# EXHIBIT CC

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April 5, 2019

**By Email**

Mitchell Cantor
Law Offices of Mitchell Cantor
355 Lexington Avenue, Suite 401
New York, New York 10017
mc@mcantorlawoffice.com

Re: *Eros International Plc v. Mangrove Partners, et al.*, Index No. 653096/2017

Dear Mr. Cantor:

We write in response to the motion to vacate and supporting affidavits that you filed on behalf of your client last night (the "Motion" (Dkt. No. 373)), and the supplemental affirmation that you filed today (the "Supplemental Affidavit" (Dkt. No. 374)).

As set forth below, even in light of the Supplemental Affidavit, the Motion is riddled with objectively false statements and misleading omissions of material fact, thus violating both New York law and your ethical duties as an officer of the Court. We hereby demand that you withdraw the Motion immediately, but in any event no later than close of business on Monday, April 8, 2019. Failure to do so will result Eros seeking sanctions against you and your client.

**False Statements & Material Omissions**[1]

*First*, you falsely state that Eros "unilaterally repudiated the Settlement in bad faith . . . notwithstanding plaintiff's assurances that the motion for default would be withdrawn . . . once the Settlement was executed." (Motion 5.) Eros terminated the Settlement Agreement due to your client's failure to satisfy a material provision of the Settlement Agreement, which required him to produce 100+ emails and 23 phone records prior to his interview—minimum benchmarks that ***you*** calculated and provided based on your own purported diligence. As you now concede in the Supplemental Affidavit, Mr. Asensio failed to meet this material condition by providing fewer than 40 emails, and zero phone records. This admission confirms that Eros terminated the Settlement Agreement in response to Mr. Asenio's preemptive breach thereof.

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[1] This list is not intended to be, nor should be construed as, exhaustive in nature. To the contrary, it is merely exemplary, and there are other instance of flagrant misrepresentation apparent in the Motion.

*Second*, you falsely try to explain away your failure to attend the February 14, 2018 hearing by claiming that it "was to be only dedicated to motions to dismiss that were filed by the other defendants." (Motion 8.) As reflected on the Court's publically available calendar, however, Eros' motion for default judgment against Mr. Asensio, Asensio & Co., and Mill Rock Advisors (Motion Sequence 7) was scheduled to be heard at the February 14, 2018 hearing. Your failure to appear resulted from your own negligence, legal malpractice, and breach of fiduciary duty—and nothing else. Notably, during our March 4, 2019 call, even Mr. Asensio expressed his dismay and frustration that you neglected to attend the February 14 hearing.

*Third*, you falsely state that at the February 14 hearing, "plaintiff's attorneys failed to inform the Court of the [February 13 Stipulation]." (Motion 8.) In reality, ***your*** failure to file the February 13 Stipulation with the Court until 11:22 a.m. on February 14, 2018—nearly an hour and a half after the 10:00 a.m. hearing had already commenced—ensured that it was not on file, and would not be considered or addressed by Justice Bransten.

Moreover, you fail to acknowledge that, prior to the February 14 hearing, two nearly identical stipulations to extend the Asensio Defendants' time to answer were filed in January 2018 and had been pending before Justice Bransten for ***weeks*** before the hearing but were never So-Ordered. (*See* Dkt. Nos. 124, 127.) Had the Court wished to grant your client an extension, it would have done so and removed the Motion for Default from the public calendar.

*Fourth*, you falsely claim in the Motion that your client has "represent[ed] and warrant[ed]" that "he has maintained and disclosed all documents and communications potentially relevant to this matter." Throughout our settlement discussions, however, your client repeatedly stated that he deleted nearly all of his emails on a daily basis.

For the foregoing reasons, you and your client are in direct violation of New York law. "By signing a paper, an attorney or party certifies that . . . the presentation of the paper or the contentions therein are not frivolous as defined in section 130-1.1(c) of this Subpart." 22 NYCRR. § 130-1.1a. Subpart 130-1.1(c) states, in pertinent part, that "conduct is frivolous if . . . it asserts material factual statements that are false." *Id.* at § 130-1.1(c)(3).

Additionally, your conduct as an attorney is subject to the New State Rules of Professional Conduct, which you have violated.[2] These obligations extend not only to papers you signed yourself, but also to the sworn statements of your client. *See, e.g., Application of Mosley and Figueroa v. Rosario*, 862 N.Y.S.2d 809 (Sup. Ct. Bronx Cnty 2015) (where attorney submitted

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[2] *See, e.g.*, NYRPC 3.1(b)(3) (A lawyer's conduct is "frivolous" where "the lawyer knowingly asserts material factual statements that are false."); 3.3(a)(1) ("A lawyer shall not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer"); 3.4(a)(4) ("A lawyer shall not . . . knowingly use perjured testimony or false evidence"); 4.1 ("In the course of representing a client, a lawyer shall not knowingly make a false statement of fact or law to a third person"); 8.4(c) ("A lawyer or law firm shall not . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation"); *see also* N.Y. Judiciary Law § 487 (misdemeanor for attorney who is guilty of deceit or collusion with intent to deceive court or another party).

affidavits of service he knew or should have known were false, sanctions were appropriate, because attorneys "must be held responsible for the accuracy of all papers filed").

Accordingly, we hereby demand that you withdraw the Motion immediately, but in any event no later than close of business on Monday, April 8, 2019. Additionally, please be advised that Eros will attach this correspondence to its response to the Court's inquiry concerning adjournment of the traverse hearing in light of the Motion.

Sincerely,

Stephen W. Tountas

cc: Manuel P. Asensio (via e-mail)