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October 15, 2008

Via Federal Express

Oscar Michelen  
Sandback, Birnbaum & Michelen  
200 Old Country Rd.  
Mineola, NY 11501-4242

RE: Getty Images Case Number [REDACTED]

Dear Mr. Michelen:

This letter is in response to your letter dated August 25, 2008. As you may know, Getty Images represents the world's leading photographers and licenses their work to provide compelling visual imagery to its customers. Getty Images takes seriously its responsibility to its represented photographers not only to appropriately license the use of their images to its customers, but also to protect the images from unauthorized use.

The images that have been identified in this particular case are available for licensing exclusively through Getty Images. The images are not available for licensing through any other source and they are certainly not in the public domain.

As you know, copyright exists the moment a work (such as a photograph) is created. Registration is not a requirement of copyright ownership. Any unauthorized use constitutes copyright infringement, for which Getty Images is entitled to recover damages. Anyone who copies, publicly displays or distributes a photograph, infringes the copyright whether it was aware that the use was infringing or not. In addition, a watermark or notice of copyright is not a requirement for copyright protection.

Getty Images has contracts with its contributing photographers who are the copyright holders. The contributor agreement contains representations and warranties that the contributor is the sole copyright owner. Consequently, Getty Images does not require contributors to provide Getty Images with certificates of registration and leaves the option of copyright registration to the individual photographer. Getty Images typically pursues actual damages and not statutory ones, but we reserve the right to seek statutory damages in any case involving pre-registered images.

Due to confidentiality concerns, we typically would not provide copies of our contributor contracts at this stage of a claim. These would not be provided until after Getty Images has initiated a court action and a protective order could be put in place. We are, however, fully prepared to address your concerns about our representation of the images in question and also to demonstrate our right to pursue damages for the unauthorized display of this content. Excerpted below is relevant language from our contributor contracts.

## Section 2. License Grant to Accepted Images.

2.1 Beginning on the Commencement Date and subject to the terms and conditions of this Agreement and in consideration of the royalty payments set forth herein, Contributor hereby grants to Getty Images, with respect to Accepted Images, a worldwide, exclusive right and license:

- 2.1.1 To use, copy, put into digital form, reproduce, distribute, market, sublicense, publish, transmit, broadcast, display, exhibit, rent, communicate and/or make available to the public, adapt, crop, modify, recast, enhance, or create derivative works of any Accepted Image in any medium or embodiment, now known or later developed, including without limitation a digital medium and/or any Online System, all formats of computer-readable electronic, magnetic, digital laser or optical-based media, and any other human or machine readable media, for any purpose, including without limitation, in connection with the creation, development, production, manufacture, packaging, distribution, license, sale, promotion and use of Disk and Online Products and to practice, all current or future copyrights, rights in or to data and databases (and rights conferred under equivalent laws throughout the world) associated with such license and in or to any Accepted Image, modification, adaptation, enhancement or derivative work authorized under this Agreement; and to grant the right of sublicense to any member of the group of entities consisting of the Getty Images Offices under all or any of the rights granted to Getty Images under this RM Agreement. Subject to the terms and conditions of this RM Agreement, such rights may be exercised by Getty Images, or by its licensees, as to any Accepted Image either by itself or in combination with any other material (including, but not limited to, the Images or content of Third Parties, Getty Images, Licensees, Clients and/or the Getty Images Offices). Such rights also may be exercised for any purpose reasonably related, in Getty Images' judgment, to the licensing and marketing of Accepted Images;

#### Section 9. Right to Prosecute Claims.

9.1 Right to Make and Defend Claims. Except for claims by the Contributor against Getty Images and/or any Getty Images Offices, or against the Contributor by Getty Images and/or any Getty Images Offices, as otherwise agreed in writing, Contributor grants Getty Images the exclusive right, but not the obligation, subject to Section 9.2 (Indemnification Obligation), at Getty Images' expense and in its sole and reasonable discretion, to make, control, settle and defend claims related to the Accepted Images, including, but not limited to, claims relating to infringements of copyrights and other intellectual property rights, misuse, theft, damage, destruction and loss.

After a thorough search of our license records, we remain unable to locate any licenses related to [REDACTED] display of the images in question online at [http://www.\[REDACTED\]](http://www.[REDACTED]) If your client has proof that licenses were properly secured prior to the start of the identified uses, please promptly forward documentation of those licenses (in the form of a Getty Images Sales Order Receipt or Getty Images Invoice) to my attention and we will review that information accordingly.

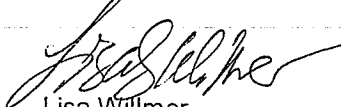
Lastly, the demand amount that has been presented in this case represents the minimum amount that Getty Images would expect to recover were we to pursue legal action. With that said, we remain willing to review the circumstances of this particular case. In order to do so, however, Getty Images will require a complete accounting of use (including duration and any additional uses) from your client by October 31, 2008. As you know, any court action would also include a discovery request for full disclosure of the use to date for each image. We tend to find that when an offender discloses the full extent of its unauthorized use, as it is required to do by the rules of the court, the images have been used more widely than we were originally aware.

As a point of reference, two year list rates for the exact uses in question would have totaled \$14,310.00 and five year list rates for the exact uses in question would have totaled \$25,925.00 had licenses been properly secured prior to the start of use. Since there are numerous additional costs associated with pursuit of infringements, it is our position that our initial offer to settle this claim for \$19,500.00 was a fair settlement offer.

If your client would prefer to move forward without providing a complete accounting of use, Getty Images is prepared to accept \$17,550.00 (reduced from \$19,500.00) as full and final settlement of this claim if full payment is postmarked by November 7, 2008. This offer is made conditionally and it will automatically be withdrawn if full payment is not postmarked by the above deadline. Getty Images expressly reserves all rights and remedies available under law.

Thank you in advance for your continued assistance with this matter.

Regards,



Lisa Willmer  
Director, Corporate Counsel