

July 15, 2018

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VIA E-MAIL

Board of Directors of  
Papa John's International, Inc.  
c/o Hogan Lovells  
john.beckman@hoganlovells.com

Re: **Board Meeting**

Dear Board of Directors:

We are counsel for Mr. John Schnatter, and write in advance of the meeting of the Board of Directors that we understand is to occur later today.

As an initial matter, the Board has no authority to remove Mr. Schnatter as a director. Pursuant to Delaware law, the Company's Amended and Restated Certificate of Incorporation (the "Certificate") only permits removal of a director "by the affirmative vote of the holders of a majority of the shares of capital stock of the Corporation." See Certificate at ¶ 3, § Fifth(D); see *also* 8 Del.C. § 141(k); *Nevins v. Bryan*, 885 A.2d 233, 252 n. 70 (Del.Ch. 2005) ("Delaware law does not permit directors to remove other directors"), *aff'd*, 884 A.2d 512 (Del. 2005). Accordingly, any purported removal of Mr. Schnatter from the Board without a proper vote of the shareholders will be null and void, and a conscious attempt to violate the Company's Certificate.

Second, as Mr. Schnatter previously informed you, the actual facts and circumstances surrounding the "diversity media training" meeting organized by The Laundry Service were later "mischaracterized in the July 11 Forbes story." See Schnatter letter to the Board dated July 14, 2018 (the "Board Letter") at 1. Mr. Schnatter forthrightly informed you that he "never used the 'N' word in that meeting as a racial epithet, nor would I ever" and he also informed you that the topic only arose because he resisted The Laundry Service's recommendation to feature Mr. Kayne West in Company promotions because Mr. West "uses the 'N' word in his lyrics." *Id.* In other words, Mr. Schnatter's conduct and recommendations were strongly in the best interests of the Company.

The Board's handling of these same events, however, is not. In particular, the Board appears willing to proceed based on "rumor and innuendo, without any investigation." *Id.* at 2. But before the Board takes any action in this regard,

it should conduct an independent investigation and fully inform itself as to what actually occurred. "Directors of a Delaware corporation owe two fiduciary duties - care and loyalty." *In re Orchard Enterprises, Inc. Stockholder Litig.*, 88 A.3d 1, 32-33 (Del. Ch. 2014). As to the duty of loyalty, it "includes a requirement to act in good faith." *Id.* (the "duty of loyalty mandates that the best interest of the corporation and its shareholders takes precedence over any interest possessed by a director, officer or controlling shareholder and not shared by the stockholders generally" and a "failure to act in good faith may be shown, for instance, where the fiduciary intentionally acts with a purpose other than that of advancing the best interests of the corporation") (internal quotations omitted). As to the duty of care, director liability can "arise in two distinct contexts. First, such liability may be said to follow from a board decision that results in a loss because that decision was ill advised or 'negligent'. Second, liability to the corporation for a loss may be said to arise from an unconsidered failure of the board to act in circumstances in which due attention would, arguably, have prevented the loss." *In re Caremark Intern. Inc. Derivative Litig.*, 698 A.2d 959, 967 (Del. Ch. 1996). In other words, ill-considered Board action - including Board resolutions or your own resignations, either individually or collectively - without a full and proper independent investigation may violate **both** the duty of loyalty and the duty of care.

Be advised, that while the Certificate exculpates directors for certain liability, it explicitly states that each director may be liable for, among other things, "any breach of the director's duty of loyalty" and for "acts or omissions not in good faith." See Certificate at ¶ 3, § Twelfth. The failure to conduct a complete and independent investigation and become informed before acting would represent acts or omissions not in good faith rendering individual Board members liable for all resulting harm to the Company and to Mr. Schnatter.

This letter is without waiver of or prejudice to our client's rights and remedies at law or in equity, all of which are expressly reserved.

Best,

/s/ Patty Glaser

PATRICIA L. GLASER  
of GLASER WEIL FINK HOWARD AVCHEN & SHAPIRO LLP

cc: Elizabeth A. Ising (eising@gibsondunn.com)