



FRIDAY MAILING

7/3/98

INCLUDED IN THIS FRIDAY MAILING:

- Newsclippings

CAB MEETINGS:

- OFF-SITE COMMITTEE MEETING:** The Off-Site Committee of the Fernald Citizens Advisory Board will meet on Monday, July 13, 1998, at 6:00 p.m. in the Alpha Building Classroom A.
- EFFICIENCY COMMITTEE MEETING:** The next meeting of the Efficiency Committee of the Fernald Citizens Advisory Board will be on Monday, July 13, 1998, at 7:15 p.m. in the Alpha Building Classroom A.
- FERNALD CITIZENS ADVISORY BOARD:** The Fernald Citizens Advisory Board will meet on Wednesday, July 15, 1998 at 6:30 p.m. at Dante's Restaurant (I-74 and Rybolt Road). Please note this is a special dinner meeting in honor of John Applegate's service as Chair. The cost of the dinner for CAB members is \$15.00, which includes gratuity and a contribution for a gift for John. Please RSVP to the CAB office by July 8, 1998.

OTHER MEETINGS:

- MONTHLY PROGRESS BRIEFING:** The July Monthly Progress Briefing will be held on Tuesday, July 14, 1998, at 6:00 p.m. on the Fernald site in the Services Building Conference Room.

QUESTIONS:

Please call John at [REDACTED] or Doug at [REDACTED] with questions or concerns. You may also fax or e-mail us at:

John
Doug

Fax: 281-3331 [REDACTED]

E-Mail: john.applegate@law.uc.edu

PLEASE NOTE
LOCATION

July 1, 1998
Journal-News
Page D6

"Fired Enquirer Reporter Fights Grand Jury Subpoena"

By: John Nolan, Associated Press

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Fired Enquirer reporter fights grand jury subpoena

By John Nolan
The Associated Press
CINCINNATI

A reporter fired by a newspaper that renounced its series questioning the Chiquita banana company's business practices asked a judge Tuesday to set aside a subpoena ordering him to appear before a grand jury.

Another former reporter for The Cincinnati Enquirer appeared before the jury Tuesday but details of his testimony were not released.

The lawyer for Mike Gallagher, the lead reporter on the Enquirer series, asked Hamilton County Common Pleas Judge John O'Connor to nullify the subpoena issued by special prosecutor Perry L. Ancona, court officials said. A hearing was scheduled for July 8.

Neither Gallagher nor his attorney returned calls seeking comment. Gallagher has said his attorney advised him not to comment. Ancona did not return a message seeking comment.

In a front-page apology on Sunday, the Enquirer renounced its May 3 series, saying it had discovered that the articles were based on illegally obtained voice-mail messages. The newspaper also said it would pay more than \$10 million to settle any claims by the Cincinnati-based banana exporter, which has not filed suit.

The Enquirer, which is owned by Gannett Co. Inc., said it had fired Gallagher because the newspaper's management believes he illegally obtained the tapes of Chiquita executives' voice mail messages. The newspaper also said it believes that

STATE

Gallagher, who had worked at the newspaper since 1995, deceived his editors about how the information was obtained.

Chiquita has accused the Enquirer of stealing the voice-mail tapes. The grand jury is investigating whether property was stolen from Chiquita.

The Enquirer's 18-page report accused the company of improper land dealings overseas, involvement in a bribery scheme in Colombia and putting public health at risk with pesticide use on Central American banana farms.

Lawyer H. Louis Sirkin said Tuesday that his client, former Enquirer business reporter Jeff

Harrington, testified before the jury on Tuesday. Sirkin said he did not know why Harrington, who left the paper in February to take a new job, was called to testify or what he told the jury.

Harrington, now a business reporter for the St. Petersburg (Fla.) Times, was returning to Florida on Tuesday and could not immediately be reached to comment. A message seeking comment was left at his office.

Harry M. Whipple, president and publisher of the Enquirer, said Tuesday he could not discuss matters concerning the grand jury because of the investigation. He said Monday that Enquirer staff members had been subpoenaed but declined to identify those employees or discuss what the subpoenas sought.

Chiquita spokesman Joseph Hagin said, "We are cooperating with the law-enforcement authorities and the special prosecutor. Other than that, we would have no comment."

Whipple has declined to discuss whether the Enquirer still believes the stories themselves were factual.

The newspaper said it renounced the series because it "created a false and misleading impression of Chiquita's business practices." The Enquirer agreed to publish a front-page apology on Sunday, Tuesday and Wednesday, signed by Whipple and Editor Lawrence K. Beaupre.

Chiquita will not disclose details of its agreement with the Enquirer, Hagin said. The Enquirer will not comment beyond its front-page statements this week, Whipple said.

July 1, 1998
The Cincinnati Enquirer
Front Page
"Reporter Fights Subpoena"
By: John Nolan, Associated Press

Reporter fights subpoena

BY JOHN NOLAN
The Associated Press

A reporter fired by *The Cincinnati Enquirer*, which renounced its series questioning the Chiquita company's business practices, asked a judge Tuesday to throw out a subpoena ordering him to appear before a grand jury.

The grand jury is investigating whether property was stolen from Chiquita Brands International Inc.

The lawyer for Mike Gallagher, the lead reporter on the *Enquirer* series, asked Common Pleas Judge John O'Connor to nullify the subpoena issued by special prosecutor Perry L. Ancona.

A hearing was scheduled for July 8.

Neither Mr. Gallagher nor

his attorney returned calls. Mr. Gallagher has said his attorney advised him not to comment. Mr. Ancona did not return a message.

In a front-page apology on Sunday, the *Enquirer* renounced its May 3 series, saying it had discovered the articles were based on illegally obtained voice mail messages. The newspaper also said it would pay more than \$10 million to settle any claims by Chiquita, which has not sued.

The *Enquirer* said it had fired Mr. Gallagher because the paper's management believes he illegally obtained the tapes of Chiquita executives' voice mail messages. The newspaper also said it believes that Mr. Gallagher deceived his editors about how the information was obtained.

Chiquita has accused the *Enquirer* of stealing the tapes.

The *Enquirer's* 18-page report accused the company of improper land dealings overseas, involvement in a bribery scheme in Colombia and putting public health at risk with pesticide use on Central American banana farms.

Another former *Enquirer* reporter, Jeff Harrington, appeared before the grand jury Tuesday. His lawyer, H. Louis Sirkin, said he didn't know why his client had been called to testify. Mr. Harrington left the paper in February and is now a business reporter for the *St. Petersburg Times*. He was returning to Florida and could not be reached to comment.

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The Cincinnati Enquirer

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"Readers Ask Questions Regarding Enquirer's Apology to Chiquita"

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Readers ask questions regarding Enquirer's apology to Chiquita

Set a precedent for other journalists

It was with raised eyebrows that I read your front-page apology to Chiquita, and by inference, the Lindners as owners. I have never in my life seen anything like it. You gained much respect for having done so.

Would that *Time* magazine and CNN apologize to the whole country for printing that we used nerve gas in Vietnam. That put us on par with Saddam Hussein, who used it on the Kurds. That was an incredible lie and damaged us considerably.

JAMES J. REYNOLDS
Northside

Lindner should buy Enquirer, fire 'em all

Regarding the apology to Chiquita, if I were Carl Lindner, I would buy the *Enquirer* and fire each and every one who had any part whatsoever in such irresponsible reporting.

BILL STAUN
Amberly Heights

Story convinced us to sell our stock

Our family subscribes to the *Enquirer* and has put much faith

in your newspaper for a period of years. On May 3, we read with interest your bold headline and 18-page special "expose" of Chiquita.

You came back May 4 with a big headline and we were bombarded with more "secrets" and fears all week long. By the end of the week, you had convinced us that Chiquita was a vile company and that its future was doomed for failure. We sold two-thirds of our holdings in Chiquita (at a loss) because of your sensational and depressing "reveals."

Now you have issued an apology and a payment to Chiquita and its employees, and you have fired Michael Gallagher.

Why didn't you fire Cameron McWhirter, the other reporter? Why didn't your publisher and editor give an apology to the general public and the hood-winked losing Chiquita stockholders.

FRED PADGETT
Fort Mitchell

Reinvestigate and publish the findings

I will not lose confidence in the *Enquirer* over the Chiquita incident unless the *Enquirer* never does the "real" story of Chiquita's business practices. I hope you are not now afraid to do a

proper investigation which may or may not lead to exactly the same information and conclusions as were obtained illegally.

Whatever the Chiquita story is, it needs to be told. I hope your settlement did not include a promise not to write the story at all, because then I would definitely lose confidence in the paper. The ends do not justify the means, but let's find the proper way get back to the same end.

LAURA ELLIOTT
Summerside

How can Chiquita restore its good name?

Where can Chiquita go to reclaim its good name?

With your concern for the truth, I will probably cancel our subscription soon.

PETE DONOHUE
Anderson Township

Religious leaders should be sorry, too

Now that the *Enquirer* has apologized to Chiquita, maybe perhaps Bishop Thomas Gumbelton will do the same for his "blood money" remark. His remark and the reaction of so many Peace and Justice Offices of religious communi-

ties advocating a boycott of Chiquita, a perfect example of what happens when religious leaders become more interested in creating a paradise on Earth rather than leading people to the real paradise. We have become man-centered, rather than God-centered.

FATHER CELSUS GRIESE
Springfield Township

Apology doesn't make up for story

I was very relieved to read the *Enquirer's* apology to Chiquita. Although it was prominently placed at the top of the front page, the physical size of the apology could not measure up to the 18-page insert that had been published to discredit the company.

BOBBI THEILE WILLIAMS
Blue Ash

Newspaper should be embarrassed

As I read the *Enquirer's* apology to Chiquita, I was looking for one word. That word is "embarrassed." I didn't find it anywhere.

PEG CHANDLER
Blue Ash

July 1, 1998

The Cincinnati Enquirer

Page A19

"Readers Ask Questions Regarding Enquirer's Apology to Chiquita"

Stolen tapes or not, was the story true?

How utterly gracious of Chiquita to accept the *Enquirer's* apology. And what a lovely apology it was, complete with a little token gift of more than \$10 million. I suppose a fruit basket would have been a bit too small, after all.

What I have failed to find anywhere in all this posturing, apologizing and groveling is any indication that the "stolen" information was false. And just exactly how does one "steal" voice mail? Am I to believe that reporter Mike Gallagher sneaked into Chiquita late one night and made off with the phone system? Or perhaps he sat home with a touch-tone phone endlessly wending his way through Chiquita's voice mail system until — eureka! — he managed to "break into" the system and "stole" the recorded messages of Chiquita executives.

The original story indicated that the information was obtained by a Chiquita employee. Either your legal department erroneously felt that this would be enough to shelter the *Enquirer* from repercussions or they advised against running the article and were ignored. Either way, the fact that Mr. Gallagher is out there swinging on

the end of that rope all alone is sheer cowardice.

PATTY RAY-BASCHIZORE
Middletown

Apology leads to more questions

I am sure the *Enquirer* feels it has fulfilled most of its legal obligations, while correcting some of its possible moral or ethical lapses by its "An apology to Chiquita." While I also assume the apology was written or approved by the newspaper's attorneys, I am bothered by a number of questions:

► Are we to believe, if the voice mail messages in question were "stolen" rather than "leaked," the *Enquirer* feels the former is despicable, while the latter meets all journalistic and ethical guidelines? Isn't that a dubious, questionable conclusion?

► Does the arbitrary firing of the lead reporter, accused of having stolen the voice mail messages, absolve the *Enquirer* of its responsibilities in this time of nervous journalistic jitters? Does publishing the apology three times in the newspaper, as well as on the web site? Does payment of the enormous amount of monetary settlement? Or are all of these efforts merely an attempt to avoid fur-

ther legal dances resulting from the possible missteps by one of your reporters? And doesn't it all deftly sidestep the foremost question: Is the original overall story, as published, true or untrue?

► You give no indication of follow-up. Do you plan to revisit this story, rewriting it appropriately, restating or correcting its original conclusions? Will you fill some of the gaps in what should be an ongoing obligation to your readers? This particular murky tunnel requires, alas, some additional, viable, brighter, more timely light.

MICHAEL SWOFFORD
Hyde Park

Who will watch the watchdogs?

When the initial 18-page article about Chiquita was published, I read letters to the editor from people touting how fine of a job the *Enquirer* has done and thanking the paper for being such a watchdog. The apology you printed just shows that we need someone in place to watch the watchdogs.

ROBERT WESTERMAN
Fairfield

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June 30, 1998
The Cincinnati Post
Page 7A

"Chiquita apology: latest black eye for journalism"

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Chiquita apology: latest black eye for journalism

Post staff report

The Cincinnati Enquirer's front-page admission that a series of stories on Chiquita Brands International was based on stolen voice mail is the latest black eye for a profession that has been battered in recent months by high-profile scandals.

"This certainly hurts, but then, all polls suggest the public's respect for journalists couldn't be much lower anyway," said George Kennedy, the managing editor of the Columbia Missourian, a daily newspaper that serves as a teaching tool for journalism students at the University of Missouri.

In assessing the potential long-term impact of the Enquirer's admission and payment of more than \$10 million to Chiquita, ethics experts cited a number of concerns:

■ **By further eroding public trust of the news media,** the episode hands yet another damaging propaganda tool to media critics, they say.

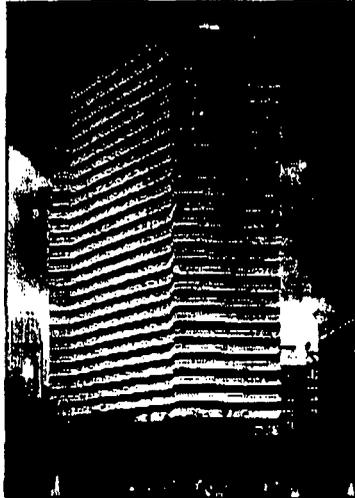
Two weeks ago, Boston Globe columnist and Pulitzer Prize finalist Patricia Smith was asked to resign after admitting she fabricated quotations and people in four columns.

Earlier this month, the New Republic admitted that writer Stephen Glass had fabricated all or part of 27 of 41 articles he had written for the weekly magazine over the past three years.

"For those who are already anti-media, this gives them another weapon that they can use to push their message," said Edith Dashiell, an associate professor at the Ohio University School of Journalism.

"Does this episode give the media a black eye? Definitely. But the media tend to heal very quickly."

■ **The Enquirer's public em-**



The Chiquita Center, downtown

barrassment and hefty settlement — one of the highest ever paid by a news organization — could have a chilling effect of other newspapers' willingness to report aggressively on powerful, complex organizations such as Chiquita.

■ **The paper's \$10 million-plus settlement** — it refuses to specify the precise amount — prior to any lawsuit being filed by Chiquita could embolden those who feel they have been wronged to more aggressively pursue potential claims in the future.

"An old publisher once told me ... you need to do two things before publishing any major investigative project like this," Kennedy said.

"You want to be able to look yourself in the mirror the next morning and be comfortable with what you've done. And you want to make sure that the people who owned the newspaper the day before you published the story still own it the day after. Gannett has a pretty deep pocket. But this puts a hell of a hole in it."

Floyd Abrams, a prominent First Amendment lawyer, told the New York Times that the Enquirer's payment is unusual.

"There have been settlements in substantial amounts after someone has lost a lawsuit," Abrams said. "But I can't think of a situation in which a publication has been obliged to pay a figure on the order of \$10 million in circumstances in which there was never litigation."

Steve Geimann, the chairman of the Society of Professional Journalists' ethics committee, praised the Enquirer's "decisive" response.

"The Enquirer has held itself accountable and publicly admitted its stories were gathered using unethical means," Geimann said. "Such actions should help, not hurt, the newspaper's credibility."

The Enquirer stories, published in an 18-page section on May 3, accused Chiquita, a worldwide banana exporter based in Cincinnati, of a wide variety of questionable business practices in Central America.

The newspaper said the stories were based in part on 2,000 internal voice-mail messages acquired from a high-ranking Chiquita official whom it did not identify.

But in Sunday's apology, the paper said it had concluded that Michael Gallagher, one of the two reporters who wrote the Chiquita series, lied about the source of the voice mail which the paper said had been stolen.

Gallagher's attorney, Patrick J. Hanley, refused to discuss specifics of the case Monday.

"There's going to be a lot of information that comes out in the future, but at this time we're just not going to get into it with the media," Hanley told the Associated Press.

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The Cincinnati Post

Page 7A

"Enquirer staff subpoenaed in Chiquita case"

Page 1 of 1

Enquirer staff subpoenaed in Chiquita case

Special prosecutor to probe possible theft

From staff and wire reports

A special prosecutor subpoenaed staff members of the Cincinnati Enquirer in an investigation of whether property was stolen from the Chiquita banana company for an expose, the publisher said Monday.

The Enquirer on Sunday renounced articles that it had published May 3 questioning the business practices of Chiquita Brands International Inc. and said it agreed to pay the firm more than

\$10 million to settle any legal claims.

Publisher Harry M. Whipple declined to discuss who or how many employees were subpoenaed, or what the subpoenas demanded. Whipple said he could not comment because of an ongoing investigation by special prosecutor Perry L. Ancona.

"I've never had any contact with Perry Ancona, but subpoenas have been issued," Whipple said Monday.

Ancona, a Cincinnati lawyer, would



Harry
Whipple

not comment on the investigation.

The Hamilton County sheriff also is investigating to determine whether Chiquita property was stolen. Ancona was named special prosecutor after County Prosecutor Joseph Deters excused himself from the case because he received campaign support from the head of Cincinnati-based Chiquita.

In a page-one apology Sunday, the Enquirer said its reporting "created a false and misleading impression of Chiquita's business practices."

The newspaper also said it had fired the lead reporter on the Chiquita series, Mike Gallagher, because he stole taped Chiquita phone messages on which the

series was based and deceived his editors about how the information was obtained.

In early May, Whipple had said that the Chiquita series was supported by multiple sources inside and outside the company.

Enquirer reporter Cameron McWhirter wrote the Chiquita stories along with Gallagher, and local news editor David Wells directed the investigative team. Neither responded to phone calls Monday.

Chiquita, which has not sued the Enquirer, said it accepted the Enquirer's apology. But Chiquita still does not know how the newspaper ob-

tained more than 2,000 of its confidential voice mail messages, said Chiquita's president, Steven G. Warshaw.

"We don't know the manner in which they were accumulated, we don't know if they still exist, we don't know if they were spliced," Warshaw said.

Sunday's front-page apology in the Enquirer, the first of three planned for this week, was signed by Whipple and editor Lawrence Beaupre.

A written statement that Enquirer executives distributed to staffers Sunday laid the blame solely on Gallagher, accusing him of a "massive" deception in which he lied to editors "repeatedly over a period of nearly a year."

Alleged theft of phone messages cited in retraction

June 30, 1998
Journal-News
Page B12
"Alleged Theft of Phone Messages Cited in Retraction"
By: John Nolan, Associated Press

06/30/98 11:30 PUBLIC AFFAIRS → DOUG SARRID

NO. 689 P002/003

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The Cincinnati Enquirer will pay Chiquita more than \$10 million

By John Nolan
The Associated Press
CINCINNATI

The Cincinnati Enquirer decided it should completely retract a wide-ranging investigation of Chiquita banana company practices because it relied on analysis of 2,000 allegedly stolen phone messages.

The Enquirer apologized Sunday on Page One to Chiquita Brands International Inc. and said it would pay the company more than \$10 million to settle any legal claims.

Publisher Harry M. Whipple said reporter Mike Gallagher violated the Enquirer's principles by apparently stealing Chiquita executives' voice mail recordings while assuring his edi-

tors that he legally obtained the tapes. Gallagher, the lead reporter of the stories published in a May 3 special section, was fired on Friday, Whipple said.

Cincinnati-based Chiquita said it accepts the Enquirer's apology. The company had not sued the Enquirer, but repeatedly accused the newspaper of stealing Chiquita's voice mail messages and creating an impression of wrongdoing through selective editing.

"As we have said all along, the articles were highly inaccurate and conveyed a false and unfair impression about our company, our associates and the way we do business," Chiquita said in a statement Sunday.

The Enquirer is investigating whether other staffers acted improperly but has found no indication of that so far, Whipple said.

The Hamilton County sheriff and a special prosecutor are also investigating whether Chiquita's property was

stolen. The special prosecutor, Cincinnati lawyer Perry Ancona, did not return a call to his home Sunday.

County Prosecutor Joseph Deters had asked for a special prosecutor because Carl Lindner, chairman and chief executive officer of Chiquita, and his family members are Deters campaign backers.

Whipple said the episode will not end the Enquirer's commitment to aggressive reporting.

"We will continue to report the news of this region and do our best to do that, including investigative reporting that's appropriate, that's lawful, that's legal," he said. "I think any time this occurs in any news organization, you learn from your mistakes, hopefully."

The Enquirer's 18-page report on Chiquita accused the company of improper land dealings overseas, involvement in a bribery scheme in

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Page B12

"Alleged Theft of Phone Messages Cited in Retraction"

By: John Nolan, Associated Press

Colombia and putting public health at risk with pesticide use on Central American banana farms. The section was illustrated with maps, photographs of Chiquita documents and pictures of Central Americans interviewed by Enquirer reporters.

In an interview Sunday, Whipple declined to discuss what material in the articles the newspaper believes to be factual or wrong.

"The end product, our section, has been tainted by the unethical and illegal means that an individual used to gather the voice mail," Whipple said. "Breaking the law, violating any of the common journalistic standards, lying to one's employer, certainly has no place at the Enquirer. As a result, we were unable to stand behind information gathered in violation of those basic principles."

Gallagher, 40, had been at the paper since 1995. Contacted at his home Sunday, he declined to comment. His lawyer, Patrick J. Hanley, also had no

comment, saying today, "There's going to be a lot of information that comes out in the future, but at this time we're just not going to get into it with the media."

An expert on media ethics praised the Enquirer's decision to publish the retraction atop Page One.

"I think that's the only way to do it. If you expect people to trust you, when you do make a mistake, if you do fall down and get sloppy, you should be the first to admit it," said Bill Kovach, a former editor with The New York Times and The Atlanta Journal and Constitution, who is now curator of the Nieman Foundation, which administers journalism fellowships at Harvard University.

"I don't think aggressive reporting is so hard to do that you have to do it unethically," he said.

The Enquirer agreed to publish an apology prominently on its front page for three days and post it on its Web site.

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The Cincinnati Post

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"Enquirer: Chiquita Stories Based on Stolen Voice Mail"**From Staff Writers and Wire Reports**

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Enquirer: Chiquita stories based on stolen voice mail

From staff and wire reports

The Cincinnati Enquirer has agreed to pay \$10 million to Chiquita Brands International and to publish three front page apologies admitting articles questioning the company's business practices were based on stolen voice mail.

The first of the apologies, signed by publisher Harry M. Whipple and editor Lawrence K. Beaupre, was published across the top of the Enquirer's front page on Sunday.

In an unsigned statement accompanying Sunday's apology, the newspaper said the apology would be repeated on the front page Tuesday and again on Wednesday.

One of the two reporters who wrote the Chiquita reports was fired on Friday.

"We apologize to Chiquita and its employees for this unethical and unlawful conduct and for the untrue conclusions in the Chiquita series of articles," the apology said.

Chiquita, in a statement Sun-

day, praised the Enquirer for admitting the "conclusions in the articles were untrue."

But in interviews, Whipple declined to discuss which of the articles' conclusions the newspaper believes to be wrong.

Chiquita had not sued the newspaper, but had insisted the stories, published in a May 3 special section, were wrong.

"We are pleased that the Enquirer has acknowledged its wrongdoing and disassociated itself from both the contents of the articles and the manner in which they were prepared," Chiquita said in its statement.

"We accept the apology," the Chiquita statement added.

In the stories the newspaper reported Chiquita, a worldwide banana exporter based in Cincinnati, engaged in a wide variety of questionable business practices in Central America.

The newspaper said the stories were based in part on voice-mail messages from a high-ranking Chiquita official whom it did not identify.

The newspaper said Sunday that it has fired reporter Mike Gallagher because it concluded he lied about the source of the voice-mail information.

"Information provided to the Enquirer makes it clear that not only was there never a person at Chiquita with authority to provide privileged, confidential and proprietary information, but the facts now indicate that an Enquirer employee was involved in the theft of this information in violation of the law," the newspaper said.

Gallagher declined to comment and referred questions to his attorney Patrick J. Hanley of Covington, who did not return phone calls.

"The Enquirer will continue to investigate whether others involved in the Chiquita articles also engaged in similar misconduct," the apology said.

The Chiquita articles were co-written by Cameron McWhirter. Also credited was local news editor David Wells who, the paper said, "personally directs the investigative team."

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June 30, 1998

The Cincinnati Enquirer

Front Page

"Enquirer Employees subpoenaed in Probe"

By John Nolan, Associated Press

1561

Enquirer employees subpoenaed in probe

BY JOHN NOLAN
The Associated Press

A special prosecutor subpoenaed staff members from *The Cincinnati Enquirer* for an investigation into whether property was stolen from the Chiquita company for an expose, the publisher said Monday.

The *Enquirer* on Sunday renounced articles it published May 3 questioning the business practices of Chiquita Brands International Inc. and said it agreed to pay the banana company more than \$10 million to settle any legal claims.

The newspaper said it had fired the lead reporter on the Chiquita series, Mike Gallagher, because he stole taped Chiquita phone messages on which the series was based

and deceived his editors about how the information was obtained.

Publisher Harry M. Whipple declined to discuss who was subpoenaed, how many employees or what the subpoenas demanded. Mr. Whipple said he could not comment because of the investigation by Cincinnati lawyer Perry L. Ancona, the special prosecutor.

"I've never had any contact with Perry Ancona, but subpoenas have been issued," Mr. Whipple said.

Mr. Ancona said he would not comment on the investigation.

The Hamilton County sheriff also is investigating whether Chiquita property was stolen.

The newspaper has said its reporting "created a false and

misleading impression of Chiquita's business practices."

The *Enquirer's* 18-page report on Chiquita accused the company of improper land dealings overseas, involvement in a bribery scheme in Colombia and placing public health at risk with pesticide use on Central American banana farms. The section was illustrated with maps, photographs of Chiquita documents and pictures of Central Americans interviewed by *Enquirer* reporters.

Mr. Whipple had said in early May that the Chiquita reporting was supported by multiple sources inside and outside Chiquita.

Opinions in the city were divided Monday about the newspaper, owned by Gan-

(Please see CHIQUITA, Page A5)

Chiquita: Enquirer employees subpoenaed

CONTINUED FROM PAGE A1

nett Co. Inc.

Angela Massie, a businesswoman, said the damage is already done to Chiquita.

"It's nice to have the media. They inform you of certain things," Ms. Massie said. "But then when it gets to be underhanded and stealing voice mail . . . that's a little bit like those tabloids. I think that was a little bit too far."

Ms. Massie said, however, she would not stop buying the *Enquirer*.

"It's something they should have figured out before they actually ran the story, but at least they owned up to it," said Chris Steele, an analyst in management systems at Procter & Gamble Co.

Mr. Gallagher, 40, had been at the paper since 1995. Contacted at his home Monday, he declined to comment.

His lawyer, Patrick J. Hanley, said: "There's going to be a lot of information that comes out in the future, but at this time we're just not going to

get into it with the media."

Enquirer reporter Cameron McWhirter, 34, wrote the Chiquita stories along with Mr. Gallagher. David Wells, 46, local news editor at the *Enquirer*, directed the investigative team.

Attempts to contact both staff members at the newspaper for comment Monday were referred to Mr. Whipple. Employees were instructed not to discuss the case with outside reporters.

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An apology to Chiquita

Starting on May 3, 1998, *The Cincinnati Enquirer* published a series of articles regarding Chiquita Brands International. Many of the conclusions in these articles were based upon the contents of voice mail messages of employees of Chiquita. At the time, the *Enquirer* believed that the series' accusations against Chiquita were based upon what was thought to be factual information obtained in an ethical and lawful manner. Specifically, the *Enquirer* asserted that the voice mails were provided by "a high ranking Chiquita executive with authority over the Chiquita voice mail system."

The *Enquirer* has now become convinced that the above representations, accusations and conclusions are untrue and created a false and misleading impression of Chiquita's business practices. We have withdrawn the articles from continued display on the *Enquirer's* Internet Web site and renounce the series of articles.

Information provided to the *Enquirer* makes it clear that not only was there never a person at Chiquita with authority to provide privileged, confidential and proprietary information, but the facts now indicate that an *Enquirer* employee was involved in the theft of this information in violation of the law.

The employee involved, lead reporter Mike Gallagher, has retained counsel and will not comment on his news-gathering techniques. Despite his assurances to his editors prior to publication that he obtained his information in an ethical and lawful manner, we can no longer trust his word.

Chiquita's business practices and have taken disciplinary action against him for violations of *Enquirer* standards. The *Enquirer* will continue to investigate whether others involved in the Chiquita articles also engaged in similar misconduct.

We want to send a strong message that deception and unlawful conduct has no place in legitimate news reporting at the *Enquirer*.

We apologize to Chiquita and its employees for this unethical and unlawful conduct and for the untrue conclusions in the Chiquita series of articles.

THE CINCINNATI ENQUIRER

Harry M. Whipple
Harry M. Whipple, publisher

Lawrence K. Beaupre
Lawrence K. Beaupre, editor

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"Enquirer apologizes to Chiquita for 'Untrue' Stories; Reporter Fired"

By: Associated Press

1561

Enquirer apologizes to Chiquita for 'untrue' stories; reporter fired

The Associated Press
CINCINNATI

The Cincinnati Enquirer apologized to Chiquita Brands International Inc. in a front-page story Sunday, saying its series of stories that questioned the company's business practices were "untrue" and based on stolen voice mail.

The newspaper said it has fired the lead reporter and agreed to pay more than \$10 million to settle any claims against it by the company.

"We apologize to Chiquita and its employees for this unethical and unlawful conduct and for the untrue conclusions in the Chiquita series of articles," Enquirer Publisher Harry M. Whipple and Editor Lawrence K. Beaupre said in a front-page story Sunday.

A message left with a Chiquita spokesman was not immediately returned.

In a series of stories beginning May 3, the newspaper reported Chiquita, a worldwide banana exporter based in Cincinnati, engage in a wide variety of questionable business practices in Central America.

The newspaper said the stories were based in part on voice-mail messages from a high-ranking Chiquita official whom it did not identify.

Chiquita denied any wrongdoing, and the Hamilton County sheriff's department began investigating whether any information was stolen from the company.

The newspaper said it has fired reporter Mike Gallagher because it concluded he lied about the source of the voice-mail information.

"Information provided to the Enquirer makes it clear that not only was there never a person at Chiquita with authority

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to provide privileged, confidential and proprietary information, but the facts now indicate that an Enquirer employee was involved in the theft of this information in violation of the law," the newspaper said.

The Enquirer agreed to publish an apology prominently on its front page for three days and post the apology on its web site.

The newspaper said the articles "created a false and misleading impression of Chiquita's business practices."

"We have withdrawn the articles from continued display on the Enquirer's Internet web site and renounce the series of articles," the newspaper said.

Gallagher has obtained an attorney and "will not comment on his newsgathering techniques," the newspaper said.

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June 28, 1998

The Cincinnati Enquirer

Front Page

"An Apology to Chiquita"

By: Harry M. Whipple, publisher and Lawrence K. Beaupre, editor

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An apology to Chiquita

Enquirer: Voice mail tapes were taken illegally

The Cincinnati Enquirer today issued an apology to Chiquita Brands International Inc. for articles published May 3, 1998, that were based on illegally obtained voice mail messages and questioned Chiquita's business practices.

In a statement, Enquirer Publisher Harry M. Whipple and Editor Lawrence K. Beaupre said that facts obtained since publication have convinced them that the lead reporter had deceived them and others involved in the preparation of the articles. As a result, they said that the newspaper has renounced them. They said the articles have also been removed from the Enquirer's internet web site.

The reporter was identified as Michael Gallagher. The newspaper said he was terminated Friday for misconduct.

The Enquirer said it has agreed to publish an apology to Chiquita and its employees prominently on the front page of the newspaper today. Tuesday information in violation of the law," the apology states. "The employee involved, the lead reporter Mike Gallagher, has retained counsel and will not comment on his news gathering techniques."

Gallagher is an experienced reporter whose previous work had uncovered problems in gov-

ernment and business operations day and Wednesday, and that it would post the apology on its web site.

It said it has also agreed to settle terms - including a payment in excess of \$10 million - in exchange for Chiquita to drop all claims against it by Chiquita.

However, a criminal investigation is underway by the Hamilton County Sheriff's Department, and a special prosecutor has been appointed.

In its apology, the Enquirer stated that Gallagher had claimed to have obtained copies of the voice mail messages from a high-ranking Chiquita official with authority over the company's voice mail system.

"The Enquirer has now become convinced that the above representations, accusations and conclusions are untrue and created a false and misleading impression of Chiquita's business practices," the apology states.

"Information provided to the Enquirer makes it clear that not only was there never a person at Chiquita with authority to provide privileged, confidential and proprietary information but that facts now indicate that an Enquirer employee was involved in the theft of this information," the apology continued. "Despite assurances to his editors prior to publication that he obtained his information in an ethical and lawful manner, we can no longer trust his word and have taken disciplinary action against him for violations of Enquirer standards. The Enquirer will continue to investigate whether others involved in these articles engaged in sim-

ilar conduct." Although the newspaper's investigation is ongoing, the Enquirer said that at this point it has no evidence that anyone other than Gallagher had engaged in unlawful conduct.

"This deceitful, unethical and unlawful conduct has undermined the entire project and jeopardized the Enquirer's reputation," Whipple and Beaupre

said. "The reporter betrayed his co-workers and his newspaper. His misconduct has no place in journalism, and the Enquirer wants no part of it."

They continued: "The Enquirer deeply regrets that these unauthorized actions have hurt the integrity of the newspaper and the trust of our readers. We will take all necessary steps to

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Front Page
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Text of apology to Chiquita

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tigate whether others in the Chiquita organization engaged in similar behavior.

We want to send a message that deception and unlawful conduct have no place in legitimate news reporting at the *Enquirer*.

We apologize to Chiquita and its employees for this unethical and unlawful conduct and for the untrue conclusions in the Chiquita series of articles.

THE CINCINNATI ENQUIRER
Harry Whipple
Harry M. Whipple, publisher
Lawrence K. Beaupre
Lawrence K. Beaupre, editor

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June 29, 1998

The Cincinnati Enquirer

Front Page

"Chiquita Accepts Apology, \$10M From Enquirer"

By: Associated Press

Chiquita accepts apology, \$10M from Enquirer

Publisher calls stories 'tainted'

BY JOHN NOLAN
The Associated Press

The Chiquita fruit company accepted an apology and retraction Sunday of a series of newspaper stories questioning its business practices, and also received an unusual \$10 million

concluded that Mr. Gallagher may have stolen Chiquita voice mail tapes on which the stories were based, and did not reveal that to his editors, Mr. Whipple said.

"The end product, our section, has been tainted by the unethical and illegal means that an individual used to gather the voice mail," Mr. Whipple said. "Breaking the law, violating any of the common journalistic stan-

dards, lying to one's employer, certainly has no place at the Enquirer. As a result, we were unable to stand behind information gathered in violation of those basic principles.

Chiquita had not sued the newspaper but had insisted ever since the stories were published in a May 3 special section that they were wrong, without going into detail about what facts were in question. In an interview, Enquirer Publisher Harry M. Whipple declined to discuss what material in the articles the newspaper believes to be factual or wrong. Instead, Mr. Whipple and Editor Lawrence R. Beaupre focused their apology on the actions of the lead reporter, Mike Gallagher, whom they fired Friday.

The Enquirer's management paper's decision.

settlement. The Cincinnati Enquirer said its front-page apology to Chiquita Brands International Inc. was necessary because the lead reporter on the series unethically obtained the supporting information.

"This is just another indication of the heightened concern about credibility and ethical standards at news organizations. This is a very forceful move by a news organization to clarify what it clearly sees as a major ethical lapse," said Bill Kovach, a former editor with

(Please see CHIQUITA, Page A4)

Chiquita: Firm accepts apology

CONTINUED FROM PAGE A1

the New York Times and the Atlanta Journal and Constitution, who is now curator of journalism fellowships at Harvard University.

In settling any claims against it, the Enquirer agreed to publish an apology prominently on its front page for three days and post the apology on its Web site.

The newspaper is investigating to determine whether other members of its staff acted improperly in handling the Chiquita reporting. Mr. Whipple said Sunday he had no indication that anyone other than Mr. Gallagher was involved in anything questionable

The Hamilton County sheriff is investigating whether Chiquita property was stolen, and a judge has appointed Cincinnati lawyer Perry Ancona as special prosecutor to investigate. Mr. Ancona did not return a call to his home Sunday.

Mr. Gallagher, contacted at his home, declined to comment Sunday. He referred queries to his attorney Patrick J. Hanley of Covington. Mr. Hanley did not return a message left on his

office answering machine.

The May 3 reporting suggested that Cincinnati-based Chiquita engaged in improper business practices to skirt foreign laws that could restrict its banana plantations and land ownership overseas. Chiquita repeatedly denied those allegations and accused the Enquirer of stealing the company's voice mail messages.

Carl Lindner, a Cincinnati business leader known as a generous campaign contributor to politicians, is chairman and chief executive officer of Chiquita. Supporters of Mr. Lindner and Chiquita have criticized the Enquirer's reporting about

Chiquita's management said Sunday it accepts the Enquirer's apology and is pleased the newspaper has disavowed the articles and the manner in which they were prepared.

"As we have said all along, the articles were highly inaccurate and conveyed a false and unfair impression about our company, our associates and the way we do business," Chiquita said in its statement.

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"House Approps Cuts Defense Cleanup Funds by \$100 million"

HOUSE APPROPS CUTS DEFENSE CLEANUP FUNDS BY \$100 MILLION

Final Budget Also Relies Heavily on Prior Year Balances

The House Appropriations Committee last week approved a \$6.2 billion FY99 DOE Environmental Management spending plan that, while ostensibly hiking the Administration's request for some specific programs, relies on \$94.1 million in unspent, prior year balances Department officials maintain simply do not exist. Overall, the Appropriations bill, which is expected to move to the House floor as early as June 23, includes \$5.683 billion for Defense Environmental Management and \$466,700 for non-defense environmental programs. That recommended level of spending is roughly \$100 million less than the Administration's \$5.783 billion Defense Environmental Management request, but with the absence of uncosted balances taken into account, the actual appropriation is closer to \$5.589 billion, bringing the House Appropriation nearly into synch with the \$5.583 billion provided in the Energy & Water Appropriations bill passed by the Senate last week (see related stories). The Senate bill includes just \$20 million in prior year balances for Defense Environmental Management programs, for an actual appropriation of about \$5.563 billion. The House/Senate conference committee should easily be able to split the \$26 million or so difference between the two versions.

House Boosts Funding for ER/WM

The Appropriations bill provides \$4.36 billion for Defense Environmental Restoration and Waste Management, a \$98 million boost to the Administration's \$4.26 billion request once those assumed prior-year balances are taken into account. That total is just short of the \$4.37 billion granted in the authorization bill, and about \$70 million higher than the \$4.29 billion recommended in the Senate Energy & Water Appropriations bill. Within Defense Environmental Restoration/ Waste Management budget, the House appropriators funded the project completion program at \$1.067 billion, slightly higher than the Administration's \$1.047 billion request. The Senate version of the bill met the Administration's request. Project completion involves projects that will be completed by 2006 at sites with missions extending beyond 2006. The additional \$20 million is earmarked to process tritium-contaminated heavy water at the Savan-

nah River Site. The heavy water could be sold if cleaned properly, resulting in a net revenue of approximately \$38 million, the Committee reports.

Post-2006 Budget Up Slightly

Cleanup projects which will require funding beyond 2006, including a significant number of projects at Hanford, the Savannah River Site, Oak Ridge and INEEL, received slightly more money than the Administration had requested. The House Appropriations bill includes \$2.758 billion for those projects in FY99; the Administration asked for \$2.6 billion. The Senate bill provides a touch less funding, coming in at \$2.73 billion. Key funding provisions in the House bill include an additional \$18 million for Hanford's tank farm project, including single-shell tank drainage, which the Committee notes "has been delayed." In addition, the bill provides \$12 million to continue decontamination and decommissioning work at the Hanford reactors. The Committee recommends that DOE find \$800,000 from within available funds to maintain the operation of the Hazardous Materials Management and Emergency Response Training Facility at FY98 levels, but did not appropriate funds specifically for that project. At Savannah River, the Committee set aside \$30 million to support the preferred pretreatment option for the Defense Waste Processing Facility, mainly to fund equipment modifications necessary due to problems with the In-Tank Precipitation process. Finally, the Committee provided a \$5 million boost to the Waste Isolation Pilot Plant "to support operational needs," and earmarked \$5 million to continue the National Spent Fuel Program at Idaho.

Technology Development Enjoys Significant Boost

The Committee boosted significantly EM's science and technology development program, adding \$77 million to the Administration's \$193 million request, for a final proposed budget of \$270 million. The Senate bill also hiked the Administration's request, although by a more modest \$29.5 million to \$222.5 million. The Committee report notes that "[d]eployment of new technologies is a strategic activity affecting virtually all environmental management programs and sites, and should be strongly supported as a complex-wide program to help meet compliance agreement milestones within a resource constrained budget." The funding, the Committee adds, "should be used to accelerate the use of new technologies and leverage funding already available for deployment activities." The Committee in its FY98 appropriation required the Department to submit semi-annual reports on technologies under development but, after

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"House Approps Cuts Defense Cleanup Funds by \$100 million"

reviewing the first of those reports, "has determined that an annual report on the science and technology development program will be sufficient." The new annual report will be due February 15, 1999.

Program Direction Boosted

The House bill also increases funding for EM's Program Direction, boosting the Administration's \$346 million request by \$10 million to \$356 million. The Senate bill matches the Administration's request. The House Committee report explains, however, that the additional \$10 million is accompanied by the transfer into the Program Direction account of the salaries and expenses of the Federal employees performing administrative functions at the Idaho Operations Office. Those employees had been funded in the program account for multi-purpose DOE offices, while the remaining two-thirds of the Idaho Federal employees were funded in the environmental management account. "Since the majority of the funding for the Idaho site is for environmental management activities, the administrative personnel should be funded from the same account," the Committee reasoned.

Rocky Flats, Fernald Funding Up Also

The House appropriators included \$1.038 billion for the Department's Closure Projects, which involve mainly Rocky Flats and Fernald, along with some other, less-challenging sites in Ohio. The Senate version of the Appropriations bill is slightly higher than the House version at \$1.048 billion. The House Committee report focussed heavily on Rocky Flats, reminding the Department of the Committee's challenge to close the site by 2006 at a total cost of \$6 billion. "The Department's current plan is for site closure by fiscal year 2010 at a total project cost of \$7.3 billion. Accelerating the cleanup schedule can save \$1.3 billion." The report acknowledges that in order to meet the 2006 goal, "stable funding will be required over several years, and critical path work activities must be successfully completed, not only at Rocky Flats, but at other sites throughout the Department..." The Committee subsequently urged DOE to "ensure that complex-wide funding issues are addressed as they relate to the closure of the Rocky Flats Site."

On Fernald, the Committee notes that DOE is planning to close the site by fiscal year 2005, but that follow-up activities through 2008, mainly for finalizing treatment and disposal of the silo waste and structures, will be necessary. The Committee "strongly supports" DOE's efforts at Fernald, pointing out that closing the site by

2005 will cost about \$2.5 billion while extending the cleanup through 2011 would increase the cost to about \$2.8 billion.

Privatization Funding Slashed

As in the Senate, House appropriators recommend slashing funding for privatization projects by nearly 50 percent, from the requested level of \$516 million to \$286 million. The Senate bill provides just \$242 million. The House report cites a General Accounting Office report which "clearly shows that 'privatization' is not a one-size-fits-all option. When the scope of work for an environmental project has not been clearly defined or the technology is not readily available, the use of fixed-price contracts will not prevent cost overruns and schedule delays. Fixed price contracts and private financing of construction projects are tools to be used under the right circumstances, not a magic bullet to correct the Department's project management problems or remedy a chronic shortfall of funds to meet compliance agreements."

The Committee adds that while it will support alternative financing proposals when deemed appropriate, it "will expect sufficient justification from the Department to support each of the proposed projects." The funding level recommended in the appropriations bill includes \$100 million for the Tank Waste Remediation System at Hanford. "This will provide a total of \$385 million when added to the \$285 million which was provided for this project in prior years. None of these prior year funds have been obligated, and they will be carried over into the new fiscal year."

Committee Matches Disposal Request

Finally, the House bill supports the Administration's \$190 million request for DOE's contribution to the Yucca Mountain project in Nevada. Through FY98, a total of \$987.8 million has been appropriated to support repository activities attributable to atomic energy defense activities, the Committee notes. The Senate bill also funds DOE's contribution at \$190 million. ◀

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"At Fernald...Fluor Daniel Wins Mentor/Protégé Award"

AT FERNALD FLUOR DANIEL WINS MENTOR/PROTÉGÉ AWARD

The Department of Energy has bestowed top honors on Fluor Daniel Fernald for the company's participation in DOE's mentor/protégé program for small businesses. The program provides historically under-utilized businesses—small disadvantaged and/or women-owned businesses—with developmental assistance to perform as subcontractors at Fernald or other DOE facilities. Fluor Daniel Fernald implemented its mentor/protégé program in 1995 and has successfully brought three small business through the program: Horizon Environmental Group of Cincinnati; Village Building Services of Cin-

cinnati; and International Consultants, Inc., of Dayton, Ohio. Two additional companies have since been brought in to the program.

John Bradburne, president and CEO of Fluor Daniel Fernald, reported the three graduated companies "have made valuable contributions to the Fernald cleanup, including helping us meet our safety standards, improving our cost efficiencies, and providing quality work overall." DOE presented the 1998 Mentor/Protégé Program of the Year award to Bradburne at a Small Business Secretarial Awards Ceremony in Washington.

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Page 5
"DOE Doubtful of Both Estimates"

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DOE Doubtful of Both Estimates

Wagoner and Fluor Daniel Hanford officials maintain the latest \$1.6 billion estimate is "fuzzy" and probably too high. Fluor officials said the additional \$200 million comes from the need for additional construction costs and the fact that some workers need to be hired and trained sooner than expected. In addition, they contend, the predicted cost of maintaining the basins were cut too low in 1996 and now must be made up. Fluor officials do express a high degree of confidence in the \$1.4 billion estimate, but DOE officials claim that figure, also, may be unreasonably inflated. ◀

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Publisher calls stories 'tainted'

BY JOHN NOLAN

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dards, tying to one's employer, certainly has no place at the Enquirer. As a result, we were unable to stand behind information gathered in violation of these basic principles.

"The voice mail tapes were gathered improperly, in violation of the standards and practices of this newspaper," Mr. Whipple said.

An expert on media ethics was not surprised by the news-

paper's decision.

"This is just another indication of the heightened concern about credibility and ethical standards at news organizations. This is a very forceful move by a news organization to clarify what it clearly sees as a major ethical lapse," said Bill Kovach, a former editor with

settlement. The Cincinnati Enquirer said its front-page apology to Chiquita Brands International Inc. was necessary because the lead reporter on the series unethically obtained the supporting information.

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The Enquirer's management

(Please see CHIQUITA, Page A4)

Chiquita: Firm accepts apology

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