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August 21, 2019

Via FedEx

Christine Flores, Esq.
General Counsel
Pinterest, Inc.
505 Brannan Street
San Francisco, CA 94107
Phone: 415.762.7100

Re: Live Action v. Pinterest, Inc.
Demand Letter and Evidence Preservation Notice

Dr. Ms. Flores:

Our firm represents Live Action, a pro-life advocacy organization, in connection with its dispute with Pinterest, Inc. (“Pinterest”), arising from Pinterest’s recent unlawful ban on Live Action’s use of Pinterest’s platform, and its disparaging mislabeling of LiveAction.org as a pornographic website in order to ban the creation of any “pins” by other Pinterest users (“Pinners”) that link to Live Action’s website. As set forth below, Pinterest’s conduct violates California law as well as Pinterest’s own Terms of Service, and must be immediately corrected. Please direct all further correspondence regarding this dispute to our office.¹

RELEVANT BACKGROUND

Live Action is a pro-life, non-profit organization with a long-standing, highly regarded reputation for pro-life educational outreach and advocacy. Live Action’s advocacy efforts include publishing pro-life literature and videos on its website for the purpose of exposing the negative impact abortion has on its victims and the surrounding community.

As set forth in Pinterest’s Terms of Service, “Pinterest allows [users] to post content, including photos, comments, links, and other materials,” which content Pinterest calls “User Content.” Once created, the User Content is available to other Pinterest users to review, share,

¹ Pinterest’s Terms of Service are available online at the following url:
<https://policy.pinterest.com/en/terms-of-service>.

and save. According to its “Community Guidelines,” Pinterest removes or hides from public view the following types of User Content: porn; imagery glorifying violence; hate speech and speech promoting discrimination; attacks on private persons or that share personally identifiable information; and accounts which seek to impersonate any person or organization.²

User Content related to abortion facially does not violate Pinterest’s Terms of Service or Community Guidelines. Indeed, a cursory search on Pinterest’s platform reveals numerous links to Planned Parenthood and other websites that contain information about abortion, sex, contraceptives, and other reproductive health and medical topics. Live Action has generated User Content on Pinterest for years, and, to our knowledge, other users have been able to share, save, and link to Live Action content.

At some point prior to June 10, 2019, however, Pinterest began to selectively censor and suppress the spread of Live Action’s pro-life educational and political content on its platform. It did so by inaccurately labeling LiveAction.org as “porn,” and placing LiveAction.org on an internal domain blacklist based on that pretext. As a result, Pinnerers were unable to create pins that linked to Live Action’s website. Pinterest’s conduct was discovered by Project Veritas, an American non-profit organization dedicated to investigating and exposing private and public corruption, based on information provided by a Pinterest employee and whistleblower, Eric Cochran.

As a result of its investigation, Project Veritas decided to publish an interview with Mr. Cochran online, to publicly expose Pinterest’s censorship activities. On June 10, 2019, prior to publishing the exposé, Project Veritas contacted Pinterest for comment. Within hours of being confronted with its pretext for blacklisting Live Action, Pinterest notified Project Veritas that it had removed Live Action’s website from the domain blacklist, which Project Veritas thereafter verified.

The following day, June 11, 2019, Project Veritas published the Cochran interview on YouTube.com, and Live Action issued a press release in which it discussed the censorship. Within minutes of the release of the Cochran interview, Live Action received an email from Pinterest stating that its Pinterest account had been “permanently suspended,” purportedly because its content violates Pinterest’s “policies on misinformation” by disseminating “harmful... medical misinformation and conspiracies that turn individuals and facilities into targets for harassment and violence.” The email notification failed to provide even a general description—let alone any concrete examples—of the supposed “misinformation” alleged to justify the ban.

Pinterest adopted this position, pretextually, to retaliate against Live Action and to suppress the ability of Live Action and other Pinnerers to use Pinterest’s platform to share, save, or generate pro-life User Content. This was done in violation of California law and Pinterest’s own Terms of Service. Pinterest took this conduct immediately after its first pretext (e.g. that

² Pinterest’s Community Guidelines are available online at the following url:
<https://policy.pinterest.com/en/community-guidelines>.

LiveAction.org was a pornographic website) had been publicly exposed by an internal whistleblower. As set forth below, Pinterest is liable for its ongoing efforts to unlawfully censor Live Action's and other users' pro-life speech.

PINTEREST'S LEGAL LIABILITY

Pinterest's unlawful conduct gives rise to several causes of action including, but not limited to, the following: (1) breach of contract and/or quasi contract; (2) violations of the California Unruh Act, Civ. Code § 51(b); and (3) unfair competition in violation of Bus. & Prof. Code § 17200. Monetary damages and injunctive relief are available pursuant to these causes of action, and will be sought in court if this matter cannot be promptly resolved.

By creating a Pinterest account and using Pinterest's online platform, Live Action and Pinterest entered into an agreement whereby Live Action agreed to abide by the Terms of Service in exchange for use of Pinterest's platform. Pursuant to this agreement, Live Action incorporated its use of Pinterest into its overall educational outreach and political advocacy strategy, and also generated User Content to disseminate on Pinterest's platform, in compliance with the Terms of Service.

Despite Live Action's compliance with the agreement, Pinterest disparagingly labeled LiveAction.org as a "pornographic" site in order to justify suppressing the sharing of links to LiveAction.org, in violation of the Terms of Service. Then, ironically, Pinterest altogether banned Live Action from using Pinterest's platform on the grounds that it was disseminating unidentified "misinformation"—in truth, as clear from the events describe above, *Pinterest* is the only party to have generated any misinformation, by purposefully mislabeling LiveAction.org.

Live Action has suffered monetary loses, including in connection with the expense and effort required to generate User Content, and has been banned from an important quasi-public speech forum on a pivotal issue of public interest: abortion. Accordingly, Pinterest is in breach of its agreement and promises to Live Action, and is liable for the same.

The California Unruh Civil Rights Act provides that "[a]ll persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, or medical condition are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." Cal. Civ. Code § 51(b); *see also Koebke v. Bernardo Heights Country Club*, 36 Cal.4th 824, 836 (2005). California courts construe this statutory bar against discrimination broadly to include all discrimination based on arbitrary characteristics. *See, e.g., Marina Point v. Wolfson*, 30 Cal.3d 721, 726 ("Whether the exclusionary policy rests on the alleged undesirable propensities of those of a particular race, nationality, occupation, political affiliation, or age, in this context the Unruh Act protects individuals from arbitrary discrimination").

Live Action seeks only to use Pinterest's publicly available platform on the same terms and conditions as its other users, including those who advocate political positions Pinterest finds

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more agreeable. Regrettably, Pinterest's conduct to date suggests that Live Action cannot expect equal treatment on equal terms from Pinterest; instead, it appears that our client can expect knee-jerk reactions and poorly thought-out pretexts for speech suppression. Pinterest's blatant and arbitrary discrimination against Live Action violates California law, and entitles Live Action to compensatory and injunctive relief.

California Business & Professions Code § 17200 prohibits acts of unfair competition, including any "unlawful, unfair or fraudulent business act or practice." Pinterest's intentional mislabeling of LiveAction.org as pornographic, and its effort to suppress truthful speech on the topic of abortion, all while presenting to the public as if Pinterest values free speech, constitute unlawful and fraudulent acts or practices under California's unfair competition law. Both Live Action and the general public are harmed by Pinterest's manipulations, and are entitled to the injunctive and restitutionary relief available to them pursuant to California's unfair competition law.

The above description of claims is meant to illustrate the broad scope of Pinterest's liability. It is not an exhaustive list of all claims that Live Action has against Pinterest. Our investigation and research of this matter is ongoing, and we reserve all legal rights on behalf of our client.

DEMAND

Live Action demands that Pinterest cease and desist from the above-described unlawful practices, and take immediate steps to reinstate Live Action's Pinterest account. Pinterest should contact this office as soon as possible to confirm what steps it is taking to rectify the problems set forth in this letter.

Should Pinterest fail to address this issue or contact our office by **August 30, 2019**, Live Action intends to take all necessary next steps to remedy the harm it has suffered and continues to suffer.

EVIDENCE PRESERVATION DEMAND

Litigation is likely to ensue in this matter. Under governing state and federal laws, Pinterest has an obligation to maintain copies of documents, including email and call recordings and other documents relevant to this dispute, as well as all other electronically stored information pertaining to Live Action's Pinterest account and Pinterest's labeling of LiveAction.org as a pornographic website. We also request that Pinterest immediately initiate a litigation hold for potentially relevant ESI, documents, and tangible things and to act diligently and in good faith to secure and audit compliance with such litigation hold.

Pinterest is hereby given notice to immediately take all steps necessary to prevent the destruction, loss, concealment, or alteration of any paper, document, or electronically stored information ("ESI"), including browser activity, and other data or information generated by and/or stored on Pinterest's computers and storage media (e.g., hard disks, thumb drives, backup

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tapes, cloud storage etc.), and e-mail related to this dispute, including, but not limited to the following: (1) the decision to block links to LiveAction.org; (2) any investigation conducted by Pinterest regarding Live Action; (3) any complaints, claims, allegations, grievances, correspondence, or communications regarding Live Action; (4) all documentation and correspondence regarding Pinterest's decision to suspend Live Action's account; (5) all documentation and correspondence regarding Live Action; and (6) records of all relevant ID names, manuals, tutorials, written instructions, decompression or reconstruction software, and any and all other information and things necessary to access, view; and (if necessary) reconstruct any ESI.

Adequate preservation of ESI requires more than simply refraining from efforts to destroy or dispose of such evidence. Pinterest must also intervene to prevent loss due to routine operations and employ proper techniques to safeguard all such evidence. Pinterest should immediately identify and modify or suspend features of its operations, information systems, and devices that, in routine operations, operate to cause the loss of documents, tangible items, or ESI. Examples of such features and operations include, but are not limited to, purging the contents of e-mail repositories by age, capacity, or other criteria; using data or media wiping, disposal, erasure, or encryption utilities or devices; overwriting, erasing, destroying, or discarding back-up media; re-assigning, re-imaging or disposing of systems, servers, devices, or media; running antivirus or other programs that alter metadata; using metadata stripper utilities; and destroying documents or any ESI by age or other criteria.

Pinterest's failure to comply with all statutory document and data preservation obligations that now exist may be severe, including monetary sanctions, terminating sanctions, or other sanctions. Please forward a copy of this letter to all persons and entities possessing or controlling potentially relevant evidence. Pinterest's obligation to preserve potentially relevant evidence is required by law.

We look forward to your prompt attention to this matter, and request that you contact this office **no later than August 30, 2019** to confirm compliance with the above demands. If you have any questions about the contents of this letter, please contact me or my associate, Gregory R. Michael.

Regards,



Harmeet K. Dhillon