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Trevor M. Stanley

March 6, 2025

VIA E-MAIL

The Dakota Scout
Mr. Jonathan Ellis
Mr. Joe Sneve

Re: The Dakota Scout's False, Misleading, and Inaccurate Reporting on former Gov. Noem

Dear Mr. Ellis and Mr. Sneve:

On behalf of former South Dakota Governor Kristi Noem in her personal capacity, I write out of concern that your website continues to publish false and misleading information about my client that you have known to be false since at least July 2024. Specifically, your website repeatedly, and inaccurately, refers to all charges on credit cards used by the Office of the Governor of South Dakota as charges of my client—allowing a conclusion by multiple commenters on the site and other news outlets that my client violated the laws of South Dakota or stole taxpayer funds for her personal use. We demand that The Dakota Scout immediately cease spreading these false, misleading, and inaccurate statements and take immediate and significant steps to correct past inaccuracies.

Transparency has been a hallmark of my client's time in South Dakota and during the early days of her time as Secretary of the Department of Homeland Security. She supports an accurate, free press and government transparency. Moreover, she has no disagreement with the Supreme Court's determination that "debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." *See N.Y. Times v. Sullivan*, 376 U.S. 254, 270 (1964). Unfortunately, because The Dakota Scout has been on notice since at least July 2024 that its reporting was false, misleading, and inaccurate, *N.Y. Times v. Sullivan* advises that there is liability for a statement published "with knowledge that it was false or with reckless disregard of whether it was false or not." *See id.* at 376 U.S. at 280. We understand the benefit of transparency in government, but articles that are false, misleading, and deceptive do not provide

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transparency. Instead, such repeatedly false, misleading, and inaccurate reporting constitutes defamation.

As you are aware, South Dakota law requires that “Every person is obligated to refrain from infringing upon the right of others not to be defamed.” The language on your website stating in multiple instances that the charges amount to hundreds of thousands of dollars on Governor Noem’s credit card is more than just imprecise or shoddy reporting. It appears intended to defame my client. As the Office of the Governor informed you on October 11, 2024, then-Governor Noem used her credit card 30 times over a five-year period for an average charge of \$68.56—a total of \$2,056.72. That letter is included with this correspondence. The Dakota Scout ignored the facts provided in July and October, and Mr. Ellis thought the October letter correcting the record was a joke by responding with the word “Heh,” and then advising the Governor’s Office it would have a chance to respond to the false, misleading, and deceptive reporting during a future deposition. Moreover, Mr. Ellis included a person on the email named Austin Goss, a reporter arrested for impersonating my client.¹ These facts call for no other conclusion than that the false, misleading, and inaccurate reporting and headlines on your website were done with actual malice.

Months later, the reporting remains the same. And there is a reason: Mr. Ellis acknowledged that his quest to continue reporting on these matters is more than professional: “I take things personally, especially after all the hard work we put into this.”² As recently as March 1, 2025, you reported “that more than \$600,000 in charges were amassed on state-issued credit cards used by now U.S. Homeland Security Secretary Kristi Noem during her six-year tenure in the Governor’s Mansion.” This statement is false, and you know it to be so.³

Demand is hereby made that you immediately cease and desist reporting that my client spent hundreds of thousands of dollars on her government-issued credit cards and correct any headlines or graphics stating the same, and to notify your readers of these facts. Otherwise, we will consider all legal remedies, including a lawsuit seeking maximum compensatory and punitive damages, that we estimate at millions of dollars.

You are officially on notice of this dispute and therefore required to undertake steps to *affirmatively preserve, and not delete*, any and all physical and electronic documents, materials, information, and data that pertain in any way to the Article and/or our client, including without limitation all emails, text messages, instant messages (IMs), direct messages (DMs), chats, letters, memoranda, drafts of the Article, social media postings (including all drafts as well as final versions of all documents and written communications), as well as all other types of written, physical and digital materials including handwritten notes, typewritten notes, summaries, charts, receipts, audio recordings, video recordings, photographs, telephone call logs, calendar entries of all types, and financial data and information, that pertain in any way or might otherwise be relevant or related to the foregoing matters. All sources of documents, materials,

¹ <https://www.dakotane.wsnow.com/2023/05/04/political-reporter-arrested-impersonating-noem/>

² <https://x.com/DakotaScoutJon/status/1895980809112481888>

³ <https://www.thedakotascout.com/p/gov-rhoden-spending-on-state-issued>

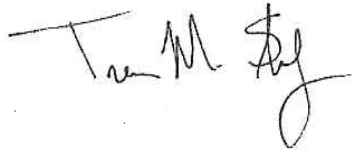
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information, and data should be preserved, including without limitation, physical files, electronic and digital files, computer servers, email servers, backup tapes, cloud storage, personal computers, hard drives, smart phones, tablets, and other types of storage devices including external drives, thumb drives, zip drives, disks and DVDs. Failure to affirmatively preserve such documents and materials could result in severe sanctions imposed by a court which could include, among other remedies, monetary sanctions, evidentiary sanctions, issue sanctions, and/or the striking of an answer and entry of a default judgment.

We look forward to the prompt resolution of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Trevor M. Stanley". The signature is written in a cursive style with a large, stylized initial "T" and "S".

Trevor M. Stanley

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STATE OF SOUTH DAKOTA
OFFICE OF THE GOVERNOR
KRISTI NOEM | GOVERNOR

October 11, 2024

The Dakota Scout
Via email only jonathan@thedakotascout.com

Re: Correction Request

Dear Jonathan Ellis,

Your recent article from July 5, 2024 entitled "Noem's state credit card spending kept secret" has several factual errors based on the response from the Office of State Auditor (OSA) to your record request. I emailed you on July 6, 2024, explaining the inaccuracies and requesting corrections. I write to offer clarifying information and again request a correction so that the public is not misinformed.

The Dakota Scout asked OSA for "all invoices, receipts and statements for all of Gov. Kristi Noem's government credit and debit cards dating back to Jan. 5, 2019." (*emphasis added*). The OSA produced a spreadsheet of monthly State of South Dakota account balances for official expenses incurred by and for several state employees, not just for the Governor. This spreadsheet led to your incorrect conclusion that "The monthly totals show that Noem spent nearly \$650,000 from the time she took office in 2019 through April of this year." As I have already explained to you, it is inaccurate to say that the expenditures from the OSA spreadsheet are for the governor's credit card only, which is what you requested.

To answer the question that you asked, I have assembled Governor Noem's credit card charges and am providing those to you so you may correct your story.

Year	Total	Governor	Type of Card
2019	- n/a -	Noem	had no card
2020	\$55.44	Noem	First Premier
2021	\$841.21	Noem	First Premier
2022	\$730.19	Noem	First Premier
2023	\$429.88	Noem	First Premier
2024	\$0	Noem	First Premier

The compiled cost of these charges is \$2,056.72. There were 30 total charges, and the average charge was \$68.56. These charges have been annualized for security reasons.

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As you can see, this reporting from your story is entirely false because the Governor has not spent a dime on her credit card in 2024:

"The most charged by Noem in a single year was in 2021 when she logged \$159,517.38 on the two cards. However, this year she was on pace to have charged more than any previous year. In the first four months of 2024, she charged \$75,772.07, almost all of that on her First Premier Bank card."

I trust that with this additional information, you will finally correct your false reporting.

Sincerely,

Ian Fury
Director of Communications
Office of South Dakota Governor Kristi Noem

