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October 27, 2015

By first-class mail and email

Paul Glantz, CEO  
Emagine Entertainment  
c/o Emagine Palladium  
209 Hamilton Row  
Birmingham, MI 48009

Re: Age Discrimination Policy at Palladium Theater in Birmingham

Dear Mr. Glantz:

We are writing because we are concerned that your business has recently implemented a policy of age discrimination in public accommodations that runs afoul of our state's civil rights law and sends the wrong message to young people about overbroad stereotypes. We urge you to rescind your policy that bans most young people from attending movies without their parent or guardian.

### Facts

On October 2, you reopened the newly renovated Emagine Palladium movie theater in Birmingham under a new business model of providing the public with "an upscale and luxurious movie going experience."<sup>1</sup> The general public is invited to see movies at your theater, and "platinum members" enjoy special benefits such as advance ticket sales and discounts.<sup>2</sup> The platinum memberships cost \$350 per year.<sup>3</sup>

The day after the new theater opened, there was allegedly an incident in which two teenagers were ejected because they were talking loudly and annoying other guests during a screening of "The Intern" (which is rated PG-13).<sup>4</sup> Based on this incident, you decided to implement a new policy barring everyone under the age of 18 from the premises unless

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<sup>1</sup> *Emagine Palladium Grand Opening*, <http://www.emagine-entertainment.com/emagine-palladium-grand-opening/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See Witsil, *Emagine Theater in Birmingham Bans Unaccompanied Teens*, Detroit Free Press (October 5, 2015), at <http://www.freep.com/story/money/business/michigan/2015/10/05/emagine-theater-birmingham-bans-unaccompanied-teens/73374272/>.

accompanied by a parent or guardian.<sup>5</sup> There is, however, an exception to the ban on unaccompanied youth: teenagers whose families have paid the \$350 membership fee remain welcome.<sup>6</sup>

### **Your Policy of Age Discrimination Is Prohibited by Michigan's Elliott-Larsen Civil Rights Act**

Michigan's Elliott-Larsen Civil Rights Act prohibits age discrimination in a place of public accommodation. MCL 37.2302. A place of public accommodation is broadly defined by law to mean any "business, or an . . . entertainment . . . facility, . . . whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public." MCL 37.2301(a). Therefore, as a theater in Birmingham that sells movie tickets to the public, the Emagine Palladium is a place of public accommodation and is legally prohibited from "deny[ing] an individual the full and equal enjoyment of [its] . . . services [and] facilities . . . because of . . . age." MCL 37.2302(a). Likewise, it is unlawful to publish any statement which indicates "that an individual's patronage of or presence at" the Emagine Palladium "is objectionable, unwelcome, unacceptable, or undesirable because of . . . age." MCL 37.2302(b).

Your new policy appears to violate this law. Emagine's website, your Facebook postings, and your statements to the press all indicate that a non-member, if under the age of 18 and not accompanied by a parent or guardian, is not allowed on the premises of your business, whereas non-member adults are welcome patrons. Thus, it is "because of . . . age" that many young people will be denied "the full and equal enjoyment" of your services, and their "patronage of or presence at" your theater is unwelcome, in violation of MCL 37.2302.

We recognize that Michigan's Civil Rights Act has been interpreted as allowing distinctions between adults and children that are specifically designed to *protect* children from exposure to harmful experiences. See *Cheeseman v Am Multi-Cinema, Inc*, 108 Mich App 428; 310 NW2d 408 (1981) (allowing movie theaters to prohibit children from seeing R-rated movies for their own protection). However, it is clear that your policy is not based on a desire to protect children. Rather, the policy was implemented based on a generalization that teenagers will misbehave at the movie theater, thereby ruining the atmosphere for well-behaved adults. Such a restriction directly conflicts with the purpose of the Elliott-Larsen Civil Rights Act, which is to "to eliminate the effects of offensive or demeaning stereotypes, prejudices, and biases," including discrimination on the basis of youth. See *Zanni v Medaphis Physician Servs Corp*, 240 Mich App 472, 477; 612 NW2d 845 (2000).

To be clear, there is nothing wrong with any business ejecting individual customers, regardless of age, who are actually disruptive or otherwise engaged in inappropriate conduct. What is unlawful under our state's civil rights law is discriminating against an entire group based

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*; see also *Palladium Theatre*, <http://www.emagine-entertainment.com/locations/palladium-theatre/>.

upon the bad acts, or anticipated bad acts, of a few. Because that is what your policy does, it violates the Elliott-Larsen Civil Rights Act and should be discontinued.

### **Your Policy of Age Discrimination Sends the Wrong Message to Youth About Overbroad Stereotypes**

We also strongly urge you to reconsider the new policy because it sends the wrong message to youth and the community at large about stereotyping entire groups of people. We understand that you take pride in being a locally owned business, a good neighbor in your community, and a partner in worthy philanthropic and charitable causes.<sup>7</sup> For this reason, we think you also appreciate the responsibility shared by all members of the community to send positive messages to youth.

There are two reasons why your policy raises concerns in this respect. First, the policy is based on an overbroad generalization about teenagers. Most young people who enjoy going to the movies do not cause disruptions at the theater. We think that youth would respond positively to the message that they will be treated fairly based on their own actions, not based on a negative stereotype about teenagers. Additionally, young people should be discouraged from stereotyping other groups of people, which they are less likely to do if they are not themselves victims of unfair stereotyping.

Second, we are disturbed by the component of your policy that welcomes unaccompanied teenagers if their families have paid a \$350 membership fee. This sends the message—perhaps unintentional but quite unfortunate—that teenagers from wealthy families can be trusted on your premises, whereas youth from less affluent backgrounds cannot. As you are probably aware, the wealthier suburbs of Detroit (including Birmingham) have a long history of being perceived as unwelcoming to residents of Detroit and its less affluent suburbs, with racial segregation playing a large part of that history.<sup>8</sup> Even if the purpose behind your policy is entirely unrelated to these issues, we think it is important for the business community to send a message that all customers are welcome. Excluding young people based on family wealth is inconsistent with the goal of building an inclusive business community.

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<sup>7</sup> See Yolles, *Curtain Up On the Emagine Palladium*, Hometown Life (October 12, 2015), at <http://www.hometownlife.com/story/life/columnists/julie-yolles/2015/10/12/curtain-new-emagine-palladium/73807192/>.

<sup>8</sup> See generally Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton: Princeton University Press, 1996). According to 2010 census data, the population of Birmingham is only 3 percent black and its median household income is \$98,750. By contrast, the nearby suburb of Southfield is 70 percent black and its median household income is \$49,841, and Pontiac is 52 percent black with a median household income of only \$27,528. See United States Census Bureau, *State and County QuickFacts*, <http://quickfacts.census.gov>.

## Conclusion

In sum, we urge you to reconsider and rescind your new policy of banning most unaccompanied minors from the Emagine Palladium movie theater, which constitutes age discrimination in violation of Michigan law and sends the wrong message to youth about negative stereotyping. We trust this letter will be received in the spirit of working together to protect the civil rights and civil liberties of all.

Very truly yours,



Dan Korobkin, Deputy Legal Director  
ACLU of Michigan



Gillian Talwar, Chair  
ACLU of Michigan Oakland County  
Lawyers Committee