



RUSHMORE PHOTO & GIFTS, INC.

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CONFLICTS OF INTEREST AND INTIMIDATION EXPOSED IN STURGIS TRADEMARK FIGHT

Licensing fees for "Sturgis" trademarks being paid to Connecticut corporation

RAPID CITY—July 14, 2011— Rushmore Photo & Gifts (RPG) has discovered that the license agreement that Sturgis Motorcycle Rally, Inc. (SMRI) has been forcing vendors to sign in order to sell "Sturgis" products requires that the licensing fees be paid to Good Sports, Inc., not SMRI. Good Sports is a Connecticut corporation owned by Jerry Berkowitz, vice chair of the SMRI board of directors. "Sounds like a conflict of interest to me. Makes you wonder what other conflicts of interest exist on the SMRI board," stated Paul Niemann, co-owner of RPG.

Last month, SMRI sued RPG and the Niemann family for allegedly infringing SMRI's supposed trademark rights in the name "Sturgis." RPG, a local, Rapid City business has been in existence since 1937, and has sold Sturgis-related merchandise since at least 1987. Nonetheless, SMRI, which just formed in 2010, has alleged that it is the exclusive owner of the right to use and license others to use the name "Sturgis."

"SMRI has publically represented that it is a philanthropic organization created for the betterment of the Sturgis community," said Niemann. "The fact that the licensing money is paid to a board member's out-of-state company, Good Sports, and not to SMRI itself, makes one seriously question how pure the intentions of the individuals on the SMRI board are."

Based on its Annual Report with the State of South Dakota, SMRI's board of directors includes the following people, who are affiliated with the following businesses:

1. Dean Kinney, Chairman of SMRI – owns entertainment booking company HomeSlice as well as an interest in Loud American Roadhouse and various vacation rental properties.
2. Jerry Berkowitz, Vice Chair of SMRI – owns Good Sports, Inc. and Hot Leathers
3. Jim Burgess, Vice Chair of SMRI – part owner of several South Dakota Harley-Davidson dealerships
4. John Johnson – officer at First Interstate Bank in Sturgis
5. Ross Lamphere – owner of Lamphere Ranch Campground and the Lamphere Ranch
6. Jamie McVay – owner of Black Hills Drywall and Sturgis City Council member
7. Karen Simmons, Treasurer of SMRI – CPA and board liaison to the Sturgis Chamber of Commerce
8. Susan Johnson – CEO of Deadwood Central Reservations

In recent days, reports have also surfaced that SMRI has held itself out as representing the City and people of Sturgis, as it threatens vendors selling Sturgis-related products that their goods will be confiscated during the Rally if they did not obtain a license from SMRI to use the name "Sturgis." Media reports confirm that many vendors have been afraid to speak up out of fear that SMRI would retaliate against them, and that there will be 30-50% fewer vendors at the Rally this year because of the intimidation surrounding the "Sturgis" trademark issue. "This will mean a major loss of tax revenue and vendor fees for the City of Sturgis," warned Niemann.

"What's more, SMRI does not represent the City of Sturgis or its residents," clarified Niemann, "nor does SMRI put on the Rally." Indeed, the City of Sturgis' website states that, "[t]he ownership of the 'Marks' does not belong to the City of Sturgis, nor does the City Council or any City official have control over the use or licensing of the Marks." (<http://www.sturgis-sd.gov/CivicAlerts.aspx?AID=697>)

"Anyone who is holding out to vendors that SMRI represents the City of Sturgis is perpetuating a lie," added Niemann. RPG has sworn that SMRI's threats and intimidation against vendors will be uncovered during the

lawsuit. “We plan to hold the individuals engaged in these fear tactics accountable and personally liable, whether they be individual board members, their companies, or otherwise.” contended Niemann.

Additional questions for which Niemann and his attorneys would like answers include: Do the companies owned by individual SMRI board members pay any licensing fees for use of the name “Sturgis,” or is it just everyone else that supposedly has to pay? How in good faith can the board members enforce the “Sturgis” registration, particularly against local businesses, when the registration was obtained based on what were clearly false statements? Who on the board is responsible for intimidating local vendors using this fraudulently-obtained registration?

Attorney Aaron Davis, partner in the Patterson Thuente IP firm and RPG’s litigation counsel, has made his intentions clear that he plans to question each of the SMRI board members during the discovery phase of the federal lawsuit. “We also plan to hold all individuals and their related companies accountable to the extent allowed by law for the wrongful actions relating to the fraudulent procurement and enforcement of the ill-gotten ‘Sturgis’ registration. For the good of the community and my clients, the truth must come out and the persons responsible must be held to account,” vowed Davis. Niemann agreed, “the truth will be exposed.”

ABOUT RUSHMORE PHOTO & GIFTS, INC.

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ABOUT PATTERSON THUENTE IP (RPG’s litigation counsel)

Patterson Thuente IP helps creative and inventive clients worldwide protect, and profit from, their ideas. Practicing in the areas of patents, trademark, copyright, trade secrets, IP litigation, international IP protection, licensing and post-grant proceedings, the firm’s attorneys excel at finding strategic solutions to complex intellectual property matters. Patterson Thuente IP’s client-base represents a range of industries, including agriculture, aviation, biotechnology, chemical, computer/Internet, defense, entertainment, health care, mechanical technologies, medical device, nanotechnology, optics, retail, software and telecommunications. For more information call (612) 349-5740 or visit www.ptslaw.com.

MEDIA INQUIRIES

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ENCLOSURES

SMRI/Good Sports, Inc.’s trademark usage agreement to vendors – 2011
SMRI’s 2011 Annual Report
Media Questions to ask SMRI