

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GRAHAM PACKAGING COMPANY, INC.	:	
2401 Pleasant Valley Road	:	
York, Pennsylvania,	:	
Plaintiff,	:	
v.	:	C. A. No. _____
	:	
JOHN DOE,	:	Trial By Jury Demanded
	:	
Defendant.	:	
	:	

COMPLAINT

Plaintiff, Graham Packaging Company, Inc. (“Graham” or “plaintiff”), by and through its attorneys, ~~Stradley, Ronon, Stevens & Young, LLP, for its complaint against defendant John Doe~~ (“defendant”) alleges and states as follows:

The Nature of this Action

1. Plaintiff brings this action for injunctive relief and damages for, among other things, defamation, libel, and injurious falsehood. Specifically, the unidentified defendant has been distributing via their internet, AOL account, libelous and defamatory emails to employees and representatives of plaintiff, as well as to others accusing Graham and its executives of unethical corporate and financial conduct. Each of these statements and accusations are completely false. By transmitting such emails and information within Graham and outside of Graham, defendant specifically seeks to harm the business reputation of Graham and its executives.

The Parties

2. Plaintiff Graham is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. Graham has a place of business at 2401 Pleasant Valley Road, York, Pennsylvania.

3. On information and belief, defendant John Doe is an adult citizen of a state within the United States other than the Commonwealth of Pennsylvania, whose identity is as of yet unknown to Plaintiff.

Jurisdiction and Venue

4. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a)(1), through diversity of citizenship, because plaintiff is a citizen of the Commonwealth of Pennsylvania, and on information and belief, defendant John Doe is a citizen of a state other than the Commonwealth of Pennsylvania. Moreover, the amount in controversy, exclusive of costs and interest, is in excess of \$75,000.

5. This Court may exercise personal jurisdiction over defendant pursuant to the Pennsylvania Long Arm Statute, 24 Pa.C.S.A. § 5322(a) and § 5322(b). Defendant is subject to personal jurisdiction under section 5322(a)(2) and (a)(3) (causing tortious injury in Pennsylvania through their sending libelous and defamatory emails to recipients within the Commonwealth of Pennsylvania) and causing harm to the reputation of plaintiff within Pennsylvania.

6. Venue within the Eastern District of Pennsylvania is proper under 28 U.S.C. § 1391.

Facts

7. Beginning on September 6, 2011, John Doe, hiding behind the internet email moniker “RobinHoodGRM”, has sent libelous and defamatory emails to employees, managers,

and executives of Graham, as well as to other third parties. An example of the type of emails sent by "RobinHoodGRM" on September 6, 2011 is attached as Exhibit A.

8. The Exhibit A emails suggest and imply that Graham and its executives have committed unethical and improper corporate actions.

9. Defendant improperly states that an executive at Graham "has ruined the morale of a significant portion of the organization." See Exhibit A.

10. On September 19, 2011, defendant once again transmitted a libelous and defamatory email to several employees of Graham, and to other third parties, still hiding behind the email name "RobinHoodGRM." An example of the type of emails sent by "RobinHoodGRM" on September 19, 2011 is attached as Exhibit B.

11. The Exhibit B emails continue with the false, defamatory, libelous, and improper accusations and suggestions that Graham executives have taken money from employees of Graham.

12. The Exhibit B emails further suggest, without any basis, that plaintiff and its executives have committed crimes similar to those of Bernie Madoff.

13. Defendant plainly knows that these statements are false and improper when they were transmitted by their AOL account.

COUNT ONE

Defamation

14. Plaintiff hereby incorporates by reference paragraphs 1 through 13 above.

15. Defendant's false statements of fact, were published with malice, with the intent to injure plaintiff and its reputation, and without privileged or justification, and do constitute defamation.

16. As a proximate result of defendant's wrongdoing, plaintiff has sustained irreparable harm and damage and will continue to sustain irreparable harm and damage.

COUNT TWO

Injurious Falsehood

17. Plaintiff hereby incorporates by reference paragraphs 1 through 16 above.

18. By their conduct described above, and in particular by their false statements of fact, published with malice with the intent to injure plaintiff and its reputation, defendant has wrongfully and unlawfully engaged in the injurious falsehood of plaintiff.

19. Defendant's actions are without privilege or justification, are designed to harm plaintiff, and are willful, wanton, outrageous and reckless.

20. As a proximate result of defendant's wrongful actions, plaintiff has suffered and will continue to suffer irreparable harm and damage.

COUNT THREE

Trade Disparagement

21. Plaintiff hereby incorporates by reference paragraphs 1 through 20 above.

22. By their conduct described above, and in particular by their false statements of fact, defendant has wrongfully and unlawfully engaged in the trade disparagement of plaintiff.

23. Defendant's actions are without privilege or justification, designed to harm plaintiff, and are malicious, willful, wanton, outrageous and reckless.

24. As a proximate result of defendant's wrongful actions, plaintiff has suffered and will continue to suffer irreparable harm and damage.

COUNT FOUR

Trade Libel

25. Plaintiff hereby incorporates by reference paragraphs 1 through 24 above.

26. By their conduct described above, and in particular by their false statements of fact, defendant has wrongfully and unlawfully engaged in the trade liable of plaintiff.

27. Defendant's actions are without privilege or justification, designed to harm plaintiff, and are malicious, willful, wanton, outrageous and reckless.

28. As a proximate result of defendant's wrongful actions, plaintiff has suffered and will continue to suffer irreparable harm and damage.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Graham requests that the Court enter judgment in its favor and against defendant John Doe on all counts, and enter an Order granting the following relief:

(a) Preliminarily and permanently enjoining defendant and any of his or her agents and all those acting in concert with or on his or her behalf from:

(i) sending, distributing or otherwise transmitting any emails, or other written materials that improperly comment or disparage Graham Packaging, or any of its executives, employees, representatives, or agents, or defame, disparage or otherwise contain any untrue statements about Graham Packaging and its business; and

(ii) using any means or media to improperly coerce, threaten, or intimidate, or to attempt to coerce, threaten or intimidate, any of plaintiff's employees, representatives, or agents;

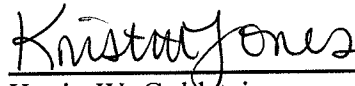
(b) Awarding plaintiff damages on the account of defendant's wrongful conduct, including compensatory, consequential, and punitive damages;

(c) Awarding plaintiff its costs and expenses, including reasonable attorney's fees, incurred in connection with this action; and

(d) Awarding such other equitable or legal relief that this Court deems just and proper.

Respectfully submitted,

Dated: September 22, 2011



Kevin W. Goldstein

Kristin J. Jones

Stradley, Ronon, Stevens & Young, LLP

30 Valley Stream Parkway

Malvern, PA 19355

(610) 640-5800

Attorneys for Plaintiff

Graham Packaging Company, Inc.

EXHIBIT A

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: FW: Mr. Graeme Hart - SAVE SEVERAL HUNDRED MILLION DOLLARS BUYING GRAHAM

From: RobinHoodGRM@aol.com [mailto:RobinHoodGRM@aol.com]

Sent: Sunday, September 04, 2011 3:35 PM

To: [REDACTED]

[REDACTED]

Cc: ROBINHOODGRM@aol.com

Subject: Mr. Graeme Hart - SAVE SEVERAL HUNDRED MILLION DOLLARS BUYING GRAHAM

Dear Mr. Graeme Hart,

How would you like to save several hundred million dollars on the purchase of Graham Packaging?

I think you should withdraw your offer to purchase Graham Packaging based on Graham's un-ethical actions. If our company is such bad shape that Mr. Mark Burgess has to take the type of action outlined below, there is something wrong. The numbers will indicate that. Our stock will respond accordingly. You can then purchase the Graham Packaging at a substantial savings.

I am sure your lawyers have some wording in the purchase agreement that voids the purchase agreement, if Graham does something un-ethical. I believe that Mr. Mark Burgess has acted in an un-ethical manner this week. He decided not to pay the salary bonuses that were earned and due to our employees in the second quarter of this year. Now I am sure there is some fine print somewhere that gives him the legal right to do this. However, to my knowledge, it has never been done before. I believe it is not ethical. Every salary employee that I have talked to believes it is not ethical.

You have agreed to purchase our company. It is commonly accepted that, a company's employees are the most valuable asset of a company. In my opinion, Mr. Mark Burgess has devalued Graham's

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most valuable asset this past week. I would not think that you would consider it acceptable if Mr. Mark Burgess sold some of Graham's blow molders this past week to make Graham's EBITDA look better. Why would you consider it acceptable for Mr. Mark Burgess to have alienated many key salary employees of your new company? He has ruined the morale of a significant portion of the organization. I have never seen morale so low in any company for which I have worked. This low morale will no doubt translate to lost revenue for your new company. It certainly appears to me that he did this to make the EBITDA look better prior to the sale. See the SEC filing below, and note footnote G.

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended June 30, 2011

OR

	Three Months Ended June 30,		Six Months Ended June 30,		Four Quarters Ended June 30,
	2011	2010	2011	2010	2011
	(In millions)				
EBITDA	\$ 92.5	\$ 125.9	\$ 215.4	\$ 190.0	\$ 392.5
Asset impairment charges	1.4	0.6	2.5	2.8	9.3
Increase in income tax receivable obligations	8.0	3.6	12.6	4.9	12.6
Other non-cash charges (a)	(0.6)	1.2	0.3	1.7	3.6
Fees related to monitoring agreements (b)	0.2	0.2	0.5	0.9	1.0
Net loss on debt extinguishment	—	—	—	2.7	28.5
Write-off of amounts in accumulated other comprehensive income related to interest rate swaps	—	—	—	—	7.0
Contract termination fee and IPO-related expenses (c)	—	0.4	—	39.4	0.2
Acquisition and integration expenses (d)	1.1	0.7	3.3	0.9	22.7
Transaction-related costs (e)	47.2	—	48.3	—	48.4
Venezuelan hyper-inflationary accounting	—	(0.3)	(0.1)	2.5	(0.3)
Reorganization and other costs (f)	4.8	1.4	6.9	3.4	19.4
Adjusted EBITDA (g)	154.6	133.7	289.7	249.2	544.9
Project startup costs (h)	3.6	3.4	6.1	5.8	11.8
Other administrative expenses (i)	0.2	0.3	0.8	0.3	1.1

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Covenant compliance EBITDA

\$ 158.4	\$ 137.4	\$ 296.6	\$ 255.3	\$ 557.8
<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

(g) We use adjusted EBITDA as one factor in the setting of incentive compensation.

I read that to say, I cut a lot of bonuses to make the company's EBITDA look better.

Reference:

http://idc.api.edgar-online.com/efx_dll/edgarpro.dll?FetchFilingRTF1?SessionID=6AhwFMjO_-KOEIS&ID=8095272

My Graham friends, who were waiting on your bonuses to pay your bills, please note the following. You were due your bonus on 6/30/11. You looked every week for your bonus for 8 weeks and were told nothing. Finally you found out on 8/30/11, that up to 75% of the bonus you earned fair and square by Mr. Burgess' rules, he was not going to pay you. How many months ahead of time do you think that Mr. Burgess made that decision? In any case, why did he wait 8 weeks to tell you? He put it in the report above on 6/30/11.

So, there you have it Mr. Hart. You can save several hundred million dollars. You could even afford to pay our bonuses. Heck you could afford to pay us double bonuses. We are looking forward to working for someone who wants to build a packaging company. We are tired of KKR, Blackstone, and Mark Burgess sucking the life out of our company and treating our employees poorly. I can think of no other action that would better motivate our organization than if you paid the bonuses.

Mr. Mark Burgess you think that we are a pimple on your buttocks. Well you are just a pimple on Mr. Graeme Hart's buttocks! I hope he treats King Burgess and The Knights of the Blackstone Table the same as you have treated us: frozen pension, reduced matching in our 401K, no raises for years, and now not paying bonuses. Why has all this been done? It was done for one and only one reason, to drive our stock price from the \$7.30 that The Knights of the Blackstone Table purchased it for, to \$25. That way they could make \$17.70 x 40.3 million shares = \$713,310,000. King Burgess gets a bonus of \$2,400,000 for treating us like this. The King's total compensation package is \$5,959,726. Greed certainly causes a lot of injustice.

References:

<http://www.bloomberg.com/news/2011-06-15/blackstone-turns-ipo-failure-into-lucrative-bids-for-graham-deal-real-m-a.html>

<http://investing.businessweek.com/research/stocks/people/person.asp?personId=6044364&ticker=GRM:US>

My friends at Graham please email this to as many people as you can. If anyone has connections with the press, please email it to them. Please post this email on the internet. They cannot fire

9/21/2011

everyone. The Knights of the Blackstone Table cannot sell their 40.3 million shares of Graham Packaging without driving the stock price down. King Burgess has the same problem.

'Love your neighbor as yourself." Matthew 22:36-40

We must live in the wrong neighborhood!

Sincerely,
Robin Hood of Graham Packaging

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Subject: FW: Mr. Graeme Hart - SAVE SEVERAL HUNDRED MILLION DOLLARS BUYING GRAHAM

From: RobinHoodGRM@aol.com [mailto:RobinHoodGRM@aol.com]

Sent: Sunday, September 04, 2011 3:59 PM

To: [REDACTED]

Cc: ROBINHOODGRM@aol.com

Subject: Mr. Graeme Hart - SAVE SEVERAL HUNDRED MILLION DOLLARS BUYING GRAHAM

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References:

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<http://investing.businessweek.com/research/stocks/people/person.asp?personId=6044364&ticker=GRM:US>

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Sincerely,
Robin Hood of Graham Packaging

EXHIBIT B

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: Fw5: ROBIN HOOD - CHAPTER TWO

----- Original Message -----

From: robinhoodgrm@aol.com

To: [REDACTED]

[REDACTED]

Sent: Saturday, September 17, 2011 8:07 PM

Subject: ROBIN HOOD - CHAPTER TWO

My friends,

Well the Sheriff of Nottingham has done it. He picked the money right out of your pockets and placed it in his pocket and the pockets of the Knights of the Black Stone Table. He froze our pensions, reduced our 401K matching, no raises for years. Oh I forgot the lordship did give us that 1% pittance one year instead of a raise. Now he did not pay the bonuses we earned by his rules. We do not even have company picnics and Christmas parties. We still have toilet paper! Maybe the Sheriff could stop that! I bet he could buy nice car with that savings.<=:p>

You got to hand it to the Sheriff. He "appropriated" all that money without breaking a single law. The Knights of the Black Stone Table hire the right person for their dirty work.

The Sheriff's faith is shown by his works. I sincerely hope he changes his ways or in 50 years he will be spending all his time with Bernie Madoff.

Robin Hood

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: Fw4: ROBIN HOOD - CHAPTER TWO

----- Original Message -----

From: robinhoodgrm@aol.com

To: [REDACTED]

Sent: Saturday, September 17, 2011 8:07 PM

Subject: ROBIN HOOD - CHAPTER TWO

My friends,

Well the Sheriff of Nottingham has done it. He picked the money right out of your pockets and placed it in his pocket and the pockets of the Knights of the Black Stone Table. He froze our pensions, reduced our 01K matching, no raises for years. Oh I forgot the lordship did give us that 1% pittance one year instead of a raise. Now he did not pay the bonuses we earned by his rules. We do not even have company picnics and Christmas parties. We still have toilet paper! Maybe the Sheriff could stop that! I bet he could buy nice car with that savings.<=:p>

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Robin Hood

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: Fw3: ROBIN HOOD - CHAPTER TWO

----- Original Message -----

From: robinhoodgrm@aol.com

To: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sent: Saturday, September 17, 2011 8:06 PM
Subject: ROBIN HOOD - CHAPTER TWO

My friends,

Well the Sheriff of Nottingham has done it. He picked the money right out of your pockets and placed it in his pocket and the pockets of the Knights of the Black Stone Table. He froze our pensions, reduced our 401K matching, no raises for years. Oh I forgot the lordship did give us that 1% pittance one year instead of a raise. Now he did not pay the bonuses we earned by his rules. We do not even have company picnics and Christmas parties. We still have toilet paper! Maybe the Sheriff could stop that! I bet he could buy nice car with that savings.<=:p>

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The Sheriff's faith is shown by his works. I sincerely hope he changes his ways or in 50 years he will be spending all his time with Bernie Madoff.

Robin Hood
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: Fw2: ROBIN HOOD - CHAPTER TWO

----- Original Message -----

From: robinhoodgrm@aol.com

To:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sent: Saturday, September 17, 2011 8:06 PM

Subject: ROBIN HOOD - CHAPTER TWO

My friends,

Well the Sheriff of Nottingham has done it. He picked the money right out of your pockets and placed it in his pocket and the pockets of the Knights of the Black Stone Table. He froze our pensions, reduced our 01K matching, no raises for years. Oh I forgot the lordship did give us that 1% pittance one year instead of a raise. Now he did not pay the bonuses we earned by his rules. We do not even have company picnics and Christmas parties. We still have toilet paper! Maybe the Sheriff could stop that! I bet he could buy nice car with that savings.<=:p>

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The Sheriff's faith is shown by his works. I sincerely hope he changes his ways or in 50 years he will be spending all his time with Bernie Madoff.

Robin Hood

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Subject: Fw1: ROBIN HOOD - CHAPTER TWO

----- Original Message -----

From: robinhoodgrm@aol.com

To: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Sent: Saturday, September 17, 2011 8:04 PM

Subject: ROBIN HOOD - CHAPTER TWO

My friends,

Well the Sheriff of Nottingham has done it. He picked the money right out of your pockets and placed it in his pocket and =he pockets of the Knights of the Black Stone Table. He froze =ur pensions, reduced our 401K matching, no raises for years. Oh I forgot the lordship did give us that 1% pittance one year instead of a raise. Now he did not pay the bonuses we earned by his rules.&nb=p; We do not even have company picnics and Christmas parties. We still have toilet paper! Maybe the Sheriff could stop that! I bet he c=uld buy nice car with that savings.

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9/21/2011