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June 4, 2020

U.S. Mail, Overnight Delivery

Mark Lee Dickson
Individually and as Director of Right to Life East Texas
1233 E. George Richey Rd.
Longview, TX 75604-7622

Re: Request that you retract and clarify defamatory statements made against the TEA Fund, The Afiya Center, and the Lilith Fund.

Dear Mr. Dickson:

This letter is directed to you both in your personal capacity, and as Director of Right to Life East Texas. We have been retained to represent the interests of the Texas Equal Access Fund, ("TEA Fund") The Afiya Center, and the Lilith Fund for Reproductive Equity ("Lilith Fund"). This letter is your notification under the Texas Defamation Mitigation Act that you and Right to Life East Texas have made false and/or misleading statements about our clients and is a formal request that you retract and correct such statements in each venue and mode of communication in which they have been made.

Specifically, you and Right to Life East Texas have made numerous statements that label our clients "criminal" or "criminal organizations," or state or imply that these organizations have committed or are presently committing crimes under Texas law. These statements, including but not limited to the examples set out below, are false. Under Texas law, it is *per se* defamation to falsely accuse a person or an organization of criminal activities.

None of our clients has committed any criminal act, and your statements cause damage to their reputations, work, clients, and the services they provide throughout Texas. We request that you immediately retract all statements declaring or implying that the organizations named above are criminal organizations or that they or any of their agents have committed or are committing any criminal acts. We further request that you specifically clarify that neither you, nor to your knowledge anyone else, has any evidence or reason to believe that any of the organizations named above nor any of their agents has committed any acts in violation of the criminal laws of the United States or of any state or local government. Below are some examples of statements we request that you retract and clarify, and we ask the same with respect to any similar statements you or Texas Right to Life have made.

- (1) Your statements contained in city and county resolutions and ordinances which, in the original drafts (and in most cases, the originally adopted versions) declared TEA Fund, The Afiya Center, and Lilith Fund to be criminal organizations, immediately after purporting to declare abortion "murder with malice aforethought," implying**

that TEA Fund, The Afiya Center, and Lilith Fund have abetted or participated in the actual criminal act of murder.

Because these ordinances (an example of which is attached) were drafted at your behest, you are responsible for the text thereof, including both recitals (reciting “facts,” such as “a surgical or chemical abortion...is murder ‘with malice aforethought’”) and declarations (declaring abortion to be murder and declaring our clients to be criminal organizations). Because all of the statements described in this letter, and others you have made, were made in connection with ordinances that several local governments have now passed, it is not merely that you have hyperbolically called our clients “murderers” in some philosophical or moral sense. Instead, it appears your statements are intentionally designed to confuse people about what the law is and smear our clients as literal criminals who have or presently are committing acts that are against the law. Because they are not, such statements are defamatory.

None of the organizations we represent, nor any of their agents, has ever committed the criminal act of murder, or abetted the criminal act of murder. No level of government has ever accused these organizations or any of their agents of murder or any other crime associated with their provision of services to people seeking abortion services, no level of government has ever charged these organizations or any of their agents with same, and neither these organizations nor any of their agents has ever been found civilly or criminally liable for same. To state or imply that these organizations have assisted in committing the literal crime of murder, or any other crime, is defamatory and false. The context of your repeated statements makes it very likely that even reasonable people could be misled about whether our clients have actually committed any criminal acts. This has harmed, and will continue to harm, our clients’ reputations as law-abiding organizations.

- (2) **Your statements both before and after the passage of such ordinances further equating abortion with the criminal act of murder and declaring our clients “criminal organizations.”** For instance:

Your July 2, 2019 Facebook post stating that:

“Abortion is Freedom” in the same way that a wife killing her husband would be freedom - Abortion is Murder. The Lilith Fund and NARAL Pro-Choice Texas are advocates for abortion, and since abortion is the murder of innocent life, this makes these organizations advocates for the murder of those innocent lives. This is why the Lilith Fund and NARAL Pro-Choice Texas are listed as criminal organizations in Waskom, Texas. They exist to help pregnant Mothers murder their babies.

Your November 26, 2019 Facebook post stating that:

Even the listing of abortion providers as examples of criminal organizations is not unconstitutional. We can legally do that. This is an ordinance that says murdering unborn children is outlawed, so it makes sense to name examples of organizations that are involved in murdering unborn children.

None of the organizations we represent have ever committed the criminal act of murder or abetted same, nor have they committed any other criminal acts. Moreover, (1) no city, municipality, or state has brought any type of enforcement action against any of our client organizations for conduct related to the education and assistance they provide to people seeking abortion services; (2) no judicial proceeding has found any of the organizations we represent guilty of any crime or crimes related to their provision of education and assistance to people seeking abortion services; (3) abortion, and providing education and assistance in obtaining legal abortion, are not illegal in Texas; and (4) abortion is *excluded* from the murder statute in the State of Texas, and even Texas's prior, unconstitutional anti-abortion law (struck down in *Roe v. Wade*) does not designate abortion or assistance with abortion as murder. Consequently, there is no basis for accusing any of the organizations we represent of criminal activity because of their provision of education and assistance to people seeking abortion services. Your statements explicitly state and give the impression that our clients have broken or are breaking the law when they are not, which is defamatory.

(3) Your statements, on social media or otherwise, to the effect that it is proper for TEA Fund, The Afiya Center, and/or Lilith Fund to be designated "criminal organizations" by cities because allegedly abortion has been made illegal or outlawed. For instance:

Your statement on Facebook immediately after Waskom adopted the ordinance you proposed:

Congratulations Waskom, Texas for becoming the first city in Texas to become a "Sanctuary City for the Unborn" by resolution and the first city in the Nation to become a "Sanctuary City for the Unborn" by ordinance. Although I did have my disagreements with the final version, the fact remains that abortion is now OUTLAWED in Waskom, Texas! ... All organizations that perform abortions and assist others in obtaining abortions (including Planned Parenthood and any of its affiliates, Jane's Due Process, The Afiya Center, The Lilith Fund for Reproductive Equality [sic], NARAL Pro-Choice Texas, National Latina Institute for Reproductive Health, Whole Woman's Health and Woman's Health Alliance, Texas Equal Access Fund, and others like them) are now declared to be criminal organizations in Waskom, Texas. This is history in the making and a great victory for life!

Your statement on the Right to Life East Texas Facebook page on July 2, 2019:

In closing, despite what these groups may think, what happened in Waskom was not a publicity stunt. The Lilith Fund was in error when they said on a July 2nd Facebook post, "Abortion is still legal in Waskom, every city in Texas, and in all 50 states." We said what we meant and we meant what we said. Abortion is illegal in Waskom, Texas. In the coming weeks more cities in Texas will be taking the same steps that the City of Waskom took to outlaw abortion in their cities and become sanctuary cities for the unborn.

These statements explicitly state that providing abortion services, and providing education or assistance to people seeking abortion services, has been made illegal by the City of Waskom's ordinance (and by implication, the ordinances of other cities you have persuaded to adopt it). You know that this is not true. Abortion is not against the law in Texas, which specifically regulates medical abortion. Educating people about their rights to abortion and assisting them in obtaining legal abortions is also perfectly legal. Consequently, it is defamatory to call Lilith Fund, TEA Fund, and The Afiya Center (as well as other organizations) "criminal organizations" merely because they assist people in these ways.

Nor can you defend these statements by arguing that this is merely the text of the ordinance. You are responsible for the text, having coordinated with others to have it drafted. The cities themselves know that they cannot declare these organizations criminal, and they have amended their statutes to remove that language, but this does not cure your original and ongoing defamation. Moreover, as noted above, (1) no city, municipality, or state has brought any type of enforcement action against any of our clients for conduct related to providing education or assistance to people seeking abortion services and (2) no judicial proceeding has found any of the organizations we represent guilty of any crime or crimes related to providing education or assistance to people seeking abortion services. Consequently, it is defamatory to refer to our clients as "criminal," especially given your repeated statements misrepresenting the state of the law, because it is likely to persuade reasonable people that our clients have actually committed literal criminal acts, when in fact they have committed no crimes.

With respect to all of these statements, and any similar statements, we therefore ask you to publicly clarify that, even to the extent you believe abortion *should* be a crime, or is morally equivalent to murder or some other crime, you have no reason to believe that any of the organizations we represent, or any employee or agent thereof, has (1) committed the crime of murder under federal or state law, (2) abetted the crime of murder under federal or state law, or (3) committed any other crime associated with providing education or assistance to people seeking abortion services.

We are not asking you to change your political views or cease to advocate for them. All we ask is that you immediately make a public statement on your personal and Right to Life East Texas's social media accounts retracting any allegations that these organizations or their agents have broken or are breaking any laws. If you do not do so, we will have no choice but to initiate a defamation suit to set the record straight. We intend to seek injunctive relief requiring you to retract and clarify your past statements to clear this defamation, as well as damages to compensate our clients for the injury to their reputations you have caused, and the expense of litigation you have forced upon them. We may also seek punitive damages given the obviously intentional nature of this defamation.

Feel free to contact me with any questions you may have regarding the foregoing, or to connect me with your own legal counsel. Please forward any retractions or corrections that you make so that our clients can evaluate their legal options and avoid unnecessary litigation.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Jennifer R. Ecklund". The signature is cursive and somewhat stylized, with the first name being the most prominent.

Jennifer R. Ecklund

cc: Elizabeth Myers
John Atkins