

# WOLFE LAW MIAMI, P.A.

September 7<sup>th</sup>, 2011

David S. Cupps  
Sr. Vp and General Counsel  
Abercrombie and Fitch

RE: Notice to Cease and Desist

Dear Mr. Cupps,

We are counsel to MPS Entertainment, LLC and Mike "The Situation" Sorrentino, collectively "MPS". MPS is a company engaged in the marketing, promotion, sale and distribution of various articles of merchandise bearing trademarks associated with Mike "The Situation" including "the Situation", "GTL", "GTL FINDER", and "GYM TAN LAUNDRY". The marks "the Situation" and "GTL" have been used by our clients on products and services including but not limited to: tanning salons, vodka, laundry garment bags, tee shirts, tanning products and other commercial ventures and has become widely known and associated with our clients. The use of these marks has been promoted on the website [www.theofficialsituation.com](http://www.theofficialsituation.com), a site that garners extensive traffic. The GTL FINDER mark has been used in connection with a very popular iPhone application, and has come to be uniquely and exclusively associated with MPS. MPS has numerous trademark applications pending registration in the U.S. Trademark Office for its marks.

The appearance of Mike "The Situation" Sorrentino on many popular television shows including "the Tonight show", "Dancing with the Stars", "Jersey Shore" and many others has further cemented in the public's mind the association of the marks "the Situation" and "GTL" with our clients. In sum, the "GTL" and "the Situation" trademarks have become immediately recognizable and strongly linked with Mr. Sorrentino through MPS's extensive and prominent use of the marks.

It is clear that your use of the marks in the same markets (as our client's products) on tee shirts styled "The Fitutation" and "G.T.L. (You know the deal) Fitch" is an obvious attempt to trade upon our client's Marks and established goodwill. We doubt that you could provide a valid reason why you used these specific designs, except to create a (false) association with our client's goodwill. We find this to be especially so, following your recent attempt to create international publicity for your company, by falsely claiming that you are offering to pay Mr Sorrentino not to wear your clothes. This publicity was patently false, as no such offer was ever made, but rather, was a clear attempt to further trade upon our client's goodwill and popularity. As such, your actions are a violation of sections 32 and 43 of the Lanham Act ( 15 USC section 1114- trademark infringement) and (15 USC section 1125A- unfair competition). Your actions also violate my client's rights under Florida statutes 495.131, 495.151 and 540.08. Finally, your actions have caused injury to our client's business reputation under the common law. Your

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cause consumers to mistakenly believe that your company and these specific tee shirts originates with, is endorsed by or is otherwise associated with our clients.

Our clients are currently considering all options at their disposal to protect and enforce their goodwill and trademarks. We offer you the opportunity to rectify this matter by providing us with your prompt written assurances, to be received no later than September 13, 2011 that:

- (1) You will immediately cease all use of "the Situation" and "GTL" mark as a trademark and service mark in connection with all articles of merchandise including the aforesaid tee shirts.
- (2) You will account for all sales of goods containing the marks and
- (3) You will pay all such profits to our clients.

If we do not receive these assurances by September 13, 2011, we will take the necessary steps to enforce our clients rights and to enjoin your infringing activities.

We look forward to your prompt written response. Please call me at your earliest convenience if you would like to discuss further.

The foregoing is not intended nor shall it be construed as a complete recitation of the facts and events concerning the above-referenced matter, nor shall it be construed as a waiver of any rights, remedies or claims, legal or equitable, which our clients may have.

I am hoping we can come to a reasonable resolution of this matter and look forward to hearing from you.

Very Truly Yours,

  
Wolfe Law Miami, P.A.

By: Richard C. Wolfe, Esq.

Cc:

Dave Feldman, Esq.

Marc Sorrentino

Michael Sorrentino