



April 5, 2022

Susan E. Arnold, Chairman of the Board
The Walt Disney Company
500 S Buena Vista St
Burbank, CA 91521

Re: Waste of corporate assets and compliance violations

Dear Ms. Arnold:

We write for concerned shareholders and customers of The Walt Disney Company (the “Company”).

The Company’s business is uniquely tied to its reputation for family-friendly entertainment products and experiences. For this reason, management identified, “Misalignment with public and consumer tastes and preferences”—domestically and internationally—as a significant material risk factor threatening future profitability and shareholder value.¹ Preventing such misalignment, and correcting course when it occurs, are among the Board’s most critical fiduciary tasks.

The Company also acknowledges that its profitability depends on its continuing ability to attract, retain, and develop the highest quality creative and customer service talent, and to engage its employees to serve as brand ambassadors for the Company’s content, products, and experiences.² Accordingly, workplace anti-discrimination mandates are an essential and mission critical regulatory compliance risk. The Board, among its other fiduciary obligations, has a duty of oversight and must put into place a reasonable board-level system of compliance monitoring and reporting relating to these mandates. *See Marchand v. Barnhill*, 212 A.3d 805, 824 (Del. 2019); *In re Clovis Oncology, Inc. Derivative Litig.*, No. CV 2017-0222-JRS, 2019 WL 4850188, at *12 (Del. Ch. Oct. 1, 2019).

The purpose of this letter is to alert the Board to credible allegations by Company employees suggesting that management may be engaging in an intentional and willful pattern and practice of violating workplace mandates, including Title VII of the Civil Rights Act of 1964; Section 760.021 of the Florida Civil Rights Act

¹ “The Walt Disney Company Fiscal Year 2021 Annual Financial Report”, Form 10-K at 21 (Oct. 2, 2021), <https://thewaltdisneycompany.com/app/uploads/2022/01/2021-Annual-Report.pdf>.

² *Id.* at 1.

prohibiting unlawful discrimination based on race, religion, sex, or nationality; and California Labor Code sections 1101 (forbidding an employer from controlling or directing political activities or affiliations), and 1102 (forbidding an employer from coercing or influencing its employees through threat of discharge or loss of employment for failure to comply with a particular line of political action or activity). Apparently, the Company's executives have chosen to discriminate, create a hostile work environment, and drive away creative, loyal, and talented employees; alienate the Company's core customers; and violate the law, all for the purpose of advancing a very narrow political and social agenda promoting, *inter alia*, sexualizing content provided to young children. Accordingly, management has placed the Company's assets, including its brand, reputation, and good will, at risk.

We note the following by way of background.

On March 11, 2022, Chief Executive Officer and Board Member Bob Chapek intentionally damaged the Company's decades-long reputation as a family-friendly producer of age-appropriate entertainment and recreation. In a message to the Company's employees Mr. Chapek falsely characterized the State of Florida's recently passed "Parental Rights in Education" law ("HB 1557") as a "challenge to basic human rights" and promised that the Company will increase "our support for advocacy groups to combat similar legislation in other states." HB 1557 provides, in relevant part, that:

"Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in kindergarten through grade 3 or in a manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards."

The law further requires procedures for parental notification regarding issues related to their child's "mental, emotional, or physical health or well-being"; mandates school personnel "encourage a student to discuss issues related to his or her well-being with his or her parent"; and prevents school districts from adopting "procedures that prohibit school district personnel from notifying a parent about his or her student's mental, emotional, or physical health or well-being."

Mr. Chapek did not specify the "basic human rights" allegedly being challenged by HB 1557's age-appropriate teaching and parental notification provisions. These requirements are basic, and substantially mirror long-standing federal requirements under the Protection of Pupil Rights Amendment. *See* 20 U.S.C. § 1232h. Accordingly, tens of millions of the Company's customers in the United States and overseas are now left to wonder why the Company supports lessons on sexual orientation and gender identity for five-year-old children, while simultaneously opposing parental notification.

On March 21, 2022, certain of the Company’s American employees issued an open letter laying bare credible and significant compliance issues arising from the alleged violation of our domestic anti-discrimination laws and regulations. See “Disney Employees' Open Letter in Favor of a Politically Neutral Disney” (the “Open Letter”), https://docs.google.com/forms/d/e/1FAIpQLSdueiXmPfw_2iQttbvfxTicC7i-JOq5awsHNI2Q6XW46UT7Q/viewform. The Open Letter, posted anonymously to prevent workplace and other retaliation, states in relevant part:

- “The Walt Disney Company has come to be an increasingly uncomfortable place to work for those of us whose political and religious views are not explicitly progressive. **We watch quietly as our beliefs come under attack from our own employer, and we frequently see those who share our opinions condemned as villains by our own leadership.**” (Emphasis added.)
- “[Company] leadership frequently communicates its commitment to creating an inclusive workplace where cast members feel comfortable sharing their perspectives and being their authentic selves at work. That is not our workplace experience ... An internal poll within the company went out a few months ago asking us if we felt accepted in the company. Many of us didn’t complete it because the nature of the questions made us worry that the results of the poll could be used to target us for quietly holding a position that runs against the progressive orthodoxy that Disney seems to promote. [The Company] **has fostered an environment of fear that any employee who does not toe the line will be exposed and dismissed.**” (Emphasis added.)
- “[A]s much as diversity and inclusion are promoted ... [the Company] doesn’t seem to have much room for religious or political conservatives within the company. **Left-leaning cast members are free to promote their agenda and organize on company time using company resources. They call their fellow employees “bigots” and pressure [the Company] to use corporate influence to further their left-wing legislative goals.**” (Emphasis added.)
- “Employees who want [the Company] to make left-wing political statements are encouraged, while those of us who want the company to remain neutral can say so only in a whisper out of fear of professional retaliation. The company we love seems to think we don’t exist or don’t belong here. This politicization of our corporate culture is damaging morale and causing many of us to feel our days with [the Company] might be numbered.”
- “**Furthermore, as this politicization makes its way into our content and public messaging, our more conservative customers will feel similarly unwanted. You can only preach at or vilify your audience for**

so long before they decide to spend their money elsewhere.” (Emphasis added.)

On March 29, 2022, a Company insider published a pseudonymous article on the website Quillette.com. See Ethan L. Clay, “Disney’s Institutional Capture”, Quillette.com (March 29, 2022), <https://quillette.com/2022/03/29/disneys-institutional-capture/>. This article states in relevant part:

- “In less than two weeks’ time, the company had moved from principled neutrality to open advocacy. This new messaging, intended to mollify the company’s internal critics, accelerated Disney’s meltdown instead. “Brave Space Conversations” are now held at regular intervals—an absurd euphemism for struggle sessions designed to allow activists to vent their frustrations while drowning out dissenting voices. All regularly scheduled company meetings are cancelled to make room for these meetings, and park leadership opens the floor to hours-long performative recitations of grievances by hand-picked cast members. They conclude with grandiose statements about inclusion and fairness and understanding pain and listening, **but not a single nonconforming viewpoint is heard, either from those who support the bill or those who think Disney has no business getting involved in this dispute in the first place.**” (Emphasis added.)
- “‘At Disney,’ the company’s website promises, ‘inclusion is for everyone. We reimagine tomorrow as our way of amplifying underrepresented voices and untold stories as well as championing the importance of accurate representation in media and entertainment. But, as usual, ‘inclusion’ only protects those who think like DEI activists. ‘Fairness’ only applies to historically oppressed people groups. The only pain worth understanding is that felt by the subsection of LGBT cast members who believe that sex education ought to begin in kindergarten. Listening and seeing is restricted to the approved narratives, and even excludes those LGBT cast members who support the Florida legislation. I know many of them personally, and nearly without exception, they are all parents.” (Citations omitted.)
- “It’s incredible that a company—particularly a company whose brand is family-friendly content—would oppose the perfectly reasonable view that sexual topics are not appropriate for six-year-olds in a public school setting. The bill puts the onus back on parents, rather than public schools, to decide how and if these conversations happen. That perspective can be debated, but it is not wrong a priori, and a very large number of Florida voters agree with it. But Disney isn’t interested in allowing a genuine debate or conversation to occur, it simply wants to satisfy the DEI activists so they stop making trouble and bad headlines for the company. The result is that they parrot the party line, offer craven apologies, and ignore and silence opposition.”

- “Chapek’s March 11th email contained these ominous words: ‘Starting immediately, we are increasing our support for advocacy groups to combat similar legislation in other states. We are hard at work creating a new framework for our political giving that will ensure our advocacy better reflects our values.’ In other words, the DEI takeover at Disney has been so thorough that, in [the] future, the citizens of this country will see one of its largest and most powerful corporations throw its financial and political support behind progressive political causes. **We’ve already seen this in Texas, where Disney pledged, during an internal Reimagine Tomorrow session, to oppose a law criminalizing transgender surgeries and hormone treatments for children.**” (Emphasis added.)
- “I have been personally involved in no less than five projects that had their creative visions dimmed by the dictates of profoundly uncreative DEI functionaries: **Replace that Christmas song, it’s too Christian.** Don’t ‘culturally appropriate’ that visual design, we don’t have a member of that ethnicity on the project team. Send this script to a ‘sensitivity reader,’ the voice is too male. Remove ‘ladies and gentleman [sic], boys and girls’ from all park announcements, it reinforces the gender binary.” (Emphasis added.)
- “The majority of executives, as one would expect, not only toe the party line, but are extremely vocal in their endorsement, frequently initiating conversations about the bill as they anxiously scan the room for nods of approval. But others fall silent during company-wide calls and study their company phones whenever the topic comes up. **I’ve only managed a few private conversations with these people, and the story is consistently the same: keep your mouth shut or find yourself the target of scrutiny and likely termination.**” (Emphasis added.)

As the Company has repeatedly recognized, its financial success is inextricably tied to selecting and retaining the right people and retaining them. “From the start, Walt Disney knew how important it was to empower his Cast Members at Disneyland to strive for excellence and deliver outstanding service to each and every guest. In fact, [he] once said, ‘You can dream, create, design, and build the most wonderful place in the world ... but it requires people to make the dream a reality.’” Bruce Jones, “The One Thing You Must Do to Empower Your People”, Forbes (Apr. 16, 2018), <https://www.forbes.com/sites/disneyinstitute/2018/04/16/the-one-thing-you-must-do-to-empower-your-people/?sh=375bef842a1f>.

However, the Open Letter and the Quillette.com article are devastating indictments of the Company’s willful failure to provide a lawfully compliant and respectful workplace for all its employees. Instead, it seems the Company’s executives are engaging in systemic discrimination against religious believers and creating a hostile work environment to silence them and/or drive them out of the Company; unlawfully favoring some individuals and discriminating against others with respect to the terms

and conditions or privileges of employment based on race or sex; and limiting, segregating, or classifying employees in a way which will deprive or tend to deprive these individuals of employment opportunities because of race, sex, religion, age, and national origin.

Management's conduct here is extremely difficult to understand given the Company's silence regarding genuine human rights abuses—including forced labor, harsh political oppression including imprisonment and torture, and what are fairly described as the forced internment of an entire ethnic population in concentration camps—by the Chinese Communist Party. Yet these same executives have decided that HB 1557, of all things, is the warrant to risk the Company's brand, goodwill, and reputation and to alienate a substantial segment of its core customer base. This is senseless hypocrisy.

Therefore, to prevent the waste of the Company's assets, to repair and safeguard the Company's brand, goodwill, and reputation among its core customers, to protect the Company's shareholders, and in fulfillment of your fiduciary duties to the Company and its shareholders to ensure compliance with civil rights laws, we demand that the Board immediately take the following steps

1. Retain an independent counsel for a full investigation of the events and circumstances of Mr. Chapek's various messages and management's position on HB 1557, all as described in the Quillette.com article. The Board should transparently disclose to the Company's employees and shareholders, by releasing contemporaneous email and other communications, how and why, precisely, management believed HB 1557 "challenges" or violates "human rights", and the legal justification (if any) for management's positions with respect thereto. Among other things, all communications to or from the Company's General Counsel and its outside counsel regarding this matter should be made public.
2. Retain an independent third party to conduct a culture audit and, in conjunction therewith, retain another independent counsel to open an investigation identifying and then disciplining or terminating the executives, managers, and other employees who have violated federal and state laws protecting civil rights and guaranteeing a politically neutral workplace. We note that such potential violations present a significant risk to the Company, to its management (perhaps in their personal capacities), and to shareholder value. For example, section 760.021 of the Florida Civil Rights Act authorizes the state Attorney General to commence a civil action for damages, injunctive relief, civil penalties not to exceed \$10,000 per violation, and such other relief as may be appropriate if, as here, there is reasonable cause to believe that the Company has engaged in a pattern or practice of discrimination or is engaging in discrimination that raises an issue of great public interest. Similarly, section 760.06 authorizes the Florida Civil Rights Commission to issue subpoenas and

compel deposition testimony regarding potential systemic violations of Florida's prohibition on unlawful employment practices. *See* Florida Civil Rights Act § 760.10(1).

3. Transparently disclose all records and communications, including with legal counsel, regarding the facts recited in the Open Letter and in the Quillette.com article. Shareholders have a right to know whether the Board has taken proper steps to ensure adequate information and reporting systems exist in the Company that are reasonably designed to provide timely and accurate information to reach the Board so that it may reach informed judgments concerning both management's compliance with law and its business performance. Incident to this, the Board must take effective measures protecting the whistleblowers who wrote the Open Letter and the Quillette.com article from workplace and other retaliation.
4. Informed by the above-mentioned culture audit and internal investigations, compel the Company's management to implement genuinely effective and objective internal controls to prevent the Company from violating civil rights, religious liberty, and political neutrality laws. The Company employee's legal rights, including their rights to religious liberty, should never again be held hostage to a parochial socio-sexual agenda of a small number of management personnel.
5. Promptly and transparently publish all studies and analytic data demonstrating that "adding queerness" to children's programming, and other like measures,³ will enhance the Company's reputation and promote alignment between the Company's products and the tastes and preferences of its core U.S. and foreign customers.
6. Finally, provide real transparency to shareholders regarding the Company's commercial and other relationships with the Chinese Communist Party and its instrumentalities. Among other things, the Company should be directed to release all internal communications and other information necessary for shareholders to understand why HB 1557 (which presents no material compliance or business risk to the Company) and not untangling the Company from its embrace of the CCP (which most assuredly does present such risk), is the subject of Chairman Chapek's attention.

³ *See* Real Clear Investigations (Mar. 31, 2022), https://www.realclearinvestigations.com/video/2022/03/31/disneys_effort_to_indoctrinate_kids_in_wokeness_exposed_tucker_carlson_tonight_824778.html

Sincerely,

/S/ _____
America First Legal Foundation

Cc: The Hon. Ashley Moody
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The Hon. Darrick D. McGhee, Sr.
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