



NYCLU

NEW YORK CIVIL LIBERTIES UNION

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March 19, 2007

Valerie Bacon, Esq.
General Counsel
U.S. Postal Service
New York Metro Law Office
90 Church Street, Suite 3300
New York, NY 10007

Dear Ms. Bacon:

I am writing to follow-up on our phone conversations regarding U.S. Postal Service regulations relating to the content of mail. As we discussed, our office recently received a complaint from Jean-Claude Baker, the owner of a Manhattan restaurant called Chez Josephine, after he was barred from mailing postcards of a watercolor painting by the renowned graphic artist Henry Fournier depicting Josephine Baker wearing a costume of green feathers with her breasts exposed. Mr. Baker seeks to mail approximately 12,000 of these postcards to patrons on his restaurant's mailing list.

On January 24, 2007 Mr. Baker inquired at the post office branch located at 340 West 42nd Street in Manhattan as to whether there would be any problem with the mailing of such postcards. He was told by a post office employee that he would not be permitted to mail the postcards because of the depiction of nudity, but to double check at the James Farley Post Office, New York City's main post office branch at 421 Eighth Avenue. Mr. Baker sent his restaurant manager to the main branch that same day, who was also instructed by a post office employee that the postcards could not be mailed.

As a result, Mr. Baker felt compelled to deface the Fournier watercolor with a "censored" marking across the offending breasts. Even then, Mr. Baker was advised by a post office employee at 340 West 42nd Street that the postcard could not be mailed because a tiny portion of the bottom of both breasts was exposed (See Attachment A). Consequently, Mr. Baker asked the printer to re-position the "censored" strip to cover every centimeter of the breasts (See Attachment B). This was the version of the postcard he mailed to his restaurant patrons.

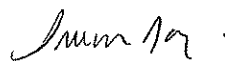
In our telephone conversation on March 8, 2007, you informed me that the post office is barred from prohibiting mailings based on content. You directed me to the U.S. Postal Service's Domestic Mail Manual regulation §601-12.11 concerning the mailability of written, printed, and

graphic matter which states that "Postmasters are not authorized to decide whether written, printed, or graphic matter is nonmailable based on its content or to deny entry to such matter or exclude it from the mail."

In addition, on March 13, 2007, you informed me that the New York district office of the U.S. Postal Service has instructed the James Farley Post Office to accept and mail Mr. Baker's postcards with the uncensored rendition of the Fournier watercolor, which is attached to this letter, upon receipt (see Attachment C). Based on this information, I have advised Mr. Baker to proceed with the mailing. He is now in the process of printing the postcards, and I will call you to let you know when he is ready to mail them.

Thank you very much for your kind assistance with this matter.

Sincerely,



Irum Taqi, Esq.

c.c. Jean-Claude Baker

ATTACHMENT "A"



ATTACHMENT "B"



ATTACHMENT "C"

