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02/26/1997 00:00 1997 FROM: [REDACTED]
02/26/1997 22:12 [REDACTED]

TO: [REDACTED]

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Medellin, February 3, 1997

To: [REDACTED]

From: [REDACTED]

Copy: [REDACTED]

Re: Crime of Extorsion and Kidnapping in Colombia

Law 40 of 1993 governs, in Colombia, the crimes of extortion and kidnapping, and establishes severe penalties for both.

The same Law used to be that a person who gives money to pay ransom for kidnapping is also liable of criminal punishment, but this rule (paragraph 2, article 7 of Law 40/93) was declared contrary to the National Constitution by the Supreme Court of Justice, which considered that the fact that a person gives money to kidnapers could not be punished, because he gives the money for a noble purpose, namely to save a human life or the freedom of a person.

The same Law 40/93, Article 25, established the following:

"... SANCTIONS AGAINST NATIONAL AND FOREIGN COMPANIES: Without prejudice to the other punishments applicable, when an executive of a national or foreign company, or his delegate, hides or cooperates in paying for the release of a kidnapped executive or employee of the company or one of its subsidiaries, the government shall be entitled to decree the cancellation of the contracts executed by said company with state institutions. If the act is committed by an executive or delegate of a subcontractor of the company, and it is a foreign entity... the government shall order his immediate deportation from the country. National subcontractors shall be subject to the punishments set forth in this law...

Although the above rule is in force, the Constitutional Court also declared it unconstitutional when the person acts in any of the justifying circumstances set forth in the Criminal Law, such as in the case of a state of necessity. In other words, when one acts in a state of necessity, no punishment will be applied.

As to the specific point concerning extortion, it is clear in our legal system that the person who pays for extortion is not subject to penalty, because such payment takes place without free consent, and under threat of immediate injury. In other words, a person who pays for extortion is a victim, not an accomplice to the crime, and therefore cannot be punished.

I am at your disposal for any additional clarifications.

Sincerely,

[REDACTED]

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CHIQUITA NSD 6295