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LEGAL DEMAND LETTER – IMMEDIATE ATTENTION REQUIRED

April 22, 2020

VIA EMAIL

helbiznews@gmail.com

**Re: Notice of Legal Claims by Helbiz, Inc. and
Immediate Cease and Desist Demand**

Dear Sir:

Please accept this correspondence as a legal demand for damages by Helbiz, Inc. and a further demand that you immediately cease and desist from your unlawful and egregious conduct directed at Helbiz. Through the web site hbznews.com that you and others operate you and others have organized and coordinated attacks and maliciously published large numbers of false and damaging statements concerning Helbiz and its management team. You and others have conspired to cause reputational and financial harm to Helbiz and Salvatore Palella personally. You have published these false statements in coordination with others and these false statements have already resulted in significant damages to the reputation and business relationships of Helbiz, a leading international shared mobility company.

We intend to pursue all legal remedies against you for this misconduct, even if the website is also owned by others. We also direct you to immediately cease and desist from publishing and further false statements about Helbiz and its management team. Due to your repeated and egregious misconduct and you are also directed to immediately take down the website hbznews.com and turn over ownership of the domain name to Helbiz.

You have 48 hours from receipt of this letter to comply with the foregoing demands.

As detailed herein, Helbiz asserts and claims that you and others have violated numerous laws in in connection with your improper conduct. These violative acts give rise to, inter alia, numerous statutory and common law claims, including but not limited to: a) defamation; b) trade libel c) tortious interference with Helbiz's business contracts; d) tortious interference with Helbiz's prospective business relations; and e) civil conspiracy.

FACTS AND BACKGROUND

Helbiz's investigation has revealed that you are the owner of the web site and domain name at hbznews.com. Your web site has published numerous false statements concerning Helbiz and its management team. Even today on your website's home page you falsely state that "*Helbiz team absolutely scammed ICO investors.*" Your web site also repeatedly and falsely uses the word "scam" when describing Helbiz. Your web site also maliciously includes numerous references to the names and logos of Helbiz's business partners and also prominently displays the photos of Helbiz's management team under the caption "*Scam! Helbiz Team*".

The blog page of your website false states "*During the Helbiz ICO from February 2018 that was scammed - till today, where Helbiz try to do IPO to deceive Americans.*" These statements -- and numerous similar ones on your website -- maliciously target Helbiz with false statements in an attempt to derail the company's initial public offering.

VIOLATIONS OF LAW

On the basis of the facts stated above, Helbiz contends that you, jointly and severally, wholly and/or in part, have violated, without limitation the following common law principles, which has given rise to the following claims described below.

A. DEFAMATION

Defamation is "the making of a false statement which tends to 'expose the plaintiff to public contempt, ridicule, aversion or disgrace.'" *Foster v. Churchill*, 87 N.Y.2d 744, 751, 665 N.E.2d 153, 157 (N.Y. 1996) (quoting *Rinaldi v. Holt, Rinehart & Winston*, 42 N.Y.2d 369,379 (1977)). A Plaintiff claiming defamation must prove: "(1) a false statement that is (2) published to a third party (3) without privilege or authorization, and that (4) causes harm, unless the statement is one of the types of publications actionable regardless of harm[.]" *Stepanow v. Dow Jones & Co., Inc.*, 120 A.D.3d 28, 34, 987 N.Y.S.2d 37, 41-42 (1st Dept. 2014) (citing *Dillon v. City of New York*, 261 A.D.2d 34, 38, 704 N.Y.S. 2d 1 (1st Dept. 2012)).

As a direct and proximate cause of your defamatory statements, Helbiz has suffered damages and will continues to suffer, lost profits, lost opportunity, general and compensatory damages that will total an amount of at least \$5 million. Helbiz has also suffered interest, costs and attorneys' fees, plus irreparable harm, and general, special, and consequential damages, to its detriment.

B. TRADE LIBEL

New York courts define trade libel as the knowing publication of a false matter that is derogatory to the plaintiff's business and is calculated to prevent or interfere with relationships between the plaintiff and others to the plaintiff's detriment. To successfully assert a claim for trade libel, a plaintiff must establish (1) the falsity of the statement,⁷⁴ (2) publication to a third person, (3) malice, and (4) special damages. See *Jurlique, Inc. v. Austral Biolab Pty., Ltd.*, 187 A.D.2d 637, 590 N.Y.S.2d 235 (2d Dep't 1992). Some courts refer to trade libel as "injurious

falsehood,” defined as the utterance of an untrue statement about the plaintiff’s business or property which induces others to refrain from dealing with him, or otherwise deprives him of prospective economic advantage, *see, e.g., Waste Distillation Tech., Inc. v. Blasland & Bouck Eng’rs, P.C.*, 136 A.D.2d 633, 523 N.Y.S.2d 875 (2d Dep’t 1988); *Bivas v. State*, 97 Misc. 2d 524, 411 N.Y.S.2d 854 (N.Y. Ct. Cl. 1978), while other courts refer to trade libel as “product disparagement” which has been described as an action to recover for words or conduct which tend to disparage or negatively reflect upon the condition, value or quality of a product or property,” *see, e.g., Kirby v. Wildenstein*, 784 F. Supp. 1112 (S.D.N.Y. 1992); *Angio-Med. Corp. v. Eli Lilly & Co.*, 720 F. Supp. 269 (S.D.N.Y. 1989)

The false statements on your web site clearly constitute trade libel. As a result, Helbiz hereby demands damages in the amount of at least \$5 million for the damages it will suffer in the form of lost profits and lost opportunities, together with interest, costs and attorney’s fees.

C. TORTIOUS INTERFERENCE WITH HELBIZ’S BUSINESS CONTRACTS

Through your wrongful actions you have tortiously interfered with important business contracts between Helbiz and its partners. “Tortious interference with contract requires the existence of a valid contract between the plaintiff and a third party, defendant’s knowledge of that contract, defendant’s intentional procurement of the third-party’s breach of the contract without justification, actual breach of the contract, and damages resulting therefrom.” (*Lama Holding Company v. Smith Barney, Inc.*, 88 NY2d 413,424 [1996]). Courts will also award damages when a defendant wrongfully interferes with the performance of a contract. *Spectacolor Inc. v. Banque Nationale de Paris*, 207 A.D.2d 726, 616 N.Y.S.2d 953 (1st Dep’t 1994); *S&S Hotel Ventures Ltd. P’ship v. 777 S.H. Corp.*, 108 A.D.2d 351, 489 N.Y.S.2d 478 (1st Dep’t 1985).

Your website clearly demonstrates that you are aware of Helbiz’s business contracts with key partners. In fact, you have maliciously listed the names and logos of some of Helbiz’s partners on your website. By reason of the conduct alleged herein, you have violated the legal prohibitions against tortiously interfering with Helbiz’s business contracts and have caused substantial financial and reputational harm to Helbiz.

D. TORTIOUS INTERFERENCE WITH HELBIZ’S PROSPECTIVE BUSINESS RELATIONS

Under New York law, a plaintiff can bring a claim of tortious interference when "(1) the plaintiff had prospective business relations with a third party; (2) the defendant interfered with those business relations; (3) the defendant acted for a wrongful purpose or used dishonest, unfair, or improper means; and (4) the defendant's acts injured the relationship." *Catskill Dev., L.L.C. v. Park Place Entm't Corp.*, [547 F.3d 115, 132](#) (2d Cir. 2008) This standard is met, as in this case, where the interference with prospective business relations was accomplished by wrongful means or where the offending party acted for the sole purpose of harming the other party” Wrongful means’ include fraud or misrepresentation. *Law Offs. of Ira H. Leibowitz v Landmark Ventures, Inc.*, 2015 NY Slip Op 06575, 2nd Dept 8-19-15.

Here there is no doubt you are aware of Helbiz's prospective business relationships, particularly with regards to the business relationships related to Helbiz's planned IPO. In fact, you specifically reference these prospective business relationships on your web site and target the relationships with false statements regarding Helbiz. By reason of the conduct alleged herein, you have violated the legal prohibitions against tortiously interfering with Helbiz's prospective business relations and have caused substantial financial and reputational harm to Helbiz.

E. CIVIL CONSPIRACY

Under New York law, "[a]llegations of conspiracy are permitted ... to connect the actions of separate defendants with an otherwise actionable tort." *Alexander & Alexander of NY v Fritzen*, 68 N.Y.2d 968,969,503 N.E.2d 102,510 N.Y.S.2d 546 (1986). In order to establish a claim of civil conspiracy in New York, a plaintiff "must demonstrate the primary tort, plus the following four elements: (1) an agreement between two or more parties; (2) an overt act in furtherance of the agreement; (3) the parties' intentional participation in the furtherance of a plan or purpose; and (4) resulting damage or injury." *World Wrestling Fedn. Entertainment v Bozell*. 142 F. Supp. 2d 514, 532 (S.O.N.Y. 2001); *Abacus Fed. Sav. Bank,.. Lim.*, 2010 N.Y. Slip. Op. 6143, 1 2, 75 A.D.3d 472, 474. 905 N.Y.S.2d 585. 588 (App. Div. 2010). Helbiz contends that there can be no dispute that your civil conspiracy will cause it significant damages of not less than \$5 million.

Moreover, Helbiz alleges that your actions, courses of conduct, and omissions were wantonly, intentionally, and maliciously conducted, in concert and in a civil conspiracy, against Helbiz, to its detriment. As a direct and proximate cause of your civil conspiracy, Helbiz will suffer lost profits and lost opportunities of not less than \$5 million together with irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment.

CLAIMS FOR RELIEF

On the basis of these violations of law, Helbiz contends that it will suffer injury and damages of at least \$5 million as of the date of this demand letter, including but not limited to costs and attorneys' fees, as described herein. As a direct consequence of these illegal acts, false statements and tortious interference Helbiz therefore demands relief from you and your coconspirators for its damages of at least \$5 million.

The purpose of this letter is to make you aware of position of the Helbiz and to give you or your attorney an opportunity to communicate and conclude this matter prior to the commencement of litigation. Please be advised that Helbiz intends to institute litigation and seek relief in court following the expiration of one (1) week from the delivery or transmittal of this letter. Therefore, your complete response must be received by this Firm by no later than the close of business **(5:00 p.m. (EST)) on Friday, April 24, 2020.**

If you have any questions, please contact me by email at rheim@tarterkrinsky.com. I look forward to your timely response to this correspondence.

Very truly yours,

Robert Heim

Robert Heim

cc: Helbiz, Inc.