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January 27, 2020

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Re: Infringement of "Success Kid" Internet Meme and Violation of Minor's Right of Privacy

Dear Sirs or Madams:

We represent Laney Marie Griner, individually and as the guardian of her minor son, Sam Griner. Ms. Griner owns the registered copyright in the photograph of Sam popularly known throughout this country and internationally as the Internet meme "Success Kid," Registration No. VA0001810362, registration date February 22, 2012. You are aware of the private property rights that the United States Copyright Act confers on copyright holders, including our client. You also may be aware of the privacy rights that state laws afford individuals' personality interests, including in their likenesses, and that the law affords children special protections.

We have recently learned that you and your campaign are willfully infringing our client's copyright and violating her young son's rights in his likeness by using the "Success Kid" meme without our client's consent, for the express purpose of soliciting money for your campaign,

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including through funding aggregator WinRed. Not only have you falsely implied by your unauthorized use that “Success Kid” is somehow associated with and supports your campaign, you have misrepresented to the general public that you are acting on behalf of and even have some proprietary interest in “Success Kid” and Sam’s image by emblazoning his photograph with the legend “FUND OUR MEMES” in large red block letters. Your misuse also violates the express terms and conditions of WinRed.com, on which you have prominently posted the photograph. WinRed prohibits posting material that violates copyrights and personality rights.

Our client has a long-established history of licensing “Success Kid” to legitimate advertisers. Those advertisers include stalwart American companies like Coca Cola, General Mills, Microsoft, Marriot, and many others. Unlike you and your campaign, they followed the law, gave our client the opportunity to approve or disapprove their uses, bargained for licenses, and paid for the rights they legitimately acquired.

The injury from your misappropriation is not limited to the market value of the use. From its grassroots beginnings, “Success Kid” became a viral sensation beloved by millions of Americans, largely due to its good-natured, friendly message. Your use has harmed and continues to harm that well-earned goodwill. You have a record of vitriolic criticism of individuals who belong to protected classes or disadvantaged groups, or who support legal rights that you condemn. The majority of U.S. consumers reject your political and other views, often vehemently, as they have a right to do. Those people may be repelled by any association with your politics and campaign and, therefore, unwilling to purchase products from legitimate licensees of the “Success Kid” meme, an association you have unilaterally and unlawfully imposed. Members of the public already have objected to “Success Kid’s” uninvited connection to you and your campaign.

Accordingly, no later than 9:00 a.m. Pacific Standard Time on Wednesday, January 29, 2020, you must confirm that you have done the following:

1. Removed “Success Kid” from any and all websites and webpages that you own or control including, but not limited to, Facebook.com and WinRed.com, and from all other outlets, whether print or digital, associated with you or your campaign.
2. Prominently posted the following, in block letters with the same type face, color and size as the “SUPPORT OUR MEMES” legend, on all websites and webpages on which you, your campaign, or others posted “Success Kid” for a period of at least 90 days:

WE PREVIOUSLY POSTED THE “SUCCESS KID” INTERNET MEME TO SOLICIT FUNDS FOR OUR CAMPAIGN. THE OWNERS OF THE LEGAL RIGHTS TO “SUCCESS KID” DID NOT APPROVE OR CONDONE THE USE OR ANY

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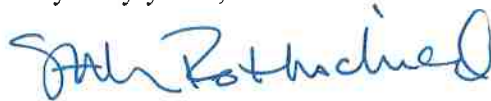
ASSOCIATION WITH REPRESENTATIVE KING OR HIS
CAMPAIGN. WE APOLOGIZE FOR OUR UNAUTHORIZED
EXPLOITATION OF "SUCCESS KID."

3. Provided to the undersigned an accounting of all funds received in response to your campaign's "Success Kid" post.
4. Provided to the undersigned proof that your campaign has refunded or is in the process of refunding all such funds to the payors and has notified or is in the process of notifying each such payor individually and in writing that the posting of "Success Kid" was unauthorized and unapproved, and that the owners of "Success Kid" are not associated with you or your campaign.
5. Contacted the undersigned to discuss reasonable compensation to our client for your and your campaign's use of "Success Kid" and Sam's image.

If you and your campaign fail voluntarily to comply, our client will pursue her and her son's rights in an action against you, your campaign and WinRed for copyright infringement and violation of Sam's personality rights. Such an action will result in your and your campaign's liability for compensatory damages, statutory damages in the maximum amount allowed by law, punitive damages, attorney fees and costs, and in injunctive relief commanding you to cease and desist from your continued copyright infringement and other rights violations.

This is not a complete statement of the facts or our client's rights and remedies, all of which we reserve on her behalf.

Very truly yours,



Stephen D. Rothschild
of King, Holmes, Paterno & Soriano, LLP

SDR:cmd

cc: WinRed (By U.S. Mail)
WinRed Technical Services, LLC (By U.S. Mail)
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Kia Kamran, Esq.
Howard E. King, Esq.
Peter T. Paterno, Esq.