

THE DEFAMATORY STATEMENTS

I. *The Village Voice Article*

16. Upon information and belief, in February 2000, Menéndez granted an interview to Cynthia Cotts, a New York-based reporter for *The Village Voice*, a New York publication. Menéndez falsely asserted to Cotts that Banamex's Chairman and General Director is a "narcotics trafficker," knowing that assertion to be false and with reckless disregard for its truth or falsity, and knowing that Cotts intended to publish that false statement in *The Village Voice*. In the February 23-29, 2000 issue of *The Village Voice*, Cotts published Menéndez's statement that Hernández, whom Cotts wrote "owns Banco Nacional de Mexico (Banamex)," is a "narcotics trafficker." Cynthia Cotts, "Mario Menendez vs. the Drug War," *The Village Voice*, February 23-29, 2000, attached hereto as Exhibit A. Upon information and belief, Menéndez spoke to Cotts and made the false and defamatory assertion about Banamex and its Chairman and General Director for the purposes of promoting his newspaper and drawing attention to an upcoming promotional trip to New York.

II. *The WBAI Radio Broadcast*

17. On or about March 2, 2000, Defendants Menéndez and Giordano jointly participated in a radio broadcast on the "Let 'em Talk" radio show on WBAI, 99.5 FM in New York City, New York. The purposes of their appearance on the broadcast included promoting Menéndez's newspaper *Por Esto!*; promoting Giordano's publication *The Narco News Bulletin*; seeking financial support for their business endeavors, including *Por Esto!* and *The Narco News Bulletin*; and promoting the Defendants' appearance at a conference to be held at the Columbia University School of Law shortly thereafter.

18. On the broadcast, Defendant Giordano made false assertions of fact to the effect that Banamex's Chairman and General Director is a drug trafficker and money launderer and that there is photographic and other documentation that proves these allegations. Defendant Giordano's comments included the following:

Giordano: ...I read in Mr. Menéndez's daily newspaper, *Por Esto!* that the host of the anti-drug summit between the two presidents, Clinton and Zedillo, was the most powerful banker in Mexico, who himself was a money launderer and a drug trafficker. And *Por Esto!* went further than just saying that he was a money launderer and drug trafficker, they went and took pictures of the cocaine on his properties – a very dangerous job his reporters did; they are very valiant journalists. Pictures of the cocaine containers washed up on his beaches, the 43 kilometers of pristine beaches and Mayan ruins that this man has bought up. His name is Roberto Hernández; he is the president of the National Bank of Mexico, or Banamex.

... We are here with somebody who is involved on the front lines of an international battle that has grave consequences, and he needs our support here in New York and here in the United States of America so that the Mexican government and the U.S. government understand that the American people are behind people who tell the truth, like Mario Menéndez.

... And these things that my favorite philosophy graduate is saying here, that Mario Menéndez is saying, is that these are not invented. He has published the photos. He has published the eyewitnesses. He has published the testimony. In this three-part series, there were 40 different photos proving this. And the photos don't lie.

19. Defendant Giordano, by these statements, intended to convey, did convey, and was reasonably understood by the audience of the radio program as conveying that the Chairman and General Director of Banamex is a drug trafficker and money launderer, that Banamex is thus controlled by drug traffickers and money launderers, that photographic, testimonial and eye witness proof substantiates these allegations, and that these allegations are the "truth," and have been "prov[ed]." These assertions of fact are false and defamatory. Defendant Giordano, who