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April 11, 2017

The Honorable Bill de Blasio
Mayor of the City of New York
City Hall
New York, New York 10007

Dear Mayor de Blasio:

Siegel Teitelbaum & Evans, LLP and McLaughlin & Stern, LLP represent Arturo Di Modica, the creator and copyright owner of the Charging Bull bronze installed in Bowling Green. We believe that the Mr. Di Modica's rights have been violated as a result of installing a statue of a young girl directly across from the Charging Bull. We write to you now in hopes of finding a way to amicably resolve these violations.

Mr. Di Modica spent two years creating—at his own expense—the Charging Bull in response to the market crash of 1987. In December 1989, he placed the statue across from the New York Stock Exchange and, according to the New York Times, “declared it a Yuletide symbol of ‘the strength and power of the American People.’”¹ The Charging Bull was subsequently moved to Bowling Green and has remained there as a symbol of the “hope of the American people for the future.”² The Charging Bull, with its positive message, has become iconic. Arguably, it is the most famous statue in New York City besides the Statue of Liberty.

On or about March 8, 2017, State Street Global Advisors (SSGA) had the statue of a young girl placed directly in the path of the Charging Bull. The statue was commissioned and financed by State Street Global Advisors as part of a marketing campaign devised by McCann New York and was accompanied by a plaque stating, “Know the power of women in leadership. SHE makes a difference.” “SHE” is the ticker for one of SSGA's exchange-traded funds. The statue is first and foremost an advertisement for SSGA and specifically for SSGA's SHE fund.

The statue of the young girl becomes the “Fearless Girl” only because of the Charging Bull: the work is incomplete without Mr. Di Modica's Charging Bull, and as such it constitutes a derivative work of the Charging Bull.

¹ Robert D. McFadden, *SoHo Gift to Wall St.: A 3 1/2 -Ton Bronze Bull*, The New York Times, Dec. 16, 1989.

² Bruce Lambert, *Neighborhood Report: Lower Manhattan; A Campaign To Save a Bull*, The New York Times, Oct. 3, 1993.

The essential importance of placing the young girl statue across from the Charging Bull, as opposed to elsewhere, is highlighted on the website of SSGA, which invites browsers to “[w]atch how the Fearless Girl was created and placed in a spot that made her impossible to ignore.” It is only because of the Charging Bull that the young girl statue can be considered “impossible to ignore.” Clearly, a deliberate choice was made to exploit and to appropriate the Charging Bull through the placement of Fearless Girl. The inextricable link between the young girl and the Charging Bull has not gone unnoticed. As one commentator writes, “The tiny girl stands bravely face to face with the giant bull, and this spatial relationship of size, orientation, and stance adds depth to the meaning of the symbol.”³

Furthermore, SSGA and McCann New York made conscious decisions to visually link the young girl statue to the Charging Bull. First, the statue of the young girl, just like the Charging Bull, is made out of bronze. Indeed, the patina of the young girl is nearly identical to that of the Charging Bull. Second, they extended the cobblestone paving of Bowling Green into the adjacent plaza. In so doing, State Street Global Advisors created another unifying element between the Charging Bull and the young girl that serves to transform the young girl into the “Fearless Girl.”

SSGA and McCann New York constructed a marketing campaign around the image of the Fearless Girl--the image of a young girl facing down the Charging Bull. They deliberately placed the young girl statue in direct opposition to the Charging Bull and used key design elements to associate the young girl statue with the Charging Bull. In effect, the Charging Bull has been appropriated and forced to become a necessary element of a new, derivative work: “Fearless Girl: Girl Confronts Charging Bull.” This is a direct violation of Mr. Di Modica’s copyright.

The Fearless Girl was created for commercial purposes: to advertise SSGA and its SHE fund. Because Fearless Girl incorporates and depends upon Charging Bull, SSGA and McCann New York have commercialized and exploited the Charging Bull. A promotional video released by SSGA,⁴ which has since been modified, reveals that from its inception, Fearless Girl was conceived and designed in relation to the Charging Bull: The opening scene of the video shows the artist sketching the young girl, with a picture of the Charging Bull beside her. The final scene of that video, is shot from behind the young girl but facing the Charging Bull. The viewer sees only the head and shoulders of the young girl. In contrast the Charging Bull is revealed in its full glory. That image makes incontrovertible the fact that SSGA and McCann New York created the young girl statue to commercially exploit the iconic status and reputation of the Charging Bull. Similarly, the use and distribution of a photograph of both the young girl and the Charging Bull by SSGA and McCann New York is evidence of the commercial use of not only the statue of the young girl, but also of the Charging Bull. This commercialization of the Charging Bull is also a direct violation of Mr. Di Modica’s copyright.

³ Nicola Brown, *Why “Fearless Girl” Matters for Brands*, Apr. 7, 2017, at

<https://www.skyword.com/contentstandard/storytelling/why-fearless-girl-matters-for-brands/>.

⁴ The video is currently available at <http://www.adweek.com/creativity/why-mccann-dropped-a-statue-of-a-fearless-girl-next-to-wall-streets-charging-bull-overnight/> (accessed Apr. 7, 2017).

Section 106 of the Copyright Law provides the owner of a copyright⁵ the exclusive rights, *inter alia* “(1) to reproduce the copyrighted work in copies ..., (2) to prepare derivative works based upon the copyrighted work, and (3) to distribute copies ... of the copyrighted work to the public ...” 17 U.S.C. §106. SSGA’s and McCann’s use and commercialization of the Charging Bull violate Mr. Di Modica’s rights of reproduction, to prepare derivative works, and distribution.

Additionally, the placement of the statue of the young girl in opposition to the Charging Bull has undermined the integrity of and modified the Charging Bull. The Charging Bull no longer carries a positive, optimistic message. Rather, it has been transformed into a negative force and a threat. For example, Mayor de Blasio characterized the Fearless Girl as a symbol of “standing up to fear, standing up to power, being able to find in yourself the strength to do what’s right.”⁶ The inescapable implication is that the Charging Bull is the source of that fear and power and a force against doing what’s right. Plainly, the presence of the statue of the young girl has tarnished and modified the Charging Bull: “intended as a symbol of strength by the artist, the bull takes on a menacing air in relation to the girl.”⁷

This alteration of the Charging Bull and damage to its integrity are prejudicial to Mr. Di Modica’s honor and reputation and violate his rights under the Visual Artists Rights Act of 1990, codified as §106-A of the Copyright Law. The Visual Artists Rights Act confers upon authors of works of visual arts, in addition to attribution rights, the right “to prevent any intentional distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation...” 17 U.S.C. §106(a)(3)(A). Here, there is no doubt that State Street Global Advisors intended to distort, mutilate and modify Charging Bull, and did so intentionally distort, mutilate and modify Charging Bull by installing Fearless Girl in opposition to Charging Bull and engaging on its marketing campaign featuring this image. This violation of Mr. Di Modica’s rights will continue as long as Fearless Girl remains in opposition to Charging Bull.

The placement of Fearless Girl opposite Charging Bull also dilutes the Charging Bull’s famous trademark.⁸ This is a violation of the Federal Trademark Law as codified at 15 U.S.C. §1125(c).

As discussed above, State Street Global Advisors installed the statue of the young girl in the plaza adjacent to Bowling Green and extended the cobble stone paving into the plaza. Had the statue simply been installed in Bowling Green, the statue would have fallen under the jurisdiction of the Department of Parks and Recreation. However, because the statue is technically in the plaza, it is now under the jurisdiction of the Department of Transportation. These machinations appear to be an attempt to create a token separation of the young girl statue from the Charging Bull and thereby to circumvent the legal need for Mr. Di Modica’s permission to use his Charging Bull.

⁵ Mr. Di Modica is the registrant and claimant of Copyright Reg. No. Vau-422-325 for the sculpture of Charging Bull.

⁶ Liam Stack, “Fearless Girl’ Statue to Stay in Financial District (for Now),” The New York Times, Mar. 27, 2017.

⁷ Nicola Brown, *Why “Fearless Girl” Matters for Brands*, Apr. 7, 2017, at

<https://www.skyword.com/contentstandard/storytelling/why-fearless-girl-matters-for-brands/>.

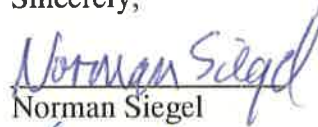
⁸ Mr. Di Modica is the registrant and owner of Federal Trademark Reg. No. 4,451,568, comprising the image of Charging Bull coupled with the wording Charging Bull.

Mr. Di Modica's permission was plainly required before the Charging Bull could be used in a derivative work—i.e. as part of "Fearless Girl" and Mr. Di Modica's permission was plainly required before the image of his statue was commercialized in an advertising campaign for State Street Global Advisors. State Street Global advisors did not do what was required. Instead, through "Fearless Girl"—the statue of a young girl facing down a charging bull, State Street Global Advisors exploited the Charging Bull for commercial gain as part of an advertising campaign undertaken entirely without the consent of Mr. Di Modica.

We request that the "Fearless Girl" statue be removed and placed somewhere else and that damages be awarded to Mr. Di Modica for the violation of his legal, statutory rights.

We look forward to your response.

Sincerely,



Norman Siegel
Kate Fletcher
Siegel Teitelbaum & Evans, LLP



Steven Hymn
Oliver Chernin
McLaughlin & Stern, LLP

Attorneys for Arturo Di Modica