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# VIA EMAIL & FEDEX

Mr. Jefrey Levy 603 Doheny Road

Beverly Hills, CA 90210-2923 Email: jef@jeferylevy.com

# Re: 1955 Domaine Leroy Chambertin

Mr. Levy,

I represent Hart Davis Hart Wine Company (“HDH”). It has come to my attention that you have accused HDH of fraudulently selling you a counterfeit bottle of 1955 Domaine Leroy Chambertin. You have also threatened to file a complaint with the Federal Bureau of Investigation (“FBI”) should HDH not refund you the purchase price.

The purpose of this letter is two-fold: (1) to explain to you the many reasons why your allegations of fraud are baseless; and (2) to let you know, in no uncertain terms, that HDH will not tolerate your extortionate threats.

Last summer, HDH offered Lot 3249 – a single bottle of 1955 Domaine Leroy Chambertin (the “Wine”) – at HDH’s *Auction of Finest & Rarest Wines* which was held on June 20th, 21st, and 22nd (the “Auction”). Before the Wine was offered at auction it was inspected by one of HDH’s specialists for authenticity, among other things. Images of the Wine, which were available to you before you placed your bid, can be found here: https://auction.hdhwine.com/lots/view/1-1YOZI2/1955-chambertin-maison-leroy. You won the Lot and paid a total of $3,718.14 for the Wine.

Last month, you informed HDH that you thought that the Wine was counterfeit for two reasons: (1) “all the 55 Leroy Chambertins have date-stamped corks” and the Wine did not have a date stamped cork; and (2) the Wine’s strip label, which reads “Consolidated Imports,” is purportedly fraudulent because Consolidated Imports did not import the Wine. Both of these assertions are provably false.

Your support for these two claims appears to come from what you were allegedly told by Lalou Bize-Leroy, Domaine Leroy’s 88-year old proprietor, and the opinions of an unidentified



“expert.” You say that Mrs. Bize-Leroy told you that her father stamped all of the corks for the 1955 Chambertin with the vintage. You also appear to claim that she told you that Consolidated Imports did not import the Wine because it was exclusive to Martine in Santa Rosa, California.

You further claim that your “expert” also believes that all 1955 Domaine Leroy Chambertin should have the vintage on the cork and that Consolidated Imports did not import the Wine. It is not clear, however, whether your “expert” has an independent basis for the opinion.1

HDH’s Senior Specialist, Allan Frischman, promptly responded to your concerns by informing you that he had contacted a representative of Domaine Leroy and that the representative had informed Mr. Frischman that Domaine Leroy did not routinely date stamp corks until well into the 1970s. The Domaine’s representative further told Mr. Frischman that prior to that, it was very common for the wines to have generic “Leroy” corks, like the one found in your Wine. Mr. Frischman also asked the Domaine’s representative about Consolidated Imports. Mr. Frischman was told that Domaine Leroy had worked with Consolidated Imports in the past, that there were no national exclusives at the time the Wine would have been imported, and that it would not be unusual to find an authentic bottle with a Consolidated Imports strip label.

Mr. Frischman also sent you photos of corks that HDH had pulled from two authentic bottles of Domaine Leroy wine from the 1950s – a 1959 Echezeaux and a 1959 Romanee-St- Vivant – each of which had generic corks, just like your Wine.

Mr. Frischman thus appropriately concluded that there was “no physical evidence” that the Wine was fraudulent or counterfeit.

Your response to Mr. Frischman’s well-researched and documented response was to simply say he was “sorely mistaken” because Mr. Frischman did not speak to Mrs. Bize-Leroy or Martine, and that you were “issuing a complaint with the FBI and you can deal with it from there.” When HDH did not respond to your threat, you doubled down and made it clear that if you did not get a refund you would go to the FBI and you would sue HDH for fraud: “I just want to make sure, before I call the FBI and file a lawsuit against you for fraud, that you do not want to make good on this fake bottle of 1955 Leroy Chambertin you sold me for 5g.” (March 22, 2020 Email from J. Levy to HDH).

I’ll start with your repeated allegation that the Wine is counterfeit. Based on its due diligence, as described above, HDH believes the Wine is authentic. HDH also believes the Domaine has adequately responded to your two concerns about the Wine, one of which – the Consolidated Imports strip label – was clearly visible to you as a bidder. In addition, it is HDH’s

1 You say that you drank the Wine with John Kapon, among others. A sticker on the back of the Wine shows that Mr. Kapon sold the Wine at an Acker Merrall & Condit auction in New York on December 12, 2018. Is he your “expert”? I would think not, since he sold the Wine six months before you bought it from HDH.



independent experience that authentic Domaine Leroy wines from the 1950s do not uniformly have the vintage branded on the cork.2

Under these circumstances, HDH has no obligation to refund your purchase, and it declines to do so. As a reminder, by bidding at the Auction you agreed “to be bound by the terms of” HDH’s Conditions of Sale and Auction Policies. *See* Conditions of Sale, Introduction. A copy of then-current version of Auction’s Conditions of Sale (June 2019) is attached to this letter. The Conditions of Sale make clear that HDH does not “warrant or represent” the authenticity of the wine it sells at auction or accept “responsibility” for a wine’s authenticity. Conditions of Sale ¶ 4. The Conditions further state that catalogue descriptions are “merely statements of opinion and can at no time be construed as warranties or representations of fact or assumptions of any liability on the part of HDH Wine Co. or Seller.” *Id*. Finally, the Conditions of Sale plainly state, in bolded text, that buyers such as yourself “accept[] all purchases **‘as is’**” and that “**[n]o returns will be accepted**.” Conditions of Sale ¶ 5 (emphasis in original).

Your accusation that HDH has committed “fraud” is completely baseless. Not only is there quite persuasive evidence that the Wine is not counterfeit, but a fraud claim requires, among other things, a knowingly false statement. In other words, you would have to allege and prove that HDH knew that the Wine was counterfeit when it was offered for sale. That indispensable element is completely missing here and nothing your undisclosed “expert” or anyone says will make it magically appear. As a trained lawyer yourself, you surely know that.

I also have to wonder why you even care if the Wine was counterfeit. After all, you told author Peter Hellman that Rudy Kurniawan sold you a case of 1955 Domaine Leroy Chambertin sometime before he was arrested and that you later came to believe that at least some of the bottles were fake. In his book, *In Vino Duplicitas: The Rise and Fall of a Wine Forger Extraordinaire*, you said this to Mr. Hellman: “[I]t was still one of the greatest wines I ever had. Were my feelings hurt that Rudy had sold it to me? Yes, because this was not an auction sale. I bought them from him direct. I was his friend. I forgave Rudy, it’s because with him I also experienced some of the most transcendent wines ever.” Peter Hellman, *In Vino Duplicitas: The*

2 Respectfully, Mr. Levy, I’ll add that you may not have the best judgment when it comes to assessing evidence of wine counterfeiting. In the documentary *Sour Grapes* (2016), you said that you could not believe that Rudy Kurniawan – perhaps the biggest wine counterfeiter of our time – had sold counterfeit wine, despite a mountain of indisputable evidence against him. This is what you said in *Sour Grapes*: “He could, he could never do that. I just could not seeing him doing it. And I still don’t seeing him do it. I still don’t believe he did it. No way.”

Yet, when it comes to HDH and Mr. Frischman, you are sure that the Wine is incorrect because Mrs. Bize-Leroy’s father once allegedly told her something about corks from the 1950s. And because the import strip is allegedly wrong. The Domaine’s representative (the ***Domaine’s representative***) has refuted all of those assertions. But in your mind, there is no way Kurniawan did it, but you are sure that HDH sold you a fake.



*Rise and Fall of a Wine Forger Extraordinaire* (2017) at 195. This admission to Mr. Hellman is yet another reason why you were not defrauded, even if the Wine turned out to be counterfeit.

Any lawsuit you choose to file asserting fraud, misrepresentation, or any other frivolous claim will be vigorously defended by HDH, with the comfort of knowing that the courts have full power to sanction litigants who file baseless lawsuits like the one you have threatened.

Finally, your extortionate threat of reporting HDH to the FBI for “fraud” has not been well-received. Here’s a reminder of what you said to HDH just a couple of days ago: “I just want to make sure, before I call the FBI and file a lawsuit against you for fraud, that you do not want to make good on this fake bottle of 1955 Leroy Chambertin you sold me for 5g.” (March 22, 2020 Email from J. Levy to HDH). That is textbook extortion under California law. *See Mendoza*

*v. Hamzeh*, 215 Cal. App. 4th 799, 805, 155 Cal. Rptr. 3d 832, 835 (2013) (describing the elements of civil and criminal extortion).3

HDH takes the integrity of the wine market, and HDH’s reputation for integrity, very seriously. HDH will aggressively protect its reputation. Just so we are clear, should you persist in your reckless allegations, HDH has authorized this firm to avail itself of all available legal remedies, including remedies for extortion and defamation. We will not hesitate to do so.

HDH reserves all of its rights and waives none. Going forward, please direct all communications regarding this matter to me.

Cheers,



Jason P. Hernandez

3 If, in the end, you choose to bring this to the FBI, you should know that it will not be the first time that HDH has spoken to the FBI. In 2013, the U.S. Attorney’s Office for the Southern District of New York retained Mr. Frischman as an expert witness in the areas of “rare and fine wine and wine authentication” in the prosecution of Rudy Kurniawan. In a Declaration submitted by Mr. Frischman to the Court, Mr. Frischman explained how HDH made the decision in June 2008 to file a complaint with the FBI because Kurniawan attempted to consign $2.6 million of counterfeit wine with HDH. *See United States v. Kurniawan*, 12-CR-376-RMB, ECF Document 122-1, Decl. of Allan Frischman ¶¶ 3-5.



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CONDITIONS OF SALE

The property described in this catalog will be offered at public auction by Hart Davis Hart Wine Co. (HDH Wine Co.) as agent for various consignors (Sellers), under these HDH Auction Policies. They may be amended by posted notices, oral announcements, or announcements on HDH Wine Co.’s website made before or during the sale. By bidding at auction, you agree to be bound by the terms of these HDH Auction Policies, as they may be amended from time to time, for this and all future HDH Wine Co. auctions.

1. HDH Wine Co. has the right, at our complete discretion, to refuse admission to the premises or participation in any auction and to reject any bid.
2. A potential Buyer must complete a digital registration form prior to bidding, provide an active credit card that can be pre-authorized for $1000, and agree to our Terms and Conditions. HDH may require additional references such as a form of identification, a deposit, or a hold of funds on a registered credit card.
3. When making a bid, the registered bidder accepts personal liability to pay the purchase price, including Buyer’s Premium and all applicable charges. If act- ing as a third party, the registered bidder, whose name is on the account, still assumes all liability to pay HDH in full for the entire outstanding balance.
4. Every attempt has been made to describe all property as accurately as pos- sible. However, HDH Wine Co. and Seller do not warrant or represent, and deny responsibility for, the accuracy of catalog descriptions, encompassing but not limited to vintage, provenance, authenticity, quality, and condition as may be stated in the catalog. Any and all statements made relating to the property in the catalog or salesroom or contained in advertisements or promotional materials are merely statements of opinion and can at no time

be construed as warranties or representations of fact or assumptions of any liability on the part of HDH Wine Co. or Seller.

1. The Buyer accepts all purchases **“as is.” No returns will be accepted**.
2. HDH Wine Co. does not assume responsibility for shipment to the Buyer. Bidders are cautioned that many states impose restrictions on the transport of alcoholic beverages into their jurisdictions from other states. These restrictions may affect your purchase of wines from HDH Wine Co.; we

urge you to investigate the laws in your state regarding this subject before shipping any wine purchased from HDH Wine Co. In some instances, special permits or licenses may be required for the Buyer or shipper. HDH Wine Co. will not assume any obligation or responsibility for applying for or obtaining said permits or licenses. **Purchases that cannot be shipped due to shipping restrictions must be collected by the Buyer from HDH Wine Co.’s cellar in Chicago, IL. All applicable Illinois and Cook County sales and use taxes must be paid prior to collection. Bidders accept that all sales are final, “as is,” and cannot be cancelled or refunded for any reason.**

1. The term “final bid” as used herein shall refer to the price at which any lot is knocked down to the Buyer. The purchase price, due from the Buyer, shall be the aggregate of the final bid and a **premium of 19.5%** of the final bid (“Buyer’s Premium”), together with any applicable sales or use tax. The complete pur- chase price will be due upon receipt of the invoice. If payment in good cleared funds is not received within 21 days of the purchase, HDH Wine Co. reserves the right to assess a **late fee of up to 3%** of the total purchase price, in addition to any other rights and remedies available by law to HDH Wine Co., and ad- ditional 3% late charges every two weeks following day 21. No property will be released to the Buyer until HDH Wine Co. receives payment in full for all open invoices, including any applicable state and local taxes or compensating use taxes of another state which HDH Wine Co. may be required by law to collect. Any applicable storage or handling fees must also be paid prior to the release of the property. In the event a charge or check is not accepted by the appropri- ate financial institution, the Buyer remains liable for all amounts owed.
2. If the Buyer fails to make payment in full in good cleared funds within the time required by paragraph 6 above, they will be in default and we shall be entitled in our absolute discretion to exercise one or more of the following rights or remedies (in addition to any other rights or remedies available to us by law):
	1. to cancel the sale;
	2. to hold the defaulting Buyer liable for the total amount due and to commence legal proceedings for its recovery together with interest, to the fullest extent permitted under applicable law;
	3. to resell the property publicly or privately on such terms as we see fit;
	4. to pay the seller an amount up to the net proceeds payable in rela- tion to the amount bid by the defaulting Buyer;
	5. to use against any amounts which we may owe the Buyer in any other transactions, the outstanding amount remaining unpaid by the Buyer;
	6. where several amounts are owed by the Buyer to us, in respect to different transactions, to apply any amount paid to discharge any amount owed in respect of any particular transaction, whether or not the Buyer so directs;
	7. to reject at any future auction bids made by or on behalf of the Buyer, or to obtain a deposit from the Buyer before accepting any bids;
	8. to exercise all rights and remedies of a person holding security over any property in our possession owned by the Buyer to the fullest extent permitted to the secured party by the law under the Uniform Commercial Code in the State of Illinois; the defaulting Buyer grants HDH Wine Co. a security interest in all such property held by us and we may file a financing statement with the Illinois Secretary of State to perfect a security interest in such property;
	9. to charge any credit card on file for the invoice balance including any late charges;

If we resell the property under paragraph (iii) above, the defaulting Buyer shall be liable for payment of any deficiency between the total amount originally due to us and the price obtained upon resale as well as for all costs, expenses, damages, legal fees, commissions, and premiums associated with both sales or otherwise arising from the default. If we pay any amount to the seller under paragraph (iv) above, the Buyer acknowledges that HDH Wine Co. shall have all of the rights of the seller, however arising, to pursue the Buyer for such amount. The defaulting Buyer shall be liable for HDH Wine Co.’s legal fees and expenses with respect to any actions taken by it under this paragraph 8.

1. HDH Wine Co.’s Shipping Policy is as follows:
	1. Buyer acknowledges that the title to wines purchased passes to the Buyer at the time of purchase or at the hammer. Further, the Buyer authorizes HDH Wine Co. to choose a common carrier on behalf of the Buyer which will act as the Buyer’s agent;
	2. Buyer acknowledges and agrees to be responsible for all applicable excise, use, and sales taxes due to a state related to the purchase of these wines;
	3. HDH Wine Co. always recommends collecting your purchased wines at HDH Wine Co., but if Buyers wish to arrange delivery of their wines after purchase, they are responsible and bear all risk, includ- ing selecting a carrier and providing delivery instructions (please see “Collection, Delivery & Storage” for details);
	4. Buyer warrants that he/she is at least 21 years of age and is pur- chasing the wines for personal use;
	5. Buyer shall be responsible for the receipt of these wines by a per- son at least 21 years of age or over.
2. HDH Wine Co. reserves the right to amend the description of any lot by means of an announcement or notice in the salesroom, its mobile app, or on its website, and to withdraw any lot at any time.
3. Unless otherwise indicated, a reserve or confidential minimum selling price may be established on any lot. Should bidding not meet the reserve price, HDH Wine Co. may enforce the reserve by bidding on behalf of the Seller.
4. The highest bidder accepted by the auctioneer shall be the Buyer, who will assume the full risk and responsibility of the lot upon the fall of the auc- tioneer’s gavel. The auctioneer may refuse any bid and advance the bidding at his or her discretion. The auctioneer may put up any lot for rebidding at any time during the auction. If, during the auction, the auctioneer consid- ers that a dispute has arisen between any bidders, such dispute will be resolved by the auctioneer. In the event of any dispute during or after the auction, the records of the auctioneer will be conclusive, and the decision of HDH Wine Co. will be final and binding on all parties.
5. Bids submitted to HDH Wine Co. are processed and executed as a service and convenience to bidders. Neither HDH Wine Co. nor its staff shall be respon- sible for any failure to execute such bids or any error relating to the same.
6. The rights and obligations of all parties shall be governed by the laws of the State of Illinois.
7. In the event of any inconsistency or conflict in terms between these Condi- tions of Sale and any other portion of the HDH Auction Policies, the terms of these Conditions of Sale shall control.

Hart Davis Hart Wine Co. tel: 312.482.9996 fax: 312.335.9096 bids@hdhwine.com [www.hdhwine.com](http://www.hdhwine.com/)