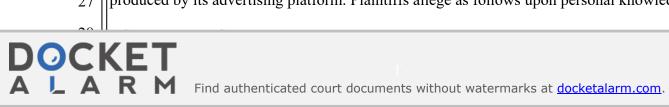1   Rafey Balabanian (SBN 315962)
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13 *Counsel for Plaintiffs and the Putative Class*

14   **UNITED STATES DISTRICT COURT**
                NORTHERN DISTRICT OF CALIFORNIA
15

16 DREW KRISCO, an individual, and LIVLY,   Case No.
    INC., a Delaware corporation, individually and
    on behalf of all others similarly situated,
17   **CLASS ACTION COMPLAINT FOR:**

18   *Plaintiffs,*   (1) **Violation of Cal. Bus. & Bus. Prof.**
                                                          Code § 17200, *et seq.*
19   v.   (2) **Fraud**
                                                      (3) **Accounting**
20 LINKEDIN CORPORATION, a Delaware
    corporation,
21
                        Defendant.
22   **DEMAND FOR JURY TRIAL**

23   **CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL**

24   Plaintiffs Drew Krisco ("Krisco") and Livly, Inc. ("Livly") bring this Class Action

25 Complaint and Demand for Jury Trial against Defendant LinkedIn Corporation ("LinkedIn") to seek

26 compensation for Defendant overcharging advertisers and misrepresenting the reliability of the data

27 produced by its advertising platform. Plaintiffs allege as follows upon personal knowledge as to

1 themselves and their own acts and experiences, and, as to all other matters, upon information and

2 belief.

NATURE OF THE ACTION

3

4   1.   On November 12, 2020, Defendant LinkedIn stated on its own blog that "[i]n

5 August, our engineering team discovered and then subsequently fixed two measurement issues in

6 our ads products that may have overreported some Sponsored Content campaign metrics for

7 impression and video views." Defendant revealed that these "issues" impacted hundreds of

8 thousands of LinkedIn advertisers, undetected, over the span of at least two years.

9   2.   Specifically, advertisers were overcharged and overpaid for advertisements on

10 LinkedIn's platform, all while relying on LinkedIn's assurances that their advertising metrics were

11 accurate and reliable.

12   3.   While LinkedIn has tried to downplay the impact of this failure to monitor and

13 control its own advertising platform, the total extent of the damage to their customers is not yet

14 known. Nor is there conclusive proof that these problems have been fully rectified and that other

15 unknown "measurement issues" may not lurk in its vast system.

16   4.   Above and beyond simply overpaying for mismeasured ads, Plaintiffs and members

17 of the Class paid for an unknown number of ineffective ads, losing out on the opportunity to serve

18 effective ads that would have fulfilled the purposes of the advertisements. Had Plaintiffs and

19 members of the Class known of the lack of reliability in choosing to place ads with LinkedIn, they

20 would have taken their ad dollars to other competitive platforms.

21   5.   Plaintiffs therefore bring this Complaint to seek compensation for the amount they

22 were overcharged, as well as seek an accounting of their ad accounts, along with those of the Class,

23 to ensure that the payments they have made are consistent with the services they received.

PARTIES

24

25   6.   Plaintiff Drew Krisco is a natural person and resident of the State of Illinois. Mr.

26 Krisco is a current customer of Defendant LinkedIn.

27

7.   Plaintiff Livly, Inc. is a corporation incorporated under the laws of the State of Delaware, with its principal place of business located at 1325 West Randolph Avenue, Chicago, Illinois 60607. Livly is a current customer of Defendant LinkedIn.

8.   Defendant LinkedIn Corporation is a corporation incorporated under the laws of the State of Delaware, with its principal place of business located at 1000 West Maude Avenue, Sunnyvale, California 94085.

JURISDICTION AND VENUE

9.   This Court has subject matter jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1332(d)(2) because, as to all proposed Class members, (a) at least one member of the Class, which consists of at least 100 members, is a citizen of a different state than Defendant, (b) the amount in controversy exceeds $5,000,000, exclusive of interest and costs, and (c) none of the exceptions under that subsection apply to this action.

10.   This Court has personal jurisdiction over Defendant because it transacts business in this State, and because the tortious conduct alleged in this Complaint occurred in, was directed to, and/or emanated from this State.

11.   Venue is proper in this District under 28 U.S.C. § 1391 because Defendant conducts business transactions in this District, and because the wrongful conduct giving rise to this case occurred in, was directed to, and/or emanated from this District.

FACTUAL BACKGROUND

12.   LinkedIn is a global professional networking site, offering numerous professional services for job seekers, professionals, recruiters, and employers. With LinkedIn, users create an in-depth professional profile, and user information is standardized by education, profile headlines, profile experience and a customer's prior experience. LinkedIn has branded itself as "the place to find and be found."

13.   With this enormous draw to facilitate networking, LinkedIn has over 706 million total users, with more than 260 million monthly active users. As such, this creates a robust and

1   active audience for an untold number of advertisers to buy a wide range of advertisements, a core

2   aspect of LinkedIn's business model.

3   14.   Not unlike with Facebook or Google, advertisers pay extortionary amounts to reach

4   target audiences and rely on platforms like LinkedIn to be honest brokers in how they track,

5   monitor, and charge for those ads. While advertisers have certain tools available to them to track

6   their own ads, certain information can only be known and conveyed by LinkedIn itself, leaving

7   advertisers in a vulnerable position to act in blind reliance on LinkedIn's own metrics and reporting.

8   15.   In November of 2020, LinkedIn revealed that it had taken advantage of that

9   vulnerability through its own failures to properly design and audit its advertising system.

10   16.   In its own words, "In August, our engineering team discovered and then

11   subsequently fixed two measurement issues in our ads products that may have overreported some

12   Sponsored Content campaign metrics for impression and video views. Together these issues

13   potentially impacted more than 418,000 customers over a two plus year period."[1]

14   17.   Additional reporting on this issue revealed:

15   With video ads, LinkedIn discovered that some organic videos and video ads would
             play while they were off-screen on Apple Inc.'s iOS devices.
16

17   If a LinkedIn user scrolled past a video ad while the video was buffering, for
             example, the ad would autoplay even when out of view, but still be tracked and
18   logged as a video view or completion.

19   That may have resulted in overstated measures including video views and view-
             through rates, as well as overcharging advertisers paying by the view, according to a
20   LinkedIn spokesman.

21
             The company also said it may have been overreporting impressions on sponsored-
22   content campaigns in the LinkedIn feed—for example, in cases when users would
             rotate their phones or quickly move to other parts of the app, the spokesman said.[2]
23

24   _____

     [1]   *We discovered two measurement issues. Here's how we're making it right.*, LinkedIn,
25   https://business.linkedin.com/marketing-solutions/blog/linkedin-news/2020/how-we-re-working-to-
     improve.
26
     [2]   *LinkedIn Finds Measurement Errors That Inflated Video and Ad Metrics*, THE WALL STREET
27   JOURNAL, https://www.wsj.com/articles/linkedin-finds-measurement-errors-that-inflated-video-and-
     ad-metrics-11605228577.

18.   What's worse, based on publicly available information, LinkedIn allegedly discovered this issue in August 2020, but waited at least *two months* to fix it and provide any kind of notice to its customers.

19.   During this time, millions of advertisers bought untold amounts of advertising on the LinkedIn platform, with absolutely no notice of ongoing or previous failures to properly track and monitor advertising performance.

20.   Of course, this same issue had been ongoing for two years without notice or explanation, impacting billions of ad dollars spent with Defendant LinkedIn.

PLAINTIFF KRISCO'S EXPERIENCE

21.   Plaintiff Krisco is in the real estate business.

22.   Starting in 2020, Plaintiff Krisco purchased advertisements on the LinkedIn platform to promote job opportunities.

23.   Krisco became aware of the mismeasurement issues in November 2020. Without detailed information from LinkedIn, Krisco is unaware of the details of what ads were impacted, when any issues occurred, or the full nature of the damage he suffered.

PLAINTIFF LIVLY'S EXPERIENCE

24.   Plaintiff Livly is a software and mobile app developer that provides products for the property management industry.

25.   Starting in 2020, Livly purchased advertisements on the LinkedIn platform to build brand awareness and drive potential customers to its website.

26.   Livly became aware of the mismeasurement issues in November 2020. Without detailed information from LinkedIn, Livly is unaware of the details of what ads were impacted, when any issues occurred, or the full nature of the damage it suffered.

CLASS ALLEGATIONS

27.   **Class Definition:** Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23 on behalf of himself and the Class defined as follows:

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