

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY**

IDEOLOGICAL FIGHTBACK, INC.,)	
)	
Plaintiff,)	
v.)	Civil Action No. 3:23CV-247-CHB
)	
AMERICAN COUNCIL OF BOLSHEVIKS, AMERICAN WORKERS FOR PEACE AND PROSPERITY, LLC, AND JUSTIN STEWART,)	
)	JURY TRIAL DEMANDED
)	
Defendants.)	

COMPLAINT

Plaintiff Ideological Fightback, Inc., doing business as Party of Communists USA (“PCUSA” or “Plaintiff”), by and through its undersigned counsel, hereby files this Complaint against American Council of Bolsheviks, (“ACB”), American Workers for Peace and Prosperity, LLC, (“AWPP”), and Justin Stewart, (“Mr. Stewart”), (collectively, “Defendants”). In support thereof, Ideological Fightback states as follows:

PARTIES

1. Plaintiff Ideological Fightback, Inc., doing business as PCUSA, is a New York corporation with a place of business located in Richmond County, New York.
2. Upon information and belief, defendant ACB is an unregistered partnership.
3. Upon information and belief, defendant AWPP is a member managed limited liability company organized and existing under the laws of Kentucky with its principal office located at Po Box 6131, Minneapolis, MN 55406.
4. Upon information and belief, defendant Mr. Stewart is domiciled in, and is a citizen of, the State of Kentucky.

JURISDICTION AND VENUE

5. Personal jurisdiction exists in Kentucky over each Defendant.

6. ACB is subject to general personal jurisdiction in Kentucky because, as an unregistered partnership, ACB has the citizenship of each of its “members.” *See Carden v. Arkoma Assoc.*, 494 U.S. 185 (1990) (holding that a limited partnership has the citizenship of each of its partners, whether general or limited). ACB has at least one partner who is a citizen of Kentucky; namely, Justin Stewart.

7. AWPP is a citizen of the State of Kentucky.

8. Mr. Stewart is a citizen of the State of Kentucky.

9. Venue is proper in this Judicial District because “a substantial part of the events or omissions giving rise to [PCUSA’s] claim[s] occurred” in this Judicial District. 28 U.S.C. § 1391(b).

10. This Court has original subject matter jurisdiction over the claims in this action pursuant to the provisions of the Lanham Act (15 U.S.C. § 1051 et seq.), 28 U.S.C. § 2201, 28 U.S.C. § 1338(a)-(b), and 28 U.S.C. § 1331. This Court has jurisdiction over the claims in this action that arise under the laws of the State of Kentucky pursuant to 28 U.S.C. § 1367(a), because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

11. Subject matter jurisdiction exists over this action also based on diversity jurisdiction under 28 U.S.C. § 1332(a)(1) because PCUSA on the one hand, and ACB, AWPP, and Mr. Stewart on the other hand, are citizens of different states. PCUSA is a citizen of the State of New York. ACB has the citizenship of each of its partners, and, upon information and belief, no partners of ACB are citizens of the State of New York. AWPP and Mr. Stewart are

both citizens of the State of Kentucky. The amount in controversy exceeds \$75,000.

FACTUAL BACKGROUND

12. On July 19, 2022, Mr. Stewart, the then Technological Secretary and head of the Ideological Department of PCUSA, instigated a public display of criticism of PCUSA's involvement with other political organizations. The concern was discussed by PCUSA at an emergency meeting held on July 22, 2022, where it was agreed that a statement drafted by the Ideological Department would be reviewed and ratified by the Politburo and Central Committee on August 6, 2022 and thereafter distributed to the members of PCUSA.

13. However, in an Ideological Department meeting of the members of PCUSA, on July 30, 2022, in attempting to unilaterally control the narrative of the statement, Mr. Stewart presented a motion to distribute the statement he had drafted, but that had not been reviewed or ratified by the Politburo and Central Committee. The motion was voted against overwhelmingly.

14. After Mr. Stewart's motion was rejected, using his position as PCUSA's Technological Secretary, he ended the July 30, 2022, meeting early and switched off the entire party's communication infrastructure in order to force the General Secretary of PCUSA into negotiating with Mr. Stewart.

15. As a result of the gross abuse of Mr. Stewart's position of power as the Technological Secretary and his failure to adhere to democratic centralism, Mr. Stewart was censured at the August 6, 2022 Politburo meeting. Yet, despite such censorship, Mr. Stewart continued to misuse PCUSA's communications and submit motions attacking other party members in retaliation for their censure of Mr. Stewart.

16. On August 12, 2022, as a result of Mr. Stewart continually sending out mass emails to the members of PCUSA attacking the leaders of PCUSA, PCUSA suspended Mr.

Stewart for three months.

17. On August 12, 2022, the ACB was created by Mr. Stewart and, upon information and belief, a number of other individuals, including, but not limited to, Mr. Isaac Cowlin, an Illinois resident, Ms. Bethany Madson, an Illinois resident, Mr. Alex Booth, a Kentucky resident, and Mr. Paul Leuders, a Minnesota resident.

18. During Mr. Stewart's time as PCUSA's Technological Secretary, Mr. Stewart had login credentials to PCUSA's GoDaddy Suite, which included the 365 Office Email add-on, PCUSA's domain names and associated websites, and all graphics archived within the GoDaddy Suite. At all times relevant, Mr. Stewart was reimbursed by PCUSA for any expenses paid by Mr. Stewart in connection with the GoDaddy Suite and was operating the GoDaddy Suite in his official capacity as the Technological Secretary of PCUSA.

19. Prior to August 14, 2022, there were six users on PCUSA's GoDaddy Suite account.

20. However, on August 14, 2022, Mr. Stewart and ACB improperly seized PCUSA's GoDaddy Suite by removing the five PCUSA users from the account, and changing the password, backup email, and pin number on the account, such that no one from PCUSA could access the GoDaddy Suite.

21. That same day, ACB accessed and used PCUSA's membership list to email PCUSA's members a mass resignation letter, signed "The Bolsheviks."

22. PCUSA did not consent to or permit the August 14, 2022 use of its GoDaddy Suite by ACB and Mr. Stewart. When PCUSA contacted GoDaddy to regain access of their GoDaddy Suite, PCUSA was informed that since Mr. Stewart was listed as the only authorized user, GoDaddy could not transfer the account back to PCUSA.

23. ACB improperly sent emails to PCUSA's subscribers list at least twice. In the second email, sent on August 21, 2022, ACB and Mr. Stewart actually admitted that they had improperly retained control of PCUSA's email accounts/services, domains, and websites. Specifically, ACB stated the following in its August 21, 2022 email,

- Email Accounts and Services
 - The email services and accounts were served by, and provided by, comrade Justin via their self-run server rack and self-owned domains, purchased without compensation by PCUSA.
 - These services were retained due to the above ownership by comrade Justin.
- Domains
 - All domains are under ownership of comrade Justin's Domain Hosting Account.
- Websites
 - All websites are under ownership of comrade Justin's Website Hosting Account.

See New Spark, *The Birth of the American Council of Bolsheviks*, https://newspark.news/statements/the-birth-of-the-american-council-of-bolsheviks/#_ftnref2, last visited March 22, 2023.

24. Despite ACB and Mr. Stewart's assertions, the GoDaddy Suite was never owned by Mr. Stewart and all fees paid by Mr. Stewart in connection with the GoDaddy Suite were reimbursed to Mr. Stewart by PCUSA.

25. In the same August 21, 2022 mass email, ACB states, "The truth is that a motion was passed on August 6, 2022, to allow [Mr. Stewart] two weeks to handover [sic] the technology infrastructure to the newly-appointed Technology Secretary. . . ." Despite the acknowledgement that PCUSA expected Mr. Stewart to hand over the technology infrastructure, Mr. Stewart and ACB state in the same email that they have not handed the technology

infrastructure back to PCUSA. Mr. Stewart and ACB continue on, “No evidence of comrade Justin’s refusal to cooperate was provided, because no evidence exists.” This is plainly false.

26. On August 15, 2022, Mr. Stewart and ACB improperly seized control of at least the following social media accounts owned by PCUSA:

- <https://www.youtube.com/c/PSMLS>
- <https://peopleschool.org/>
- <https://twitter.com/OfficialPSMLS>
- <https://www.instagram.com/officialpsmls/>
- https://www.instagram.com/communists_usa/
- <https://soundcloud.com/psmls>
- <https://linktr.ee/PSMLS/>
- <https://www.reddit.com/r/PSMLS/>
- <https://www.reddit.com/r/PartyofCommunistsUSA/>
- <https://discord.gg/rRSFfPG2R5>
- <https://www.facebook.com/partyofcommunists/>
- https://twitter.com/pcusa_midwest
- https://twitter.com/IMLE_center
- https://twitter.com/newspark_news
- https://twitter.com/communists_us

27. Again, in ACB’s mass email sent to PCUSA’s membership list on August 21, 2022, ACB admitted that they had improperly seized control of PCUSA’s social media accounts by stating,

- Social Media
 - All PSMLS social media infrastructure and accounts were retained by their account managers and/or creators.
 - PCUSA Twitter, Instagram, and Facebook accounts were retained by their account managers and/or creators.

28. The accounts may have been retained by their account managers and/or creators, but the only reason those individuals had access to PCUSA’s social media accounts was as a direct result of their association and leadership roles with PCUSA. The accounts were created for PCUSA, at the instruction of PCUSA, and promoted PCUSA material. At all times prior to August 15, 2022, the PSMLS social media accounts and PCUSA Twitter, Instagram, and

Facebook accounts have been owned, controlled, and operated by and for the benefit of PCUSA.

29. Further, the Twitter accounts @IMLE_center (originally @communists_us, created in 2017) and @newspark_news, are accounts that are owned and were operated by PCUSA. Instead of ACB creating new Twitter accounts for its new group, they seized PCUSA's accounts, changed the Name and Username, which is the Twitter handle or the @__, and improperly kept PCUSA's followers.

30. On the same day ACB seized PCUSA's social media accounts, August 15, 2022, ACB sent the first of its two mass emails to PCUSA's subscribers list, wherein ACB falsely claimed that PCUSA was "now-defunct" and stated "[t]he PCUSA has been dying for some time, and it has now been put out of its misery by its most ardent workers." *See The Birth of the American Council of Bolsheviks.*

31. ACB continued its misrepresentations regarding PCUSA in its August 21, 2022 mass email to PCUSA's subscribers list. In that email, ACB claimed, "This further proves that the PCUSA is not a Bolshevik Party, but a Menshevik Party, with a leadership that is completely unconcerned with enforcing the Party's policy on membership in order to present themselves as much larger than they really are," and "[ACB] will ensure that it will not repeat the chronic mistakes of the PCUSA that have led to its ultimate collapse, downfall, and dismemberment." *See The Birth of the American Council of Bolsheviks.*

32. On September 2, 2022, Mr. Stewart continued this line of attack when he posted on his Facebook page the following:



33. At some point between August 14, 2022, when ACB and Mr. Stewart seized PCUSA's GoDaddy Suite, including PCUSA's domains, websites, and subscribers lists, and September 8, 2022, ACB and Mr. Stewart changed PCUSA's webpage home, located through either <http://ideologicalfightback.com/> or <https://partyofcommunistsusa.org/>, to the reflect the following, where the full homepage is attached hereto as Exhibit A:

PCUSA Contacts Federal Agents, Reports Workers to Their Bosses, and Protects Alleged Rapists

Ever since our departure from the Party of Communists USA (PCUSA), members of our organization have been subject to continuous threats and harassment. Recently this has culminated in one of our members being reported to their place of work, reported to the police, an FBI email address subscribed to our mailing list, and a link for the People's School for Marxist-Leninist Studies (PSMLS) meetings shared on 4Chan to be raided. This is compounded by the PCUSA leadership's willingness to conceal an alleged rapist/pedophile from their rank-and-file.

We have contacted PCUSA Leadership to demand they control their membership and cease the harassment. As of 09/08/2022, there has been no reply or acknowledgement of our inquiry.

and

Conclusion

If you join the PCUSA, are a member of the PCUSA, or were previously a member of the PCUSA, your information and your personal livelihood is objectively in danger and one step away from being handed over not only to your place of work, but to the police and the FBI as well. If you do join, know that alleged pedophiles and alleged rapists are in your midst and are a protected part of the PCUSA.

Any continued attempts to doxx any of our members will be met with appropriate and reciprocal action.

We highly recommend that current and former members of PCUSA scrub their information off the internet, and from physical copies. Stay safe.

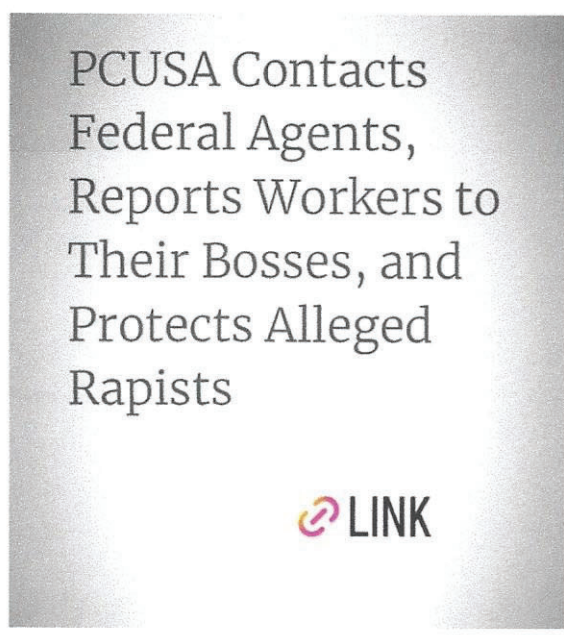
STEER CLEAR OF PCUSA

34. ACB and Mr. Stewart then also changed PCUSA's Facebook Page, which has over 6,000 followers, to the following, where the full Facebook Page is attached hereto as Exhibit B:



35. ACB and Mr. Stewart also changed PCUSA's Instagram account, which has 431 followers, to the following, to include the following as a highlight saved to the account page:

 Highlights 27w



36. On September 8, 2022, ACB tweeted:



37. As seen in the screenshot above, the ACB’s tweet was retweeted by the Institute for Marxist-Lenin Education, (“IMLE”). IMLE is an education group that is officially associated with ACB and, upon information and belief, is operated by AWPP.

38. On December 26, 2022, AWPP filed a federal trademark application, U.S. Application Serial No. 97731627, with the U.S. Patent and Trademark Office for the standard

character trademark INSTITUTE FOR MARXIST-LENINIST EDUCATION. This application designates International Class 041. AWPP filed this application based on a purported bona fide intent to use the mark in commerce in the future.

39. As of the filing of this lawsuit, IMLE's webpage, <https://imle.center>, falsely claims that PSMLS has been re-constituted as the Institute for Marxist-Leninist Education.

40. PSMLS is the education arm of PCUSA. PCUSA been using the standard character trademark PEOPLES SCHOOL FOR MARXIST-LENINIST STUDIES (the "PCUSA Mark") in commerce in connection with providing on-line educational classes in the field of history (the "Services") since at least as early as January 1, 2017. Such use in commerce has at all times been nationwide in scope. PCUSA has established common law trademark rights in the PCUSA Mark throughout each of the 50 states when used in connection with the Services.

41. On August 20, 2022, Karen Niles, acting on behalf of and for the benefit of PCUSA, filed a federal trademark application, U.S. Application Serial No. 97557172, with the U.S. Patent and Trademark Office for the standard character trademark PEOPLES SCHOOL FOR MARXIST-LENINIST STUDIES. This application designates International Class 041 and a first use date of January 1, 2017.

42. ACB and Mr. Stewart have engaged in the unauthorized use in commerce of PEOPLE'S SCHOOL FOR MARXIST- LENINIST STUDIES, a mark almost identical and confusingly similar to PCUSA's Mark in connection with the rendering of education services highly related to, indeed substantially identical to, the Services.

43. Such infringement has occurred on the PSMLS social media accounts.

44. ACB has admitted that they retained, controlled, and operated the social media accounts of PSMLS.

45. On October 25, 2022, PCUSA's counsel sent Mr. Stewart, Mr. Cowlin, and Ms. Madson a Cease and Desist letter, ("Cease and Desist"). In the Cease and Desist, PCUSA's counsel informed the three individuals that their actions in seizing and using PCUSA's social media constituted, *inter alia*, trademark infringement of PCUSA's Mark as well as infringement of copyrighted content owned by PCUSA members. PCUSA's counsel further informed the three individuals that the improper seizing and control of PCUSA's GoDaddy account, including PCUSA's subscription lists, constitutes trade secret misappropriation.

46. In the Cease and Desist, PCUSA's counsel demanded the three individuals relinquish control of PCUSA's GoDaddy Suite. Yet, as of the filing of this lawsuit, none of the three individuals or ACB have relinquished control of the GoDaddy Suite back to PCUSA.

47. On February 3, 2023, Mr. Stewart posted the following on his Facebook Page, with the full posting attached hereto as Exhibit C:



Justin Stewart
February 3 · 🌐

Keep thinking about this, because I have run into the opposite in real life, instead of the church of Scientology being sue happy and me being afraid, it's a bunch of so-called communists who keep telling the world they've filed a lawsuit against me and a few other people over and over again in public, but all I've seen are embarrassing cease and desist letters.

Embarrassing how? Both that a communist would go to an intellectual property lawyer for a cease and desist letter, and that they're full of falsehoods and slander.

Why? Because they're a bunch of fakes hiding being led by the heir of a large catering company and the son of a prominent narcotics officer.

They're all jokes living off the legacy of work that other communists put into that party before leaving or being ejected.

48. Then, on or around February 5, 2023, despite receiving the Cease and Desist, Mr. Stewart continued to improperly seize PCUSA's assets and locked PCUSA out of its Stripe account. Mr. Stewart made himself the sole owner of PCUSA's Stripe account by removing a PCUSA member from the account. Despite assertions from Mr. Stewart that Mr. Stewart would never touch the PCUSA financials, on February 5, 2023, PCUSA contacted Stripe because they

had lost the ability to access their account.

49. The Stripe Support representative informed PCUSA that, “[T]he owner has removed you from the account,” and that the owner’s email address is “j[redacted]@u[redacted].net,” where such email address mirrors Mr. Stewart provided to the USPTO in the Trademark Application No. 97731627, justins@usvanguard.net.

50. As of February 5, 2023 when Mr. Stewart improperly converted the Stripe account to his sole control, there was \$690 in the account.

51. In addition to converting PCUSA’s Stripe account, Mr. Stewart also misappropriated from PCUSA an approximately 5' x 5' vinyl banner from PCUSA that was purchased by PCUSA in 2016 for Three Hundred and Fifty Dollars. This banner was mailed to Mr. Stewart in late 2021 so that he could digitize it, but it was never returned, despite countless requests to do so.

52. Mr. Stewart has also misappropriated by PCUSA the book, *A Soldier's Memoirs: Pages from the Story of my life*, by David A. Dragunsky from PCUSA.

COUNT I
FALSE DESIGNATION OF ORIGIN AND UNFAIR COMPETITION
(15 U.S.C. § 1125(a))

53. PCUSA repeats and incorporates herein by reference each of the allegations set forth above as if fully set forth here.

54. Defendants’ use of the PEOPLE’S SCHOOL FOR MARXIST-LENINIST STUDIES mark in interstate commerce and Defendants’ public statements claiming that PSMLS has been re-constituted as the IMLE constitute false designations of origin with respect to services and/or goods offered by Defendants under the PEOPLE’S SCHOOL FOR MARXIST-LENINIST STUDIES mark at least because PCUSA has not authorized these activities.

55. Consumers are likely to mistakenly believe that services offered under the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES mark, when said mark is used by Defendants, are of the same quality as services offered under the PCUSA Mark when used by PCUSA. Accordingly, Defendants' words and conduct constitute misleading statements of fact.

56. Defendants' unauthorized independent use of the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES mark in connection with their services constitutes a false designation of origin, a false or misleading description of fact, and false or misleading representation of fact, and has caused and is likely to cause confusion, mistake, and/or deception as to the affiliation, connection, or association of Defendants' services with PCUSA and the origin, sponsorship, or approval of Defendants' services by PCUSA.

57. Defendants' actions complained of herein constitute false designation of origin and unfair competition in violation of 15 U.S.C. § 1125(a).

58. Defendants have undertaken the actions complained of herein willfully and intentionally with the intent to trade upon PCUSA's reputation and goodwill by causing confusion and mistake among consumers, including, without limitation, prospective members of PCUSA.

59. Defendants have undertaken the actions complained of herein with the intent of causing consumers to mistakenly believe that Defendants' services are associated with, sponsored by, approved by, or originate from PCUSA, when they are not and do not.

60. Defendants had actual knowledge that PCUSA was exclusively responsible for offering goods and/or services under the PCUSA Mark.

61. Without PCUSA's consent, Defendants have used marks confusingly similar to PCUSA's Mark in connection with the offering of services and/or goods. Such actions constitute

willful violations of 15 U.S.C. § 1125(a).

62. Defendants have acted in bad faith and/or willfully in using PCUSA's Mark independently without PCUSA's consent.

63. Defendants' actions have caused and will continue to cause PCUSA to suffer irreparable injury to its reputation and goodwill. The inferior nature of services offered by Defendants under the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES mark will cause irreparable erosion to the PCUSA Mark and the goodwill established therein, as well as to PCUSA, because consumers of the Parties' respective services and goods, and the public at-large, have come to associate the PCUSA Mark with PCUSA.

64. Given the willful and intentional nature of Defendants' activities as complained of herein, this case qualifies as exceptional. See 15 U.S.C. § 1117(a).

WHEREFORE PCUSA prays for judgment in its favor with respect to Count I and requests an Order awarding PCUSA actual and consequential damages, Defendants' profits, costs, as well as such further relief as the Court deems just, in an amount to be determined at trial but greater than \$75,000. PCUSA further requests that any award of monetary damages be increased by a sum not exceeding three times the amount thereof as provided for by 15 U.S.C. § 1117(a). PCUSA further requests and order declaring this case exceptional and awarding PCUSA its reasonable attorneys' fees.

COUNT II
KENTUCKY COMMON LAW TRADEMARK INFRINGEMENT

65. PCUSA repeats and incorporates herein by reference each of the allegations set forth above as if fully set forth here.

66. PCUSA brings this claim against Defendants based on their unauthorized use in commerce of the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES trademark in

connection with the sale, offering for sale, distribution, and/or advertising of infringing goods.

67. PCUSA has acquired common law rights in the PCUSA Mark in all 50 states, including Kentucky, by virtue of its longstanding continuous use of said trademark in commerce throughout such states.

68. Defendants have deliberately and willfully adopted and used the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES mark, which mark, when so used by Defendants, Defendants know is highly likely to cause confusion, mistake, and to deceive consumers.

69. Defendants have sold, offered to sell, marketed, distributed, and advertised services and/or products under the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES mark, which is almost identical to and is confusingly similar to PCUSA's Mark. PCUSA has not authorized these activities.

70. Defendants have infringed PCUSA's rights in the PCUSA Mark through the aforesaid acts and will continue to do so unless enjoined by this Court. Defendants' wrongful conduct has caused PCUSA to suffer irreparable harm.

71. Defendants' infringement of PCUSA's trademark rights in the PCUSA Mark has caused and, unless enjoined, will continue to cause confusion, mistake, or deception as to the source, affiliation, connection, or association of their services and/or goods with those of PCUSA, or as to the approval, sponsorship, or endorsement of Defendants' products and services by PCUSA.

72. PCUSA is the exclusive owner of the PCUSA Mark. PCUSA has never licensed or authorized Defendants to market, offer for sale, advertise, or distribute services or goods under the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES mark.

73. Upon information and belief, Defendants have knowledge of PCUSA's rights in the PCUSA Mark and are willfully infringing PCUSA's trademark rights in the PCUSA Mark. Defendants' willful, intentional and unauthorized use of the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES mark is likely to cause and is causing confusion, mistake, and deception as to the origin and quality of its services and goods among the general public and among consumers of the Parties' respective services and goods specifically. Through Defendants' infringing activity, Defendants compromise the goodwill of the PCUSA Mark trademark by depriving PCUSA the exclusive control over the consumer experience and ideology of the brand.

74. The injuries and damages sustained by PCUSA have been directly and proximately caused by Defendants' wrongful use in commerce, advertisement, promotion, offering to sell, and sale of services and goods under the PEOPLE'S SCHOOL FOR MARXIST-LENINIST STUDIES mark.

WHEREFORE PCUSA prays for judgment in its favor with respect to Count II. PCUSA further respectfully requests an Order awarding PCUSA actual and consequential damages caused by Defendants' conduct as complained of herein, awarding PCUSA all profits received by Defendants as a result of their infringement of the PCUSA Mark, awarding PCUSA the costs of this action, together with reasonable attorneys' fees, and awarding such other and further relief as the Court deems appropriate and just.

COUNT III
TRADE SECRET MISAPPROPRIATION
(18 U.S.C. § 1836(b))

75. PCUSA repeats and incorporates herein by reference each of the allegations set forth above as if fully set forth here.

76. PCUSA's membership subscription lists and the associated email addresses, ("Confidential and Trade Secret Information"), constitute trade secrets and/or other proprietary information that derives independent economic value, actual or potential, from not being known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

77. PCUSA's Confidential and Trade Secret Information has been and continues to be the subject of PCUSA's reasonable measures to keep such information secret. Only those individuals within PCUSA who need access to such information to perform their responsibilities within the organization have access to this information. Further, such individuals are expressly advised of their strict obligation to keep such information confidential and to not disclose such information to others, except those within PCUSA who likewise require such information.

78. Defendants misappropriated such Confidential and Trade Secret Information of PCUSA when they seized PCUSA's GoDaddy Suite and improperly used such information to communicate with those email addressed, without PCUSA's authorization.

79. As a result of Defendants' misappropriation, PCUSA has been and continues to be damaged and irreparably injured, including without limitation, the loss of sales and profits it would have earned but for Defendant's actions, and damage to PCUSA's reputation among potential and existing members.

80. Defendants' misappropriation has been and continued to be willful and malicious and thereby entitles PCUSA to an award of exemplary damages.

81. Defendant's misappropriation of PCUSA's Confidential and Trade Secret Information has caused and will continue to cause PCUSA irreparable and substantial injury.

WHEREFORE PCUSA prays for judgment in its favor with respect to Count III and

requests an Order awarding PCUSA actual and consequential damages, exemplary damages, Defendants' profits, costs, as well as such further relief as the Court deems just, in an amount to be determined at trial but greater than \$75,000.

COUNT IV
CONVERSION

82. PCUSA repeats and incorporates herein by reference each of the allegations set forth above as if fully set forth here.

83. Defendants converted PCUSA's property in violation of Kentucky law.

84. PCUSA owns and has a right to possess the GoDaddy Suite, including the websites, domains, and email membership lists; the PCUSA and PSMLS social media accounts; the book entitled, "*A Soldier's Memoirs: Pages from the Story of my life*" by David A. Dragunsky; the 5' by 5' banner loaned to Mr. Stewart; and PCUSA's Stripe account with \$690 in cash in the account, (collectively, the "PCUSA Property"). At all times relevant, PCUSA paid for and maintained the PCUSA Property and the PCUSA Property was used exclusively for the benefit of PCUSA.

85. PCUSA has at all relevant times, and still has, an absolute and unconditional right to the immediate possession of the PCUSA Property.

86. Defendants presently exercise dominion over the PCUSA Property in a manner which denies PCUSA rights to use and enjoy the PCUSA Property and which is to Defendants' own use and beneficial enjoyment.

87. Plaintiff possessed the PCUSA Property at the time of Defendants' conversion of the PCUSA Property.

88. PCUSA has demanded that Mr. Stewart, Mr. Cowlin, and Ms. Madson, all leaders of the ACB, return the PCUSA Property to PCUSA immediately. Defendants did not and have

not returned the PCUSA Property.

89. PCUSA has specifically demanded Mr. Stewart return PCUSA's Stripe account with \$690 in cash in the account. Mr. Stewart has refused to do so.

90. Defendants have intentionally and wrongfully assumed control of the PCUSA Property.

91. PCUSA has sustained and will continue to sustain damages, which are difficult to approximate but include at least \$690 in case in the Stripe account, as a direct result of Defendants' conversion of PCUSA Property.

WHEREFORE PCUSA prays for judgment in its favor with respect to Count IV and requests an Order awarding PCUSA actual, consequential, and punitive damages, as well as such further relief as the Court deems just, in an amount to be determined at trial but greater than \$75,000. PCUSA further requests entry of an order requiring Defendants to immediately relinquish control of, and return to PCUSA, the PCUSA Property.

COUNT V
BREACH OF FIDUCIARY DUTY

92. PCUSA repeats and incorporates herein by reference each of the allegations set forth above as if fully set forth here.

93. Mr. Stewart, during the two and half year prior to August, 2022, served as the Technological Secretary to PCUSA.

94. As a result of Mr. Stewart's official capacity as an officer of PCUSA, Mr. Stewart owed PCUSA a fiduciary duty, including a duty of loyalty and a duty of confidentiality.

95. Mr. Stewart breached his fiduciary duty when he improperly seized the PCUSA Property and shared PCUSA's membership list, a confidential and protected trade secret, with ACB.

96. Mr. Stewart's breach of his fiduciary obligations to PCUSA has proximately caused PCUSA damage.

WHEREFORE PCUSA prays for judgment in its favor with respect to Count V and requests entry of an Order awarding PCUSA actual and consequential damages, as well as such further relief as the Court deems just, in an amount to be determined at trial but greater than \$75,000.

COUNT VI
DEFAMATION

97. PCUSA repeats and incorporates herein by reference each of the allegations set forth above as if fully set forth here.

98. Defendants defamed PCUSA by making the false statements discussed above about PCUSA, and engaging in unprivileged publication of said statements, thereby causing damage to PCUSA, including, without limitation, financial injury as well as reputational injury. Defendants intentionally or negligently communicated such false statements so as to be heard by an understanding third party.

99. Defendants statement that Defendants published to PCUSA's website, Facebook page, and Instagram account, and to Defendant's ACB's Twitter account, which Defendant AWPP retweeted to its followers, that PCUSA "Contacts Federal Agents, Reports Workers to Their Bosses, and Protects Alleged Rapists," were false, was published to third parties, and such publication caused damages to PCUSA.

100. Defendant ACB's statement published on PCUSA's website that "If you join the PCUSA, are a member of the PCUSA, or were previously a member of the PCUSA, your information and your personal livelihood is objectively in danger and one step away from being handed over not only to your place of work, but to the police and the FBI as well. If you do join,

know that alleged pedophiles and alleged rapists are in your midst and are a protected part of the PCUSA,” is false, was published to third parties, and such publication caused damages to PCUSA.

101. Defendant Mr. Stewart’s statements published to his personal Facebook page on September 2, 2022, and on February 3, 2023, where the latter includes statements that, PCUSA’s Cease and Desist letter is “full of falsehoods and slander” and that PCUSA is “a bunch of fakes hiding being led by the heir of a large catering company and the son of a prominent narcotics officer,” are false, were published to third parties, and such publication caused damages to PCUSA.

102. Defendants’ statements are defamatory *per se* as they impute the commission of a crime, impute an inability to perform or want of integrity in performing duties for PCUSA, and impute a lack of ability and prejudice PCUSA in its business.

103. Defendants’ statements are also defamatory *per quod* because they are false, extrinsic factors show that the language is defamatory, and PCUSA has suffered monetary and special damages as a result of Defendants’ statements.

WHEREFORE PCUSA prays for judgment in its favor with respect to Count VI and requests entry of an Order awarding PCUSA actual and consequential damages, as well as such further relief as the Court deems just, in an amount to be determined at trial but greater than \$75,000.

DEMAND FOR JURY TRIAL

PCUSA hereby demands a jury trial on all issues triable as of right to a jury. Fed. R. Civ. P. 38(b).

Date: May 11, 2023

/s/ Theodore J. Chiacchio

Theodore J. Chiacchio

[application for admission pro hac vice to be
filed]

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