark under the Lanham Act, 15 U.S.C. § 1125(c) of the Naked Cowboy's World-Famous Trademark; Commercial Misappropriation; in addition to Fraud under New York State (N.Y.S.) Law, specifically Deceptive Acts and Practices under N.Y.S. Business Law §349; False Advertising Unlawful under N.Y.S. Law §350; and Injury to Business Reputation pursuant to N.Y.S. Business Law §360-1; N.Y. Civil Rights Law §§ 50 and 51.

2) This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338(a) and 15 U.S.C. § 1121. Personal Jurisdiction in this District is proper inasmuch as the Defendants conduct and solicit business here, and maintain their principal place of business here. This Court has related claim jurisdiction over the state law claim pursuant to 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367.

3) This Court has personal jurisdiction over the Defendants because they maintain their principal place of business in the State of New York and/or have minimum contacts here.

4) Venue is proper in this District under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District, and the Defendants maintain their principal place of business in this District or have minimum contacts here.

II. THE PARTIES

5) Naked Cowboy is and at all times mentioned herein was D/B/A Naked Cowboy Enterprises organized, existing, and operating under the laws of Tennessee, having a principal place of business at 1431 Finnland Drive, Nashville TN 37207. See, Exhibit A (Business License).

6) Upon information and belief, Defendant, CBS is a corporation organized, existing and doing business under the laws of the State of New York within the United States of America, which televises programs, and specifically, televises "The Bold and the Beautiful".

7) Upon information and belief, Defendant, BELL-PHILLIP TELEVISION is a corporation organized, existing and doing business under the laws of the State of New York within the United States of America, which produces and directs television programs, and specifically, produces and directs "The Bold and the Beautiful".

III. FACTUAL BACKGROUND

8) Some 13 years ago, to wit, in 1997, Naked Cowboy developed a concept that has resonated with the public in a profound way. In short, the idea in which he pioneered has made him a part of the New York cultural dynamic—as he is observed, enjoyed, and appreciated by native New Yorkers and tourists from around the world alike.

9) The idea, saw him dress up in: briefs; cowboy boots; a cowboy hat; and guitar so as to sing, speak with, and to meet and greet the public in New York City's Times Square. Essentially, he dresses as a cowboy—only a virtually Naked one.

10) The idea then, as now, is unique, original, and authentic. He is a pioneer who has for many years, spread love, cheer, good humor, and fellowship throughout New York and indeed the world—putting a smile on many a face.

11) Whether people are tourists from around the globe or Native New Yorkers, he has charmed them, entertained them, and captivated them, with his guitar, good nature, personality, smile, and gentle approach. Naked Cowboy also performs in Times Square for NYC and The Times Square Alliance as part of their ongoing series "Grate Performances" which are organized street performances to entertain tourists and visitors in Times Square.

12) Since the inception of the concept, he has taken his act on the road, well beyond the City that never sleeps—appearing throughout the country and indeed the world. He has additionally appeared on television, in movies, the radio, magazines, newspapers, and a variety of other mediums.

13) The Naked Cowboy has built his concept into a brand which enjoys both domestic and international recognition and good will. The public, upon whom he depends for his livelihood, have come to support and appreciate his brand in a way that has made him enormously successful and popular.

14) A look at the Naked Cowboy's biography shows a person driven to succeed by bringing his talents to multiple venues so as to captivate the attention and imagination of audiences in New York and throughout the globe. See, Exhibit B (Naked Cowboy Biography).

15) In fact, the Naked Cowboy's "Trail of Events" is an indication that he has worked tirelessly and left no stone unturned in his efforts to popularize his brand and to build it into the successful empire that it is today. He has indeed had an enormous amount of public exposure. One would only need to go to his website to examine the venues in which he has performed to have this confirmed. See, website <http://www.nakedcowboy.com/trailofevents.html>.

16) So as to protect the integrity and propriety of his brand, the Naked Cowboy, filed on October 24th, 2000 for his first trademark, which was registered April 9th, 2002. It was registered under registration # 2560456 and subsequently re-registered May 25th, 2010 under registration # 3792432. See, Exhibit C (Trademark Registration) & Exhibit D

17) Naked Cowboy Enterprises earns its revenues on the quality, strength and reputation of the brand—which must be kept in tact and presented in the manner intended.

18) Based upon the Naked Cowboy brand's recognition and respect, Naked Cowboy has entered into numerous corporate sponsorships, and licensed merchandise is available from vendors throughout New York City. Naked Cowboy's merchandise includes T-Shirts, Postcards, Keychains, Shot Glasses, Music CDs, Pencils, Photos and more. It is essential that the integrity and propriety of the brand be kept in tact.

19) Additional licensed Naked Cowboy products are distributed through New York Popular & Robin Ruth. Another official endorsement/license is with Blue Island Shellfish Farms distributing Naked Cowboy Oysters throughout New York and beyond. These premium oysters are harvested from Long Island Sound and can be found in fine restaurants worldwide.

20) Given the nature of the success of the Naked Cowboy brand, mimicking and other commercial threats associated with those attempting to profit off of the image and likeness of the Naked Cowboy brand became inevitable.

21) The Bold and the Beautiful is a thirty (30) minute daytime drama soap opera, which is directed, sponsored, produced and promoted by Defendant BELL-PHILLIP TELEVISION, that airs on a major U.S. Television Network, which is owned, operated, and otherwise controlled and directed by Defendant CBS.

22) During the week of November 1st, 2010, an episode of "The Bold and the Beautiful" aired where a character by the name of "Oliver" was shown in the "Naked Cowboy" Trademarked outfit, and otherwise depicted in the image and likeness of Naked Cowboy.

23) In being depicted in the image and likeness of Naked Cowboy, Oliver was wearing an identical outfit, to wit: cowboy boots; a cowboy hat; and white underwear briefs, while playing a strapped acoustic guitar. Accordingly, Defendants' efforts to construe him as the Naked Cowboy, and have the public consider him so, could not be any clearer nor more unmistakable.

24) The character, Oliver, sang a song—as is the Naked Cowboy's stock in trade, and he did so while appearing in Naked Cowboy signature garb.

25) The depiction of the Naked Cowboy was that of a person who appeared drunk and sexually charged.

26) In accordance with Nielson television rating estimates, this episode had 3,049,000 viewers during the time frame in which it aired.

27) An additional show produced by Bell-Phillip Television, to wit, "The Clarence B&B Update", reiterated the showing of the Naked Cowboy character Oliver, from the aforementioned Bold and Beautiful episode.

28) The Naked Cowboy's character as acted out by Oliver, was referred to as a "fool" at least two times.

29) The downloads for both of these shows can be viewed by logging on to the following link and saving the folder: <http://nakedcowboy.com/JoeyJackson/CBS.zip>

30) Both episodes referenced herein were subsequently placed on youtube. The CBS depiction of the Naked Cowboy was placed on the network's CBS youtube channel while the Bell Phillip Television's Naked Cowboy depiction was placed on the boldandbeautiful youtube channel.

31) Profits were reaped by the Defendants based upon their use of the Naked Cowboy brand as well as his image, likeness, and direct unmistakable connotation to the public of Oliver being the Naked Cowboy.

32) Advertisers were charged significant fees by Defendants in exchange for allowing their products to be hawked, promoted and sold during the commercials on both episodes.

33) The profiting off of the image, likeness and reputation of the Naked Cowboy continued when both Defendants placed the episodes on youtube where advertisers pay for the right to have their advertisements shown before the selected video clip appears. The profits are subsequently shared between the video channel owners and youtube.

34) Defendants proceeded to title their video clip version of the episode on youtube, "The Bold and the Beautiful - Naked Cowboy". See, Exhibit E (Screen capture). CBS additionally began selling advertising with that video immediately.

35) Defendants also purchased adword advertising from youtube for the specific search term "naked cowboy" which gave this video top page visibility as a "Featured Video" on youtube.

36) As a Featured Video on youtube, when the search term "naked cowboy" was typed in the youtube search engine by users of youtube seeking Naked Cowboy, the page would repeatedly refresh with the Defendants' videos of the episode as a top "Featured Video" search result. See, Exhibit F (Keyword advertising)

37) The Bold and the Beautiful used the words "naked cowboy" as tags for "The Clarence B&B Update" so as to drive seekers of "Naked Cowboy", that is, anyone who typed "naked cowboy" in as a search term, to the clip from the episode at issue See, Exhibit G and Exhibit H (Search term use)

38) When the Defendants' activities were discovered, the CBS video on youtube was first brought to the attention of Lauren Marcello, Mark H Charles, Kaz Tanakh and David Weems of CBS' General Counsel department by email on November 18th, 2010. See, Exhibit I (E-mail from Todd Rubenstein, Executive Director, Naked Cowboy Enterprises).

39) A demand letter and invoice was first sent by email to the attention of Lauren Marcello, Mark H. Charles, Kaz Tanakh and David Weems of CBS' General Counsel department on November 20th, 2010. See, Exhibit J (First demand letter & invoice)

40) A second demand letter and invoice was sent by Fedex to David Weems of CBS' General Counsel and Bradley Bell of Bell-Phillip Television on November 23rd, 2010 providing a December 6th, 2010 deadline. Both packages were received and signed for on November 24th, 2010. See, Exhibit K (Second demand letter & invoice)

41) On December 3rd, 2010 an email was sent by Will LaRue (Assistant to Michael I. Adler and Cynthia Farrelly Gesner of Lichter, Grossman, Nichols, Adler & Feldman, Inc.) with an electronic attachment of Mr. Adler's response on behalf of Bell-Phillip Television. See, Exhibit L (Adler response)

42) On December 3rd, 2010, Todd Rubenstein (Executive Director of Naked Cowboy Enterprises) responded back to Will LaRue by email reply disagreeing with Mr. Adler's assessment and additionally asking Mr. Adler to provide a clear answer as to their intentions to pay for the appropriate license to use our intellectual property. To date, no response has been received. See, Exhibit M (Rubenstein reply e-mail)

43) On or about December 6th, 2010, Rubenstein received a request from Rebecca Borden, Esq., CBS, SVP/Associate General Counsel to allow CBS five additional days to further investigate their use of the trademark. See, Exhibit N (CBS extension request)

44) On or about December 6th, 2010, an extension was granted for one week to fulfill the demands by December 13th, 2010. See, Exhibit O (CBS extension approval)

45) Since that time, numerous extensions have been requested by the Defendants to address this issue, yet no response has been forthcoming. To the extent that lip service is repeatedly provided, without resolution, this suit follows.

FIRST CAUSE OF ACTION

TRADEMARK INFRINGEMENT UNDER LANHAM ACT § 3231.

46) Plaintiff repeats and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 45.

47) Defendants' aforementioned acts constitute trademark infringement in violation of the Lanham Act, 15 U.S.C. § 1114

48) Defendants' CBS and BELL-PHILLIP TELEVISION use of "Naked Cowboy" in the manner described comprises an infringement of Naked Cowboy's registered trademark and is likely to cause confusion, mistake and deception of the public as to the actual identity and origin of the Naked Cowboys.

49) As a proximate result of Defendants' actions, Naked Cowboy has suffered and will continue to suffer damage to its business, good will, reputation, profits and strength of its trademark.

50) By reason of the foregoing acts, Defendants are liable to Naked Cowboy for trademark infringement under 15 U.S.C. § 1114.

SECOND CAUSE OF ACTION

FALSE DESIGNATION OF ORIGIN, PASSING OFF AND FALSE ADVERTISEMENT UNDER LANHAM ACT § 4334.

51) Plaintiff repeats and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 50.

52) The use of "Naked Cowboy" and all of the services, products, promotional advertisements, solicitations and marketing thereto are distinctive marks, and have become associated with and thus exclusively identify Naked Cowboy's business, products and services.

53) Because of Defendants' wrongful use of the Naked Cowboys image and likeness, the public was deceptively led to believe that the depicted character "Oliver" has its origins or was otherwise sponsored by Naked Cowboy in violation of §43 (a) of the Lanham Act, 15 U.S.C. 1125(a), or alternatively, will cause the public to believe that the Naked Cowboy brand is generic, thus destroying the good will and value of the brand.

54) The foregoing acts and conduct of the Defendants' constitutes false designation of origin, passing off, and false advertising in connection with products and services distributed and provided through interstate commerce in direct violation of §43 (a) of the Lanham Act, 15 U.S.C. 1125(a).

THIRD CAUSE OF ACTION
DILUTION OF MARK

55) Plaintiff repeats and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 54.

56) The Naked Cowboy is a famous Trademark within the meaning of the Anti-Dilution Act, 15 U.S.C. 1125(c).

57) Naked Cowboy had no control over the manner in which Defendants depicted the Naked Cowboy in their segment. As a result of Defendants' misappropriation, the distinctive qualities of Naked Cowboy were diluted.

58) Defendants' wrongful conduct constituted an extreme threat to the distinctiveness of Naked Cowboy as Naked Cowboy has expended extreme effort to develop and maintain its brand through strict quality control.

FOURTH CAUSE OF ACTION
FALSE DESCRIPTION

59) Plaintiff repeats and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 58.

60) Defendants' depiction of Naked Cowboy was such a colorable imitation and copy of Naked Cowboy's trademark established in the consumer market that Defendants' use thereof in the context of the aforementioned segment, created confusion, mistake, and deception as to the affiliation, connection or association of Naked Cowboy brand.

61) Naked Cowboy avers that Defendants' use of the Naked Cowboy's image and likeness was a false description or representation of such business or products under 15 U.S.C. § 1125(a) (Section 43(a) of the Lanham Act).

FIFTH CAUSE OF ACTION
DECEPTIVE ACTS AND PRACTICES PURSUANT TO
N.Y.S. BUSINESS LAW § 349

62) Plaintiff repeats and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 61.

63) The use of "Naked Cowboy" and all of the services, products, promotional advertisements, solicitations and marketing thereto are distinctive marks, and have become associated with and thus exclusively identify Naked Cowboy's business, products and services.

64) Because of Defendants' wrongful use of the name Naked Cowboy, the public was deceptively led to believe that the Naked Cowboy sponsored and otherwise supported same in violation of N.Y.S. Business Law §349, or alternatively, will cause patrons to believe that the Naked Cowboy brand is generic, thus destroying the good will and value of the brand.

SIXTH CAUSE OF ACTION
FALSE ADVERTISING UNLAWFUL PURSUANT TO
N.Y.S. BUSINESS LAW §350

65) Plaintiff repeats and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 64.

66) Defendants' use of the Naked Cowboy mark likely caused confusion, mistake, and deception among the public, thereby causing and continuing to cause damage to Naked Cowboy.

SEVENTH CAUSE OF ACTION
COMMERCIAL MISAPPROPRIATION &
VIOLATION OF N.Y.S. CIVIL RIGHTS LAW §§ 50 and 51

67) Plaintiff repeats and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 66.

68) Defendants herein misappropriated the Naked Cowboy brand by using his image and likeness for commercial benefit and profit, without permission, and without appropriation, licensing, sharing of profits, or any authorization. Defendants' conduct constitutes an unauthorized use of the Naked Cowboy's likeness for commercial profit, as defined under and/or pursuant to N.Y.S. Civil Rights Law §§ 50 and 51.

69) Defendants have engaged in this selfish exploitation of Plaintiff's identity and persona for their own personal and commercial gain, and said Defendants have maliciously and unlawfully invaded Plaintiff's privacy and/or publicity rights in violation of §§ 50 and 51 of the N.Y.S. Civil Rights Law.

EIGHTH CAUSE OF ACTION
COMMON LAW FRAUD

70) Plaintiff repeats and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 69.

71) Defendants' wrongful use of the Naked Cowboys image and likeness caused the public to be deceived and otherwise misled, thereby causing said viewers to construe that the depicted character "Oliver" has its origins or was otherwise sponsored by Naked Cowboy. Defendants did so with intent to deceive, defraud and otherwise mislead the viewers into believing that said character was indeed the Naked Cowboy or had the support, sponsorship or endorsement of the Naked Cowboy brand when in fact none was secured.

NINTH CAUSE OF ACTION
INJURY TO BUSINESS REPUTATION PURSUANT TO
N.Y.S. BUSINESS LAW § 360-1

72) Plaintiffs repeat and hereby incorporate herein by reference, as though specifically pleaded herein, the allegations of paragraphs 1 through 71.

73) Naked Cowboy alleges that Defendants' use of the Naked Cowboys image and likeness created injury to Naked Cowboy's business reputation because of the manner in which the character "Oliver" was depicted and how he comported himself— along with the repeated references to him being a fool, as well as the drunken and sexually charged manner in which he appeared. As such, persons watching said program would likely be left with a negative impression of the Naked Cowboy. Accordingly, the business reputation of Naked Cowboy and the goodwill that he enjoys in connection with the Naked Cowboy trademark are likely to suffer, have suffered, and are continuing to suffer.

WHEREFORE, Plaintiff prays for the following relief:

1) That, pursuant to 15 U.S.C. § 1117, et al and N.Y.S. Business Law §§349, 350 and N.Y.S. Civil Rights Law §§ 50 and 51, et al, Defendants be held liable for all damages suffered by Naked Cowboy, to wit, \$1,500,000.00 resulting from the acts alleged herein, as well as all punitive damages incurred as a result of same;

2) That, pursuant to 15 U.S.C. § 1117, et al and N.Y.S. Business Law §§349, 350 N.Y.S. Civil Rights Law §§ 50 and 51, et al, Defendants be compelled to account to Naked Cowboy for any and all profits derived by it from its illegal acts complained of herein;

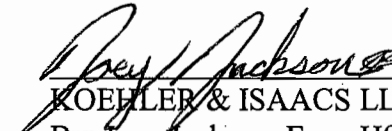
3) That the Defendants be ordered pursuant to 15 U.S.C. § 1118, et al, and N.Y.S. Business Law §§349, 350 and N.Y.S. Civil Rights Law §§ 50 and 51, et al, to deliver up for destruction all DVD's, clips, youtube, internet, and other mediums in which said program was exhibited, displayed, revealed, or shown as a result of the television segment at issue, which bear a trademark found to infringe Naked Cowboy's trademark rights;

4) That the Court declare this to be an exceptional case and award Naked Cowboy its full costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;

5) That the Court grant Naked Cowboy any other remedy to which it may be entitled as provided for in 15 U.S.C. §§ 1116 and 1117 or under applicable state law; and,

6) For such and other further relief that the court deems just and proper.

Dated: New York, New York
February 11, 2011

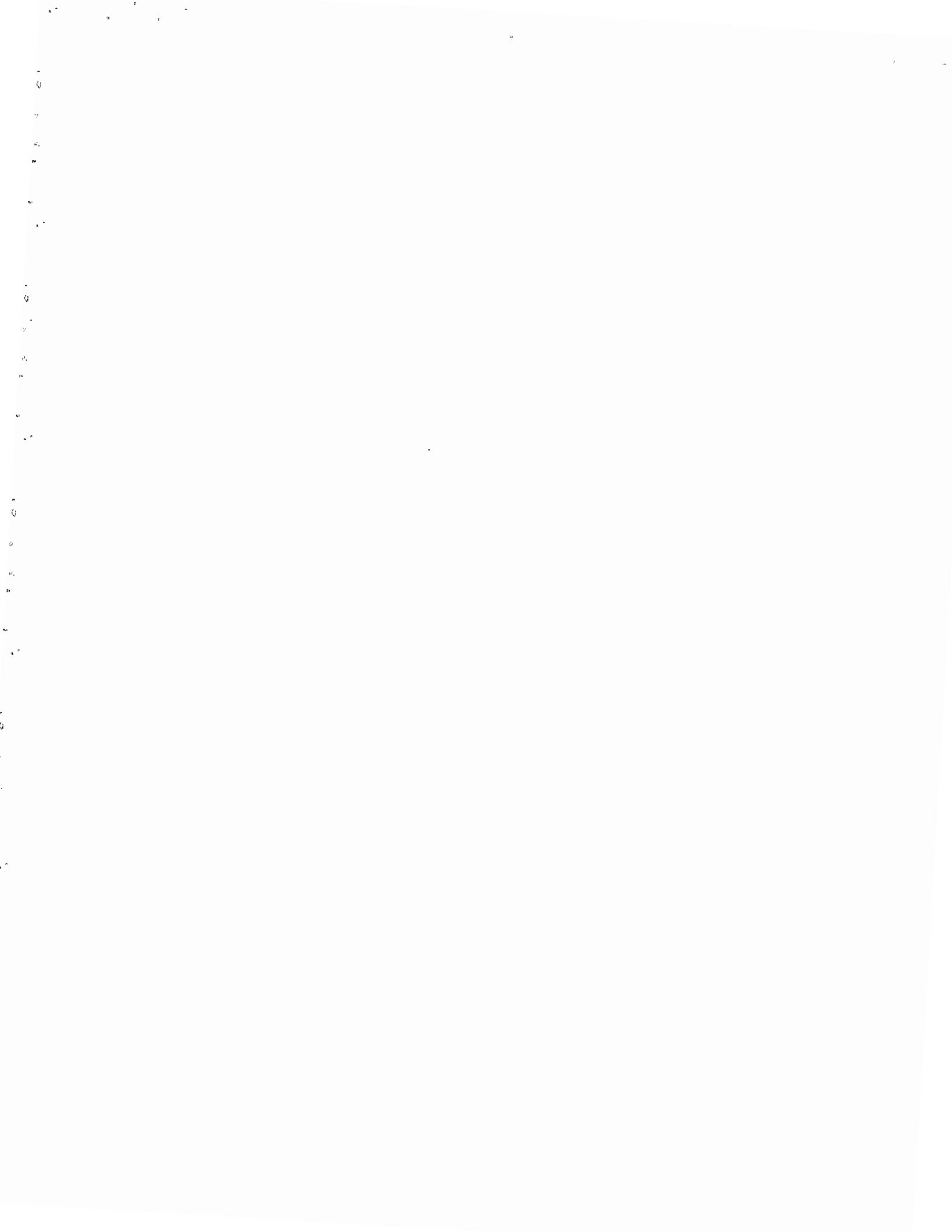


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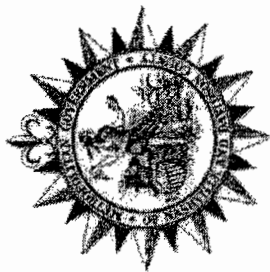
CBS Headquarters
51 W. 52nd Street
New York, NY 10019-6188

Bell-Phillip Television
7800 Beverly Blvd., Rm. 3771
Los Angeles, CA 90036



**JOHN
ARRIOLA**
COUNTY CLERK

523 MAINSTREAM DRIVE
P.O. BOX 196333
NASHVILLE, TN 37219-6333



METROPOLITAN NASHVILLE
AND DAVIDSON COUNTY
BUSINESS TAX LICENSE RECEIPT

RECEIPT NUMBER 680561
BUSINESS NUMBER 158514

OWNER 1

TODD ROSENSTEIN
OWNER 2

BUSINESS LOCATION ADDRESS

NAKED COWBOY ENTERPRISES
1431 FINNLAND DR
NASHVILLE TN 37207

MAILING NAME AND ADDRESS

NAKED COWBOY ENTERPRISES
1431 FINNLAND DR
NASHVILLE TN 37207

THIS LICENSE EXPIRES 6/30/2011

↓ Issuance of this license does not necessarily indicate this location is properly zoned.

* MUST DISPLAY UPPER PORTION OF
THIS LICENSE. FOLD ON
DOTTED LINE.

CLASS 3 BUSINESS

TAX PERIOD

FROM: 7/1/2009
TO: 6/30/2010

STATE SALES TAX NUMBER:
000000000

ISSUE DATE: 7/7/2010

John Arriola
COUNTY CLERK

LAWRENCE
DEPUTY CLERK

METRO (U.S.D.)

COUNTY (G.S.D.)

TOTAL GROSS SALES	
LESS DEDUCTIONS	
TAXABLE GROSS SALES	
RETAIL	<u> </u> %
WHOLESALE	<u> </u> %
TAX DUE	
CREDITS	
PENALTY ON TAX DUE	
INTEREST ON TAX DUE	
RECORDING FEE	
MINIMUM TAX	
PENALTY ON MINIMUM TAX	
INTEREST ON MINIMUM TAX	
ADJUSTMENTS	
TOTAL TAX DUE	

15.00

15.00

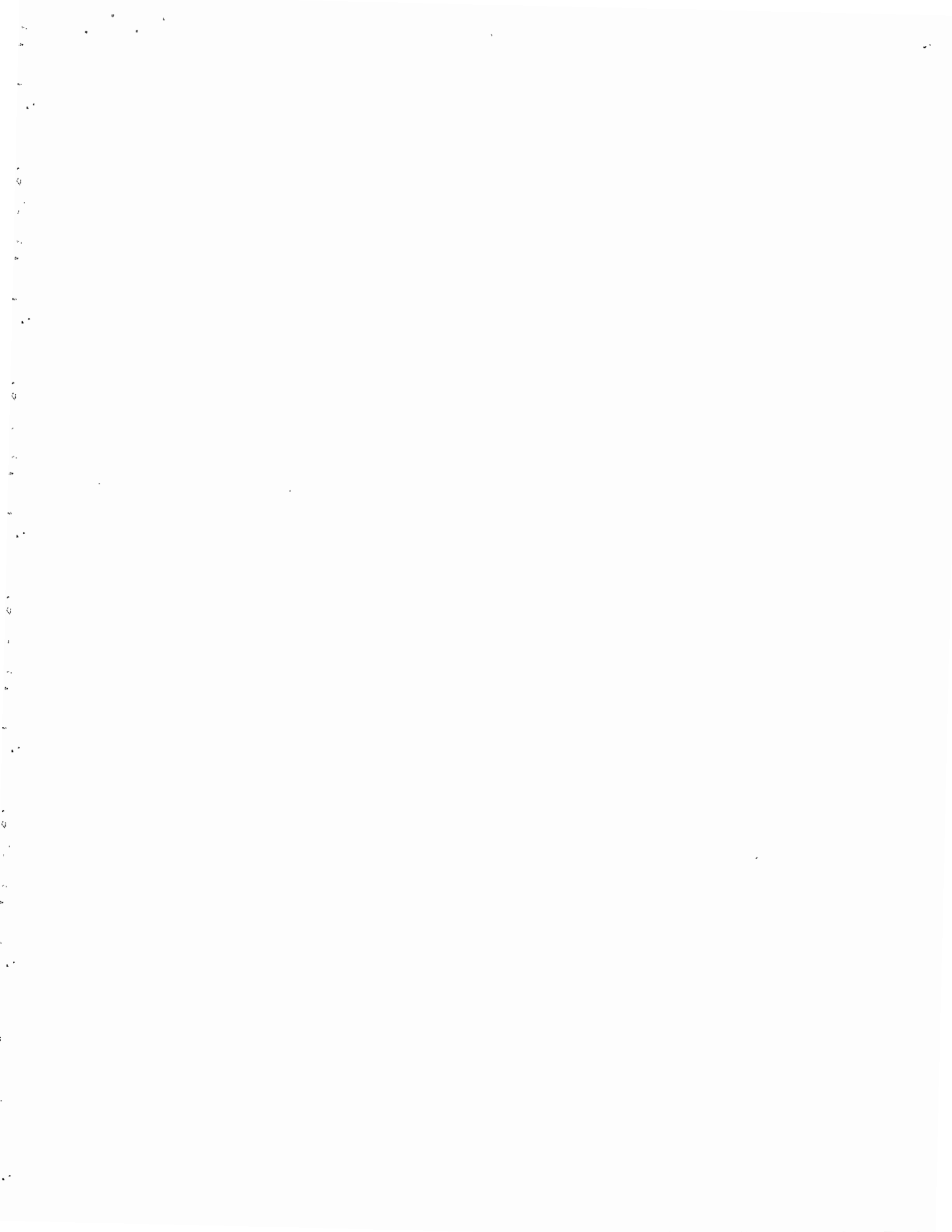
15.00

15.00

30.00

TOTAL COMBINED METRO AND
COUNTY TAX

TAXPAYER'S COPY



NAKED COWBOY

www.nakedcowboy.com
866-99-NAKED

Born Robert John Burck December 23, 1970 in Cincinnati, OH.

Burck is an American Busker who has claimed worldwide fame in association with New York City's Times Square. He wears only cowboy boots, a hat, and briefs with his registered Trademark "Naked Cowboy" hand painted on his butt in red and blue. He can be seen on any given day in Times Square regardless of rain, sleet, snow, terrorist or assassin threats with his guitar strategically placed to give the illusion of nudity.

Burck began busking as Naked Cowboy Christmas Day in 1997 where Naked Cowboy first appeared on Venice Beach in Los Angeles. He discovered that he earned much more money after a friend suggested to him that he dress only in his underwear in order to generate higher earnings. Burck has a bachelor's degree in political science from the University of Cincinnati.

Although he is best known as a fixture of New York City's Times Square where tour guides on passing buses point him out, Burck is also a regular in the streets of the French Quarter during the New Orleans Mardi Gras season. He also makes appearances in his hometown of Cincinnati, at the Memorial Day weekend Taste of Cincinnati festival and the Riverfest Labor Day Festival. He also can be seen annually at events in Austin, Texas, during the South by Southwest Music Conference, Nashville, TN during Country Music Association's Fanfare and he travels internationally on a regular basis for corporate events and has visited such countries as Germany, Japan, Australia and Ireland. A complete list of every day of Naked Cowboy's life can be found on his website under the title "Trail Of Events". This day by day account is accurate back to 1997 and can be found at:

nakedcowboy.com/trailofevents.html

On December 10, 2008 he was officially registered as a marriage officiant by the City of New York after becoming an Ordained Minister.

As the popularity of Naked Cowboy grew, Burck began to make appearances on television, in music videos, and on other popular media. He auditioned for American Idol during its first season, but was not advanced to the next round. He also tried out for Australian Idol and Star Search, but with the same results. In 2000, he was on the short-lived show Moral Court, where conservative talk show host Larry Elder ruled that, in his opinion, Burck's Naked Cowboy persona was not immoral and not a danger to public safety. Burck replied, "Actually, I think I am an inspiration to public safety." On January 24, 2009, Burck also appeared on the Tubridy Tonight show on Ireland's RTÉ television network, performing his theme song "I'm The Naked Cowboy" accompanied by the Camembert Quartet. There have been discussions of possible television show concepts with several production houses, including Eric Bischoff of Bischoff Hervey Entertainment. There currently is a Naked Cowboy Reality series that can be found on youtube produced by Ron Israel.

Here are Burck's Celebrity Credentials from IMDB:

Survive This (2005) The Naked Cowboy

Der Schein trügt (2009) Himself

Black Mold Exposure (2009) Himself

"The Apprentice" Himself (2 episodes, 2004-2009)

... aka "Celebrity Apprentice" - USA (*seventh season title*)

... aka "The Apprentice 2" - USA (*second season title*)

... aka "The Apprentice Los Angeles" - USA (*sixth season title*)

... aka "The Celebrity Apprentice" - USA (*eighth season title*)

- Episode #8.1 (2009) TV episode Himself

- Ethics Shmethics (2004) TV episode (uncredited) Himself

"Xposé" Himself (1 episode, 2009)

- Episode #3.93 (2009) TV episode (as Robert Burck) Himself

"Le grand journal de Canal+" Himself (1 episode, 2008)

- Episode dated 4 November 2008 (2008) TV episode Himself

The Genius of Charles Darwin (2008) (TV) Himself

"Law & Order: Criminal Intent" Himself (1 episode, 2008)

... aka "Law & Order: CI" - USA (*promotional abbreviation*)

- Vanishing Act (2008) TV episode Himself

Science of Horror (2008) Himself

"Today" Himself (1 episode, 2008)

... aka "NBC News Today" - USA (*promotional title*)

... aka "The Today Show" - USA (*alternative title*)

- Episode dated 25 June 2008 (2008) TV episode Himself

Meet Dave (2008) Himself

"Cristina's Court" Himself (1 episode, 2008)

- Episode dated 2 January 2008 (2008) TV episode Himself

"Big Time" Himself (1 episode, 2004)

... aka "Steve Harvey's Big Time" - USA (*complete title*)

... aka "Steve Harvey's Big Time Challenge" - USA (*new title*)

- Episode #2.4 (2004) TV episode Himself

New York Minute (2004/I) (uncredited) Himself

Creature Feature: 50 Years of the Gill-Man (2004) (V) Himself

"Lonely Planet" Himself (1 episode, 2003)

... aka "Globe Trekker" - USA

- New York 2 (2003) TV episode (as John Robert Burck) Himself

"Troma's Edge TV" (2000) TV series Himself (unknown episodes, 2001)

American Icon (2001) (as John Robert Burck) The Naked Cowboy

Mulva: Zombie Ass Kicker! (2001) (V) Himself

"Howard Stern" Himself (3 episodes, 1999-2000)

- Episode dated 3 October 2000 (2000) TV episode Himself

- Episode dated 7 February 2000 (2000) TV episode Himself

- Episode dated 16 November 1999 (1999) TV episode Himself

"The Howard Stern Radio Show" Himself (3 episodes, 1999-2000)

- Episode dated 20 May 2000 (2000) TV episode Himself

- Episode dated 15 January 2000 (2000) TV episode Himself

- Episode dated 13 November 1999 (1999) TV episode Himself

Burck has also been featured in numerous corporate advertising campaigns. In 2006 he was part of USA Network's "Characters Welcome" campaign, and he also appeared in a Chevrolet commercial that aired during Super Bowl XLI, as well as a Guinness advertisement that aired only in the United Kingdom and Ireland, a Pepsi commercial with Beyoncé directed by Spike Lee and several TV commercials for MTV and VH-1. Burck currently has 10 active corporate endorsement/licensing deals with:

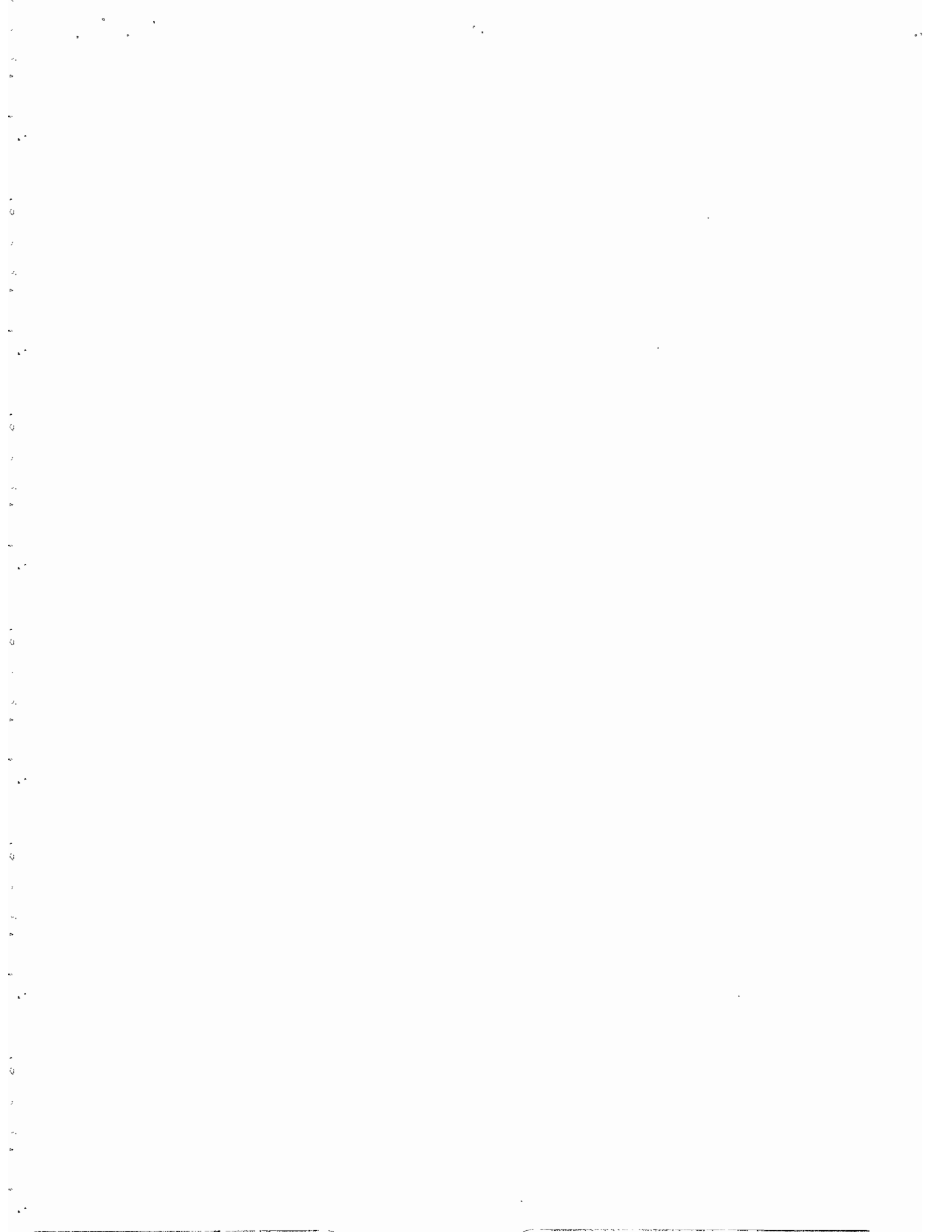
- * **ConstantLink.com**
- * **The Times Square Visitor's Center**
- * **Blue Island Shellfish Farms (Naked Cowboy Oysters)**
- * **Anthony Ruiz Photography**
- * **Kaufman Furs**
- * **Vodafone**
- * **Joseph Abboud**
- * **Tour Supply**
- * **Parillo Performance**
- * **Hudson Hair**

Burck has also made appearances in several music videos, including Cake's "Short Skirt/Long Jacket" and Nickelback's "Rockstar". In 2007, Burck released two albums of his own, signing two independent record deals. One with 4Sight Music Productions recording the pop-rock album "Year of the Cowboy" produced by Lee Evans and Gaetano Lattanzi at JAMBOX Recording Studios in New York City and the second with TMR Records recording the country music album "What The Naked Cowboy Wants To Hear" produced by Todd Rubenstein at TMR Productions, The Funhouse and The Tracking Room recording studios in Nashville, TN. Burck & Rubenstein are currently producing his second album for TMR Records called "X-Rated Country" which will release by fall of 2010. Rubenstein is also Burck's business manager and the Executive Director of Naked Cowboy Enterprises.

Burck has increasing significant success as a world known media icon representing New York City and Times Square with Network Premiers, News Stories, Radio Interviews, Press Releases, Political Events, Live Shows, TV Shows, Music Videos, "Grate Performances" for the Times Square Alliance in conjunction with Event Networks and merchandising sales at the Times Square Visitor's Center, Major Motion Pictures, TV Commercials, etc., etc.

Burck has been declared by the New York State tourism department as "more recognizable than The Statue of Liberty", been named "The Ambassador of New York Tourism" and crowned the Spokesperson for "The Times Square Survival Guide". NAKED COWBOY also officially became the most photographed person in the world at the end of 2007. Burck ran for mayor of NYC in 2009 and he is also the Grand Marshal of NYC's famous Underwear Run as part of the NYC marathon.

In 2010, Rubenstein negotiated Naked Cowboy's biggest endorsement deal to date with Chris Quartuccio of Blue Island Shellfish Farms to harvest "Naked Cowboy Oysters" from Long Island Sound and distribute them live to fine restaurants worldwide. Naked Cowboy Oysters are already available at 22 of NYC's finest restaurants and are starting to appear on menus nationally and internationally.



Print: Sep 5, 2006

78032177

TYPED DRAWING**Serial Number**

78032177

Status

REGISTERED

Word Mark

NAKED COWBOY

Standard Character Mark

No

Registration Number

2560456

Date Registered

2002/04/09

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(1) TYPED DRAWING

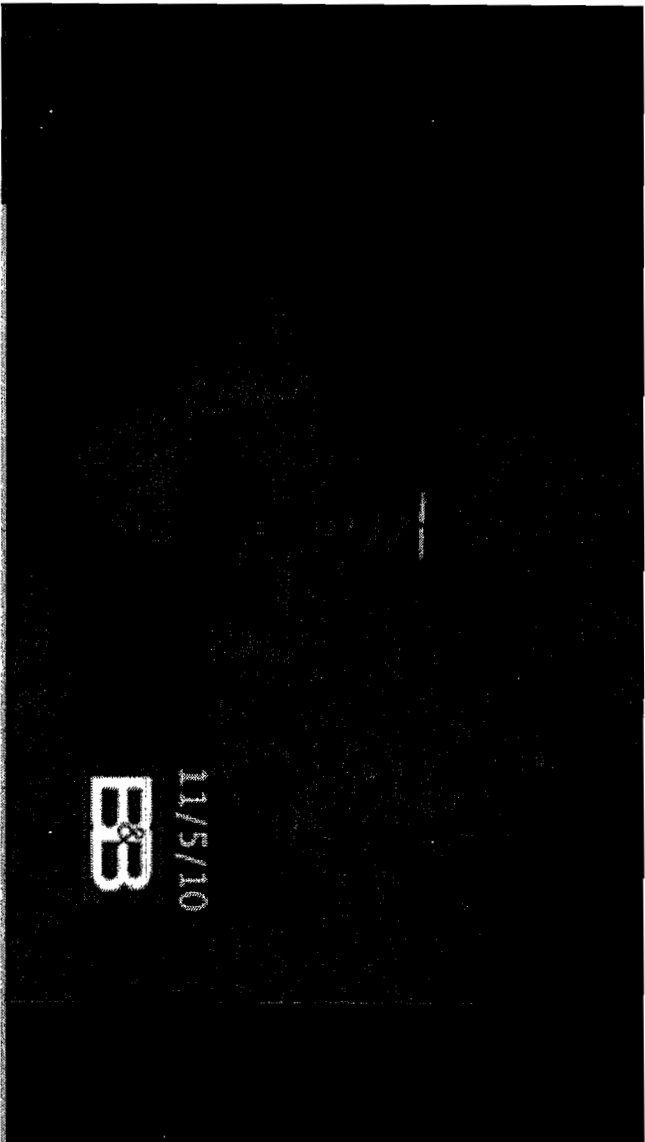
OwnerBurck, Robert John INDIVIDUAL UNITED STATES 36 DeWitt Street
Cincinnati OHIO 452181018**Goods/Services**

Class Status -- ACTIVE. IC 041. US 100.101.107. G & S:
Entertainment services, namely personal appearance by a celebrity;
Entertainment, namely live performances by a musical band;
Entertainment in the nature of circuses; Entertainment, namely live
music concerts; Entertainment in the nature of dance performances;
Educational and entertainment services, namely, providing motivational
and educational speakers; Conducting entertainment exhibitions in the
nature of trade shows, festivals and expositions; Entertainment in the
nature of live musical group, television comedy series and ethnic
festivals; Entertainment in the nature of prerecorded sex-oriented,
joke-oriented and insult-oriented messages by telephone; Entertainment
services, namely, personal appearances by a radio-TV personality,
actor, movie star, model, sports celebrity; Entertainment services,
namely, providing an on-line computer game; Entertainment services,
namely, providing a radio program in the field of entertainment,
comedy, motivational speaking via a global computer network;
Entertainment services, namely, providing a television program in the



The Clarence B&B Update - 11.5.10

boldandbeautiful 1,018 videos Subscribe



Like + Add to Share Embed

1,350

boldandbeautiful November 17, 2010 4 likes, 0 dislikes

Here's what happened the week of 11.1.10 on The Bold and the Beautiful. Amber got what she wanted... but it was Hope who won out in the end. And Thomas has something big plan for the end of the Fashion Show!

Category:
Entertainment





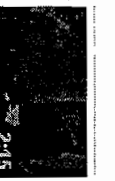




Tags:

Oliver Zack Conroy shirtless underwear tightly writes Adrienne Frantz Amber making out on bed naked cowboy playing guitar fashion show Liam Scott Clifton Hope Kim Makula Nick stolen designs Sally Soap Opera Recaps

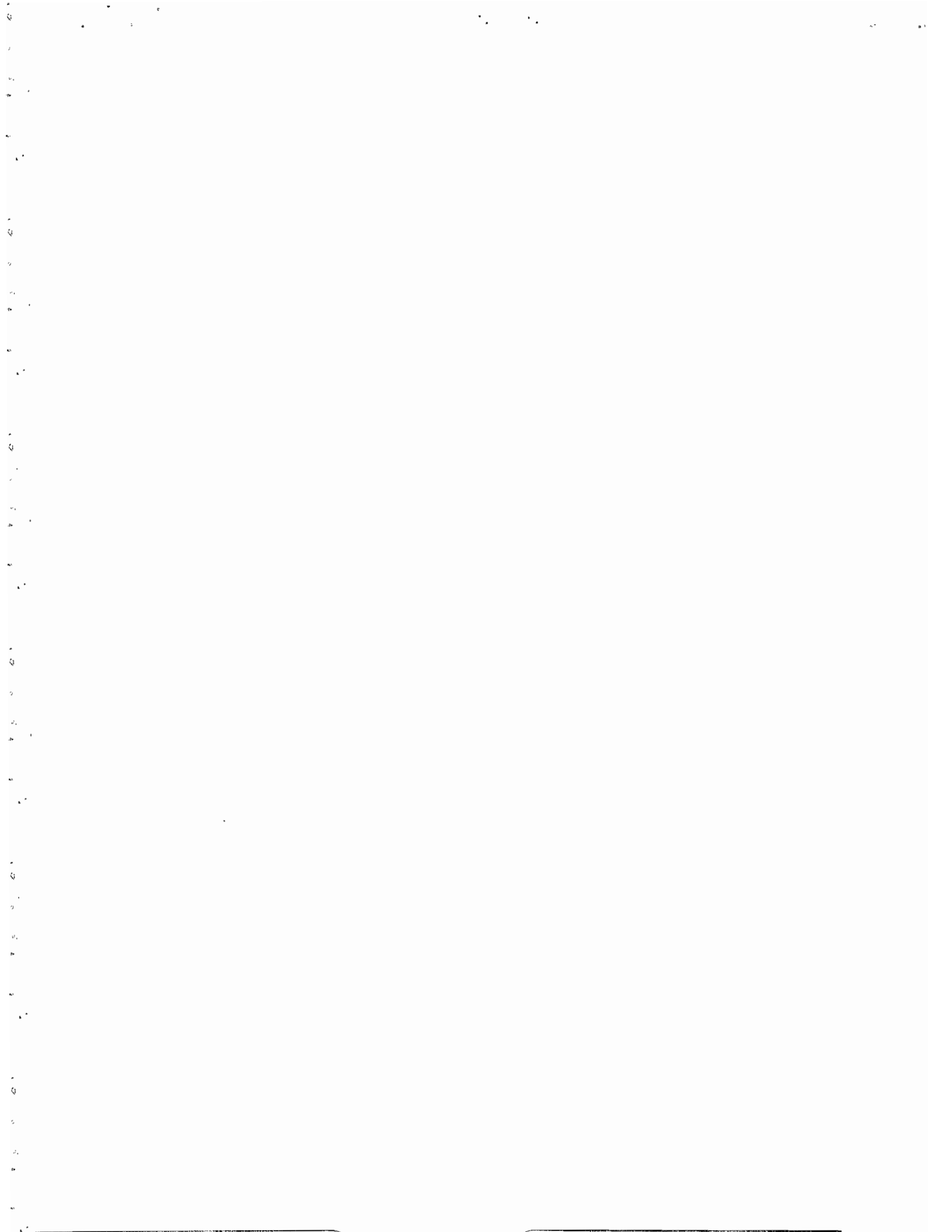
The Clarence B_ampi...mp4

Start | Untitled - Notepad | Youtube - The Claren... | Adobe Photoshop CS4 E...

Suggestions

-  The Clarence B&B Update - 11.12.10 by boldandbeautiful 6,012 views
-  NEXT on THE BOLD AND THE BEAUTIFUL 5947 by boldandbeautiful 4,133 views
-  NEXT on THE BOLD AND THE BEAUTIFUL 5946 by boldandbeautiful 3,506 views
-  NEXT on THE BOLD AND THE BEAUTIFUL 5945 by boldandbeautiful 6,292 views
-  Zack Conroy shirtless 9.4.09 by soapjunkies/shirtless 6,743 views
-  B&B - Zack Conroy Shirtless by BlueTrick87 636 views
-  B&B - Zack Conroy Shirtless / 13 October 2010 by BlueTrick87 1,067 views
-  B&B - Zack Conroy as Oliver / 29 September 2010 by BlueTrick87 3,327 views
-  The Clarence "B&B" Update -

Show all downloads...



From: Todd Rubenstein (toddrubenstein@yahoo.com)
To: Lauren.Marcello@cbs.com;
Date: Thu, November 18, 2010 2:35:57 PM
Cc: MHCharles@cbs.com; kaz.tanakh@cbs.com; nakedcowboyonline@hotmail.com;
JJackson@koehler-isaacs.com; Jessica@koehler-isaacs.com;
Subject: Another CBS / Naked Cowboy Infringement

Dear Lauren,

I hope this email finds you doing well.

I'm not sure if you only represent CBS on behalf of CBS Radio, but I have another issue with CBS that will require resolution and I am hoping that I do not have to go through a mile of red tape to find the right person to deal with.

A segment from the television daytime soap; "The Bold & The Beautiful" aired on television sometime recently and on November 2nd, the segment was placed on youtube to promote the show. I have attached a screen shot of the youtube video page showing the CBS youtube channel's use of our trademark to promote "The Bold & The Beautiful".

<http://www.youtube.com/watch?v=j5vDydxp1Gc>

Obviously, this is a clearly a use of our trademark which was never authorized or licensed and shows total disregard to the use of our intellectual property. I will be seeking payment for this use and I will also demand compensation for the unauthorized use on the show itself.

Please let me know if you are the person to handle this problem so we can begin working towards resolution. If you are not the person, can you help me find the right person to accept notice?

Thank you so much and I look forward to hearing from you!

Sincerely,

TODD **M**ARK **R**UBENSTEIN

Owner

TMR ENTERPRISES

www.tmrpro.com

(O) (615) 865-3002

(C) (615) 306-7316

Executive Director

NAKED COWBOY ENTERPRISES

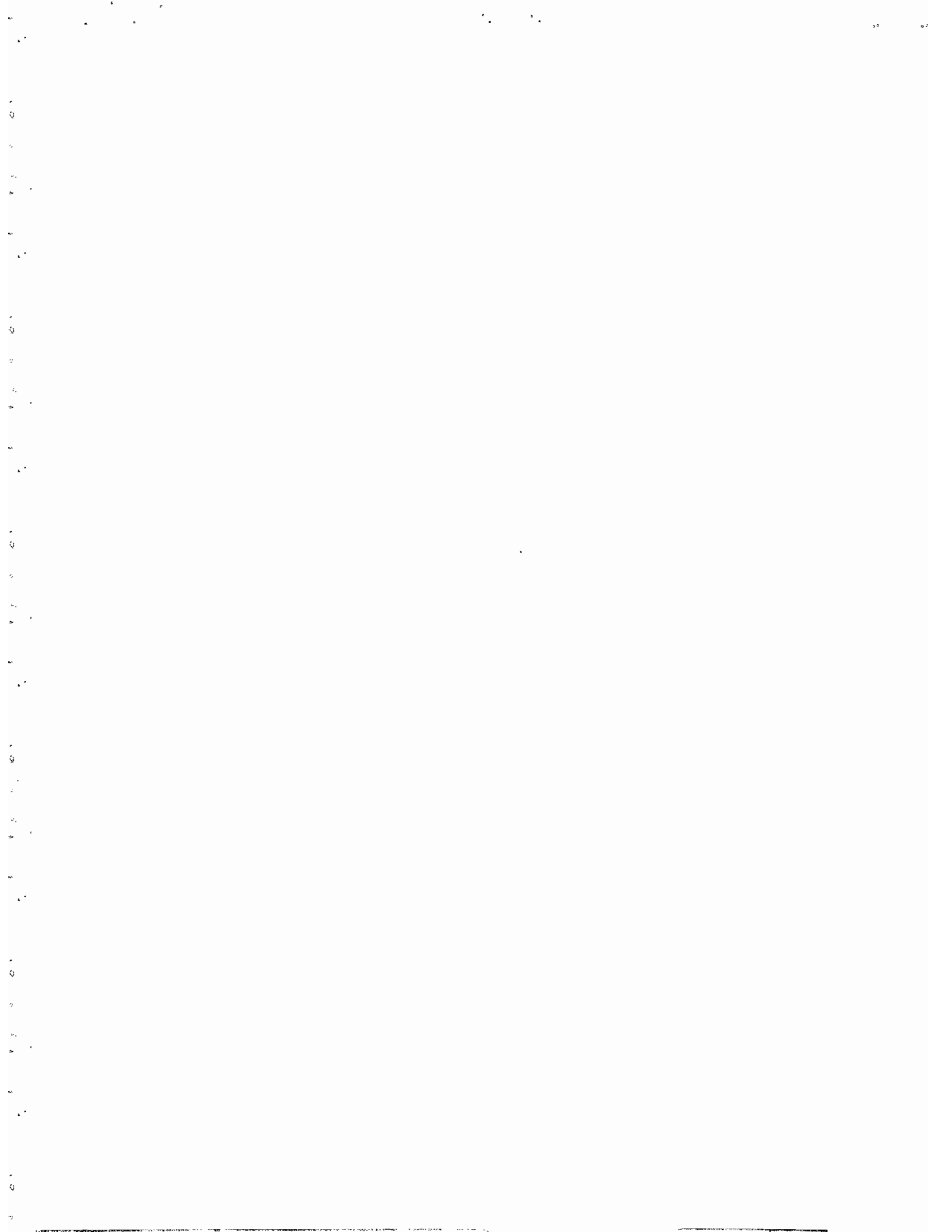
www.NakedCowboy.com

(866) 99-NAKED

(866) 996-2533

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2/9/2011



From: Todd Rubenstein [mailto:toddrubenstein@yahoo.com]
Sent: Saturday, November 20, 2010 2:34 PM
To: LaurenMarcello
Cc: Mark HCharles; KazTanakh; 'Naked Cowboy'; Joey Jackson; Jessica Enchautegui
Subject: Invoice Naked Cowboy/Bold & The Beautiful License

Dear Lauren & Rebecca,

Please see attached invoice for the unauthorized use of Naked Cowboy®. I have also attached a video that outlines what has happened with proof of your unauthorized use of the Naked Cowboy marks.

We prefer this matter to be settled without pursuing any legal recourse.

That being said, I demand the attached invoice be paid by December 6th, 2010 to fully resolve this matter.

If you have any questions, feel free to call me any time.

Sincerely,

T O D D M A R K R U B E N S T E I N

Owner

TMR ENTERPRISES

www.tmrpro.com

(O) (615) 865-3002

(C) (615) 306-7316

Executive Director

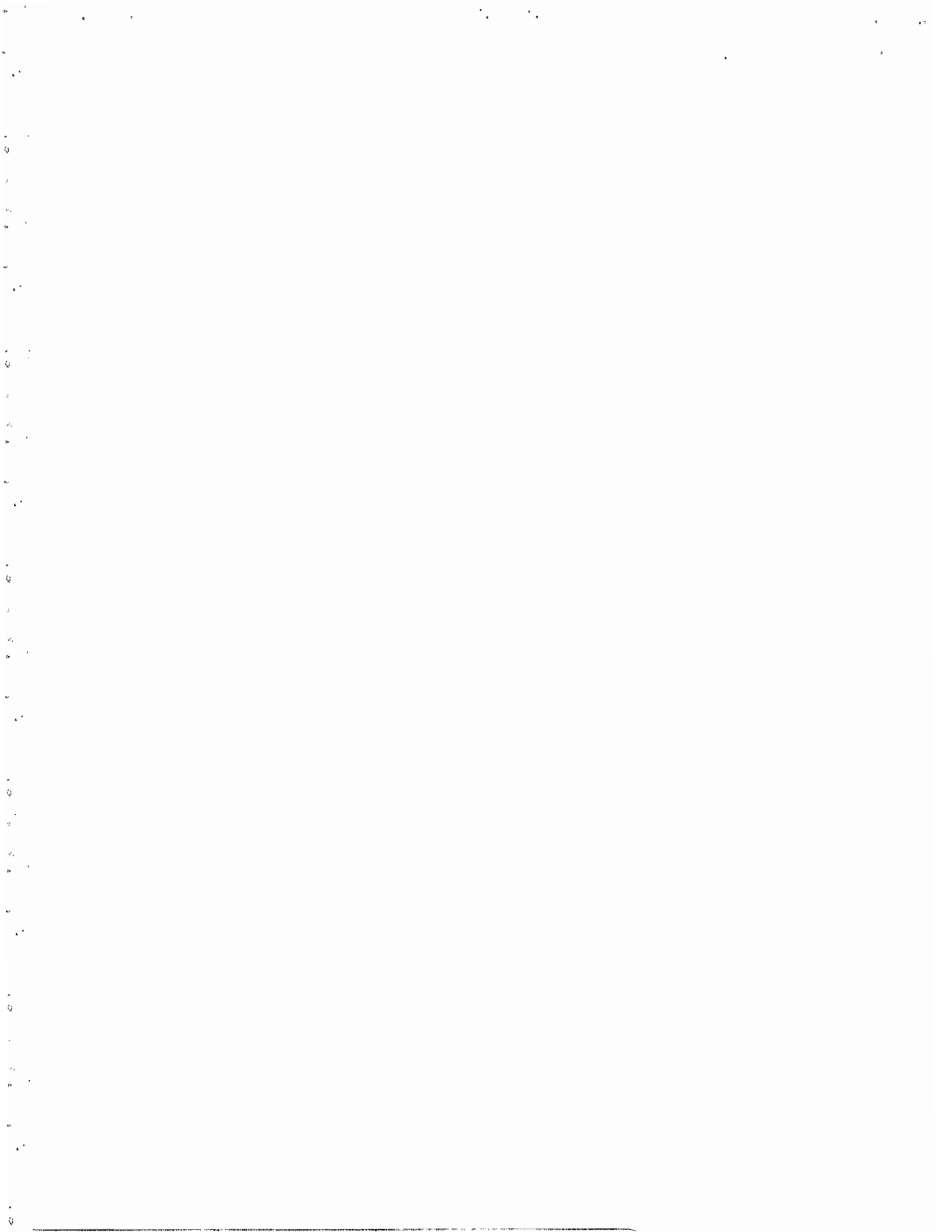
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NAKED COWBOY

ENTERPRISES

1431 Finland Drive ~ Nashville, TN 37207 ~ 866-99-NAKED

11/23/2010

Bradley Bell
Bell-Phillip Television
7800 Beverly Blvd.
Rm. 3771
Los Angeles, CA 90036

David Weems
CBS General Counsel
51 west 52nd street
New York, ny 10019

Mr Bell & Mr. Weems:

It has come to my attention that under the direction of Bell-Phillip Television and their production of The Bold and the Beautiful, a young man on the show has taken on the likeness of "Naked Cowboy" with a character that is called: "Naked Cowboy" for the benefit of promoting the network and the television show.

We are disturbed that CBS without any license or permission has chosen to use the strength of the Naked Cowboy brand to bring better visibility to the network, The Bold and the Beautiful, their corresponding youtube channels and their promotional viability through the internet and on major network primetime television by creating the defaming and potentially damaging adaptation with drama, video and pictures of Naked Cowboy and the use of his trademarked name for commercial gain. The show's depiction of Naked Cowboy is outlandish and crude.

Under normal circumstances we would welcome a use of Naked Cowboy's Trademarks to promote and co-promote the network and television show, however we do require providing authorization and we should have first been notified to provide an appropriate license for this type of use. Because we are in the business of licensing the rights to use Naked Cowboy for these types of purposes, you are also required to pay a licensing fee to use Naked Cowboy's intellectual properties.

I am attaching an invoice for such license of use in the amount of \$150,000.00.

We would have been very happy to negotiate a continuing license for Bell-Phillips Television & CBS to bring strength to your advertising through the co-branding concept that you have already created in the likeness of Naked Cowboy, but this type of use, at this time, is unacceptable and likely would not have been allowed in the first place.

I demand that you cease and desist from any further uses of our trademark, provide a public apology for the infringement and pay the required license fee for the abuses by December 6th, 2010.

You can respond by email at toddrubenstein@yahoo.com Or feel free to call me in the office.

Sincerely,



Todd Mark Rubenstein

ecc: Joey Jackson, Robert Burck

NAKED COWBOY ENTERPRISES
 1431 Finland Drive
 Nashville, TN 37207
 Phone: 866-99-NAKED
 Email: ToddRubenstein@Yahoo.Com
 Visit our website at www.NakedCowboy.com
 Our Myspace at www.myspace.com/nycnakedcowboy



LIMITED LICENSE INVOICE

LICENSORS
CBS / THE BOLD & THE BEAUTIFUL

COMPANY
CBS General Counsel 51 W 52nd St New York, NY 10019

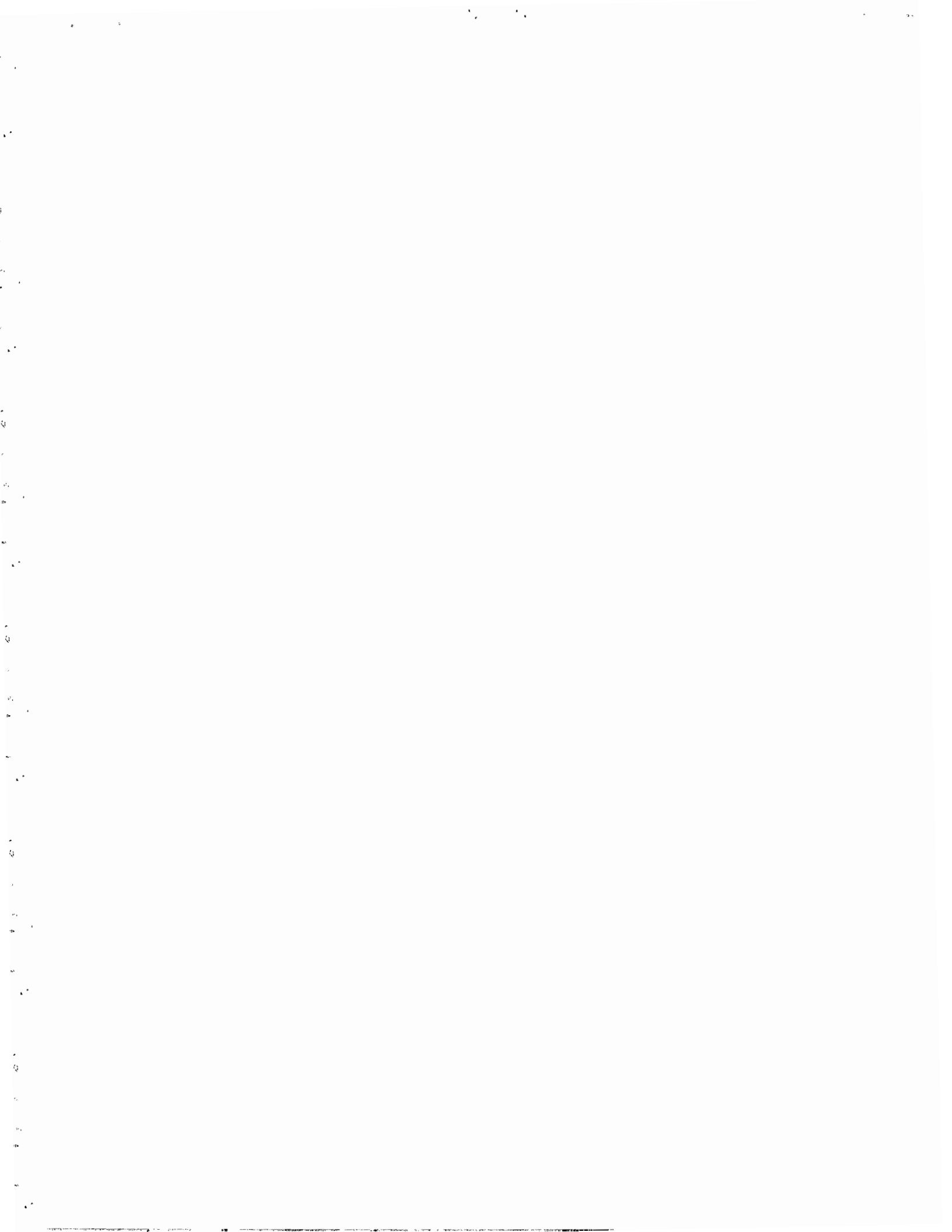
Date: 11/20/2010
 Customer ID: CBSTBATB

LICENSE TYPE	MEDIA TYPE	PROJECTED START DATE	PROJECTED FINISH DATE
Universal/Perpetual	Unlimited Major Network Prime Time TV	10/7/2010	N/A

Please remit payment upon receipt to:

NAKED COWBOY ENTERPRISES
 1431 Finland Drive
 Nashville, TN 37207

LICENSE	TYPE	TERM	DESCRIPTION	UNIT PRICE	TOTAL
Name & Likeness	All Media/Universal	Perpetual	Unlimited License of Use for commercial & promotional gain	\$150,000.00	\$150,000.00
			Major Network TV - Internet		
			RECEIVED	DEPOSIT PAID	\$0.00
				TOTAL DUE	\$150,000.00



LICHTER, GROSSMAN, NICHOLS, ADLER & FELDMAN, INC.

ATTORNEYS AT LAW

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PETER NICHOLS
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TELEPHONE (310) 205-6999
FAX (310) 205-6990

OF COUNSEL
CYNTHIA FARRELLY GESNER
A PROFESSIONAL CORPORATION

December 3, 2010

295.285

VIA MAIL & EMAIL

Todd Mark Rubenstein
Naked Cowboy Enterprises
1431 Finland Drive
Nashville, TN 37207
toddrubenstein@yahoo.com

Re: **"Naked Cowboy" – "The Bold and the Beautiful"**

Dear Mr. Rubenstein:

This law firm represents Bell-Phillip Television Productions which produces "The Bold and the Beautiful." We are in receipt of your letter dated November 23, 2010 as well as your enclosed DVD.

As I am sure you are aware, our client did not utilize or refer to the "Naked Cowboy" in the episode of "The Bold and the Beautiful" as you claim. Moreover, we also do not believe that the use of the clips from the television series on YouTube and the DVD violates any rights of your client. The Bold and the Beautiful YouTube channel used an internet tag in lower case letters in the "Clarence Update" internet segment. There is no use of the name "Naked Cowboy" on the video in that segment. Moreover, in the so-called "evidence" DVD sent with your letter, you utilized a "Naked Cowboy" song over the clip from the television segment which was never used in the series. The episode of the series refers to the character "Oliver." There is no reference to the "Naked Cowboy."

Your client's claim is without any merit and constitutes a baseless attempt to procure money from my client. For the record, nothing herein contained shall be deemed to be a recitation of all of the facts with respect to this matter nor a waiver of any of my client's rights at law, in equity or otherwise, all of which are hereby reserved.

Sincerely yours,



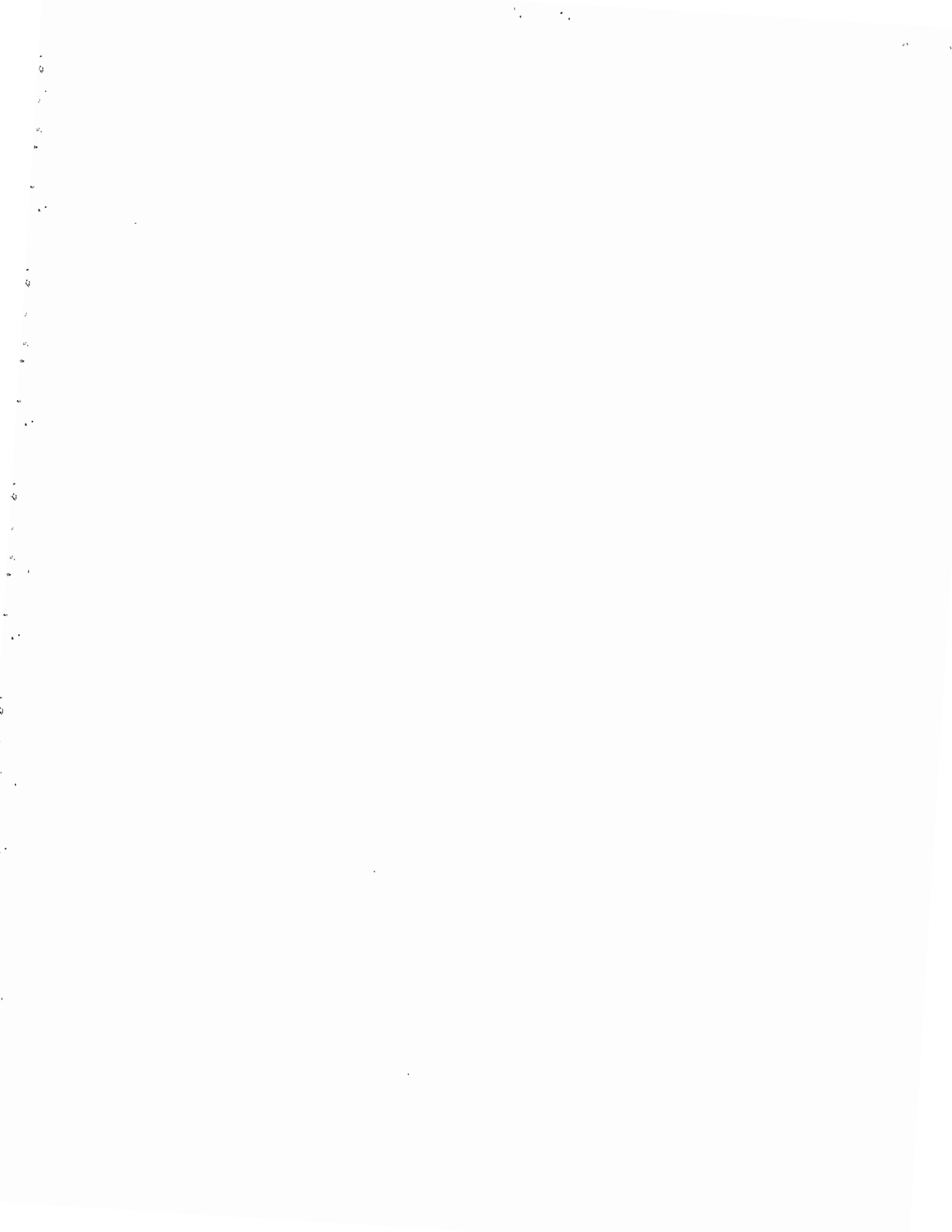
Michael I. Adler

of

Lichter, Grossman, Nichols, Adler & Feldman, Inc.

MIA/wl

cc: William Bell
Bradley Bell
Ron Weaver



From: Borden, Rebecca <Rebecca.Borden@cbs.com>
Subject: THE BOLD & THE BEAUTIFUL / CBS / THE NAKED COWBOY
To: "toddrubenstein@yahoo.com" <toddrubenstein@yahoo.com>
Date: Monday, December 6, 2010, 5:13 PM

Dear Mr Rubenstein,

I acknowledge receipt of your letter dated November 23, 2010 addressed to David Weems of CBS and Bradley Bell of Bell-Philip Television.

CBS takes very seriously the intellectual property rights of others, and we are carefully considering the claims asserted in your letter. We have initiated an investigation into those claims, and we will respond promptly. We acknowledge that you demanded that we respond to you by today, however, we will require at least 5 more days to respond completely.

The foregoing is without waiver of any and all rights of CBS or any other affected party, all of which are expressly reserved.

Sincerely,

Rebecca

Rebecca Borden, Esq.
CBS
SVP/Associate General Counsel
51 West 52nd Street
New York, NY 10019
phone 212 975 3610
rebecca.borden@cbs.com