



reporting, falsely stated that actions allegedly undertaken by Mr. Scholz, none of which were true, had caused Mr. Delp to commit suicide. The mere fabrication and false publication that Mr. Delp's ex-wife would say or suggest such a thing about Mr. Scholz is defamatory per se. The Defendants themselves also falsely suggested in headlines, content and via innuendo that Mr. Scholz was responsible for Mr. Delp's death. This too is defamatory per se. Mr. Scholz has suffered serious and underserved harm to his reputation as a result of the Defendants' false and defamatory stories.

3. More specifically, and as alleged herein, beginning on March 15, 2007, less than one week after Mr. Delp's tragic death, and at a time when Mr. Scholz and fans of BOSTON (and the many fans of Mr. Delp) were still mourning his loss, the Defendants published, repeatedly, that Mr. Scholz's alleged longstanding feud with former band members (not Mr. Delp) and Mr. Scholz's alleged dropping of Mr. Delp's friend from an upcoming BOSTON summer tour were contributing factors to Mr. Delp's suicide. The Defendants published these and other false statements, some of which were attributed to unidentified sources, in the March 15, 16 and July 2, 2007 editions of the Herald. Ms. Fee and Ms. Raposa were listed as the reporters of the articles. The stories were each published online and then republished, in some instances internationally, by other media outlets.

4. In one of the articles, the Defendants attribute statements to Mr. Delp's ex-wife, Micki Delp ("Ms. Delp"), which state that Mr. Delp was driven to suicide by Mr. Scholz. Ms. Delp, however, has testified in a pending lawsuit that she did not make at least two of the statements attributed to her, which happen to be the most damaging statements in the articles. Accordingly, if Ms. Delp's testimony in the pending lawsuit is true, at least two of the most harmful statements in the articles are either deliberate distortions or complete fabrications.

However, even if Ms. Delp made the statements, the Defendants knew the statements were false, or recklessly disregarded their falsity, because Ms. Delp was known to the Defendants to be hostile and biased against Mr. Scholz.

5. As further alleged herein, the Defendants had a motive to fabricate and sensationalize a story about Mr. Scholz. The Defendants' motivation arose directly from certain relationships between Ms. Fee and Ms. Raposa, on the one hand, and certain former members of BOSTON with a known (and mistaken) axe to grind against Mr. Scholz and at least one well placed public relations specialist acting on their behalf, on the other, who is not identified in the articles as a source of information, but is believed to have provided or facilitated the provision of information which the Defendants knew was false (or recklessly disregarded its falsity) and biased. The Defendants nevertheless consciously chose to join in a pre-conceived plan to sensationalize a damaging story about Mr. Scholz and his supposed responsibility for Mr. Delp's suicide both to sell newspapers and to assist friends in settling old scores by falsely portraying Mr. Scholz as an insensitive, heartless and oppressive person.

#### **Parties**

6. The plaintiff, Mr. Scholz, is an individual residing in Middlesex County, Massachusetts. Mr. Scholz is a successful musician, composer, recording engineer and record producer who, in or about 1975, founded the hugely successful rock music group BOSTON. Mr. Scholz has, at all times, been the leader of BOSTON and is often referred to in the press as the "mastermind" behind BOSTON. Mr. Scholz, in fact, owns the trademark for the name and logo "BOSTON." In addition, like Mr. Delp, Mr. Scholz had been a vegetarian for over 30 years and a supporter of many anti-violence organizations including PETA and The Humane Society. In 1987, Mr. Scholz organized his own charitable foundation, The DTS Charitable Foundation, to

help support such causes as animal protection, providing vegetarian resources, stopping world hunger, creating homeless shelters, food banks, as well as shelters and sanctuaries, and advocating for children's rights. Through his work with his foundation, Mr. Scholz has raised millions of dollars, a substantial portion of which has come from his own personal donations. Before he passed away, Mr. Delp had donated over \$100,000 to The DTS Charitable Foundation.

7. The defendant, the Herald, is a Massachusetts corporation with its principal place of business in Boston, Suffolk County, Massachusetts. The Herald is a major Boston newspaper which reaches a large audience through a daily circulation in excess of 200,000 newspapers plus additional circulation via the Internet. The Herald is owned, in majority part, by its Publisher, Patrick Purcell ("Mr. Purcell"). Mr. Purcell has admitted under oath in the past that the Herald is a tabloid. Mr. Purcell has also admitted under oath previously that the Herald is focused on and most interested in "entertaining" its readers as opposed to serious journalism. The Herald maintains no written journalistic standards and provides no training, other than on-the-job experience, to its reporters in either journalistic standards or journalistic ethics and did not do so in 2007. In recent years, the Herald's financial circumstances and lack of profitability have caused the paper to undertake numerous layoffs and buy outs of senior employees. At the same time, the Herald has engaged in more aggressive, sensationalistic and tabloid reporting in order to boost circulation. In material part, this state of mind, encouraged from the top down at the Herald, led to the false, defamatory and sensationalized reporting about Mr. Scholz by the Defendants here.

8. The defendant, Ms. Fee, is an individual who resides in Massachusetts. At times material hereto, Ms. Fee was a reporter for the Herald and acted within the scope of her employment at the Herald in reporting the articles at issue here. Ms. Fee and Ms. Raposa write a

regular column for the Herald entitled "Inside Track." The two are commonly referred to as the "Track Gals."

9. The defendant, Ms. Raposa, is an individual who resides in Massachusetts. At times material hereto, Ms. Raposa was a reporter for the Herald and acted within the scope of her employment at the Herald in reporting the articles at issue here.

#### **Jurisdiction and Venue**

10. The jurisdiction of this Court over the Defendants is lawful and proper where each defendant either resides, works or does business in Massachusetts and the claims brought herein arise from defamatory stories which were first published in Massachusetts. Venue in this County is lawful and proper where at least one defendant has its principal place of business here.

#### **Facts Common to All Counts**

11. In or around August 1976, BOSTON's debut album, *Boston*, was released to the public. It still ranks to this day as one of the best-selling debut albums in U.S. history.

12. In or around 1981, Barry Goudreau ("Mr. Goudreau") resigned from BOSTON to record a solo album, which featured Mr. Delp and Sib Hashian ("Mr. Hashian"). Sib Hashian ("Mr. Hashian") resigned from BOSTON in or around the mid to late 1980's.

13. Mr. Scholz continued to have a highly successful career recording and touring under the name BOSTON. Mr. Delp continued as the lead singer of BOSTON and, despite taking a reprieve from the band between 1990 and 1994, participated in every BOSTON tour until he passed away. When Mr. Delp took leave from the band in 1990, Mr. Scholz hired Fran Cosmo ("Mr. Cosmo") to provide studio vocals. When Mr. Delp returned to the band in late 1994 for BOSTON's Christmas children's benefit and subsequent summer tour, Mr. Delp and Mr. Cosmo both provided live vocals.

14. Well-chronicled past differences between Mr. Scholz, on the one hand, and Messrs. Goudreau and Hashian, on the other, resulted in a complete breakdown of any relationship between the former bandmates. Mr. Scholz's differences with Mr. Goudreau and Mr. Hashian, however, did not effect Mr. Scholz' relationship with Mr. Delp. Throughout a period of several decades, from the early 1970's until Mr. Delp's death on March 9, 2007, Mr. Delp was a close friend and musical collaborator of Mr. Scholz.

15. Ms. Delp is the 2<sup>nd</sup> ex-wife of Mr. Delp. Upon information and belief, they were married in 1980, separated in or around May 1991 and divorced in or around May 1996. They had two children together. Ms. Delp's sister, Connie Goudreau ("Ms. Goudreau"), is married to Mr. Goudreau.

16. Upon information and belief, around the same time as his separation from Ms. Delp, Mr. Delp began taking Xanax on a daily basis to address an onset of panic attacks. Upon information and belief, Mr. Delp was burdened with panic attacks for the remainder of his life.

17. Mr. Hashian and Mr. Goudreau are currently members of a band whose publicist, Peggy Rose ("Ms. Rose"), is a public relations specialist. Upon information and belief, Ms. Rose has been the band's publicist since at least August 2006.

18. In its August 2006 edition, Boston Magazine published an article entitled "Gals Gone Wild." The article examined some of the unprofessional, irresponsible and reckless tactics and methods employed by Ms. Raposa and Ms. Fee as so-called "reporters" for the Herald's Inside Track column. The article describes the nature of the relationships between local public relations agents and Ms. Fee and Ms. Raposa. The described relationships included reference to a generally accepted industry-wide understanding of favoritism granted by Ms. Fee and Ms. Raposa to clients of those agents who provide the best "scoops." The article featured several

quotes attributed to Ms. Rose who, as portrayed in the article, claimed to be intimately familiar with how “the game” is played with Ms. Fee and Ms. Raposa, and the Herald. The article, a true and accurate copy of which is attached hereto as **Exhibit A**, states in relevant part as follows:

“They own this city,” says publicist Peggy Rose. The Track’s near monopoly, in turn, has resulted in an unseemly scrabble from those looking to ingratiate themselves with the Gals. One victim calls the column “a protection racket”—you scratch my back or I might bite yours—but Rose, who has a good relationship with the Gals, is more diplomatic. “It’s a favor bank,” she says. “It’s not the money-and-bribe relationship they have in New York. The big thing is having photos or giving them scoops *so that you can call in a favor later on when you need one*. There is a quid pro quo there, no question, but that’s how the game works.”

No doubt, that’s how it works for most gossips, and that’s how it’s always worked at the *Herald*. Track-friendly car magnate Ernie Boch Jr. and the Avalon nightclub pop up in the column more than most (14 and 9 times, respectively, over a six-month period), not because Boch and Avalon are disproportionately fascinating, but because Peggy Rose reps them, and *she has invested heavily in the Gals’ favor bank*. “They’ll help you if you’re on their good side,” she says. “If not, they can hurt you.”

For a rookie muckraker, getting people like Rose on your side can mean the difference between a good column and an empty one.

(Emphasis added).

19. Upon information and belief, in July 2009, the Track Gals threw themselves a party at the Boston Harbor Hotel to celebrate their new television show and had the band represented by Ms. Rose (featuring Mr. Hashian and Mr. Goudreau) perform at the party.

20. On March 9, 2007, Mr. Delp committed suicide in his Atkinson, New Hampshire home. Mr. Delp was found by his fiancée, Pamela Sullivan, lying on a pillow on his bathroom floor with a suicide note pinned to his shirt. The official cause of death was listed as carbon monoxide poisoning. Mr. Delp, who was known for his considerate nature, left a note on the front door of his house warning that there would be carbon monoxide present. He also left

private suicide notes to Ms. Sullivan, his children, and his ex-wife and a public note that read: "Mr. Brad Delp. Je suis une âme solitaire." (French portion translates as "I am a lonely soul.").

21. Shortly after Mr. Delp's death, Ms. Rose drafted and issued a press release on behalf of Ms. Delp and Ms. Sullivan implying that Mr. Delp passed away as a result of a heart attack. The press release intentionally requested that all donations be made to the American Heart Association so as to further mislead the media and public concerning the true cause of Mr. Delp's death.

22. On or about March 14, 2007, after the Atkinson Police Department indicated that Mr. Delp's true cause of death (*i.e.*, suicide) would be disclosed to the public the next day, Ms. Delp and Ms. Sullivan issued a second press release (apparently without Ms. Rose's assistance) disclosing that Mr. Delp had, in fact, committed suicide.

23. Later on March 14, 2007, Gail Parenteau ("Ms. Parenteau") – who has served for many years as a publicist for Mr. Scholz, for BOSTON, and for Mr. Delp – called Ms. Rose about the second press release. A heated exchange ensued between the two, with Ms. Rose expressing her anger at the end of the call. That same evening, at approximately 9:00 p.m. EST, Ms. Parenteau received a call from Ms. Delp. Ms. Delp screamed at Ms. Parenteau for contacting Ms. Rose and for engaging in such a heated conversation with Ms. Rose.

24. Upon information and belief, on or about March 14, 2007, Ms. Rose, upset over the phone call she had received from Ms. Parenteau concerning Mr. Delp's death, and thoroughly familiar with Mr. Scholz' former bandmates animosity towards Mr. Scholz, decided to make a withdrawal from her "favor bank" with the Herald. Upon information and belief, with the knowledge and encouragement of Mr. Scholz' disgruntled former bandmates, Ms. Rose contacted Ms. Fee and Ms. Raposa in order to initiate a smear campaign against Mr. Scholz.



25. The next day, on March 15, 2007, the Herald, in its "Inside Track" column written by Ms. Fee and Ms. Raposa, published an article entitled in bold letters "**Suicide confirmed in Delp's death.**" A copy of the article is attached hereto as Exhibit B. The article states, in relevant part, as follows:

Delp remained on good terms with both Tom Scholz, the MIT grad who founded the band, and Barry Goudreau, Fran Sheehan and Sib Hashian, former members of Boston who had a fierce falling out with Scholz in the early '80's.

Delp tried to please both sides by continuing to contribute his vocals to Scholz' Boston projects while also remaining close to his former bandmates. The situation was complicated by the fact that Delp's ex-wife, Micki, is the sister of Goudreau's wife, Connie.

"Tom made him do the Boston stuff and the other guys were mad they weren't a part of it," said another insider. "He was always under a lot of pressure."

[...]

Scholz' penchant for perfection and his well-chronicled control issues led to long delays between albums. As a result, Goudreau, Delp and Hashian released an album without him, which led to an irretrievable breakdown.

[...]

But the never-ending bitterness may have been too much for the sensitive singer to endure. Just last fall the ugliness flared again when Scholz heard some of his ex-bandmates were planning to perform at a tribute concert at Symphony Hall for football legend Doug Flutie – and then had his people call and substitute himself for the gig, sources say.

In fact, the wounds remained so raw that Scholz wasn't invited to the private funeral service for Delp that the family held earlier this week.

"What does that tell you?" asked another insider. "Brad and Tom were the best of friends and he's been told nothing about anything."

26. The March 15, 2007 article contained, without limitation, the following false and defamatory statements and innuendo which the Defendants knew to be false and/or about which they recklessly disregarded their falsity:

- i. that Mr. Scholz' "penchant for perfection and well-chronicled control issues" caused "an irretrievable breakdown" between Mr. Scholz and Mr. Goudreau and Mr. Hashian – a breakdown that caused Mr. Delp to "always [be] under a lot of pressure," so much so that the pressure "may have been too much for the sensitive singer to endure";
- ii. that Mr. Scholz "made" Mr. Delp participate in BOSTON;
- iii. that, despite Mr. Scholz and Mr. Delp being "best of friends," Mr. Scholz was not invited to Mr. Delp's funeral because Mr. Delp's family believed that the pressures Mr. Scholz placed on Mr. Delp caused Mr. Delp to take his own life; and
- iv. that Mr. Scholz was responsible for the decision of the concert promoter not to include past BOSTON band members in the Doug Flutie Tribute concert.

27. Through the knowing, intentional and/or reckless reporting of these and other false and defamatory facts, the Defendants suggested to the public that Mr. Scholz' "never-ending bitterness" towards Mr. Goudreau and Mr. Hashian and his alleged oppressive ways as the leader of BOSTON ultimately drove Mr. Delp to commit suicide on March 9, 2007. None of this was true, but it nevertheless fit the Defendants' agenda, as payback to Ms. Rose, to sensationalize a story about Mr. Delp's suicide in an effort to sell newspapers, and portray Mr. Scholz as an insensitive, heartless and oppressive person.

28. Upon information and belief, Ms. Fee and Ms. Raposa, despite referencing various "insiders," did not communicate with any source(s) in connection with the March 15, 2007 article. Upon information and belief, the anonymous "insiders" referenced in the March 15, 2007 article were, in fact, invented out of thin air by Ms. Fee and Ms. Raposa.

29. Upon information and belief, most or all of the material in the March 15, 2007 article was provided to the Defendants by Ms. Rose or Ms. Delp.

30. As the Defendants knew, Mr. Goudreau and Mr. Hashian were members of a band represented by Ms. Rose. Thus, there was obvious reason for the Defendants to doubt the veracity of Ms. Rose's statements and her motivation – not only because Ms. Rose reached out to Ms. Raposa and Ms. Fee with a clear and obvious motive, but also because Ms. Fee and Ms. Raposa socialize with Ms. Rose, Mr. Hashian and Mr. Goudreau and are fully aware of Mr. Hashian's and Mr. Goudreau's historic and ongoing animosity towards Mr. Scholz.

31. Similarly, the Defendants knew that there was obvious reason to doubt the veracity of any statements provided to them by Ms. Delp, whose sister, Ms. Goudreau, was (and still is) married to Mr. Goudreau.

32. Nevertheless, in either case, the Defendants knowingly published these false statements about Mr. Scholz in the March 15, 2007 story and attributed the false statements to anonymous sources – sources who, even if they existed, were known to the Defendants at all times to be hostile and biased against Mr. Scholz and whose statements there was obvious reason to doubt.

33. During the evening of March 15, 2007, while at a restaurant/nightclub with Ms. Delp and others in Londonderry, New Hampshire, Ms. Goudreau received a call on her cellular phone from Ms. Fee. Ms. Fee requested a comment in connection with a story the Herald planned to publish the following day about Mr. Delp's suicide notes. Upon information and belief, Ms. Goudreau did not offer any comment and hung up the phone. Ms. Goudreau then told Ms. Delp about the call she had received from Ms. Fee. Ms. Delp then called Ms. Fee and was interviewed by Ms. Fee regarding the suicide notes. According to Ms. Delp's testimony in a

pending legal matter, Ms. Fee attempted to push Ms. Delp into blaming the suicide of her ex-husband on Mr. Scholz and, in particular, the friction Mr. Scholz allegedly had caused between some former BOSTON band members and himself several decades ago.

34. According to Ms. Delp's testimony, Ms. Delp refused to provide Ms. Fee with any statement that could in any way be construed as attributing Mr. Delp's suicide to any actions of Mr. Scholz. Ms. Delp has testified that in fact she does not know why Mr. Delp committed suicide and that during her interview with Ms. Fee she did not give Ms. Fee any reason to believe that she knew why Mr. Delp committed suicide, much less that Mr. Scholz was a contributing factor to, or the cause of, Mr. Delp's decision to end his life.

35. The following day, March 16, 2007, the Herald, in its "Inside Track" column written by Ms. Fee and Ms. Raposa, published an article entitled in bold letters headlined: **"Pal's snub made Delp do it: Boston rocker's ex-wife speaks; Delp's ex say 'No one can possibly understand.'"** A copy of the article is attached hereto as **Exhibit C**. The article states, in relevant part, as follows:

Boston lead singer Brad Delp was driven to despair after his longtime friend Fran Cosmo was dropped from a summer tour, the last straw in a dysfunctional professional life that ultimately led to the sensitive frontman's suicide, Delp's ex-wife said.

[...]

According to Micki Delp, Brad was upset over the lingering bad feelings from the ugly breakup of the band Boston over 20 years ago. Delp continued to work with Scholz and Boston but also gigged with Barry Goudreau, Fran Sheehan and Sib Hashian, former members of the band who had a fierce falling out with Scholz in the early '80s.

As a result, he was constantly caught in the middle of the warring factions. The situation was complicated by the fact that Delp's ex-wife, Micki, is the sister of Goudreau's wife.

36. The March 16, 2007 headline was false and defamatory and known to be so by the Defendants. The headline, in conjunction with the March 15, 2007 article and the article directly beneath the headline, falsely states as a fact that Mr. Scholz' "snub" of Fran Cosmo (which did not happen) ultimately drove Mr. Delp to commit suicide and that Ms. Delp had told this to the Defendants.

37. The March 16, 2007 article as a whole and in specific parts both repeated prior libels and contained new falsehoods and false innuendo which the Defendants published with a knowing or reckless disregard of their falsity. These falsehoods, without limitation, include the following:

- that pressures allegedly inflicted upon Mr. Delp by Mr. Scholz, such as "the ugly breakup of the band Boston," which was allegedly caused by Mr. Scholz' "penchant for perfection and well-chronicled control issues," and Mr. Scholz' consideration of possibly dropping Fran Cosmo from a proposed summer BOSTON tour, which Mr. Scholz had the power to do as the leader of the band, drove Mr. Delp to such despair that Mr. Delp committed suicide on March 9, 2007.

38. Through the knowing, intentional and/or reckless reporting of these and other false facts, the Defendants suggested to the public that, according to Ms. Delp (*i.e.*, someone purportedly highly familiar with Mr. Delp and his state of mind at the time), Mr. Scholz' actions solely and directly caused Mr. Delp to commit suicide on March 9, 2007.

39. According to her testimony, Ms. Delp never expressly or impliedly made any statement to the Defendants consistent with the lead paragraph of the March 16, 2007 article and never expressly or impliedly stated to Ms. Fee that Mr. Delp "was upset over the lingering bad feelings from the ugly breakup of the band Boston over 20 years ago." In fact, Ms. Delp denies making any statement to Ms. Fee consistent with the lead paragraph of the article or the sentence in the article that reads, "According to Micki Delp, Brad was upset over the lingering bad

feelings from the ugly breakup of the band Boston over 20 years ago.” The Defendants’ publication to the world that Ms. Delp made these statements when she, in fact, made no such statements is defamatory per se.

40. At least two of the statements attributed to Ms. Delp were false and fabricated, but they nevertheless fit the Defendants’ pre-determined agenda to sensationalize a story about Mr. Delp’s suicide in an effort to sell newspapers and to portray Mr. Scholz as an insensitive, heartless and oppressive person.

41. The Defendants deliberately distorted or completely fabricated the statement attributed to Ms. Delp in the lead paragraph of the March 16, 2007 article and the sentence in the article that reads, “According to Micki Delp, Brad was upset over the lingering bad feelings from the ugly breakup of the band Boston over 20 years ago.”

42. The Defendants knew that at least two of the statements attributed to Ms. Delp, even if made by her, were false, or recklessly disregarded their falsity, because the information was coming from a source (Ms. Delp) known by the Defendants to be hostile and biased against Mr. Scholz.

43. The Herald and its reporters published as fact the above false statements, and others, without ever informing Mr. Scholz of the statements at issue, without asking him if the statements were true, without talking to any of the several persons closest to Mr. Delp, including his fiancée, Pamela Sullivan, or his prior fiancée and continuing close personal friend, Pat Komor, and in the face of known contrary information making the alleged statements by Ms. Delp illogical. For example, Mr. Delp’s own words in an interview just two weeks before his death reveal the falsity of at least two of the statements attributed by the Defendants to Ms. Delp.

In an interview with George Austin of Limelight New England, conducted on February 22, 2007, and appearing in the debut issue published in Summer 2007 (pp. 6-13), Mr. Delp stated:

[...]

George: Can you tell us about the upcoming BOSTON tour. What can we expect?

Brad: *[... ] we'll be concentrating pretty heavily on the first couple of records. [... ] Tom is planning on doing a few things that we haven't actually played for quite a number of tours. I think it'll be a lot of fun. I'm very lucky that I get to do this, especially when there's still an interest in classic rock. [... ]*

[...]

George: Can you tell me a little bit about how BOSTON has evolved and where you are now with the band?

Brad: *It's kind of an interesting situation because we don't play all the time like Aerosmith and a lot of other bands. I have to say I'm kind of happy with this arrangement. When Tom gets the urge to work on something or wants to hear a vocal on something, we only live an hour apart and that has pretty much always been the case. So, he'll just call me and it's sort of a very low key process. He might call to say, 'I've got an idea for a song, when are available?' [... ]*

George: I've read that you live a very healthy [sic] lifestyle being a vegetarian. Do you think that has helped your voice hold up so well?

Brad: *[... ] I think vocally the biggest help for me is the fact that I go out and play three hours with Beatlejuice a couple of nights a week, particularly with a band like BOSTON who I literally might not see for two or three years at a time. Had I not been doing anything at all, I think it would have been really tough. This way it's enjoyable. I don't think of either bad as work. I have a great job and it's just a lot of fun. [... ]*

George: How about your relationship with Tom Scholz? How has that evolved over the years:

Brad: *From what I've read, Tom's comments about me have been very generous in praising me for what I do. I think it's a mutual respect. [... ]*

[...]

George: How do you feel about BOSTON's music legacy?

Brad: Again, I'm very appreciative of the fact that we're still able to go out on tour and there's still interest. We've always had terrific crowds. And I will say that I've met a lot of fans over the years who are incredibly loyal and have stuck with us all this time. It's very flattering to feel like your music means something to people in a small way. [...]

[...]

George: [... ] We'll see you on tour with BOSTON this summer.

Brad: I hope so.

(Emphasis added.)

44. According to Ms. Delp's testimony, when Ms. Delp read the March 16, 2007 article on the day it was published she became furious because the at least two of the statements in the article that were attributed to her were statements she never made and, to make matters worse, improperly suggested to the public that she knew for a fact, based on her close relationship with Mr. Delp, that Mr. Scholz' actions drove Mr. Delp to commit suicide.

45. On the morning of March 16, 2007, Ms. Delp called Ms. Fee. She informed Ms. Fee that the lead paragraph in the article as well as the sentence that reads, "According to Micki Delp, Brad was upset over the lingering bad feelings from the ugly breakup of the band Boston over 20 years ago," were distortions and/or fabrications on the part of the Defendants.

46. In response, Ms. Fee failed to indicate to Ms. Delp that the Herald would retract the statements at issue in the March 16, 2007 article and, in fact, the Herald did not ever publish a retraction of the statements despite having been told by Ms. Delp that they were not true.

47. Concerned that others may construe the March 16, 2007 article the same way she did, Ms. Delp contacted Ms. Sullivan that same day. According to her testimony in a pending lawsuit, Ms. Sullivan too understood the March 16, 2007 Herald article as falsely blaming Mr. Scholz for Mr. Delp's death. Ms. Sullivan offered to Ms. Delp to explain to all relevant parties,



including Mr. Scholz, that the statements at issue in the March 16, 2007 Herald article were never communicated to the Defendants.

48. On March 17, 2007, Mr. Scholz received a voicemail from Ms. Sullivan in which Ms. Sullivan asked Mr. Scholz to call her about “the pack of lies printed in the Herald.” (Emphasis in original). Upon information and belief, Ms. Sullivan was referring to the statements at issue in the March 16, 2007 article that are attributed to Ms. Delp, among other things.

49. On March 23, 2007, Ms. Sullivan issued a statement to the press, which was published in the Boston Globe, and which stated, in relevant part, as follows:

In our grief, we look for answers, for reasons, and perhaps for blame. In the days that have passed since his death there has been a great deal of speculation and rumors put forward by the media and the Boston (band) fan base as to why he chose to end his life. Words have been taken out of context, statements have been misconstrued, and people have been hurt. People are looking for answers, and there are none to be had.

Bradley blamed no one, held no one accountable, for what was in his own heart. His music, his business, his relationships, these were the things that brought him joy. His sadness came from within; it was his own. He wanted no one to carry his burdens, in life or death.

50. Upon information and belief, Ms. Sullivan’s statement was referring, at least in part, to the false statements published in the March 15 and 16, 2007 Herald articles, which expressly and impliedly published that Mr. Scholz was responsible for Mr. Delp’s death.

51. The fabricated comments attributed by the Defendants to Ms. Delp in the March 15 and 16, 2007 articles were widely republished by local, national and international media news outlets, including several websites popular within the recording industry. Several media outlets reached the same conclusion as Ms. Delp and Ms. Sullivan and countless others after reading the

Herald's March 15 and 16, 2007 articles (*i.e.*, that Ms. Delp told the Herald that she blames Mr. Delp's suicide on Mr. Scholz). For example:

- i. Launch Radio Networks ("Launch") (a division of United Stations Radio Networks, Inc., which, upon information and belief, changed its name as of August 1, 2007 to Pulse Content) is a respected press syndicate which covers music news. Launch's content is picked up by music and entertainment media, especially radio and internet. Launch has reported on BOSTON for years. On March 19, 2007, Launch reported:

The ex-wife of BOSTON singer Brad Delp blames long-standing issues within the band for Delp's suicide. Micki Delp told The Boston Herald that Brad has always been stuck in the middle of fights between bandleader Tom Scholz and former members of the group, and that the past 30 years' worth of tensions finally go the better if him. [ . . . ] Micki said the last straw was the recent firing of fellow Boston singer Fran Cosmo and his son, guitarist Anthony Cosmo.

- ii. On March 20, 2007, the Toronto-based heavy metal website Braveworlds.com (at <http://www.braveworlds.com/news/62543>) reported the foregoing March 19, 2007 statement of Launch.
- iii. On March 24, 2007, WMUR-9 (an ABC-TV affiliate in Manchester, NH) reported on its website (at <http://www.wmur.com/entertainment/11361651/detail.html>):

Last week Micki Delp was quoted as saying Delp was distressed about the conflicts in his professional life and became despondent after a long-time friend was cut from the band's summer concert lineup.

52. By publishing the libelous statements in the March 16, 2007 article, the Defendants informed the public as fact that Ms. Delp, a woman very close to Mr. Delp, possessed specific, inside information that Mr. Delp committed suicide as the direct result of actions supposedly taken by Mr. Scholz. The media outlets which republished the March 16, 2007 Herald article, as well as Ms. Delp and Ms. Sullivan, each reasonably understood the statements in the Herald to be factual in nature and to communicate facts, including, without limitation, that Ms. Delp had said the statements attributed to her.

53. The children of Mr. Delp and others organized a concert to take place on August 19, 2007, in tribute to their father, the proceeds of which were to benefit certain charities.

54. On July 2, 2007, the Herald, in its "Inside Track" column written by Ms. Fee and Ms. Raposa, published an article headlined: "**Delp tribute on.**" A copy of the article is attached hereto as **Exhibit D**. The article states, in relevant part, as follows:

The concert will include one number – the encore – during which the original members of the band Boston will reunite. The parties – founder Tom Scholz and original members Barry Goudreau, Sib Hashian and Fran Sheehan with Fran Cosmo on vocals – have been at odds for decades and the lingering bad feelings from the breakup of the original band more than 20 years ago reportedly drove singer Delp to take his own life in March.

55. The article as a whole and in specific parts repeated prior libels and false innuendo which the Defendants published with a knowing or reckless disregard of their falsity. These false and defamatory statements, without limitation, included the following:

- that lingering bad feelings from the breakup of BOSTON, which was previously reported by the Herald Defendants as being caused by Mr. Scholz' "penchant for perfection and well-chronicled control issues," drove Mr. Delp to take his own life in March.

56. Through the knowing, intentional and/or reckless reporting of these and other false facts, the Defendants again suggested to the public as fact that the alleged oppressive ways

of Mr. Scholz caused the original members of BOSTON to part ways, ultimately causing Mr. Delp such despair that twenty-years later he was driven to commit suicide.

57. Upon information and belief, the statement in the July 2, 2007 article that “the breakup of the original band more than 20 years ago *reportedly* drove singer Delp to take his own life in March” is based on, and derived from, the same statement first reported by the Herald in the March 16, 2007 article. The use of the term “reportedly” in the July 2, 2007 article falsely implies that the statement was in actuality made and reported earlier elsewhere.

58. The Herald has refused to retract the defamatory statements of and concerning Mr. Scholz, including, but not limited to, the statements at issue that are attributed to Ms. Delp.

#### **Count One**

#### **(Defamation/Libel)**

59. Mr. Scholz incorporates by reference in their entirety all previous and subsequent paragraphs of this Complaint.

60. As detailed above, the Defendants published statements of and concerning Mr. Scholz in the March 15, 16 and July 2, 2007 editions of the Herald which were false, defamatory and defamatory per se. In so doing, the Defendants held Mr. Scholz up to public scorn and ridicule, and destroyed his good name and reputation. Despite being an individual who takes great pride in his professional and charitable achievements, having dedicated countless hours to each, the public now has been left with the false understanding that Mr. Scholz drove Mr. Delp to such despair that he committed suicide on March 9, 2007. The consequences to Mr. Scholz have been devastating. For example, a Google Internet search of Mr. Scholz now produces the Defendants’ various libels and slanders as a result of which the Defendants’ defamatory

statements are constantly and foreseeably republished on a regular basis, all to Mr. Scholz' personal and professional detriment.

61. The published statements of and concerning Mr. Scholz in the March 15, 16 and July 2, 2007 editions of the Herald were defamatory per se because they impute dishonesty, immorality, vice and dishonorable conduct to Mr. Scholz and injure Mr. Scholz in his trade or business. Further, the Defendants' representation to the world that Ms. Delp made the statements at issue when, in fact, she has stated under that she made no such statements is defamatory per se. The Defendants knew the statements about Mr. Scholz were false, and recklessly published the information unnecessarily, unreasonably and excessively with disregard for its falsity.

62. Alternatively, even if the false and defamatory statements at issue were made by Ms. Delp and the unidentified sources, the Defendants knew that the statements about Mr. Scholz were false, or recklessly disregarded their falsity, because Ms. Delp and the other unidentified sources in the articles were known to the Defendants to be hostile and biased against Mr. Scholz.

63. All of the above-described statements were false, malicious and were published with a knowing, intentional, subjective awareness of, and/or reckless disregard of, their falsity.

64. As a result of defendants' actions, Mr. Scholz has suffered damages, including damage to his personal and professional reputation and emotional distress damages.

## **Count Two**

### **(Intentional Infliction of Emotional Distress)**

65. Mr. Scholz incorporates by reference in their entirety all previous and subsequent paragraphs of this Complaint.

66. By deliberately engaging in a scheme specifically designed to undermine and defame Mr. Scholz through invented sources and/or deliberate distortions and fabrications of statements, as described above, the Defendants intended to inflict emotional distress upon Mr. Scholz, or knew or should have known that emotional distress would be the likely result of their conduct.

67. The Defendants' conduct as described above was extreme and outrageous, beyond the bounds of decency, and intolerable in a civilized community.

68. The Defendants' conduct directly and proximately caused Mr. Scholz to suffer emotional distress, embarrassment and humiliation, the nature of which no reasonable person could be expected to endure and for which Mr. Scholz is entitled to recover.

**Prayers for Relief**

WHEREFORE, the plaintiff, Mr. Scholz, respectfully requests that the Court grant him the following relief:

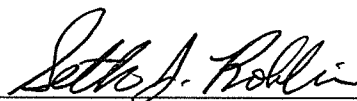
- i. enter judgment after trial in his favor and against the Defendants on each and every count of this Complaint;
- ii. award him damages against the Defendants in an amount determined by the jury, plus statutory interest;
- iii. award him attorney's fees and costs reasonably incurred and expended by him in the necessary prosecution of this Complaint; and
- iv. grant such other and further relief as the Court deems just and proper.

**Jury Demand**

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL COUNTS SO TRIABLE.

DONALD THOMAS SCHOLZ,

By his attorneys,



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Dated: March 10, 2010

# EXHIBIT A



# Boston magazine

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## Gals Gone Wild

Critics of the Inside Track have long accused the *Herald's* gossip column of being malicious and pandering. Nowadays, those are some of the nicest things you can say about it.

By John Gonzalez

Halfway through lunch with Chet Curtis, it occurs to me that maybe we should have eaten someplace more private. People tend to notice famous newscasters, especially at places like Game On!, a heavily trafficked sports bar in Fenway Park's shadow. We're seated in a deep booth in the back, but people still fix him with stares. *Is that Chet Curtis? I think that's Chet Curtis. Check out Chet Curtis. Chet Curtis, Chet Curtis, Chet Curtis.*

This is how gossip starts—which is what the NECN newsman and I are here to talk about. We're discussing the biggest, pretty much the only, mass-media rumor mill in town—the *Boston Herald's* Inside Track, written by Gayle Fee and Laura Raposa. Curtis, being a public figure who was once married to another public figure, has appeared in the Track often. Some items were complimentary. Others, not so much. And this is how it happens: Someone sees you having lunch, pulls out a cell phone, and, as the Gals implore at the end of each column, drops a dime to them.

I ask Curtis if he's worried that someone will make a call and twist our lunch into something unseemly: *My god, I saw Chet Curtis at Game On! He was hand-feeding calamari to a reporter.*

"Nah," he says. "But I might be if you were a woman."

He's only half-joking. Six years ago, when Curtis and Channel 5 anchor Natalie Jacobson were in the midst of their divorce, the Track ran a story about Curtis having dinner with a gaggle of young babes at a restaurant near his Marina Bay home. They dubbed him "Mr. Dating Machine." Curtis's dates, it turned out, were his two daughters, his niece, and his niece's friend. The Track printed a retraction, but the damage was done. "A lot of people think it's funny when something is in there," says Curtis. "It is, until it's about you. It can be hurtful publicity."

Some 15 years after the Inside Track began, Fee and Raposa have burned a lot of people in this town. So it's not surprising that of the dozens of sources interviewed for this story, most insisted on anonymity. "I understand why people don't want to talk about them or what they've written," Curtis says. "It speaks to their power." But if critics are loath to

HARLEM

IT'S  
ALSO  
YOUR  
CITY.

DRINK RESPONSIBLY

discuss the Gals on the record, in private they'll rattle off a litany of Track-related gripes: They're too cozy with the town's major PR flacks. They're mean-spirited for the sake of it. They'll resort to questionable methods to get a good story. It seems only a matter of time before someone claims that they can turn their heads a full 360 degrees. "They're a microcosm of all that's good and evil with the journalism world," says someone in the public relations field. "They're the evil hybrid of how journalism is done."

It's unlikely that many professional gossips would be wounded by such charges—*You think we're too mean? Well, boo-hoo!* A spate of recent incidents, though, suggests a more damning criticism can now be leveled at the Gals: They've grown lazy, arrogant, and complacent, and their work has suffered for it. Because while the Track has never been held up as a paragon of thorough and balanced journalism, the last few months have seen the column hit new lows.

**Tracked down:** *Gayle Fee and Laura Raposa doing the gossip thing at Tawdry Tabloid headquarters. The Damaging Duo were being grilled about their insensitivity and whether people are afraid of them.*

**File under:** *Hard copy.*

On the second floor of One Herald Square, Fee and Raposa share a cramped, kitsch-cluttered office. On one wall is a picture of the two columnists with halos above their heads. On another hangs a black T-shirt with yellow writing that says, "If you've got nothing nice to say come sit next to me." The overall effect is of shoulder-slapping, all-in-good-fun chicanery. "No one who knows us is scared of us," Raposa says. "People have to realize: We don't wake up in the morning thinking how we can screw somebody."

If that's true, then the Gals' late predecessor is snarling in her grave. Fee and Raposa took over from notorious *Herald* columnist Norma Nathan in 1991—a woman who set the standard for bitchy, bellicose gossip. Before stepping into their present roles, Fee was a city editor at the paper and Raposa a business reporter. They've certainly adapted well. For years now, Boston's gossip pipeline has seemed to flow directly and consistently onto the desks of Gayle and Laura.

"They own this city," says publicist Peggy Rose. The Track's near monopoly, in turn, has resulted in an unseemly scuffle from those looking to ingratiate themselves with the Gals. One victim calls the column "a protection racket"—you scratch my back or I might bite yours—but Rose, who has a good relationship with the Gals, is more diplomatic. "It's a favor bank," she says. "It's not the money-and-bribe relationship they have in New York. The big thing is having photos or giving them scoops so that you can call in a favor later on when you need one. There is a quid pro quo there, no question, but that's how the game works."

No doubt, that's how it works for most gossips, and that's how it's always worked at the *Herald*. Track-friendly car magnate Ernie Boch Jr. and the Avalon nightclub pop up in the column more than most (14 and 9 times, respectively, over a six-month period), not because Boch and Avalon are disproportionately fascinating, but because Peggy Rose reps them, and she has invested heavily in the Gals' favor bank. "They'll help you if you're on their good side," she says. "If not, they can hurt you."

For a rookie muckraker, getting people like Rose on your side can mean the difference between a good column and an empty one. But there's a tradeoff: As your stable of snitches and snoops grows, your potential hit list dwindles. This wouldn't be a problem in New York or Los Angeles, where celebrities are like fake boobs—everywhere, and on constant display. On a slow day in L.A., gossips can fall back on Julia Roberts shopping at True Value, Colin Farrell eating with his

fingers. Here, where celebrities tend to be not that famous, you have to work harder to make them interesting. You run an item about a mutual fund CEO, he'd better be nailing his wife's manicurist.

Back when Fee and Raposa were still relatively new to the gossip beat, there seemed no end to the colorful indiscretions that found their way into the Gals' ears—a single 1995 Inside Track had "Bad Boy" Bobby Brown smashing up a hotel room and "hairstylist-to-the-stars" Sandy Poirier being nabbed at the border for carrying contraband Cuban cigars. Today, if recent Track columns are any indication, Boston is in the midst of a gossip drought. On June 20, the lead item was *The Game Plan*, a movie being filmed locally starring the Rock. On June 21, the lead item was about—and this is pretty fantastic—*The Game Plan*, a movie being filmed locally starring the Rock. One week earlier, the Gals led with a nugget about former *Laguna Beach* cast member Stephen Colletti shooting a movie in *Rhode Island*.

Given such scintillating content, the fact that important people still feel compelled to read the Track six times a week seems to be a product of habit as much as anything else. "I usually hold my breath when I turn to the Inside Track each morning," Senator Ted Kennedy writes in an e-mail, a canned comment indicating he does no such thing. "I've learned some interesting things about myself in the Track over the years—I wish I were half as exciting as they make me out to be." At this point in their careers, you can bet that the Gals are wishing the same.

On the rare occasions the Track does get hold of a genuinely salacious story, it tends to beat it to death, and the subject along with it. Former Red Sox pitcher Derek Lowe, for example, continues to take frequent shots from the Gals for his off-field transgressions, even though he's now with the L.A. Dodgers. As recently as April, the Gals implied that Lowe is an alcoholic, a bad pitcher, and a worse father. They filed the item under "Lowe Ball." "The whole thing about my divorce, that's personal," he says. "I stopped playing there in 2004. This is '06. It gets to the point where they make you look like someone you're not. They talked about everything I did. Some true, some not true. They don't care. They're all about the juicy story."

The Gals' relentless Lowe-bashing might look like pit bull tenacity, an admirable quality for any gossip columnist, but it also smacks of desperation, as if they continue to pick at the pitcher to spare us yet another item recalling the hilarious antics of the *Queer Eye* quintet. Sometimes it can seem like they are trying to make up for the general flabbiness of their column with a single ruthless bloodletting.

In December 2004, in one of the more infamous public floggings in recent memory, the Gals announced that longtime Channel 4 sports anchor Bob Lobel was having an affair "with a woman some 20 years younger." The item also gleefully informed us that Lobel's third marriage and his career were in jeopardy (if they weren't already, they probably were after the item appeared). The fact that the Gals and Lobel share the same agent apparently wasn't enough to squash the story. "It was too good not to print," says a source. "He's a household name." The same source adds that it was Lobel's failure to make sufficient deposits in the Track's favor bank that made him a target. "If he had helped them before, maybe they wouldn't have burned him. See the difference? If you're not doing favors for them, if you're not on their good side, you're fucked."

Lobel won't talk about the incident. Johnny Damon's wife, Michelle, a long-time Track whipping girl, also declines to comment. Sports reporter Hazel Mae—the subject of a recent blind item in the Track about her giving pet names to her breasts—isn't speaking either. To openly challenge the Track, after all, might inspire the Gals to don their brass knuckles and throw down.

To wit: When I first began reporting this story, I received multiple phone calls saying the Gals were on to me. Before I'd written a word, my boss had received four calls, one of them to inform him that I'm "a punk." Restaurant owner Joe Cimino sent a letter to this magazine, insisting his name not appear in the article. Before long, disparaging comments about my loyalty to *Boston* magazine started seeping into our office. (If you see me panhandling outside Store 24, drop something in my cup.) George Regan, one of the Gals' PR buddies (who, incidentally, represents BoMag and the *Herald*), asked me to come down to his gym to "settle this." He also issued a fatwa against me, sending out a companywide directive that no one at his firm talk to me. Ever. (Regan confirms he sent the memo "with pride," before announcing that any employee who *does* talk to me will be out of a job.)

In person, the Gals are quite amiable. They're quick with a joke and chatty when it suits them. When I ask if they have any regrets about what they've written, though, they almost laugh me out of the room. But then, hardened cynicism is to the professional gossip what makeup is to the rodeo clown—which is why the Gals often play up their mean streak. "We've gone to events where we know we're two skunks at a garden party," Raposa says. "There are some people out there who don't like us—and with good reason."

*We hear: That the Gals often don't check the "scoops" they're handed. Our spies tell us it's because the copy cooks have grown so buddy-buddy with some of their sources that—well, facts schmacts.*

*File under: Sale-acious!*

As malicious as the Bob Lobel attack may have been, at least it had some basis in reality—unlike the Chet Curtis item, where a quick phone call would have debunked the newsman-turns-swinging angle. But the Curtis debacle went beyond shoddy fact-checking. The Gals have long demonstrated a kind of willful naiveté when it comes to intelligence from their closest sources. A decade ago, a *Boston* magazine story reported that PR spinner Charles Cohen had fed the Track a story about an actress singing "Happy Birthday" to Teddy Kennedy in the Marilyn Monroe vein. The Gals ran with it, but later discovered that it never happened. Oops. As one longtime gossip notes, "The people who call [them] aren't the most upstanding citizens."

George Regan has traded with the Gals so often and for so long that he can withdraw favors whenever he wants. "George has a pact with the girls," insists one insider. "They'll run anything he asks them to." Following Red Sox opening day this year, someone told me that Regan had dropped a bunch of names to the *Herald*—clients of his who he claimed were in the stands—on the understanding that they'd get boldface coverage the following day. And they did. But according to a source, at least one of the people listed—Joe Cimino—wasn't actually there.

"I wish we were perfect," Fee says about the column. "We've been doing this for 15 years. So if we write 60 items a week, times 50 weeks a year, that's 3,000 items per year. Times 15 years—that's, what, 45,000 items? We're gonna make a few mistakes."

Deborah Schoeneman, author of *4% Famous*, who has written gossip for the *New York Observer*, *New York* magazine, and the *New York Post*, doesn't buy that defense. "The lesson I learned is that you should call everyone," she says, "because the person feeding you the information could be an enemy or have an agenda. You have to check that stuff. Any reputable publication would."

No matter how careful you are, the rapid pace of daily journalism invites errors. What's important is the response when

potential blunders are pointed out. Cimino, questioned about whether he was at the Sox game, says, "I'm a private person. I have no comment." Regan, for his part, denies he planted a fake sighting. "I bought him the ticket," he says, along with some things that can't be printed here. The Gals say they don't know whether Cimino was there. *Herald* editor Ken Chandler thinks maybe he fed them the item, but he can't remember who gave it to him. The only thing any of them can be sure about is that they're not sure. Confused? You're supposed to be. It's the editorial version of the old shell game—shift culpability quickly enough and no one will be sure what happened.

Phantom Fenway sightings, while not exactly ground-shaking, could be seen as part of a bigger picture. A decade ago, the *Herald* was run by Andy Costello, a respected and, by many accounts, exacting editor. A few years back, Costello was replaced by Chandler, an Englishman known for his fast-and-loose approach to gathering news. "Under Chandler, they've become more sensational," says Dan Kennedy, a former *Phoenix* media critic who now teaches at Northeastern. "You'll find more dubious stories. The *Herald* was more solid when Costello was the editor."

One *Herald* insider tells me the Gals get away with more under Chandler than they did previously. Since his arrival, their space in the paper has doubled, and their freedom has increased along with that. There's also the fact that, after 15 years, the Gals and the *Herald* have become codependent. The *Herald* needs them to sell papers or, at the least, to get people like Ted Kennedy to read the rag from time to time. Meanwhile, as the Gals' grip on power grows tighter, their journalism gets slacker.

***Back by popular demand! More tales from the Naked City!... Hear about the naughty newsgirls who passed off another outlet's story as their own? Seems they "rewrote" some copy without disclosing that they weren't the original authors.***

***File under: Bad news.***

On June 6, *Editor & Publisher* ran an item reviewing plagiarism charges against author Dan Brown. The next day, in a sidebar to the main column, the *Track* printed a similar story—actually, pretty much the same story—with no attribution to *E&P*. The irony of the episode—an apparent plagiarism of a story about plagiarism—did not escape the attention of the nation's media watchers. Within hours of the *Track* piece appearing, the popular blog HuffingtonPost.com ran the headline "*Boston Herald* rips off *E&P* in Meta-Media Plagiarism story."

When pressed about the incident by the *Boston Globe*, Fee said she was running out the door when she rewrote the story. "We should have credited them," she tells me. The *Herald* quickly pulled the item from its website, and the staff closed ranks. "If you want to make an issue of plagiarism," says Chandler, "why don't you call up the radio and television stations that use our material all the time? The TV, the AM talk show hosts—if the *Herald* didn't exist, they wouldn't have anything to say. And we very rarely get attribution. What we did wasn't plagiarism. It was poor attribution."

Chandler's response, of course, is nonsense—like saying New England winters aren't cold, it's just that the temperatures are low. As any media pro knows, there's a world of difference between using someone else's report as a springboard for your own story and employing the cut-and-paste option. But this is how it seems to work at the *Herald* these days. It's like they're trained in Jedi mind tricks. Blatantly copy from another news organization? *No biggie. Happens all the time. These are not the droids you're looking for.*

The *Herald* brass perform similar semantic somersaults with regards to a May "We Hear" item, which detailed how *Herald*

deputy managing editor Joe Sciacca would replace departing *Phoenix* media critic Mark Jurkowitz on Channel 2's *Beat the Press*. That would have been a nice little scoop, except that the item echoed a WGBH press release on the switch. "It's impossible to plagiarize a press release," says *Herald* managing editor Kevin Convey. True, but if you want to get technical, isn't it also impossible to "hear" a press release? Even funnier than Convey's defense is the fact that Sciacca works in the same building as the Gals—reporting the item properly required no more than a walk down the hall.

Greg Mitchell, the *E&P* editor, doesn't see anything amusing about the Gals' antics. "If there's any humor in this, it's black humor," he says, referring to the Dan Brown item. "With no credit, how would people know that someone else had written it? To say 'we didn't mislead our readers' is patently false. That, to me, calls into question the standards there. If that's just taken as 'stuff happens,' that makes me wonder what else that's questionable is carried in that column."

**We hear:** *That the Track Gals like to spend their weekends among friends. The Gals dress up in chimp outfits and get drunk on Midori; Derek Lowe hems and haws over what to name his testicles; and Bob Lobel rides a Vespa in the nude—but Vespa ain't a scooter, that's her name! ...*

**File under:** *Too good to be true!*

On May 1, the Gals ran an item about Tommy Lee getting loaded at Avalon before retiring to a local hotel "with four lovelies for a little (Fe)Male Encounter." This time, Fee and Raposa had an eyewitness to back up their claim: Track assistant Erin Hayes. "Erin's a hot twentysomething and she got invited backstage," explains someone with knowledge of the situation. "The four hotties who went back to the hotel? One of them was Erin. Tommy Lee was having sex with people, and she saw it all." Naturally, Tommy's people weren't happy. For one thing, there are questions about whether Hayes made it clear she was a *Herald* reporter. The Gals dispute this, saying that Hayes did identify herself to the rocker's handlers, and that "if he didn't get the memo," then tough luck.

(As this article went to press, I received a call from the person who suggested Hayes hadn't sufficiently identified herself as a reporter. The source sounded worried. The gist of the call was that I'd gotten it all wrong, that I'd misheard or misunderstood large chunks of our conversation—apparently, nobody ever said or even implied any subterfuge on Hayes's part, despite my notes suggesting otherwise. The same day, Gayle Fee sent me an e-mail saying she was "concerned" and that I'd "misquoted" her on the Tommy Lee matter. Once again, the Gals had gone on the offensive; the source had seemingly flipped, and I found myself under renewed pressure to tone down my criticisms. It was like being in a bad mafia movie—at one point, gripped by paranoia, I worried that the Gals might try to clip me.)

Despite the barrage of caveats, qualifications, and veiled threats directed at me, no one denies that Hayes was in the hotel room when things got freaky. "How in God's name can you offend Tommy Lee?" Fee says. "I mean, his penis has been all over the Internet for the last five years." This point, while indisputable, raises an important question: Does the world really need another story about Tommy Lee's package? And even if it does, do the ends justify the *Herald's* means?

By the standards of conventional journalism, the answer to this question is easy: Uh, *no*. Gossip, though, isn't conventional journalism—hell, it's not journalism at all. It's a form of schoolyard sniping that happens to appear in newsprint. In the end, whether Hayes used clandestine tactics in that hotel room is irrelevant. What matters is that she showed initiative, she did the legwork, and she came back with a legitimate piece of sleaze. It was ugly, yes, but good gossip ought to be.

"There's a dirtiness of it, an underbelly," says one publicist. "It affects lives and families and children, but [the Gals] don't

care as long as they get their so-called scoop." A similar charge could be leveled at the Gals' readers—we don't care about the families and children either, as long as we get the dirt. We *want* the Track to tell us that Chet Curtis is a pair of plaid pants and a cheap gold necklace away from being the next Ron Jeremy, absolutely. But—and this is the important part—*only if it's true*.

"In terms of standards, I would urge you to consider the context," says Convey, the *Herald's* managing editor. "Maybe you think this particular gossip column should be held to the same standards as pages one through eight." Good point—it's not like the Track affects national security. In the end, we can forgive the pandering and the bullying and the backroom dealing. But there are rules.

The thing is, if we stop buying what we read in the Track, we will stop reading it entirely—not out of moral outrage, but because the thrill will be gone. As Dan Kennedy puts it: "Are we supposed to believe what they're writing or not?" And if not, why stop at Chet Curtis dating his daughter? Why not have Curtis dating Ted Kennedy? Or Dan Kennedy? Or Dan and Ted Kennedy? Go nuts.

One prominent Boston media observer points out that before they started working on the Track, Fee and Raposa were regarded as good reporters. Even now, the duo will occasionally display a certain knack for getting to the core truth of a subject. Fee, for instance, wittily and succinctly sums up her career path: "If the *Herald* were to close tomorrow and we didn't have the Inside Track anymore," she says, "then I'd be greeting people at Wal-Mart, because that's all I'm qualified to do at this point."

*Published in Boston Magazine, August 2006.*

# EXHIBIT B





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## Suicide confirmed in Delp's death

By [Gayle Fee and Laura Raposa](#)

Thursday, March 15, 2007 - Updated: 01:29 AM EST

**Brad Delp** lit two charcoal grills in the bathroom adjacent to his master bedroom and committed suicide via asphyxiation last week, according to New Hampshire police who yesterday confirmed that the lead singer of the band **Boston** took his own life.

"He was a man who gave all he had to give to everyone around him, whether family, friends, fans or strangers," the singer's family said in a statement. "He gave as long as he could, as best he could, and he was very tired. We take comfort in knowing that he is now, at last, at peace."

Delp, 55, a Danvers native, left two sealed suicide notes taped to a door and letters to his family and his fiancée, **Pamela Sullivan**. But Atkinson, N.H., Police Lt. **William Baldwin** said the cops were not told why he took his life. Toxicology tests by the state medical examiner's office showed that Delp died of carbon monoxide poisoning.

"It's very sad for all of us who loved this guy," said ex-**Extreme** drummer **Paul Geary**, a close friend of Delp and his family. "Whenever I called him for anything he'd drop everything and help, and whenever he called me it was for someone else."

Friends said it was Delp's constant need to help and please people that may have driven him to despair. He was literally the man in the middle of the bitter break-up of **Boston** - pulled from both sides by divided loyalties.

Delp remained on good terms with both **Tom Scholz**, the MIT grad who founded the band, and **Barry Goudreau**, **Fran Sheehan** and **Sib Hashian**, former members of **Boston** who had a fierce falling out with Scholz in the early '80s.

Delp tried to please both sides by continuing to contribute his vocals to Scholz' **Boston** projects while also remaining close to his former bandmates. The situation was complicated by the fact that Delp's ex-wife, **Micki**, is the sister of Goudreau's wife, **Connie**.

"Tom made him do the **Boston** stuff and the other guys were mad that they weren't a part of it," said another insider. "He was always under a lot of pressure."

As you may know, in 1976 the band's first album, featuring Scholz, Delp, Goudreau, Hashian and Sheehan, was the best-selling debut album in history, spawning rock staples "More Than a Feeling," "Peace of Mind," "Foreplay/ Long Time" and "Rock and Roll Band." But shortly thereafter things deteriorated.

Scholz' penchant for perfection and his well-chronicled control issues led to long delays between albums. As a result, Goudreau, Delp and Hashian released an album without him, which led to an irretrievable breakdown.

Scholz claimed that the other band members - with the exception of Delp - attempted to steal the name **Boston**. While the bitter battle raged, Delp tried to keep peace with both sides. He continued to perform with Scholz and the reconstituted **Boston** but also did projects with Goudreau and remained friends with the other original members.

But the never-ending bitterness may have been too much for the sensitive singer to endure. Just last fall the ugliness flared again when Scholz heard some of his ex-bandmates were planning to perform at a tribute concert at **Symphony Hall** for football legend **Doug Flutie** - and then had his people call and substitute himself and Delp for the gig, sources say.

In fact, the wounds remained so raw that Scholz wasn't invited to the private funeral service for Delp that the family held earlier this week.

[Gayle Fee and Laura Raposa](#)

The Boston Herald's Inside Track

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Brad Delp. (AP photo)

"What does that tell you?" asked another insider. "Brad and Tom were the best of friends and he's been told nothing about anything."

In an interview with **Rolling Stone** after Delp's death, Scholz said he and Delp were "friends and collaborators for 35 years but our bond ran much deeper than just Boston."

But Scholz also made reference to the ongoing feud in the interview when he told the rock bible that "unlike other individuals eventually involved with Boston, Brad's down-to-earth personality never wavered."

Police discovered Delp's body in his southern New Hampshire home at around 1:30 p.m. last Friday. Sullivan had gone to the house after failing to reach her fiancé by phone. Police said Delp was alone at the time of his death.

Some friends expressed surprise at the timing of Delp's suicide. He had been planning to tour with Boston and to marry Sullivan this coming summer. He was also content working with his first love - a **Beatles** tribute band called **Beatlejuice**. But friends say there was a dark side.

"He was a sad character to begin with," said one close pal. "He didn't think highly of himself. He was always very self-deprecating. He's always been that way, though, so there was really nothing to lead anyone to believe that he would do this."

Delp leaves two children, **Jennifer**, 26, and **John Michael**, 22.

Tomorrow, the classic rock station **WZLX** will pay tribute to Delp with a special edition of "Classic Cafe" featuring his music. The show, hosted by **Carter Alan**, begins at noon.

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## Pal's snub made Delp do it: Boston rocker's ex-wife speaks

By Gayle Fee & Laura Raposa

### Delp's ex says 'No one can possibly understand'

By Gayle Fee and Laura Raposa

Friday, March 16, 2007 - Updated: 01:10 PM EST

Boston lead singer **Brad Delp** was driven to despair after his longtime friend **Fran Cosmo** was dropped from a summer tour, the last straw in a dysfunctional professional life that ultimately led to the sensitive frontman's suicide, Delp's ex-wife said.

"No one can possibly understand the pressures he was under," said **Micki Delp**, the mother of Delp's two kids, in an exclusive interview with the Track.

"Brad lived his life to please everyone else. He would go out of his way and hurt himself before he would hurt somebody else, and he was in such a predicament professionally that no matter what he did, a friend of his would be hurt. Rather than hurt anyone else, he would hurt himself. That's just the kind of guy he was."

Cosmo, who had been with Boston since the early '90s, had been "disinvited" from the planned summer tour, Micki Delp said, "which upset Brad."

But according to **Tom Scholz**, the MIT-educated engineer who founded the band back in 1976, the decision to drop Cosmo was not final and Delp was not upset about the matter. (Cosmo's son **Anthony**, however, was scratched from the tour.)

"The decision to rehearse without the Cosmos was a group decision," Scholz said in a statement through his publicist. "Brad never expressed unhappiness with that decision . . . and took an active part in arranging the vocals for five people, not seven."

Nonetheless, according to the singer's suicide notes released yesterday, Delp said he had "lost my desire to live."

Police say Delp sealed himself inside his bathroom last Friday, lit two charcoal grills and committed suicide via carbon monoxide poisoning.

"Mr. Brad Delp. J'ai une ame solitaire. I am a lonely soul," said one of the notes. "I take complete and sole responsibility for my present situation." The note also included instructions on how to contact his fiancée, **Pamela Sullivan**, who found Delp's body.

"Unfortunately she is totally unaware of what I have done," the note said.

Yesterday Sullivan, who was planning to marry Delp this summer, said the situation was "extremely painful" for her, Delp's children and his family.

"To the rest of the world, this is a big story," she said. "But to Brad and Micki's children and me, it's very different."

According to police reports released yesterday, Delp was found on the floor of his bathroom Friday, his head on a pillow and a note paper-clipped to the neck of his shirt. He died sometime between 11:30 p.m. March 8 and the next afternoon.

Sullivan told police that Delp "had been depressed for some time, feeling emotional (and) bad about himself," according to the reports.

According to Micki Delp, Brad was upset over the lingering bad feelings from the ugly breakup of the band Boston over 20 years ago. Delp continued to work with Scholz and Boston but also gigged with **Barry Goudreau**, **Fran Sheehan** and **Sib Hashian**, former members of the band who had a fierce falling out with Scholz in the early '80s.

As a result, he was constantly caught in the middle of the warring factions. The situation was complicated by the fact that Delp's ex-wife, Micki, is the sister of Goudreau's wife, **Connie**.

"Barry and Sib are family and the things that were said against them hurt," Micki said. "Boston to Brad was a job, and he did what he was told to do. But it got to the point where he just couldn't do it anymore."

Considerate to the end, Delp left a note on the top of the stairs at his home warning rescuers that there was carbon monoxide in the house. Another note said the couple's cat, **Floppy**, should be in a room that was safe from the deadly gas and asked that someone find her and make sure she was all right.

Police said Delp was so intent on ending it all that he had a backup plan if the charcoal fumes didn't kill him. A dryer vent tube was connected to the exhaust pipe of Delp's car. In the garage, police found a note taped to the door leading into the house.

"To whoever finds this I have hopefully committed suicide. Plan B was to asphyxiate myself in my car."

Outside the bathroom, police found a carbon monoxide detector with the battery removed.

Delp joined Boston in the mid-1970s and sang two of its biggest hits, "More than a Feeling" and "Long Time." A lifelong **Beatles** fan, Delp also played with the tribute band **Beatlejuice**.

Delp was cremated Wednesday, police said. A private funeral was held earlier this week.

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## Delp tribute on

By Inside Track

Monday, July 2, 2007 - Updated: 06:51 AM EST

**W**ord is, that, despite what you read elsewhere, the Brad Delp tribute concert is a go and tickets will likely go on sale tomorrow.

Credit music manager and ex-Extreme drummer Paul Geary for bringing all the warring factions together. The concert will include one number - the encore - during which the original members of the band Boston will reunite. The parties - founder Tom Scholz and original members Barry Goodreau, Sib Hashian and Fran Sheenhan with Fran Cosmo on vocals - have been at odds for decades and the lingering bad feelings from the breakup of the original band more than 20 years ago reportedly drove singer Delp to take his own life in March.

Delp's two kids came up with the idea for a "Coming Together" in his honor Aug. 19 at the Bank of America Pavilion.

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