

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

BRIAN WEGMAN, and)	
THOMAS HORROM)	
)	CASE NO. 6:23-cv-1637-RBD-RMN
Plaintiffs,)	
V.)	
)	
THE UNITED STATES SPECIALTY)	JURY TRIAL DEMANDED
SPORTS ASSOCIATION, INC.,)	
DONALD DEDONATIS, III,)	
RICHARD FORTUNA,)	
WENDY ANDERSON,)	
COURTNEY CEO, and)	
JACOB HORNBACHER,)	
)	
Defendants.)	

SECOND AMENDED COMPLAINT

1. Plaintiffs Brian Wegman and Thomas Horrom (hereinafter separately referenced as “Plaintiff Wegman” and “Plaintiff Horrom,” respectively, or collectively “Plaintiffs Wegman and Horrom”), by and through their undersigned counsel, file the following Complaint against Defendants The United States Specialty Sports Association, Inc. (“Defendant USSSA” or “USSSA”); Donald DeDonatis III, former Chief Executive Officer, USSSA (“Defendant DeDonatis”); Richard Fortuna, Chairman of the Board of Directors, USSSA (“Defendant Fortuna”); Wendy Anderson, General Counsel and Ethics and Compliance Officer, USSSA (“Defendant Anderson”); Courtney Ceo, former Vice President of Brand

Management and Business Strategy (“Defendant Ceo”); and Jacob (“Jake”) Hornbacher, former National Program Director and Michigan State Director, and cousin of Defendant DeDonatis (“Defendant Hornbacher”), collectively “Defendants,” seeking monetary damages as well as attorneys’ fees, litigation expenses, and other relief, and in support thereof alleges the following:

I. Jurisdiction and Venue

2. The Court has jurisdiction over the subject matter of this action pursuant to the Racketeer Influenced and Corrupt Organizations Act (“RICO”) 18 U.S.C. §§ 1961 et seq. (specifically 18 U.S.C. § 1964(c)) and 28 U.S.C. § 1331. The Court further has jurisdiction pursuant to the Anti-Money Laundering Act 31 U.S.C. § 5323(g)(2)(B) and the Taxpayer First Act 26 U.S.C. § 7623(d)(2)(A)(ii).

3. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over Plaintiffs’ Florida State law claims for breach of contract, breach of covenant of good faith and fair dealing, breach of oral contract, breach of implied in fact contract, whistleblower retaliation, wrongful termination, defamation, and defamation *per se*.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and (c) because USSSA’s principal place of business is in this district; because Defendants DeDonatis, Anderson, Ceo, and Hornbacher reside in this district; and

because a substantial part of the events or omissions giving rise to the claims occurred in this district.

II. Parties

5. Plaintiff Brian Wegman was an employee of USSSA from 2014 until his unlawful termination on July 7, 2023.¹ Plaintiff Wegman began his career at USSSA in 2014 as an independent contractor and before the company formally hired him in 2019 to a full-time position as Vice President of Sport Development and Strategy. Effective January 1, 2020, USSSA promoted Plaintiff Wegman to serve as the company's Chief Operating Officer ("COO"). On January 1, 2022, USSSA renewed Plaintiff Wegman's contract as COO for three more years until January 1, 2025, at an annual salary of \$306,375 per year (his "Employment Agreement").²

6. On July 7, 2023, despite years of exemplary service, Defendants unlawfully terminated Plaintiff Wegman, in breach of his *Employment Agreement*, after he raised serious and legitimate issues concerning improper and illegal conduct at USSSA.

¹ Plaintiff Wegman is a resident of the State of Ohio.

² See *Employment Agreement*, dated January 1, 2022, Ex. 1. At the end of his first year as COO in 2022, and in recognition of his superior performance, USSSA awarded Plaintiff Wegman a bonus of \$150,000 and increased his salary to \$329,353.

7. Plaintiff Thomas Horrom began his career at USSSA in January 2019 as a consultant to the information technology department.³ USSSA hired Plaintiff Horrom in August 2019 as Senior Director of Software Development. In March 2021, USSSA appointed Plaintiff Horrom as interim Vice President of Information Technology, before ultimately making his assignment permanent in July 2021. Five months later, in December 2021, USSSA once more promoted Plaintiff Horrom to serve as Vice President of Technology and Advanced Media and elevated him to serve on USSSA's executive management team.

8. On February 1, 2023, USSSA unjustly terminated Plaintiff Horrom, despite years of exemplary service—and in breach of his oral, implied employment agreement—after Plaintiff Horrom raised serious and legitimate issues concerning improper and illegal conduct at USSSA.

9. Defendant United States Specialty Sports Association, Inc. is a 501(c)(4) Not-for-Profit corporation headquartered in Melbourne, Florida (hereinafter referred to as “USSSA”). USSSA is the world’s largest multi-sport athletic organization and has more than 4 million participants competing across

³ Plaintiff Horrom is a resident of the State of Michigan.

multiple nationally sanctioned sports, including baseball, fastpitch and slowpitch softball, basketball, golf, and lacrosse.⁴

10. USSSA generates revenue from sanctioned and hosted events that operate (i) under the supervision of USSSA Directors, who are independent contractors and are not employees of USSSA, or (ii) by employees of USSSA.⁵ USSSA generates approximately \$20 million in revenues each year.

11. Defendant Donald DeDonatis III is a resident of Florida (hereinafter “Defendant DeDonatis”). USSSA appointed Defendant DeDonatis to acting Chief Executive Officer in January 2018, ultimately hiring him as permanent Chief Executive Officer effective January 1, 2019.⁶ Prior to assuming that position, Defendant DeDonatis served as an Assistant Executive Director and Board Member of USSSA, as well as the Director of USSSA’s operations in the State of Michigan. Following an internal investigation into his misconduct, USSSA terminated Defendant DeDonatis in December 2023.

⁴ USSSA maintains a national network of more than 3,500 state and area directors who oversee USSSA-sanctioned sporting events and provide support for USSSA athletes and participants. *USSSA Employee Handbook, Section 1.1 History*.

⁵ USSSA generates annual revenues each year from five principal sources: (1) membership fees from leagues and events; (2) specific sanctioned event fees paid by USSSA directors; (3) sales of insurance products; (4) sponsorships and license royalty payments; and (5) USSSA-sponsored event income. *USSSA By-Laws, Article II, Section 3*.

⁶ The USSSA chief executive officer operates under written procedures and policies. *USSSA By-Laws, Article III, Section 1(d)*.

12. Defendant Richard (“Rick”) Fortuna has served as the USSSA Chairman of the Board since 2018 (hereinafter “Defendant Fortuna”).⁷ Defendant Fortuna is USSSA’s Executive Director of Baseball Operations. Since 2004, Defendant Fortuna has served as the USSSA Director for the State of Kansas.

13. Defendant Wendy Anderson is USSSA’s General Counsel and Ethics and Compliance Officer (hereinafter “Defendant Anderson”). She began her career at USSSA in 2018. Two years later, in 2020, USSSA appointed Defendant Anderson as the company’s Ethics and Compliance Officer, pursuant to USSSA’s adoption of a formal Whistleblower Policy.

14. Defendant Courtney Ceo is Defendant DeDonatis’s long-time paramour (hereinafter “Defendant Ceo”). Defendant Ceo joined USSSA in 2018 as the National Program Director of Fastpitch. Defendant Ceo and Defendant DeDonatis began an extramarital romantic relationship sometime before 2018, which provided Defendant Ceo with favoritism and protection at USSSA.⁸ USSSA terminated Defendant Ceo's employment at USSSA sometime in late 2023 or early 2024.

⁷ USSSA is governed by a Board of Directors, which is responsible for issuing Directives, Procedures, and Policies. *USSSA By-Laws, Article III, Section 1(d)*.

⁸ Defendant DeDonatis advanced Defendant Ceo’s career at USSSA to an elevated position amongst her colleagues despite her lack of qualifications and to the detriment of the organization. Further, the two frequently acted together to retaliate against and even terminate employees.

15. Defendant Jacob (“Jake”) Hornbacher is Defendant DeDonatis’s cousin and serves as USSSA’s National Program Director and State Director for Michigan (hereinafter “Defendant Hornbacher”). When Defendant DeDonatis assumed the role as USSSA’s Chief Executive Officer in 2018, Defendant Hornbacher became the State Director of Michigan. In August 2021, Defendant DeDonatis hired Defendant Hornbacher to serve as USSSA National Program Director, at USSSA’s Melbourne, Florida headquarters. Defendant Hornbacher continued to serve as State Director for Michigan. USSSA terminated Defendant Hornbacher's employment at USSSA sometime in late 2023 or early 2024.

III. Summary of Counts

Count	Plaintiff(s)	Defendant(s)	Claim
One	Wegman Horrom	USSSA DeDonatis Fortuna Anderson Ceo Hornbacher	Participation in RICO 18 USC 1962(c)
Two	Wegman Horrom	USSSA DeDonatis Fortuna Anderson Ceo Hornbacher	RICO Conspiracy 18 USC 1962(d)
Three	Wegman	USSSA DeDonatis Fortuna Anderson	Retaliation Against a Whistleblower Under the Anti- Money Laundering Act 31 U.S.C. § 5323(g)
Four	Wegman	USSSA DeDonatis Fortuna Anderson	Retaliation Against a Whistleblower Under the Taxpayer First Act 26 U.S.C. § 7623(d)
Five	Wegman	USSSA	Breach of Contract

Count	Plaintiff(s)	Defendant(s)	Claim
Six	Wegman	USSSA	Breach of Covenant of Good Faith and Fair Dealing
Seven	Horrom	USSSA	Breach of Oral Contract
Eight	Horrom	USSSA	Breach of Implied in Fact Contract
Nine	Horrom	USSSA	Breach of Covenant of Good Faith and Fair Dealing
Ten	Wegman	USSSA DeDonatis	Defamation
Eleven	Wegman	USSSA DeDonatis	Defamation <i>Per Se</i>
Twelve	Wegman	USSSA	Retaliation under the Florida Private Whistleblower Act (Fla. Stat. §448.102(3))
Thirteen	Horrom	USSSA	Retaliation under the Florida Private Whistleblower Act (Fla. Stat. §448.102(3))

IV. Factual Statement

16. On February 1, 2023 and July 7, 2023, respectively, the Defendants illegally terminated Plaintiff Horrom and Plaintiff Wegman from USSSA in retaliation for their whistleblower reports detailing significant improprieties at USSSA. To cover their true intent for terminating the Plaintiffs, the Defendants, acting individually and in concert, generated pretextual reasons and false documentation to justify terminations of each Plaintiff to silence, hinder, obstruct, and retaliate against them for raising legitimate concerns about improper and illegal conduct at USSSA.

17. While working at USSSA, Plaintiffs Horrom and Wegman each learned about pervasive misconduct and illegal activities at USSSA. The range of

misconduct included misuse of funds, illegal loans, theft, illegal bookmaking and sports gambling, illegal drug use, false federal tax filings, and retaliation against any person who raised concerns about USSSA's improper and illegal activities. Plaintiffs learned first-hand about the misconduct that the Defendants engaged in, coordinated with each other, and acted to further, and ultimately raised specific concerns about these activities.

18. Plaintiff Horrom raised specific concerns about illegal gambling activities at USSSA. Plaintiff Wegman raised a number of issues at various times concerning illegal bookmaking and sports gambling, Defendant DeDonatis' illicit relationship with his subordinate Defendant Ceo, financial misconduct including improper booking of revenues and expenses and illegal diversion of USSSA funds for personal purposes, and USSSA's toxic culture fostered by all Defendants. Instead of investigating these significant concerns, Defendant USSSA—with and through Defendants DeDonatis, Fortuna, Anderson, Ceo, and Hornbacher—responded by terminating Plaintiff Horrom on February 1, 2023, and then Plaintiff Wegman on July 7, 2023.

19. The nature and scope of USSSA's improper and illegal activities is detailed below in Count One of this Complaint, but included generally:

- (1) Grant of illegal and undocumented loans by USSSA's Board of Directors to Defendant DeDonatis to permit purchase and construction of a new home in Melbourne, Florida.⁹
- (2) A multi-year improper and illicit relationship between Defendant DeDonatis and Defendant Ceo, his subordinate, and financial misconduct through improper use of USSSA funds to pay for personal expenses and benefits, including luxury hotel stays, dining, lodging, gifts and other expenses.¹⁰
- (3) Diversion of revenue from USSSA leagues and events to benefit individual USSSA Board Members, senior executives, employees, family members, close friends and associates, contrary to applicable conflict of interest and fiduciary responsibilities.
- (4) Manipulation of reporting and allocation of USSSA revenues and expenses.
- (5) Filing of false and misleading IRS Annual Form 990s for non-profit companies.
- (6) Acceptance of illegal kickbacks payments and financial payments/sharing of revenues from state and local representatives to gain USSSA award and assignment of USSSA-sanctioned events.

⁹ The IRS may revoke a non-profit organization's tax exempt status upon a finding that the organization "is not organized and operated exclusively for an exempt purpose[.]" See Private Letter Ruling 201022030, 2010 PLR LEXIS 471, *1 (I.R.S. Mar. 12, 2010) (revoking tax-exempt status of non-profit organization after organization violated I.R.C. § 4941 (prohibition against self-dealing) by extending loans to, and paying personal travel expenses for, a trustee).

¹⁰ Attached as Ex. 2 is a chart setting forth some examples of expenses incurred to benefit Defendants DeDonatis and Ceo for improper and illegal purposes, including personal benefits. See, e.g., *Camps Newfound/Owatonna, Inc. v. Town of Harrison*, 520 U.S. 564, 585 (1997) (a nonprofit entity "is barred from distributing its net earnings, if any, to individuals who exercise control over it"); *Church of Scientology v. Commissioner*, 823 F.2d 1310, 1316 (9th Cir. 1987) (holding, where exempt organization's assets were transferred to insider under false pretense of debt repayment, "[u]naccounted for diversions of a charitable organization's resources by one who has complete and unfettered control can constitute inurement."); *W. Catholic Church v. Commissioner*, 73 T.C. 196, 214 (1979) (stating that "[exempt organization] was utilized by [insider] as an 'incorporated pocketbook'").

- (7) Illegal bookmaking and sports gambling activities by Defendants DeDonatis and Hornbacher in violation of federal and state law, which USSSA facilitated, was aware of and failed to stop.
- (8) Retaliatory terminations and other actions against USSSA Board Members, executives, and employees, in order to enforce a toxic culture of silence, retaliation, and fear of reprisal.

20. As an organization, Defendant USSSA's Board of Directors and its senior executives fostered, participated in, and ultimately sanctioned actions or failures to act that, in the end, promoted this unfortunate toxic culture of silence, retaliation, punishment, and even termination.¹¹

21. Considered in this context, the fact that, in 2023, Plaintiffs Horrom and Wegman raised serious and legitimate concerns and then suffered the same fate as many previous whistleblowers was not all that surprising. Unlike prior incidents, however, Plaintiffs responded to their illegal firings by filing the instant lawsuit in an attempt to finally hold the Defendants—USSSA, DeDonatis, Fortuna, Anderson,

¹¹ Even assuming that USSSA's Board of Directors was unaware of the full scope of the Defendants' misconduct, which the facts show conclusively that it was fully aware, USSSA and its Board of Directors, were at a minimum derelict in its duties and failed to exercise proper oversight and monitoring of USSSA's improper and illegal activities. *See, e.g., In re McDonald's Corporation, Stockholder Derivative Litigation*, C.A. No. 2021-0324-JTL, 2023 Del. Ch. LEXIS 23, at *4 (Del. Ch. Jan. 25, 2023) (duty of oversight extends to corporate officers); *In re The Boeing Corporation Derivative Litigation*, No. 2019-0907-MTZ, 2021 Del. Ch. LEXIS 197, at *89 (Del. Ch. Feb.1, 2021) (*Caremark* claim survives motion to dismiss when Board knew of misconduct but consciously disregarded its duty to address misconduct); *Stone. v. Ritter*, 911 A.2d 362, 370 (Del. 2006) ("Where directors fail to act in the face of a known duty to act, thereby demonstrating a conscious disregard for their responsibilities, they breach their duty of loyalty by failing to discharge that fiduciary obligation in good faith").

Ceo, and Hornbacher—accountable for their long record of systemic, improper, and illegal conduct.

22. Indeed, the first rays of sunshine revealing USSSA’s long record of improper and illegal activities occurred in response to the Plaintiffs’ filing of the *First Amended Complaint* on September 15, 2023 (Dkt. 19). In response, USSSA launched a long overdue internal investigation addressing allegations and issues raised by the Plaintiffs. As part of this investigation, USSSA reviewed documents and conducted interviews of employees on issues raised by the Plaintiffs in the *First Amended Complaint*. The Plaintiffs understand that employees, when interviewed, felt free for the first time to provide information corroborating the Plaintiffs’ allegations of Defendants’ pervasive and systemic history of misconduct and illegal activity. A significant chilling effect on the entire organization had begun to lift.

23. As a result of the Plaintiff’s filing of the *First Amended Complaint* and USSSA’s related internal investigation, Defendant USSSA terminated Defendant DeDonatis on December 27, 2023, and subsequently terminated Defendants Ceo and Hornbacher shortly thereafter.

24. As justification for termination of Defendant DeDonatis, Defendant USSSA cited several reasons, most of which have been—and continue to be—alleged in Plaintiffs’ *First Amendment Complaint* and now again in this *Second Amended Complaint*. The specific reasons cited by USSSA include:

- (1) Theft and misuse of USSSA funds for personal benefit;
- (2) Unapproved business transactions resulting in the diversion of USSSA funds to benefit Mr. DeDonatis and to the financial detriment of USSSA;
- (3) Engaging in and failing to disclose an improper romantic and sexual relationship with a subordinate employee over whom Mr. DeDonatis exercised influence or control over the conditions of employment;
- (4) Willfully and intentionally failing to return USSSA technology, equipment and information when directed to do so during the period of Administrative Leave;
- (5) Dereliction of duties as CEO of USSSA including creating and fostering a work environment that was detrimental to and adverse to the best interests of USSSA and its employees as well as other shortcomings.

25. On March 26, 2024, Defendant DeDonatis filed a lawsuit regarding his termination from USSSA.¹²

26. The Plaintiffs' *Second Amended Complaint* sets forth additional information and legal claims that demonstrate the Defendants' individual and joint legal responsibility for violations of federal law, including the Racketeer Influenced and Corrupt Organizations ("RICO") Act and illegal retaliation against whistleblowers, as well as violations of Florida state laws for breach of contract, whistleblower retaliation, wrongful termination, and defamation.

¹² *Donald DeDonatis III v. The United States Specialty Sports Association, Inc.*, Case No. 05-2024-CA-021710-XXCA-BC (Fla. 18th Cir. Ct. Mar. 26, 2024).

V. Claims

Count One: Participation in a Racketeer Influenced and Corrupt Organization 18 USC 1962(c)

A. RICO Overview

27. Plaintiff Wegman and Plaintiff Horrom reallege and incorporate by reference Paragraphs 16 to 26 as if fully set forth herein.

28. Between sometime in at least 2016 and continuing until sometime in 2023, **Defendants USSSA, DeDonatis, Fortuna, Anderson, Ceo, and Hornbacher** violated the Racketeer Influenced and Corrupt Organizations Act (“RICO”), and in particular 18 U.S.C §1962(c), which provides, in pertinent part:

"[i]t shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity."

29. Plaintiffs specifically allege, with respect to each Defendant, and will prove by a preponderance of the evidence, the following six elements, which establish a violation of 18 U.S.C. §1962(c): that each Defendant (1) operated or managed (2) an enterprise¹³ (3) through a pattern (4) of racketeering activity that

¹³ 18 U.S.C. § 1961(4) defines an "enterprise" to include what is commonly referred to as an "Association-in-Fact Enterprise," which is not a legal entity, but an informal association of individuals and entities. Each Defendant does not need to participate in, or be aware of, all of the enterprise's activities. It is sufficient if the Defendant conducted or participated in the conduct of some of the enterprise's activities through a pattern of racketeering activity. *See Eleventh Circuit Pattern Jury Instructions, Criminal Cases, O75.1 at 3-4, March 10, 2022.*

included at least two predicate acts of racketeering, which (5) caused (6) injury to the business or property of the Plaintiffs.¹⁴

30. As members of the alleged Association-in-Fact Enterprise, the Defendants shared a common purpose¹⁵ and maintained relationships among the members of the enterprise for a significant duration of time beginning in or around in 2016 and until at least sometime around in July 2023.¹⁶

31. Each Defendant engaged in a “pattern of racketeering activity” by committing at least two distinct Predicate Acts.¹⁷ In defining how “the predicate acts

¹⁴ See *Cisneros v. Petland, Inc.* 972 F.3d 1204, 1211 (11th Cir. 2020); *Ray v. Spirit Airlines*, 836 F.3d 1340, 1348 (11th Cir. 2016).

¹⁵ See *Cisneros*, 972 F.3d at 1211-12; *Williams v. Mohawk Indus.*, 465 F.3d 1277, 1284-85 (11th Cir. 2006) (finding sufficient a common purpose of making money by hiring undocumented immigrants), *abrogated on other grounds as recognized in Simpson v. Sanderson Farms, Inc.*, 744 F.3d 702, 714-15 (11th Cir. 2014); *United States v. Pipkins*, 378 F.3d 1281, 1290 (11th Cir. 2004) (“Pipkins agreed to participate in an enterprise, the overall objective of which was to make money prostituting juveniles”); *United States v. Starrett*, 55 F.3d 1525, 1543-47 (11th Cir. 1995) (explaining that an association's devotion to making money from repeated criminal activity demonstrates an enterprise's common purpose of engaging in a course of conduct).

¹⁶ The continuity and relationship elements are derived from *United States v. Browne*, 505 F.3d 1229, 1257 (11th Cir. 2007) (noting that to establish a pattern of predicate acts, the plaintiff must prove that the predicate acts relate to each other and have continuity). The continuity of predicate acts was found to be satisfactorily alleged where defendants “had agreed to a scheme whereby [one] would supply [the other] with cocaine on an on-going basis.” *Starrett*, 55 F.3d at 1547; see also *Eleventh Circuit Pattern Jury Instructions, Civil Cases*, § 7.1 at 9, March 10, 2022 (“Continuity can be demonstrated in two basic ways. The first is to demonstrate related Predicate Acts extending over a substantial period of time . . . [or] conduct that does not occur over a substantial period of time but, by its nature, is likely to be repeated into the future”); *Eleventh Circuit Pattern Jury Instructions, Criminal Cases*, O75.1 at 4, March 10, 2022.

¹⁷ 18 U.S.C. §1962(c); see also *Cisneros*, 972 F.3d at 1211-12; *Williams*, 465 F.3d at 1284-85 (denying defendant’s Rule 12(b)(6) motion to dismiss RICO counts because plaintiff’s allegations that defendant had “committed hundreds, even thousands, of violations of federal immigration laws” were sufficient to plead a “pattern of racketeering activity”).

must relate to each other,” the Eleventh Circuit has held that “the predicate acts must ‘have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise [be] interrelated by distinguishing characteristics and . . . not [be] isolated events.’”¹⁸

32. Plaintiffs Wegman and Horrom each have standing to bring this action because they each were injured "by reason of the violation(s) of section 1962(c)" as set forth herein.¹⁹ To establish standing, Plaintiffs need only show that **at least one Predicate Act** of the pattern of Racketeering Activity resulted in injury to the Plaintiffs;²⁰ Plaintiffs need not demonstrate an injury caused by every alleged Predicate Act in order to establish standing.²¹

“Distinct” acts need not differ from one another in kind; however, to prove a pattern of Predicate Acts, the evidence must establish that the Racketeering Acts are “related” to one another, meaning they have the same or similar purposes, results, participants, victims, or methods. Predicate Acts are also related if they have common distinguishing characteristics and are not isolated events. *See Eleventh Circuit Pattern Jury Instructions, Civil Cases*, § 7.3 at 3. In other words, to be related, Predicate Acts do not have to be the same kind of acts—the Predicate Acts may, for example, comprise one act of Mail or Wire Fraud and one act of Witness Tampering.

¹⁸ *Jackson v. BellSouth Telecomms.*, 372 F.3d 1250, 1265 (11th Cir. 2004) (quoting *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496, n.14 (1985)).

¹⁹ *Eleventh Circuit Pattern Jury Instructions, Civil Cases*, § 7.1 at 9, March 10, 2022 (jury instruction requires that the jury decide whether the RICO violation caused an injury to plaintiff. Damages that plaintiff may recover are those caused by the predicate acts constituting the pattern of racketeering activity if they injure plaintiff or business or property).

²⁰ A civil RICO plaintiff must demonstrate a “(1) a violation of section 1962; (2) injury to business or property; and (3) that the violation caused the injury.” *O’Malley v. O’Neill*, 887 F.2d 1557, 1560 (11th Cir. 1989).

²¹ *See Eleventh Circuit Pattern Jury Instructions, Civil Cases*, § 7.3 at 6, March 10, 2022 (“***[i]t isn’t necessary that every predicate act caused damage to [Plaintiffs]***”) (emphasis added); *Cf. Deppe v. Tripp*, 863 F.2d 1356, 1366 (7th Cir. 1988) (“no requirement exists that the plaintiff must suffer an injury from two or more predicate acts”); *Town of Kearny v. Hudson Meadows Urban*

33. Plaintiffs' RICO injuries flow directly from the Defendants' Predicate Acts of Witness Tampering and Witness Retaliation, which are set forth and specifically alleged below, either one of which alone is sufficient to establish Plaintiff's standing to bring this action. Their unlawful terminations directly and proximately resulted from the Predicate Acts of Witness Tampering, 18 U.S.C. § 1512, and Witness Retaliation, 18 U.S.C. § 1513, respectively.²² Loss of employment or other business opportunities constitute an "injury to business or property."²³

B. The Association-in-Fact Enterprise.

34. Defendant USSSA, acting individually and collectively through the individual Defendants, and others listed herein, did form an association-in-fact for the common and continuing purpose described herein that constituted an

Renewal, 829 F.2d 1263, 1268 (3d Cir. 1987) ("[requiring] injury from the entire pattern rather than from any predicate act would . . . be inconsistent with the core Congressional purpose behind [RICO's] enactment"); *Shea v. Best Buy Homes*, 533 F. Supp. 1321, 1336 (N.D. Ga. Mar. 30, 2021) ("[i]t is the pattern which must be shown, not that the plaintiff was injured by each incident of which the pattern was comprised").

²² A civil RICO complaint adequately pleads causation if it contains factual allegations which, taken as true, demonstrate it is plausible that the predicate acts substantially contributed to the plaintiff's injury. *See Cox v. Administrator U.S. Steel & Carnegie*, 17 F.3d 1386, 1399 (11th Cir.), *cert. denied*, 513 U.S. 1110 (1995) (in civil RICO cases, "proximate cause is not . . . the same thing as a sole cause. Instead, a factor is a proximate cause if it is 'a substantial factor in the sequence of responsible causation.'" (citation omitted)).

²³ *See Williams*, 465 F.3d at 1286 (in civil RICO action by workers against employer, "[g]iven that a relationship clearly exists between plaintiff workers and their employer [defendant], we conclude that . . . the employee's alleged injury to their business interest satisfies the business-interest requirement.")

“enterprise” within the meaning of 18 U.S. 1961(4) and engaged in the conduct of their affairs through a pattern of racketeering activity.²⁴ The members of the enterprise functioned as a continuing unit with an ascertainable structure separate and distinct from that of the conduct of the pattern of racketeering activity.²⁵ The Association-in-Fact Enterprise engaged in, and its activities have affected, domestic and foreign commerce.

35. The "Association-in-Fact Enterprise" was an informal and continuing organization among: (a) USSSA, DeDonatis, Fortuna, Anderson, Ceo, and

²⁴ An "association-in-fact enterprise is simply a continuing unit that functions with a common purpose." *Boyle v. United States*, 556 U.S. 938, 948 (2009). To plead an association-in-fact enterprise, the Supreme Court has held that a plaintiff must allege that a group of persons shares three structural features: "(1) a 'purpose,' (2) 'relationships among those associated with the enterprise,' and (3) 'longevity sufficient to permit these associates to pursue the enterprise's purpose.'" *Id.* at 944, 946; *see also Williams*, 465 F.3d at 1284-85 (allegations that the defendant corporation worked with third-party agencies/recruiters to bring illegal workers into this country for the defendant's benefit were sufficient to allege common purpose); *Eleventh Circuit Pattern Jury Instructions, Criminal Cases*, O75.1 at 4-5, March 10, 2022; *Eleventh Circuit Pattern Jury Instructions, Civil Cases*, § 7.1 at 5, March 10, 2022.

²⁵ A RICO enterprise must be an entity separate and distinct from any individual defendant—a person cannot conspire with itself. *See Cedric Kushner Promotions, Ltd. v. King*, 533 U.S. 158, 161 (2001) (“to establish liability under §1962(c) one must allege and prove the existence of two distinct entities: (1) a "person"; and (2) an "enterprise" that is not simply the same "person" referred to by a different name”).

The Eleventh Circuit has explained that “a defendant can clearly be a person under the [RICO] statute and also be a *part* of the enterprise.” *United States v. Goldin Indus., Inc.*, 219 F.3d 1271, 1275 (11th Cir. 2000). In other words, the “prohibition against the unity of person and enterprise applies only when the singular person or entity is defined as both the person and the only entity comprising the enterprise.” *Id.* at 1275; *see also Llacua v. W. Range Ass’n*, 930 F.3d 1161, 1184 (10th Cir. 2019) (finding the distinctiveness requirement satisfied where the defendant was the executive director, board member, and president of a rancher association, and the alleged RICO enterprise was the association); *Jaguar Cars, Inc. v. Royal Oaks Motor Car Co.*, 46 F.3d 258, 268 (3d Cir. 1995) (holding that conduct by officers and employees who operate or manage a corporate enterprise satisfies the person/enterprise distinction);

Hornbacher; (b) other USSSA Board Members; (c) Defendants' separate organizations used to operate and manage state and local USSSA-connected athletic events in various states; (d) Employee-3 and affiliated organizations used to divert USSSA funds; and (e) relevant family members and friends connected to Defendants for purposes of operating USSSA regional, state, and local athletic events in various states.²⁶

C. Purposes of the Association-in-Fact Enterprise.

36. USSSA earns revenues from junior and adult athletic leagues and events that are operated by: (a) USSSA employees located at its national headquarters and (b) state and local representatives who oversee USSSA-sanctioned events.²⁷ USSSA's state and local representatives are not generally USSSA employees, but are typically independent contractors. USSSA national board members and senior executives maintain and value their ability to control, influence

²⁶ As discussed more in depth *infra*, Defendant Fortuna and Board Member-1 organized a separate regional entity, USSSA Midwest, to assume greater control over USSSA state and local events in ten separate states. The various components under USSSA Midwest are designed to funnel financial benefits to a select group of insiders.

²⁷ For these non-national events, USSSA earns registration fees, while individual state directors and event coordinators have the ability to earn revenues from the event fees, including a percentage of registration/entry fees, gate fees paid by attendees, and concession fees paid by attendees for food, souvenirs, and equipment.

and leverage their national positions into dominant and/or lucrative positions in regional, state and local markets.²⁸

37. The purposes of the Association-in-Fact Enterprise included:

(a) to protect and preserve USSSA and their respective individual roles and responsibilities at USSSA for which they were each compensated with lucrative salaries, bonuses, and other benefits;

(b) to leverage their respective roles at USSSA's national organization to exercise control, expansion, domination over USSSA's operations, through its regional and state organizations, to increase, directly and indirectly, financial benefits for themselves and for a close network of family and friends who were responsible for and participated in regional, state, and local USSSA-sponsored events;

(c) to prevent whistleblowers, other Board Members, Executive Management, managers, and employees at the national, regional, and state levels of USSSA from raising issues that would jeopardize their control of USSSA and potentially threaten each Defendant's financial compensation, bonuses, and benefits stemming from leveraging their respective roles to earn additional monies for themselves and for a close

²⁸ For example, Defendant Fortuna is the listed owner of Kansas City Sports LLC, which is located at 6324 N. Chatham, Suite 136, Kansas City, Missouri 64151, through which he earns revenues from USSSA-connected events in Kansas, Missouri, and other states.

In Defendant USSSA's 2019 Annual Form 990 at 30, USSSA listed "MO/KS" with the same address as Kansas City Sports LLC, 6324 N. Chatham, Suite 136, Kansas City, Missouri 64151, as an "Independent Contractor," which earned \$1,307,957 from USSSA tournament entry revenue in 2019. Notably, in the same filing, Defendant USSSA falsely certified that it was not "party to a business transaction" in 2019 with any "current or former officer [or] director" in excess of the \$100,000 reporting threshold for business transactions involving interested persons. *See* Internal Revenue Service, 2023 Instructions for Schedule L (Form 990).

Defendant DeDonatis is the owner of Michigan USSSA Baseball Inc., from which he earned revenue from Michigan state and local USSSA events. After he became CEO in 2018 of USSSA, Defendant DeDonatis allegedly transferred control of Michigan USSSA Baseball to his cousin, Defendant Hornbacher. This change was in name only since Defendant DeDonatis continued to control Michigan operations and earned significant revenues from USSSA events in Michigan. In 2015, for example, under Defendant DeDonatis' control, Michigan USSSA Baseball reported approximately \$532,259 in annual revenues on its Michigan Business Tax Annual Return.

network of family and friends who were responsible for and participated in regional and state USSSA-sponsored events;

(d) to punish, silence, terminate, and retaliate against whistleblowers and others at USSSA who raised legitimate concerns as to improper and illegal activities at USSSA, and thereby create a toxic culture of silence, fear, retaliation, punishment, which was necessary to prevent, ignore, and avoid any need for USSSA to make changes and potentially threaten each Defendant's financial compensation, bonuses, benefits and ability to supplement such benefits from leveraging their respective roles to earn additional monies for themselves and for a close network of family and friends who were responsible for and participated in regional and state USSSA-sponsored events;

(e) to deliberately or willfully ignore basic governance obligations to review and monitor USSSA's operations to ensure compliance with all applicable policies, regulations, and laws governing USSSA's operations, including but not limited to its culture of ethics and compliance, internal financial controls, accuracy of financial reports, books and records, handling of internal human relations and employment issues, enforcement of its whistleblower protection policy, the filing of accurate and complete annual IRS Forms 990.

D. Pattern of Racketeering Activity

38. The Defendants, each of whom are persons or a legal entity associated with, or employed by, the Association-in-Fact Enterprise, did knowingly, willfully and unlawfully conduct or participate, directly or indirectly in the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§1961(1)(3) and 1962(c). The racketeering activity was made possible by Defendants' regular and repeated use of the facilities and services of the Association-in-Fact Enterprise.

(i) Summary of Claims

Defendant(s)	Predicate Act(s)	Statute(s)	Nature of Offense	Time Period	PA Compl. ¶¶
USSSA DeDonatis Fortuna Anderson	Bank Fraud Mail Fraud Wire Fraud Predicate Acts 1-4	18 USC 1341 18 USC 1343 18 USC 1344	Illegal Loan	2016 - 2020	¶¶ 39 to 46
USSSA DeDonatis Fortuna	Mail Fraud Wire Fraud Predicate Acts 5-11	18 USC 1341 18 USC 1344	False Filing Annual Form 990	2016 - 2021 (Policies) 2018-2022 (Financial Information)	¶¶ 47 to 63
USSSA DeDonatis Hornbacher	Money Laundering Illegal Gambling Predicate Act 12	18 USC 1956 18 USC 1957 18 USC 1084	Illegal Sports Gambling	2014-2023	¶¶ 64 to 72
USSSA DeDonatis Fortuna Anderson Ceo	Witness Tampering Predicate Acts 13 and 14	18 USC 1952 (b)(1) (b)(2)(B) (b)(3) (c)(1) (c)(2) and (k)	Employee-2 Independent Contractor -1	Sept. 2022	¶¶ 73 to 80
USSSA DeDonatis Fortuna Anderson Ceo	Witness Retaliation Predicate Acts 15 and 16	18 USC 1513 (e) and (f)	Employee-2 Independent Contractor- 1	Sept. 2022	¶¶ 81 to 82
USSSA DeDonatis Fortuna Anderson Ceo	Witness Tampering Predicate Acts 17 and 18	18 USC 1952 (b)(1) (b)(2)(B) (b)(3) (c)(1) (c)(2) and (k)	Plaintiff Horrom Plaintiff Wegman	2022-2023	¶¶ 83 to 93
USSSA DeDonatis Fortuna Anderson Ceo	Witness Retaliation Predicate Acts 19 and 20	18 USC 1513 (e) and (f)	Plaintiff Horrom Plaintiff Wegman	2022-2023	¶ 94

E. Predicate Acts 1-4: Bank Fraud, Mail Fraud, and Wire Fraud (2016 Illegal Loans and April 2020 Amended Notes)

(i). April 2020 Three USSSA Board Members' Whistleblower Complaint

39. On April 23, 2020, Kevin Naegle, a voting member of USSSA's Board of Directors; Joey Odom, another voting member of USSSA's Board of Directors; and Billy E. Loftin, Jr., a former General Counsel and non-voting member of USSSA's Board of Directors, (collectively referred to as “the Board Authors”) filed a written complaint with USSSA's Board of Directors “regarding our growing concerns related to [Defendant DeDonatis].” *See* Exs. 3 and 4. The Board Authors requested that the USSSA Board of Directors engage an independent investigator to review these issues.²⁹ The specific issues concerning Defendants DeDonatis and Ceo included six separate items:³⁰

- (1) Inappropriate relationship with subordinate [Defendant Ceo];³¹
- (2) Inappropriate payments of funds to [Defendant Ceo] and improper use of USSSA funds to pay for [Defendant Ceo's]

²⁹ The Board Authors noted that the source(s) for these issues were “employees, directors, vendors, sponsors and non USSSA individuals.”

³⁰ The USSSA Board of Directors specifically acknowledged the receipt of the Board Author’s request under USSSA's formal Whistleblower Policy. At the USSSA Board Meeting on April 23, 2020, the Board voted 2-2 (unsurprisingly, Defendant Fortuna opposed) and did not agree to a motion to have Defendant DeDonatis undergo a drug test as requested by the Board Authors.

³¹ Defendants DeDonatis and Ceo's illicit relationship was well known to the USSSA's Board of Directors, senior management, managers, and employees.

travel, accommodations and related expenses for non-business reasons and events "going back for several years;"³²

- (3) Recreational use of illegal drugs and use of steroids;
- (4) Improper management and poor decision making related to the overall well-being of the organization and the staff;
- (5) Failure to pay Michigan State director fees, and
- (6) Failure to repay or attempt to make arrangements to repay all of USSSA's improper loans.³³

40. Rather than responsibly considering the Board Authors' allegations, USSSA's Board of Directors, along with Defendants DeDonatis, Fortuna, and Anderson, took steps, individually and in concert, to remove the Board Authors from their positions in order to silence them.³⁴ Defendants DeDonatis, Fortuna, and

³² Throughout their illicit relationship, Defendants DeDonatis and Ceo used tax exempt USSSA funds to pay for personal expenses, including lavish dinners at high class restaurants, travel and hotel expenses for amorous rendezvous, and Christmas gifts and flowers for Defendant Ceo.

Defendant USSSA is entitled to tax exempt status on the condition that "no part of the net earnings of [the] entity inures to the benefit of any private shareholder or individual. *See* 26 U.S.C. § 501(a) and (c)(4)(B). "The term 'no part' is absolute. The organization loses tax exempt status if even a small percentage of income is lent to a private individual." *Church of Scientology v. Commissioner*, 823 F.2d 1310, 1316 (9th Cir. 1987); *see also* Article IV, Articles of Organization of USSSA, LLC ("No part of the net earnings of the Company shall inure to the benefit of any private person . . ."). In addition, federal tax law explicitly prohibits self-dealing, including the lending of money and extension of credit terms. *See* 26 U.S.C. § 4941(d)(1)(B).

³³ On April 25, 2020, Mr. Loftin submitted a supplement to the initial complaint with additional details supporting several of the allegations. *See Ex. 4*. Defendant Anderson was unwilling to undertake an investigation of the allegations unless the Board Authors disclosed the identities of their information sources, contrary to USSSA's Whistleblower Policy. Despite the Board Authors' efforts to protect the identities of the whistleblowers who provided them with this information, Defendant Fortuna eventually learned the identity of one the whistleblowers, who Defendants Fortuna and DeDonatis then retaliated against as explained *infra* ¶ 40.

³⁴ Defendants DeDonatis, Fortuna, and Anderson knew that most of the allegations (except for the bonus payments made to Defendant Ceo) were in fact accurate and warranted further investigation in accordance with their respective statutory and fiduciary obligations and duties owed to USSSA.

Anderson, with the support of other USSSA Board Members, were able to derail any meaningful consideration of the allegations by entering into a “settlement” with Joey Odom to resign as a USSSA Board Member in exchange for his engagement as a consultant and USSSA’s agreement to fund his retirement, totaling \$285,000 in consulting fees, and a separate amount of \$1.025 million as payment for his “retirement.” Kevin Naegle and Billy Loftin were each forced to resign their positions as USSSA Board Members, and each received lucrative consulting and retirement compensation as well.

(ii). USSSA's Illegal Loans to Defendant DeDonatis

41. One of the issues of concern identified by the Board Authors was “improper” loans made by USSSA’s Board of Directors for the benefit of Defendant DeDonatis. In fact, in 2016, USSSA’s Board of Directors made two illegal loans to Defendant DeDonatis to purchase land and construct a new home in Rockledge, Florida, in violation of Florida law governing non-profit corporations. Specifically, on January 5, 2016, the USSSA Board of Directors approved the grant of two loans to Defendant DeDonatis: (1) a short-term loan for not more than 15 years at market rate for \$225,000 “as he is being considered for the future CEO position” and (2) an “80 percent housing loan not to exceed \$800,000 for the purchase of [a] home in Brevard [County].” Defendant USSSA funded the loans from an existing line of credit maintained by the organization at CenterState Bank in Orlando, Florida.

Plaintiffs have no information or documentation to indicate that USSSA disclosed to CenterState Bank that the loan proceeds were being used to fund an illegal loan to Defendant DeDonatis.

42. Defendant USSSA did not report the personal loan to Defendant DeDonatis in USSSA's 2016 Annual Form 990 filed with the Internal Revenue Service and did not document the loans in writing (or any terms for repayment) until 2020 in response to the Board Authors allegations.³⁵

43. Under Florida state law, USSSA's loans to Defendant DeDonatis violated Fla. Stat. Ann. § 617.0833 (2022), which provides:

Loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, may not be made by a corporation to its directors or officers . . . A loan made in violation of this section is a violation of the duty to the corporation of the directors or officers authorizing it or participating in it.

³⁵ However, in subsequent Annual Form 990 filings, Defendant USSSA listed the two loans as *approved* by the Board of Directors and acknowledged that there was *no written agreement*.

1. USSSA's 2017 Annual Form 990 reported the loans with an original principal amount of \$1,077,357 and a remaining balance of \$1,053,365;
2. USSSA's 2018 Annual Form 990 reported the loans with an original principal amount of \$1,053,365, and a remaining balance of \$1,033,759;
3. USSSA's 2019 Annual Form 990 reported the loans with an original principal amount of \$1,033,759 and remaining balance of the same.
4. USSSA's 2020 Annual Form 990 reported the loans with an original principal amount of \$1,033,759 and remaining balance of zero, presumably because Defendant DeDonatis repaid the loans.

In its Annual Form 990 filings for 2017-2019, Defendant USSSA acknowledged that the loans were made without a written agreement and described the loans' purpose as "Short Term Relo."

44. Defendant Anderson reached the same conclusion—that the loan violated Florida law—in a legal memorandum to the USSSA Board of Directors dated October 11, 2018.³⁶ Despite understanding that the two loans to Defendant DeDonatis were illegal, USSSA’s Board of Directors proceeded to grant the illegal loans,³⁷ made no effort to document the loans or establish written repayment terms, and failed to disclose the loans as required under in its 2016 Annual Form 990. It was not until 2020, and in response to the Board Authors' whistleblower complaint, nearly four years after Defendant USSSA initially authorized the illegal loans,³⁸ that

³⁶ Defendants USSSA, DeDonatis, Anderson, and Fortuna violated federal law and Florida not-for-profit law, first in 2016 and later in 2020, which prohibit private inurement for the benefit of a director or officer such as Defendant DeDonatis. *See, e.g.* Private Letter Ruling 201022030, 2010 PLR LEXIS 471, *1 (I.R.S. Mar. 12, 2010) (revoking non-profit’s tax exemption after organization violated I.R.C. § 4941 (prohibition against self-dealing) by extending loans to, and paying personal travel expenses for, a trustee); *Family Education & Health Ministry, Inc. v. Florida Department of Revenue*, Case No. 95-2114, DOR 95-18-FOF (Dec. 1, 1995) (“[T]he Florida Constitution [] forbids . . . allowing private interests to benefit from a reduction in their state tax liability); *see also* Article IV, Articles of Organization of USSSA, LLC (“No part of the net earnings of the Company shall inure to the benefit of any private person”).

³⁷ *See Orange Cty. Agric. Soc’y., Inc. v. Commissioner*, 893 F.2d 529, 534 (2d Cir. 1990) (“Courts have frequently held that loans extended on advantageous terms by an exempt organization to its founders or shareholders . . . indicate private inurement in violation of section 501(c)(3)”).

³⁸ Indeed, in April 2020, the Board of Directors took the unusual step, with Defendant Anderson’s assistance, of creating two new and separate notes, titling them as “Amended and Restated Notes,” both of which are undated, and reference an original Note, executed on April 1, 2017, one for \$225,000, with a maturity date of April 28, 2020, and another for \$800,000 with a maturity date of April 28, 2020. The two Amended and Restated Notes were executed by Defendant DeDonatis on April 28, 2020. *See Exs. 5 and 6*. By issuing the Amended and Restated notes in 2020, four years after the original illegal loans, Defendants USSSA, DeDonatis, Anderson, and Fortuna repeated their clear violations of Fla. Stat. Ann. § 617.0833, which prohibits not-for-profit corporations from extending loans to directors or officers.

USSSA, its Board of Directors and Defendant DeDonatis took steps to document the loan, enforce its terms and fully document the transaction.³⁹

45. As detailed above, and between the time period of 2016 and continuing until 2020, **Defendants USSSA, DeDonatis, Fortuna, and Anderson** committed the Predicate Acts of Bank Fraud,⁴⁰ Mail Fraud,⁴¹ and Wire Fraud, in connection

³⁹ Defendant DeDonatis made monthly payments on the loan to USSSA until early 2018 when he failed to make any additional payments. At the May 4, 2020, USSSA Board Meeting, Defendant Fortuna explained that Defendant DeDonatis's loan "is coming due and he is in the process of obtaining a loan to pay it off in full; however, he needs an extension on the loan to work through the bank process and get his banking in order." Defendant Fortuna explained that the "maturity date needs to be extended to allow [Defendant DeDonatis] sufficient time to pay off the debt, which would solve a lot of problems for the organization." He stated that extension of the maturity date would eliminate interest owed by Defendant DeDonatis. Defendant Fortuna's motion to extend the maturity date by 90 days was defeated by a tie vote, 2-2. Defendant DeDonatis was able to secure a mortgage and eventually paid off the loan.

⁴⁰ 18 U.S.C § 1344. The elements of the claim of Bank Fraud consist of:

- (1) the Defendant knowingly carried out or attempted to carry out a scheme to defraud a financial institution to get money, assets, or other property from a financial institution] by using false or fraudulent pretenses, representations, or promises about a material fact; (2) the false or fraudulent pretenses, representations, or promises were material; (3) the Defendant intended to defraud [the financial institution] [someone]; and (4) the financial institution was federally [insured] [chartered].

See Eleventh Circuit Pattern Jury Instructions, Criminal Cases, O52 March 10, 2022.

There are two separate offenses possible under Section 1344: (1) defrauding a financial institution; or (2) obtaining money or funds from the financial institution by means of material false or fraudulent pretenses, representations, or promises. *See United States v. Dennis*, 237 F.3d 1295, 1303 (11th Cir. 2001) (discussing elements of bank fraud under Section 1344); *United States v. Falcone*, 934 F.2d 1528, 1539 (11th Cir. 1991) (same).

⁴¹ 18 U.S.C. §§ 1341, 1343. The elements of the claim of Mail Fraud and Wire Fraud consist of:

- (1) the Defendant knowingly devised or participated in a scheme to defraud someone by using false or fraudulent pretenses, representations, or promises; (2) the false or fraudulent pretenses, representations, or promises were about a material fact; (3) the Defendant intended to defraud someone; and (4) the Defendant (*a*)

with the two original loans on January 5, 2016 for the personal benefit of Defendant DeDonatis (Predicate Acts 1 and 2) to purchase property and construct a new home in Rockledge, Florida; and the issuance of Amended and Restated Notes to Defendant DeDonatis on or about April 28, 2020 for each of the original loans (Predicate Acts 3 and 4).⁴²

46. In each Predicate Act, the original payment of the loan amounts to Defendant DeDonatis were secured from CenterState Bank, in Orlando, Florida, through an “artifice or scheme” that omitted disclosure of a material fact: the loan violated federal and Florida State laws governing non-profit organizations.

([used any private or commercial interstate carrier] by depositing or causing to be deposited with the carrier something meant to help carry out the scheme to defraud) or (b) the Defendant transmitted or caused to be transmitted by wire or radio some communication in interstate commerce to help carry out the scheme to defraud.

See Eleventh Circuit Pattern Jury Instructions, Criminal Cases, O50.1, March 10, 2022.

⁴² The Supreme Court has held that “a plaintiff asserting a RICO claim predicated on mail fraud **need not show**, either as an element of its claim or as a prerequisite to establishing proximate causation, that it relied on the defendant’s alleged misrepresentation.” *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639, 661 (2008) (emphasis added).

Civil RICO claims predicated on fraud charges “must establish at least third-party reliance in order to prove causation,” which Plaintiffs establish in the instant case based on the U.S. government’s reliance on Defendant USSSA’s misrepresentation of itself as a not-for-profit social welfare organization pursuant to 26 U.S.C. § 501(c)(4). Based on these misrepresentations, the U.S. government continued to grant a tax exemption to Defendant USSSA, thereby enabling the Association-In-Fact Enterprise to avoid taxes and further facilitating the unlawful inurement of USSSA’s tax exempt earnings to private individuals (members of the Enterprise).

**F. Predicate Acts 5 to 11: Mail Fraud and Wire Fraud
(Annual Form 990 Filings for 2016 through 2022)**

47. Beginning at least sometime in 2016 and continuing to and including 2022, **Defendants USSSA, DeDonatis, and Fortuna** committed racketeering offenses of Mail Fraud, 18 U.S.C §1341, and Wire Fraud, 18 U.S.C §1344, in connection with the submission and filing of USSSA's Annual Report Form 990,⁴³ with the Internal Revenue Service for the years 2016, 2017, 2018, 2019, 2020, 2021, and 2022 through the United States mails or via wire, each of which contained false material facts.⁴⁴

(i). Governance Management and Disclosure

48. Part VI, *Governance, Management and Disclosure*, Part B, Questions 12 and 13 of IRS Annual Form 990 requires a filing entity to provide information about the non-profit entity's internal policies, including questions concerning the adoption of conflict of interest and whistleblower policies. On September 17, 2019,

⁴³ While Tax Fraud is not itself a RICO predicate, “mailing fraudulent tax returns is indictable as mail fraud,” which is among the RICO predicate offenses enumerated in § 1961(1). *United States v. Busher*, 817 F.2d 1409, 1412 (9th Cir. 1987); *see also Anza v. Ideal Steel Supply Corp.*, 547 U.S. 451, 487 (2006) (Breyer, J., concurring) (noting that the alleged RICO predicate act—filing a false sales tax return—was “indictable under the federal mail fraud statute”); *United States v. Young & Rubicam, Inc.*, 741 F. Supp. 334, 338 (D. Conn. 1990) (“The mail fraud statute may be a RICO predicate even though defendants’ conduct may violate another, more specific statute which is not a RICO predicate”).

⁴⁴ USSSA’s Annual Form 990 filings for the years 2016, 2017, 2018, 2019, 2020, 2021, and 2022 can be accessed publicly at the following site: <https://projects.propublica.org/nonprofits/>.

USSSA's Board of Directors adopted a conflict of interest policy and a whistleblower protection policy.⁴⁵ Prior to that date, USSSA did not have either.

49. In each of its Annual Form 990 filing for the years 2016, 2017 and 2018, USSSA falsely stated that it had adopted or maintained a written conflict of interest policy. In addition, for the years 2019, 2020 and 2021, USSSA falsely stated that it did not have a written whistleblower policy.

(ii). Financial Reports

50. For the years 2018 through 2022, Defendants USSSA, DeDonatis and Fortuna, acting individually or in concert, filed false and misleading Annual Form 990 reports which were based on misleading and inaccurate books and records resulting from: (a) Defendants DeDonatis and Ceo improper use of USSSA funds for private getaways, vacations, and other personal benefits, which was known or sanctioned by USSSA's Board of Directors, Defendant Fortuna, and Defendant Anderson;⁴⁶ (b) Defendants DeDonatis, Fortuna, Hornbacher, Board Member-1, Employee-3 (and his affiliated organizations) and family members and relatives of Defendants Fortuna and Board Member-1, who engaged in improper and illegal diversion and caused underreporting of USSSA revenues and expenses.

⁴⁵ USSSA's Conflict of Interest Policy and Whistleblower Protection Policy are attached as Exs. 7 and 8, respectively.

⁴⁶ See Ex. 2 for a sample of USSSA funds used by Defendant DeDonatis and Ceo for private purposes.

51. Diversion of Skills Competitions and World Series Revenues.

Between the period 2021 to 2023, Defendants DeDonatis and Hornbacher diverted USSSA revenues to improperly and unlawfully benefit themselves and Employee-3 for the 2021 and 2022 USSSA Skills Competitions, totaling approximately \$96,000;⁴⁷ the 2022 and 2023 Firecracker World Series, totaling approximately \$226,495 (\$126,610 + \$99,885); and the 2022 and 2023 Global World Series, totaling approximately \$136,170 (\$69,075 + \$67,095).⁴⁸

52. Diversion of USSSA Revenues to USSSA Midwest. In or about sometime in 2022, at the behest of Defendant Fortuna and Board Member-1, and with USSSA's knowledge and awareness,⁴⁹ Defendant Fortuna and Board Member-1 organized a separate regional organization, USSSA Midwest, to assume increased control over USSSA state and local events in ten separate states.⁵⁰ Defendant

⁴⁷ For 2021 and 2022, USSSA conducted four to six skills competitions per year, and each event generated between \$12,000 and \$15,000; a conservative estimate is that Defendants DeDonatis and Hornbacher and Employee-6 illegally diverted approximately at least \$48,000 in each year to the non-USSSA bank account for their joint personal benefit.

⁴⁸ Defendants DeDonatis and Hornbacher referred to these revenues as part of "their slush fund." In addition to the diversion of the Firecracker World Series and Global World Series events, Defendant DeDonatis instructed a USSSA staff member not to collect approximately \$25,900 in USSSA sanction fees for the Panama City Global World Series, presumably to increase the revenue earned by the beneficiary of the specific event. Ultimately, these fees were not collected and recorded in USSSA's books and records.

⁴⁹ Defendant DeDonatis and Defendant Anderson were aware of the USSSA Midwest proposal and the impact such a proposal would have on USSSA's national operations.

⁵⁰ See current website providing information about Midwest USSSA available at <https://www.midwest-ussa.com/>.

Fortuna and Board Member-1 proposed to inject a regional organization between USSSA national and individual state and local directors. Such a structure was designed to increase revenues to their own or related states and local operations, as well as those owned and operated by close family members and relatives.

53. Defendant DeDonatis, while hesitant about the USSSA Midwest proposal, understood that permitting Defendant Fortuna and Board Member-1 to create USSSA Midwest may “benefit” him if he could “trade” his support for his own activities and potential proposals to benefit himself, his friends, and associates, including Employee-3 and Defendant Hornbacher.

54. USSSA Midwest consists of five components and has significant ties to family members of Defendant Fortuna and Board Member-1. The five constituent groups include: (1) South Dakota, North Dakota, Minnesota, and Wisconsin, which are managed by Garrett Fortuna (Defendant Fortuna’s son) and a second person who is a relative of Board Member-1; (2) Iowa, which is managed by Board Member-1 and another individual; (3) Kansas, Missouri, and Oklahoma, which are directed by Wally Fortuna (Defendant Fortuna’s brother); (4) Nebraska; and (5) Illinois.

55. USSSA Midwest operated for the benefit of Defendant Fortuna,⁵¹ Board Member-1, and their family members and friends, and, with the support of USSSA, constituted an illegal diversion of non-profit generated funds for personal inurement, in violation of applicable statutory and common law requirements governing proper operation of a non-profit organization and ultimately, adherence to directors' and officers' fiduciary duties.

56. The creation of USSSA Midwest resulted in increased revenues to its constituent regional and state organization. By draining these revenues, USSSA, along with Defendants Fortuna, DeDonatis, Anderson, Board Member-1, and Employee-3, under-reported USSSA's national revenues and expenses as reflected in its annual Form 990 filing for at least 2022. In filing these false reports, the named Defendants committed fraud against the Internal Revenue Service.

57. **Diversion of National All-State Event Revenues.** Starting in 2022 and continuing in 2023, Defendants USSSA, Fortuna, and DeDonatis, Board

⁵¹ Further evincing Defendant Fortuna's control of USSSA Midwest, the organization has maintained an X (f.k.a. Twitter) account since Dec. 2020, which follows just five (5) accounts:

1. "@RickFortunaKC" (Defendant Fortuna's personal X account);
2. "@KCSPORTS" (a Missouri-based entity owned by Defendant Fortuna);
3. "@iPickleNation" (a Missouri-based entity owned by Defendant Fortuna);
4. "@USSSA_KC" (also created in Dec. 2020, this account likewise follows Fortuna accounts 1-3 listed above, and is thus presumptively operated by Defendant Fortuna); and
5. "@jc3and2baseball," a Kansas City-based baseball non-profit.

See People followed by USSSA Midwest (@USSSA_Midwest), X (f.k.a. Twitter), accessible at https://x.com/USSSA_Midwest/following (last visited Apr. 16, 2024).

Member-1, Employee-3, and his affiliated entities, USSSA Midwest, and other individuals diverted significant revenues from USSSA's National All-State event to the benefit of USSSA Midwest, Board Member-1, and Employee-3. Specifically, in 2022, two National All-State events were conducted—one in Viera, Florida, at USSSA's national sports complex, and a second at Memphis, Tennessee. In 2023, the National All-State event was held in Dallas, Texas.

58. The National All-State event brings together all-star baseball youth teams from each participating state and generates significant revenues. For example, the 2022 National All-State events in Viera, Florida and in Memphis, Tennessee earned approximately \$500,000 in total revenues; the 2023 Dallas, Texas National All-State event earned over \$550,000 in revenues; and the planned 2024 National All-State event in Kansas City, Missouri is projected to earn more than \$1,000,000 in revenues.⁵²

59. Defendant USSSA incentivizes state directors to participate in National Events by offering cash rebates to the state directors for each player who joins from their respective states. USSSA, as the sponsor and operator of the events, typically would collect the bulk of the revenues to benefit its operation. However, Defendant Fortuna, Defendant DeDonatis, Board Member-1, and Employee-3 diverted funds

⁵² Event revenues may include rebates earned from hotels and revenues from merchandise sales.

from USSSA and deposited revenues from each event in 2022 and 2023 into a bank account controlled by Employee-3 and his affiliated companies.

60. In order to conceal the unlawful diversion of revenue in 2022 and 2023, Defendant DeDonatis and Employee-3 ordered USSSA finance staff to pay state director rebates from the National All-State event using USSSA bank accounts. Employee-3 then reimbursed USSSA for the total rebate amount. This created the appearance to state directors that revenue from the event—from which rebates were to be paid—had been properly collected by, and remained under the control of, Defendant USSSA. In reality, the revenue from these events had been diverted for the personal benefit of Defendant Fortuna, Defendant DeDonatis, and Employee-3. The rebates reimbursed to Defendant USSSA represented a small fraction of the unlawfully diverted event revenues; the rest of which were never recorded in USSSA's books and records.⁵³

⁵³ For example, combined revenues for the 2022 Viera, FL and Memphis, TN National Events totaled approximately \$500,000, all of which was diverted to a bank account controlled by Employee-3. Employee-3 then remitted \$53,625 to Defendant USSSA, representing the full amount due for State Director rebates, in order to conceal the diversion of revenue from the State Directors. The rest of the event funds, approximately \$446,375, remained under Employee-3's control, were never recorded in USSSA's books and records, and were instead used for the personal benefit of certain insiders, including Defendant DeDonatis and Employee-3. Defendant USSSA—through its Board, specifically Defendant Fortuna and Board Member-1—was aware of and ultimately sanctioned this arrangement.

(iii). Annual Form 990 Filing

61. USSSA filed an Annual Form 990 as required under federal tax law for the years 2016 to 2022. Defendants DeDonatis and Fortuna reviewed and approved the filing of each Annual Form 990. Each Annual Form 990 was formally executed by Defendant DeDonatis with the signature lines containing the following statement:

Under penalty of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

62. As recounted above, USSSA's Annual Form 990 for the years 2016 to 2022 each contained material false and misleading facts. **Defendant USSSA, Defendant DeDonatis and Defendant Fortuna** were responsible for the review and filing of these annual reports and the accuracy of the information contained therein.

63. By filing or causing to be filed Annual Form 990s for the years 2016 to 2022, via wire or the mails, the Defendants deliberately and knowingly intended to mislead the Internal Revenue Service concerning various aspects of USSSA's operations. Their actions constituted Mail Fraud and/or Wire Fraud. The Defendants acted individually and in concert, through the RICO Association-in-Fact Enterprise by engaging in a criminal act to further the purposes of the Association-in-Fact Enterprise.

G. Predicate Act 12: Illegal Bookmaking & Sports Gambling and Money Laundering

64. Beginning in or about sometime in 2014 and continuing until in or about July 2023, **Defendants USSSA, DeDonatis, and Hornbacher**, acting individually and in concert with other individuals known and unknown, operated an illegal bookmaking and sports gambling business during and in relation to their employment at USSSA, and by using USSSA's offices, facilities, equipment, computers, and mobile phones, all in violation of the following provisions of the

United States Code: Transmission of Wagering Information,⁵⁴ Illegal Gambling Business,⁵⁵ and Money Laundering.⁵⁶

65. Prior to assuming his position as USSSA's Chief Executive Officer, while serving as an Assistant Executive Director, USSSA Board Member, and State

⁵⁴18 U.S.C. § 1084(a). The elements of Transmission of Wagering Information consist of:

- (1) the Defendant was in the business of betting; (2) as a part of the business, the Defendant knowingly used a wire communication facility to send in interstate [or foreign] commerce bets or information to help with placing bets on a sporting event; and (3) the defendant did so knowingly and intentionally.

See Eleventh Circuit Pattern Jury Instructions, Criminal Cases, O44 at 1, March 10, 2022.

⁵⁵18 U.S.C. § 1955. The elements of Illegal Gambling Business consist of:

- (1) At least five people, including the Defendant, knowingly conducted, financed, managed, supervised, directed, or owned all or part of a gambling business; (2) the gambling business violated the laws of Florida; and (3) the gambling business was in substantially continuous operation for at least 30 days or had gross revenue of at least \$2,000 on any one day.

See Eleventh Circuit Pattern Jury Instructions, Criminal Cases, O73 at 1, March 10, 2022.

Florida law also prohibits both illegal bookmaking and sports gambling. *See Fla. Stat. § 849 et seq.* Illegal bookmaking and sports gambling classified as third-degree felonies, punishable by up to five (5) years in prison and a fine of up to \$5,000. *See Fla. Stat. Ann. §§ 775.082, 775.083.*

⁵⁶18 U.S.C §1956(a)(1). The elements of Money Laundering consist of:

- (1) the Defendant knowingly conducted or tried to conduct, a financial transaction; (2) the Defendant knew that the money or property involved in the transaction were the proceeds of some kind of unlawful activity; (3) the money or property did come from an unlawful activity, specifically Transmission of Wagering Information and an Illegal Gambling Business, a "specified unlawful activity," under 18 U.S.C. 1956(c)(7)(A); and (4) the Defendant was involved in the financial transaction with the intent to promote the carrying on of that specified unlawful activity.

Eleventh Circuit Pattern Jury Instructions, Criminal Cases, O74.1, 74.6, March 10, 2022; *see also* 18 U.S.C. § 1957(a) and (d)(1).

Director of Michigan, Defendant DeDonatis operated an illegal bookmaking and sports gambling business with clients located in a variety of states. After his appointment as USSSA's CEO in 2018, Defendant DeDonatis delegated the day-to-day management of his illegal bookmaking and sports gambling business to Defendant Hornbacher, his cousin, who replaced Defendant DeDonatis as the USSSA State Director for the State of Michigan.

66. Working together, Defendant DeDonatis and Defendant Hornbacher ran this illegal operation through an offshore website, AnySport247.com. Clients had access to this website to view betting lines and to place wagers. This website helped Defendants keep track of the winnings and losses of the operation's clients. Defendants would then receive and send funds to settle with these clients. Defendants DeDonatis and Hornbacher utilized the assistance of more than five individuals, including several individuals who received monetary incentives for promoting the bookmaking operation and referring additional bettors.⁵⁷

67. After his appointment as Chief Executive Officer at USSSA, Defendant DeDonatis and Defendant Hornbacher continued their illegal bookmaking and sports gambling business, which they conducted while present in and using USSSA's assets, all in violation of both federal and Florida State law. USSSA facilitated and

⁵⁷ "Congress' intent was to include all those who participate in the operation of a gambling business, regardless [of] how minor their roles . . . and to exclude only customers of the business." *United States v. Becker*, 461 F.2d 230, 232 (2d Cir. 1972).

aided and abetted Defendants DeDonatis and Hornbacher's illegal gambling business, knowing that they were using USSSA's offices, facilities, and assets, including USSSA telephones, mobile phones, computers, and other equipment.⁵⁸ Some specific examples of their illegal betting activity are set forth below.

68. On or about March 23, 2017, an individual requested login information to the AnySport247.com website from Defendant DeDonatis. Defendant DeDonatis provided the user with information to access an account on that platform. The two then remarked on the difficulty of betting on basketball games.

69. On or around April 7, 2019, an individual sent Defendant DeDonatis a screenshot of the AnySport247 platform that noted this individual had hit his or her maximum wager amount of \$200. That individual requested that the limit be

⁵⁸ Defendants in the 11th Circuit have been convicted of aiding and abetting the transmission of wagering information by interstate wire facilities where the defendant knowingly enabled the use of such facilities by another. *See United States v. Sklaroff*, 323 F. Supp. 296, 314-315 (S.D. Fla. 1971) (Defendant "aided and abetted" violation of 18 U.S.C. § 1084 by permitting another to transmit wagering information interstate "**over a telephone located in [Defendant's] apartment**") (emphasis added). Further, "the word 'use' in 18 U.S.C. § 1084 is not limited to physical use by the defendant . . . [rather], one may 'use' the facility through another." *Id.* at 315 (citing *United States v. Kelley*, 254 F. Supp. 9 (S.D.N.Y. 1966)).

Defendant USSSA aided and abetted Defendant DeDonatis and Defendant Hornbacher in violating Section 1084 by knowingly allowing their illegal use of Defendant USSSA's wires for purposes of facilitating the interstate transmission of gambling information, and is thus "chargeable as a principal" in relation to this offense. *Id.*

As elaborated more completely below, Defendant USSSA had actual knowledge of its facilitation of illegal gambling activities based on Plaintiff Horrom's late-2022 and early-2023 anonymous whistleblower reports. Instead of taking appropriate remedial action, Defendants USSSA, DeDonatis, Fortuna, and Anderson acted in concert to terminate and retaliate against Plaintiff Horrom to silence him and discourage others from coming forward. *See infra* ¶¶ 84-89.

increased. Defendant DeDonatis responded by requesting the amount that the individual wanted as a maximum wager, to which that individual requested an increase to \$400. Defendant DeDonatis subsequently confirmed that he made the requested change.

70. On or around February 12, 2022, Defendant Hornbacher provided an individual with login information to the AnySport247 platform in order to review the available betting lines and proposition bets for the upcoming NFL Super Bowl. When asked if that specific AnySport247 account was controlled by him and Defendant DeDonatis, Defendant Hornbacher replied in the affirmative.

71. On or around December 21, 2022, Defendant DeDonatis provided login information to the AnySport247 platform in response to an individual soliciting betting opportunities on upcoming sporting events. That login information led to an active account that included a variety of pages on the AnySport247 platform, including betting lines and proposition bets for upcoming sporting events. Further, this login information led to an account dashboard that provided information relating to “Current Balance,” “Available Balance,” “Amount at Risk,” “Last Week Win/Loss Figure,” “This Week Win/Loss Figure,” and other financial metrics.

72. Overall, Defendants DeDonatis and Hornbacher collected and distributed large amounts of cash to and from their betting clients, and at times utilized USSSA staff and facilities for this operation. Defendant DeDonatis and

Defendant Hornbacher often received single wagers of greater than \$2,000. On at least one occasion, Defendant DeDonatis directed Employee-1 to pick up an envelope filled with cash from individuals in an automobile outside of USSSA's offices, believed to be related to this bookmaking and sports gambling operation.

H. Predicate Acts 13 and 14: Tampering with a Witness Employee-2 & Independent Contractor-1

(i). Employee-2

73. In or about sometime between April and September 2022, **Defendants USSSA,⁵⁹ DeDonatis, Fortuna, Anderson, and Ceo**, acting individually and in

⁵⁹ Numerous Courts of Appeal have permitted corporations to be held vicariously liable for RICO violations committed by their employees on the basis of respondeat superior. *See, e.g., Quick v. Peoples Bank of Cullman Cnty.*, 993 F.2d 793, 797 (11th Cir. 1993); *Davis v. Mut. Life Ins. Co. of New York*, 6 F.3d 367, 379 (6th Cir. 1993); *Brady v. Dairy Fresh Prods. Co.*, 974 F.2d 1149, 1154 (9th Cir. 1992); *Petro-Tech, Inc. v. W. Co. of N. Am.*, 824 F.2d 1349, 1361-62 (3d Cir. 1987); *Liquid Air Corp. v. Rogers*, 834 F.2d 1297, 1306 (7th Cir. 1987).

This approach fails where the corporation itself comprises the alleged RICO enterprise and thus fails to satisfy RICO's distinctness requirement. *See Toucheque v. Price Bros. Co.*, 5 F. Supp. 2d 341, 347 (D. Md. 1998).

The Eleventh Circuit has set forth "general agency principles" to be applied in determining whether a *prima facie* case of vicarious liability may be established under RICO:

Under general agency rules, a corporation (principle) will be vicariously liable for the wrongful acts of its employees (agents) when the acts are: (1) related and committed within the course of employment; (2) committed in furtherance . . . of the corporation; and (3) authorized or subsequently acquiesced in by the corporation.

See Quick, 993 F.2d at 797.

Predicate Acts 13 and 14 were undertaken by Defendants DeDonatis, Fortuna, Anderson, and Ceo: (1) within the course of their employment with Defendant USSSA; (2) committed in furtherance of Defendant USSSA—specifically, in order to maintain its status as a tax exempt entity from which the Enterprise-in-Fact members could continue to unlawfully inure themselves; and (3) were authorized or subsequently acquiesced in by USSSA.

concert, did engage in misleading conduct toward another person, that is, Employee-2, with intent to: (1) influence, delay or prevent the testimony of Employee-2 in an official proceeding, in violation of 18 U.S.C. § 1512(b)(1) and (k); (2) cause or induce any person to alter, destroy, mutilate or conceal an object, consisting of employment records, employment reviews and documentation relating to Employee-2's employment at USSSA, with intent to impair such records' integrity or availability for use in an official proceeding, in violation of 18 U.S.C. § 1512(b)(2)(B) and (k); and/or (3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense, in violation of 18 U.S.C. § 1512(b)(3) and (k).⁶⁰

As such, to the extent that Predicate Acts 13 and 14 are not directly attributable to Defendant USSSA, these acts may be attributed to Defendant USSSA on the basis of respondeat superior.

⁶⁰18 U.S.C. § 1512(b) provides (in pertinent part):

Whoever . . . engages in misleading conduct toward another person with the intent to --

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to --

(B) alter, destroy, mutilate or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense.

74. In the aftermath of the whistleblower complaint lodged by the Board Authors in April 2020, Defendants Fortuna, and subsequently Defendants DeDonatis and Anderson learned that Employee-2 was one of the witnesses who provided information to support the allegations against Defendant DeDonatis' improper and illegal activities that were raised by the Board Authors in their whistleblower complaint.

75. As a consequence, Defendants DeDonatis, Fortuna, and Anderson, acting individually and in concert, sought to "isolate" Employee-2 from certain USSSA issues so that Employee-2 would not obtain access to any confidential information that could be used against USSSA or any individual member of the Association-in-Fact Enterprise. To ensure their "isolation" strategy, Defendant DeDonatis installed electronic surveillance equipment to record Employee-2's communications while working at USSSA's office. Defendant DeDonatis reviewed these communications involving Employee-2 to make sure that Employee-2 was not acting in a "disloyal" manner.

76. Eventually, Defendants Fortuna, DeDonatis, and Anderson decided to terminate Employee-2, and did so in order to eliminate any possibility that Employee-2 would raise any concerns about unethical and illegal conduct at USSSA. To accomplish the termination and to ensure the silence of Employee-2, in or about September 2022 Defendants USSSA, DeDonatis, Fortuna, and Anderson negotiated

a Separation Agreement and Mutual General Release with Employee-2, which included robust non-disclosure provisions.

(ii). Independent Contractor-1

77. In another incident arising from the April 2020 Board Authors filing a whistleblower complaint with USSSA's Board of Directors, Independent Contractor-1 ("IC-1")—USSSA's Director for the State of North Carolina—alleged that he was retaliated against by Defendants USSSA, DeDonatis, Fortuna, and Anderson, as well as Employee-3 and other USSSA affiliated individuals, because he raised concerns about illegal activity at USSSA. In a letter submitted in August 2020, IC-1 alleged that USSSA was seeking to terminate his position as the North Carolina State Director and take baseball fields he controlled in North Carolina in order to cause him harm in retaliation for raising concerns with Defendant DeDonatis about Defendant USSSA's improper and illegal activities.⁶¹

78. In or about sometime around August 2020, **Defendants USSSA, DeDonatis, Fortuna, and Anderson**, acting individually and in concert, did engage in misleading conduct toward another person, that is, IC-1, with intent to: (1) influence, delay or prevent the testimony of IC-1 in an official proceeding, in violation of 18 U.S.C. § 1512(b)(1) and (k); (2) cause or induce any person to alter, destroy, mutilate, or conceal an object, consisting of USSSA records,

⁶¹ See Ex. 9.

documentation, and reports relating to the appointment of IC-1 as USSSA State Director for North Carolina, and replacement of IC-1 in that position with Employee-3, with intent to impair such records' integrity or availability for use in an official proceeding, in violation of 18 U.S.C. § 1512(b)(2)(B) and (k); and/or (3) to hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense, in violation of 18 U.S.C. § 1512(b)(3) and (k).

79. In his August 2020 letter, IC-1 specifically alleged that in order to secure a second USSSA-sponsored event, a National Invitational Tournament ("NIT") in North Carolina, Defendant Fortuna demanded that IC-1 pay him a bribe. After agreeing to make such a payment to Defendant Fortuna, IC-1 was awarded a second USSSA sponsored NIT event. Subsequently, IC-1 stated he gave \$6,500 in a brown paper bag to Board Member-2 as payment for the amount demanded by Defendant Fortuna. According to IC-1, Board Member-2 subsequently confirmed to IC-1 that he gave the payment to Defendant Fortuna and that other Board Members shared the "payoff."

80. To punish and retaliate against IC-1 for raising these allegations, Defendant USSSA, along with Defendants DeDonatis, Fortuna, and others at the organization, terminated IC-1's role as USSSA's North Carolina State Director and replaced IC-1 in that position with Employee-3.

**I. Predicate Acts 15 and 16: Witness Retaliation
Employee-2 and IC-1**

(i). Employee-2

81. In or about sometime around September 2022, **Defendants USSSA, DeDonatis, Fortuna, and Anderson**, acting individually and in concert, did knowingly, with the intent to retaliate and interfere with the lawful employment and livelihood of Employee-2, terminated Employee-2 from USSSA, in order to prevent and retaliate against Employee-2 for providing, or attempting to provide, to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, in violation of 18 U.S.C. §1513(e) and (f).⁶²

(ii). Independent Contractor-1

82. In or about sometime around August 2020, **USSSA, DeDonatis, Fortuna, and Anderson**, acting individually and in concert, did knowingly, with the intent to retaliate, and interfere with the lawful employment and livelihood of IC-1 by terminating IC-1's position as State Director for North Carolina in order to

⁶²18 U.S.C. §1513(e) and (f) provide (in pertinent part):

(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

(f) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

prevent and retaliate against IC-1 for providing, or attempting to provide, to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, in violation of 18 U.S.C. §1513(e) and (f).

**J. Predicate Acts 17 and 18: Tampering with a Witness
Plaintiff Wegman (17) and Plaintiff Horrom (18)**

83. Between the period of December 2022 and continuing up to and including July 2023, **Defendants USSSA, DeDonatis, Fortuna, Anderson, and Ceo**, acting individually and in concert, did engage in misleading conduct toward another person, that is, Plaintiff Horrom and Plaintiff Wegman, respectively, with intent to: (1) influence, delay, or prevent the testimony of Plaintiff Horrom and Plaintiff Wegman in an official proceeding, in violation of 18 U.S.C. §1512(b)(1) and (k); (2) cause or induce another person to alter, destroy, mutilate, or conceal an object, consisting of employment records, reviews, and related documentation relating to Plaintiff Horrom's and Plaintiff Wegman's employment at USSSA, with intent to impair such records' integrity or availability for use in an official proceeding, in violation of 18 U.S.C. §1512(b)(2)(B) and (k); and/or (3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense, in violation of 18 U.S.C. §1512(b)(3) and (k).

84. In late 2022, and on January 12, 2023, in two separate submissions, Plaintiff Horrom, with the assistance and support of Plaintiff Wegman (and

Employee-1), filed anonymous whistleblower complaints with Defendants USSSA and Fortuna alleging that Defendants DeDonatis and Hornbacher were involved in an illegal bookmaking and sports gambling operation, and that Defendant Fortuna was covering up those illegal activities.⁶³

(i). Plaintiff Horrom’s Initial Complaint

85. In the initial complaint, Plaintiff Horrom threatened to report the illegal bookmaking and sports gambling activities to national media and law enforcement authorities unless USSSA took the following actions by 12:00am on January 2, 2023: (1) removal of Defendant DeDonatis from USSSA and affiliated operations; (2) removal of Defendant Fortuna, USSSA Board Chairman, from USSSA and affiliated operations, citing Defendant Fortuna’s “failure to maintain obligations to USSSA as Executive Director of the Board and the protection of [Defendant DeDonatis]”; (3) clear communication, both internal to USSSA as well as publicly of the complete removal of both [Defendants DeDonatis and Fortuna]; and (4) clear communication, both internal to USSSA and publicly, that a “task force made up of internal and external members will be formed to investigate and prevent this type of activity to occur again.”

⁶³The initial complaint stated that “we have proof in hand” that “shows and links [Defendant DeDonatis] to the management and participation [in] illegal offshore gambling properties and activities. We also have text messages to and from [Defendant DeDonatis] that clearly show management of such activities performed on and at USSSA owned properties.”

86. Almost two weeks later, on January 12, 2023, Plaintiff Horrom sent an anonymous email communication to Defendant Anderson and the USSSA Board of Directors repeating the allegations and providing more information (emphasis added):

Since we have not seen or heard of any public announcement per our previous letter, we have to assume you have chosen not to take our request seriously. Our goal is not to do any undo harm to USSSA but to hold those accountable for the administration and management of illegal offshore gambling "bookie" activities. With this in mind, we have attached a small sample of the physical proof we have gathered that shows the extent of Don DeDonatis III active involvement in said illegal activities.

Per the attachments you will see a text message to and from Don DeDonatis III to open an account on the offshore website and the quick turnaround reply of such request being fulfilled with username and password texted back from Don DeDonatis III. As time has gone by, we have continued to gather similar text messages from others. We are also attaching proof of login with given account credentials to the site anysport247.com. All this communication is via text, which has historic traceability, and can be/will be available to law enforcement.

In further research we have also found that Don DeDonatis III is working with another person within the organization in the administration and management of this illegal activity. Based on the most recent conversations we also now believe that the knowledge of all this illegal activity is broad and well known within the USSSA organization and has been going on for an extended period of time.

Our demands are consistent with our initial letter and the 4 demands we had in it, which in summary is the complete removal of both Don DeDonatis III and Rick Fortuna from all USSSA business operations and the clear communication to both internal members of USSSA as well as publicly of such removal. ***Our actions if these are not met by end of business EDT on January 13th, 2023, will be our final act as we will send over everything we have to date over to the national***

media, state of Florida gaming task force as well as DOJ/FBI task forces specific to this type of activity.

This is your notice as the general counsel for USSSA, a youth and professional sport association, that you have been informed of Don DeDonatis III illegal bookie activities and of Rick Fortuna's knowledge but lack of action.

87. Defendants Fortuna and Anderson learned that Plaintiff Horrom was the anonymous whistleblower.⁶⁴ Defendants DeDonatis and Hornbacher knew or suspected that Plaintiff Horrom was the anonymous whistleblower. Defendant Anderson falsely assured Plaintiff Horrom that he would be afforded whistleblower protection under USSSA's Whistleblower Policy.

88. Defendants USSSA, DeDonatis, Fortuna, and Anderson, along with the other Board Members, decided not to pursue the investigation despite significant evidence concerning the alleged illegal bookmaking and sports gambling activities.⁶⁵ Contrary to their fiduciary and statutory obligations under Florida State law and their

⁶⁴ After the Jan. 12, 2023 email communications, Plaintiff Horrom spoke to Defendant Anderson and disclosed that he was the anonymous whistleblower. Defendant Anderson notified and informed Defendant Fortuna about Plaintiff Horrom's whistleblower status and the nature of the allegations. Defendant Fortuna requested to participate in discussions and interviews of Plaintiff Horrom and any other whistleblowers or individuals who were offering information about Defendants DeDonatis and Hornbacher's illegal bookmaking and sports gambling business. Defendant Anderson also spoke to Plaintiff Wegman and Employee-1 about Plaintiff Horrom's allegations. Plaintiff Wegman corroborated the allegations raised by Plaintiff Horrom.

⁶⁵ After speaking with Plaintiff Wegman, Plaintiff Horrom, and Employee-1, Defendant Anderson consulted with the Board of Directors. Subsequently, Defendant Anderson told Plaintiff Wegman, Plaintiff Horrom, and Employee-1 that "more" evidence was needed to justify an internal investigation, despite the fact that Plaintiffs Horrom and Wegman (and Employee-1) had already provided more than enough evidence.

responsibility to investigate claims of misconduct, Defendant USSSA and its Board of Directors—along with Defendants DeDonatis, Fortuna, and Anderson—derailed, hindered, and obstructed any investigation of Defendants DeDonatis and Hornbacher’s illegal and improper activities.

89. Not only did the Defendants act to suppress an internal investigation of allegations of illegal bookmaking and sports gambling activities, Defendants USSSA, DeDonatis, Fortuna, and Anderson acted in concert to summarily terminate and retaliate against Plaintiff Horrom on February 1, 2023, based on a manufactured pretext, despite Plaintiff Horrom’s exceptional performance at USSSA and corresponding positive evaluations, annual raises, and bonuses.

(ii). Plaintiff Wegman is Terminated after Securing Whistleblower Protection

90. By February 2023, and in response to the summary termination of Plaintiff Horrom, on February 1, 2023, Plaintiff Wegman decided to seek protection as a whistleblower under USSSA’s Whistleblower Policy. At various points during the course of his employment, Plaintiff Wegman raised concerns internally with Defendant Anderson and others at USSSA concerning improper and unethical conduct at USSSA, including but not limited to: Defendant DeDonatis’ improper and illicit relationship with Defendant Ceo⁶⁶ and their improper use of USSSA funds

⁶⁶ In October 2021, Defendant Ceo demanded that Defendant DeDonatis promote her to serve as USSSA’s Director of Brand Management and Business Strategy, a position for which she was unqualified and had no meaningful experience. To effectuate this change, on November 23, 2021,

for personal benefits;⁶⁷ Defendants DeDonatis and Hornbacher's illegal bookmaking activities and their improper and illegal misuse and diversion of USSSA funds; Defendant DeDonatis' use of illegal surveillance equipment; as well as other improper and illegal activities conducted by Defendants Fortuna and other officers and employees at USSSA. Now, in February 2023, Plaintiff Wegman approached Defendant Anderson to formally request whistleblower status under USSSA's Whistleblower Policy, and Defendant Anderson confirmed his status as such and the related protections.

91. Starting in or around February 2023, and continuing to his termination on July 7, 2023, Defendant USSSA, acting through Defendants DeDonatis, Fortuna, Anderson, and Ceo targeted Plaintiff Wegman for termination because the Defendants knew that Plaintiff Wegman was a whistleblower who participated in the submission of Plaintiff Horrom's complaint about illegal bookmaking and sports

Defendant DeDonatis terminated Paul O'Leary, USSSA's Director of Marketing, after an exemplary eleven-year career at USSSA. To silence O'Leary, Defendant USSSA, acting through Defendants DeDonatis, Anderson, and Fortuna, negotiated a settlement and severance agreement, which included robust non-disparagement clauses to ensure that O'Leary was legally barred from reporting the circumstances surrounding his termination.

⁶⁷ Plaintiff Wegman (and others) raised this issue several times. For example, on February 18, 2021, in one of many internal meetings on the topic, Plaintiff Wegman and Employee-1 met with Defendant DeDonatis to inform him that several USSSA employees were individually complaining about the impact his relationship with Defendant Ceo had on the organization.

gambling business, submitted his own complaint, and who had extensive knowledge about other significant improper and illegal activities at USSSA generally.⁶⁸

92. Defendants USSSA, DeDonatis, Fortuna, Anderson, and Ceo, individually and in concert, summarily terminated Plaintiff Wegman on July 7, 2023, based on a manufactured pretext, and despite Plaintiff Wegman's exceptional performance at USSSA and corresponding positive evaluations, annual raises, and bonuses. Defendants Anderson and Ceo assisted in the execution and planning of the scheme to illegally terminate Plaintiff Wegman. Defendant Ceo helped create false documentation governing Plaintiff Wegman's annual review as a fake employment record to justify the illegal termination of Plaintiff Wegman. Defendant Anderson assisted in the scheme by reviewing and approving the steps needed to terminate Plaintiff Wegman, including the creation of a false record governing Plaintiff Wegman's annual review that Defendant Anderson knew was false. Defendant Fortuna was apprised of the scheme to terminate Plaintiff Wegman and reviewed and approved the plan prior to execution.

93. On July 7, 2023, Defendant DeDonatis met with Plaintiff Wegman and summarily terminated him, citing a number of false, misleading, and unsupported

⁶⁸ In or around February or March 2023, Defendant DeDonatis told Plaintiff Wegman that he believed that Plaintiff Wegman was a whistleblower and may have submitted the anonymous complaint about the illegal bookmaking and sports gambling activities.

allegations, which both Defendant DeDonatis and Plaintiff Wegman knew were false.⁶⁹

**K. Predicate Acts 19 and 20: Witness Retaliation
Plaintiff Wegman (19) and Plaintiff Horrom (20)**

94. Between the period of December 2022 and continuing up to and including July 2023, **Defendants USSSA, DeDonatis, Fortuna, Anderson, and Ceo**, acting individually and in concert, did knowingly, with the intent to retaliate, and interfere with the lawful employment and livelihood of Plaintiff Horrom and Plaintiff Wegman by terminating Plaintiff Horrom's employment at USSSA on February 1, 2023, and by terminating Plaintiff Wegman's employment at USSSA on July 7, 2023, respectively, to prevent and retaliate against the Plaintiffs for providing, or attempting to provide, to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, in violation of 18 U.S.C. §1513(e) and (f).

⁶⁹In an obvious attempt to cover its illegal tracks, USSSA manufactured a *post hoc* rationalization in an undated letter to support its decision to fire Plaintiff Wegman. After learning that Plaintiff Wegman intended to file a lawsuit in response to his termination, Defendant Anderson issued the undated letter designed to provide legal cover for USSSA's illegal and improper actions.

USSSA's letter fails to acknowledge Plaintiff Wegman's exceptional performance, his leadership record, his lengthy list of achievements and consistent superior performance for USSSA, and Defendant DeDonatis's decision to increase Plaintiff Wegman's salary in 2023 by approximately \$24,000 and to award him a year-end bonus of \$150,000. The only significant change that occurred with respect to Plaintiff Wegman's performance of his COO responsibilities was his decision in February 2023 to secure whistleblower protection.

**Count Two: RICO Conspiracy 18 USC 1962(d)
(Plaintiffs Wegman and Horrom against all Defendants)**

95. Plaintiff Wegman and Plaintiff Horrom reallege and incorporate by reference Paragraphs 28 to 94 as if fully set forth herein.

96. Between sometime in at least 2018 and continuing until sometime in 2023, **Defendants USSSA, DeDonatis, Fortuna, Anderson, Ceo, and Hornbacher** did combine, conspire, confederate, and agree to conduct or participate, directly or indirectly, in the conduct of an enterprise, as defined above, through a pattern of racketeering activity as alleged in Count One of this *Second Amended Complaint*, in violation of 18 U.S.C. § 1962(d).⁷⁰

⁷⁰ The Defendant can be found liable for this claim if the following is established by a preponderance of the evidence:

- (1) two or more people agreed to try to accomplish an unlawful plan to engage in a pattern of racketeering activity;
- (2) a Defendant agreed to the overall objective of the conspiracy, or, as an alternative to the second element, a Defendant agreed with at least one other Defendant to commit two predicate acts as part of the conspiracy.

See Eleventh Circuit Pattern Jury Instructions, Criminal Cases, O75.2 at 2, March 10, 2022.

A RICO “conspiracy” is an agreement by two or more people to commit an unlawful act. Every member of the conspiracy becomes the agent or partner of every other member. Plaintiffs need not prove that all the people named in the complaint were members of the conspiracy, that the conspirators made any kind of formal agreement, nor that the conspirators succeeded in carrying out their plan. The heart of the conspiracy is the making of the unlawful plan itself. *See ADA v. Cigna Corp.*, 605 F. 3d 1283, 1293 (11th Cir. 2010) (internal citation omitted).

If Plaintiff proves agreement on an overall objective, then it is not necessary that a Defendant agree to personally commit two predicate acts. *See Starrett*, 55 F.3d at 1544. Further, a RICO conspiracy may be found through “the conduct of the alleged participants or from circumstantial evidence of a scheme.” *Cisneros*, 972 F.3d at 1220 (quoting *Browne*, 505 F.3d at 1264)); *Cf. Gov't Emples. Ins. Co. v. Kalin*, 2022 U.S. Dist. LEXIS 36982, at *8 (M.D. Fla. Mar. 2, 2022).

97. Each Plaintiff has been injured and continues to be injured in his business and property by Defendants' conspiracy in violation of 18 U.S.C. § 1962(d).

Count Three: Breach of 31 U.S.C. § 5323(g) — Retaliation Against a Whistleblower Under the Anti-Money Laundering Act (Plaintiff Wegman against Defendants USSSA, DeDonatis, Fortuna, and Anderson)

98. Plaintiff Wegman realleges and incorporates by reference Paragraphs 64 to 72 and 90 to 93 as if fully set forth herein.

99. The Anti-Money Laundering Act 31 U.S.C. § 5323(g) protects employees against retaliation when they report potential money laundering-related violations.

100. In February 2023, Plaintiff Wegman reported information related to the illegal activities of Defendants DeDonatis and Hornbacher, including violations of 18 U.S.C. §§ 1956 and 1957, to Defendant Anderson, who, as General Counsel, has the authority at USSSA to investigate, discover, or terminate misconduct.

101. Following that report, Defendants USSSA, DeDonatis, Fortuna, and Anderson quickly retaliated against Plaintiff Wegman by terminating his employment.

102. On September 15, 2023, Plaintiff Wegman pursued his administrative remedies under 31 U.S.C. § 5323(g)(2)(A) by "filing a complaint with the Secretary of Labor in accordance with the requirements of [31 U.S.C. § 5323(g)(3)(A)]." On that date, Plaintiff Wegman submitted a formal report to the U.S. Department of

Labor's Occupational Safety and Health Administration office in Orlando, Florida via certified mail.

103. Under 31 U.S.C. § 5323(g)(2)(B), "if the Secretary of Labor has not issued a final decision within 180 days of the filing of a complaint under subparagraph (A)," then Plaintiff Wegman may "bring[] an action against the employer at law or in equity in the appropriate district court of the United States." To this date, no action has been taken by the Secretary of Labor.

104. As a direct and proximate result, Plaintiff Wegman suffered and continues to suffer damages, including but not limited to economic and non-economic damages.

Count Four: Breach of 26 U.S.C. § 7623(d) — Retaliation Against a Whistleblower Under the Taxpayer First Act (Plaintiff Wegman against Defendants USSSA, DeDonatis, Fortuna, and Anderson)

105. Plaintiff Wegman realleges and incorporates by reference Paragraphs 41 to 63 and 90 to 93 as if fully set forth herein.

106. The Taxpayer First Act ("TFA") 26 U.S.C. § 7623(d) protects employees against retaliation when they report potential violations of federal tax laws and underpayment of taxes.

107. At various points following acts of misconduct, Plaintiff Wegman raised concerns internally with Defendant DeDonatis, Defendant Anderson, and others at USSSA concerning improper and unethical conduct at USSSA, including

but not limited to: Defendant DeDonatis' improper and illicit relationship with Defendant Ceo and their improper use of USSSA funds for personal benefits, Defendants DeDonatis and Hornbacher's illegal bookmaking activities and their improper and illegal misuse and diversion of USSSA funds; as well as the diversion of funds by Defendant Fortuna, Board Member-1, Employee-3, and other financial improprieties that indicated violations of federal tax laws and underpayment of taxes.

108. Due to these reports, Defendants USSSA, DeDonatis, Fortuna, and Anderson subsequently retaliated against Plaintiff Wegman by terminating his employment.

109. On September 15, 2023, Plaintiff Wegman pursued his administrative remedies under 26 U.S.C. § 7623(d)(2)(a) by "filing a complaint with the Secretary of Labor." On that date, Plaintiff Wegman submitted a formal report to the U.S. Department of Labor's Occupational Safety and Health Administration office in Orlando, Florida via certified mail.

110. Under 26 U.S.C. § 7623(d)(2)(A), "if the Secretary of Labor has not issued a final decision within 180 days of the filing of a complaint," then Plaintiff Wegman may "bring[] an action at law or equity for de novo review in the appropriate district court of the United States[.]" To this date, no action has been taken by the Secretary of Labor.

111. As a direct and proximate result, Plaintiff Wegman suffered and continues to suffer damages, including but not limited to economic and non-economic damages.

**Count Five: Breach of Contract
(Plaintiff Wegman against Defendant USSSA)**

112. Plaintiff Wegman realleges and incorporates by reference Paragraphs 90 to 93 as if fully set forth herein.

113. On January 1, 2022, Defendant USSSA hired Plaintiff Wegman as the Chief Operating Officer pursuant to a written Employment Agreement dated January 1, 2022, for a three-year term until January 1, 2025.

114. Plaintiff Wegman dutifully performed work and provided services to Defendant USSSA in compliance with the January 1, 2022, Employment Agreement as described above.

115. Pursuant to Section 3, the Employment Agreement could only be terminated “for cause” as defined therein under certain specified conditions, and otherwise could only be terminated “without cause” if an additional one-year salary and bonus amount were timely paid to Plaintiff Wegman and his benefits remained in place for a one-year period thereafter. None of these material provisions have been adhered to by Defendant USSSA.

116. Defendant USSSA purported to terminate Plaintiff Wegman “for cause” based on pretextual facts that the Defendant knew were false.

117. Defendant USSSA, therefore, materially breached the written Employment Agreement between USSSA and Plaintiff Wegman. As a result, Plaintiff Wegman has suffered, and continues to suffer, damages, including but not limited to the loss of compensation and benefits.

**Count Six: Breach of Covenant of Good Faith and Fair Dealing
(Plaintiff Wegman against Defendant USSSA)**

118. Plaintiff Wegman realleges and incorporates by reference Paragraphs 90 to 93 as if fully set forth herein.

119. On January 1, 2022, Defendant USSSA entered into a written Employment Agreement with Plaintiff Wegman for a three-year term, ending January 1, 2025. An implied covenant of good faith and fair dealing exists in that contract.

120. Defendant USSSA had a duty to act in good faith and deal fairly with Plaintiff Wegman in carrying out the terms of the Employment Agreement.

121. At all relevant times, Plaintiff Wegman acted in good faith and carried out the terms of his Employment Agreement.

122. Pursuant to Section 3, the Employment Agreement could only be terminated “for cause” as defined therein under certain specified conditions, and otherwise could only be terminated “without cause” if an additional one-year salary and bonus amount were timely paid to Plaintiff Wegman and his benefits remained in place for a one-year period thereafter.

123. Defendant USSSA breached Sections 1 through 3 of the Employment Agreement by terminating Plaintiff Wegman without the requisite cause, for pretextual and unjustified reasons that did not support his termination.

124. Defendant USSSA breached the implied covenant of good faith and fair dealing by failing and refusing to carry out the express terms of the Employment Agreement in good faith. Defendants' conduct was not consistent with Plaintiff Wegman's reasonable expectations under the Employment Agreement.

125. As a result of Defendant USSSA's breach of the implied covenant of good faith and fair dealing, Plaintiff Wegman has suffered, and continues to suffer, damages, including but not limited to the loss of compensation and benefits.

**Count Seven: Breach of Oral Contract
(Plaintiff Horrom against Defendant USSSA)**

126. Plaintiff Horrom realleges and incorporates by reference Paragraphs 83 to 89 as if fully set forth herein.

127. Defendant USSSA employed Plaintiff Horrom from January 2019 until his termination on February 1, 2023.

128. Due to his exceptional performance, USSSA sought to promote Plaintiff Horrom to an executive position and did so in December 2021, when the company promoted Plaintiff Horrom to Vice President of Technology and Advanced Media.

129. On several occasions, from at least 2021 and continuing through 2022, Defendant DeDonatis specifically told Plaintiff Horrom that USSSA intended to execute a written employment agreement to memorialize his employment status. Defendant DeDonatis and Plaintiff Horrom orally agreed to execute a formal written employment agreement which would include an annual salary of between \$220,000 to \$250,000 with an annual bonus. Despite this mutual understanding and conversations that occurred in the presence of others at USSSA, Defendant DeDonatis failed to prepare and execute a formal written employment agreement.

130. For this new position, Plaintiff Horrom and USSSA entered into a valid and binding oral contract for a certain and definite proposition, whereby, among other rights, USSSA and Defendant DeDonatis promised Plaintiff Horrom, and Plaintiff Horrom was entitled to, certain compensation for work including remuneration in the form of a base salary plus bonus payments to match his promotion.

131. Defendant USSSA's obligation to make certain compensation payments to Plaintiff Horrom was non-discretionary, and the amounts ultimately due and owing were quantifiable, calculable, and not subject to any contingencies that would preclude Plaintiff Horrom's right to payment.

132. Plaintiff Horrom performed all duties required of him under the oral contract and his work resulted in the accrual of compensation.

133. Defendant USSSA materially breached the contract by not paying Plaintiff Horrom the compensation it owed him pursuant to the agreement.

134. As a result of Defendant's USSSA's breach, Plaintiff Horrom has been damaged in an amount of all compensation not properly paid pursuant to the agreement, plus interest.

**Count Eight: Breach of Implied in Fact Contract
(Plaintiff Horrom against Defendant USSSA)**

135. Plaintiff Horrom realleges and incorporates by reference Paragraphs 84 to 89 as if fully set forth herein.

136. Plaintiff Horrom was an employee of USSSA from January 2019 until he was terminated by USSSA on February 1, 2023.

137. Due to his exceptional performance, USSSA sought to promote Plaintiff Horrom to an executive position and did so in December 2021, when the company promoted Plaintiff Horrom to Vice President of Technology and Advanced Media.

138. For this new position, Plaintiff Horrom and USSSA entered into a valid and binding implied in fact contract for a certain and definite proposition, whereby, among other rights, USSSA tacitly promised Plaintiff Horrom, and Plaintiff Horrom was entitled to, certain compensation for work including remuneration in the form of a base salary plus bonus payments to match his promotion.

139. USSSA's obligation to make certain compensation payments to Plaintiff Horrom was non-discretionary, and the amounts ultimately due and owing were quantifiable, calculable, and not subject to any contingencies that would preclude Plaintiff Horrom's right to payment.

140. Plaintiff Horrom performed all duties required of him under the implied in fact contract and his work resulted in the accrual of compensation.

141. Defendant USSSA materially breached the contract by not paying Plaintiff Horrom the compensation it owed him pursuant to the contract.

142. As a result of Defendant USSSA's breach, Plaintiff Horrom has been damaged in an amount of all compensation not properly paid pursuant to the agreement, plus interest.

**Count Nine: Breach of Covenant of Good Faith and Fair Dealing
(Plaintiff Horrom against Defendant USSSA)**

143. Plaintiff Horrom realleges and incorporates by reference Paragraphs 84 to 89 as if fully set forth herein.

144. Plaintiff Horrom was an employee of USSSA from January 2019 until he was terminated by USSSA on February 1, 2023.

145. In December 2021, Plaintiff Horrom and Defendant USSSA entered into a valid, enforceable, oral or implied in fact contract pursuant to which USSSA promised Plaintiff Horrom, and Plaintiff Horrom was entitled to receive

compensation for his work including remuneration in the form of a base salary plus bonus payments to match his promotion.

146. An implied covenant of good faith and fair dealing exists in that oral or implied in fact contract.

147. Defendants USSSA, DeDonatis, Fortuna and Anderson had a duty to act in good faith and deal fairly with Plaintiff Horrom in carrying out the terms of that oral or implied in fact contract.

148. At all times prior to his wrongful termination in February 2023, Plaintiff Horrom acted in good faith in performing his job duties pursuant to the oral or implied in fact contract, and Defendant USSSA at all times accepted the benefits of Plaintiff Horrom's performance under the contract. As such, Plaintiff Horrom reasonably expected to receive compensation and benefits pursuant to that contract.

149. Defendant USSSA breached its oral or implied in fact contract with Plaintiff Horrom by failing to pay him all compensation to which he was entitled and by terminating his employment in February 2023 without cause and in retaliation for his whistleblower reports. Such conduct also breached the implied covenant of good faith and fair dealing in the oral or implied in fact contract.

150. Defendant USSSA's conduct was not consistent with Plaintiff Horrom's reasonable expectations under the oral or implied in fact contract.

151. As a result of Defendants USSSA's breach of the implied covenant of good faith and fair dealing, Plaintiff Horrom has suffered, and continues to suffer, damages, including but not limited to all compensation not properly paid pursuant to his contract, plus interest.

**Count Ten: Defamation
(Plaintiff Wegman against Defendants USSSA and DeDonatis)**

152. Defendant DeDonatis published false statements about Plaintiff Wegman including, but not limited to, statements that Plaintiff Wegman acted in an unethical manner.

153. Defendant DeDonatis's campaign of revenge against Plaintiff Wegman extended past his illegal breach and termination of Plaintiff Wegman. Following that termination, Defendant DeDonatis communicated with important USSSA partners, sports equipment companies, insurance companies, and other contacts, colleagues, and company representatives with the intent to defame and tarnish Plaintiff's reputation.

154. After his illegal termination, on July 7, 2023, Plaintiff Wegman received a number of phone calls from vendors, partners, and existing and former employees of USSSA to check on Plaintiff Wegman and to discuss his recent termination. On at least two separate occasions, Defendant DeDonatis contacted USSSA's vendors, partners, and employees to spread false and defamatory information about Plaintiff Wegman.

155. Shortly after July 7, 2023, Defendant DeDonatis called a “substantial partner,” Partner-1, to notify Partner-1 that he terminated Plaintiff Wegman because Plaintiff Wegman had an extramarital affair with an employee and attempted to manipulate her and other USSSA employees. In addition, Partner-1 indicated that Defendant DeDonatis claimed that Plaintiff Wegman “lied” to Defendant DeDonatis on one occasion when Plaintiff Wegman told Defendant DeDonatis that he took a flight to Ohio on a Friday evening, but in fact Plaintiff Wegman stayed in Florida for the weekend.

156. In another contact, on July 10, 2023, Partner-2 contacted Plaintiff Wegman and reported that Defendant DeDonatis told Partner-2 that Plaintiff Wegman was terminated from USSSA because of his actions “around the office” and that Plaintiff Wegman was “sleeping with an employee.” Partner-2 also revealed that Defendant DeDonatis stated that Plaintiff Wegman was “attempting to take over USSSA.”

157. Upon information and belief, Defendant DeDonatis has made other false and defamatory statements against Plaintiff Wegman that will be revealed through discovery in this action.

158. Defendant DeDonatis’ statements were published to third parties. The falsity of Defendant DeDonatis’s statements caused injury to Plaintiff Wegman’s

professional reputation among a significant minority of the community and have jeopardized his economic well-being.

159. Defendant DeDonatis engaged in this conduct intentionally for the purpose of harassing, intimidating, and/or harming Plaintiff Wegman.

160. Defendant DeDonatis's defamatory statements needlessly and maliciously impugn Plaintiff Wegman's character and professional reputation, and furthered the same retaliatory conduct that resulted in Plaintiff Wegman's wrongful termination.

**Count Eleven: Defamation *Per Se*
(Plaintiff Wegman against Defendants USSSA and DeDonatis)**

161. Plaintiff Wegman realleges and incorporates by reference Paragraphs 152 to 156 as if fully set forth herein.

162. Defendant DeDonatis published false statements about Plaintiff Wegman including, but not limited to, statements that Plaintiff Wegman acted in an unethical manner.

163. Defendant DeDonatis statements were published to third parties. After his illegal termination, on July 7, 2023, and as recounted herein, on at least two separate occasions, Defendant DeDonatis contacted USSSA's vendors, partners, and employees to spread false and defamatory information about Plaintiff Wegman.

164. Upon information and belief, Defendant DeDonatis has made other false and defamatory statements against Plaintiff Wegman that will be revealed through discovery in this action.

165. The falsity of Defendant DeDonatis's statements caused injury to Plaintiff Wegman's professional reputation among a significant minority of the community and have jeopardized his economic well-being.

166. Defendant DeDonatis engaged in this conduct intentionally for the purpose of harassing, intimidating, and/or harming Plaintiff Wegman.

167. Defendant DeDonatis's egregious statements were so clearly defamatory and damaging that Partner-1 and Partner-2 each contacted Plaintiff Wegman to express their respective shock at the statements. Further, Defendant DeDonatis' egregious statements are so clearly defamatory and damaging to Plaintiff Wegman's professional reputation that Defendant DeDonatis's malice and Plaintiff's damages are presumed.

**Count Twelve: Violation of the Florida Private Whistleblower Act (Fla. Stat. §448.102(3)) — Retaliation
(Plaintiff Wegman against Defendant USSSA)**

168. Plaintiff Wegman realleges and incorporates by reference Paragraphs 90 to 93 as if fully set forth herein.

169. Florida's Private Whistleblower Act, *Fla. Stat. Ann* § 448.102, prohibits an employer from retaliating against an employee who objected to, or

refused to participate in, any activity, policy, or practice in violation of a law, rule, or regulation.

170. As set forth in detail above, over a period of at least five years, from 2018 to 2023, Defendants engaged in illegal and improper activities. Plaintiff Wegman knew of and was a witness to much of the Defendants' illegal and improper conduct, which violated USSSA's governing documents, state and federal laws, federal racketeering and other federal laws, as well as state statutory and common law.

171. Plaintiff Wegman objected to USSSA management and made his objections known to colleagues. Most notably, Plaintiff Wegman secured his official whistleblower designation and protection in February 2023 under USSSA's formal Whistleblower Policy.

172. The Defendants retaliated against Plaintiff Wegman by illegally terminating him on July 7, 2023, because of his whistleblower status and because he objected to, or refused to participate in, any activity, policy or practice in violation of a law, rule, or regulation.

173. As a direct and proximate result, Plaintiff Wegman suffered and continues to suffer damages, including but not limited to economic and non-economic damages.

**Count Thirteen: Violation of the Florida Private Whistleblower Act (Fla. Stat. §448.102(3)) — Retaliation
(Plaintiff Horrom against Defendant USSSA)**

174. Plaintiff Horrom realleges and incorporates by reference Paragraphs 83 to 89 as if fully set forth herein.

175. Florida's Private Whistleblower Act, *Fla. Stat. Ann § 448.102*, prohibits an employer from retaliating against an employee who objected to, or refused to participate in, any activity, policy, or practice in violation of a law, rule or regulation.

176. As set forth in detail above, over a period of at least five years, from 2018 to 2023, Defendants engaged in illegal and improper activities. Plaintiff Horrom knew of and was a witness to much of the Defendants' illegal and improper conduct, which violated USSSA's governing documents, state and federal laws, federal racketeering and other federal laws, as well as state statutory and common law.

177. Plaintiff Horrom objected to USSSA management and made his objections known to colleagues. In December 2022 and January 2023, Plaintiff Horrom objected in writing when he submitted anonymous reports to USSSA.

178. The Defendants retaliated against Plaintiff Horrom by illegally terminating him on February 1, 2023, because of his whistleblower status and

because he objected to, or refused to participate in, any activity, policy, or practice in violation of a law, rule or regulation.

179. As a direct and proximate result, Plaintiff Horrom suffered and continues to suffer damages, including but not limited to economic and non-economic damages.

Prayer for Relief as to RICO Counts One and Two

WHEREFORE, Plaintiffs Wegman and Horrom pray that the Court enter judgment in their favor and against the RICO Defendants, containing the following relief:

- a. Treble the amount of all wages and benefits each Plaintiff would have received but for Defendants' unlawful conduct, including but not limited to back pay, front pay, and pre-judgment interest;
- b. Compensatory damages in an amount to be determined at trial to compensate Plaintiff for the damage to reputation, loss of career, humiliation, anguish, and emotional distress caused by the RICO Defendants' unlawful conduct;
- c. Treble and/or punitive damages as allowed by law;
- d. An award of reasonable attorneys' fees, costs, and litigation expenses pursuant to 18 U.S.C. § 1964(c) and all other applicable statutes; and
- e. Such other relief as the Court may deem just or equitable.

Prayer for Relief as to Count Three

WHEREFORE, Plaintiff Wegman prays that the Court enter judgment in his favor and against Defendants, containing the following relief:

- a. Reinstatement to the USSSA organization with the same seniority status that Plaintiff Wegman would have had, but for the retaliatory conduct outlined herein, pursuant to 31 U.S.C. § 5323(g)(C)(i);
- b. Two times the amount of back pay otherwise owed to Plaintiff Wegman, with interest, pursuant to 31 U.S.C. § 5323(g)(C)(ii);
- c. Compensatory damages in an amount to be determined at trial to compensate Plaintiff, including reasonable attorneys' fees, costs, and litigation expenses, pursuant to 31 U.S.C. § 5323(g)(C)(iii);
- d. Such other relief as the Court may deem just or equitable, pursuant to 31 U.S.C. § 5323(g)(3)(C)(iv).

Prayer for Relief as to Count Four

WHEREFORE, Plaintiff Wegman prays that the Court enter judgment in his favor and against Defendants, containing the following relief:

- a. Reinstatement to the USSSA organization with the same seniority status that Plaintiff Wegman would have had, but for the retaliatory conduct outlined herein, pursuant to 26 U.S.C. § 7623(d)(3)(B)(i);

- b. The sum of 200 percent the amount of back pay and 100 percent of all lost benefits otherwise owed to Plaintiff Wegman, with interest, pursuant to 26 U.S.C. § 7623(d)(3)(B)(ii);
- c. Compensatory damages in an amount to be determined at trial to compensate Plaintiff, including reasonable attorneys' fees, costs, and litigation expenses, pursuant to 26 U.S.C. § 7623(d)(3)(B)(iii).

Prayer for Relief as to Counts Five Through Thirteen

WHEREFORE, Plaintiffs Wegman and Horrom pray that the Court enter judgment in their favor and against Defendants, containing the following relief:

- a. A declaratory judgment that the actions, conduct, and practices of Defendants complained of herein violate the laws of the state of Florida and the United States of America;
- b. An injunction and order permanently restraining Defendant USSSA and its partners, officers, owners, agents, successors, employees, and/or representatives, and any and all persons acting in concert with them, from engaging in any such further unlawful conduct, including the policies and practices complained of herein;
- c. An award of damages against Defendants, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiffs Wegman and

- Horrom for all monetary and/or economic damages, including, but not limited to, loss of past and future income, wages, compensation, seniority, and other benefits of employment;
- d. An award of damages against Defendants, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiffs Wegman and Horrom for all non-monetary and/or compensatory damages, including, but not limited to, compensation for emotional distress;
 - e. An award of punitive damages, if applicable, in an amount to be determined at trial;
 - f. Liquidated damages, if applicable;
 - g. Prejudgment interest on all amounts due;
 - h. An award of Plaintiff Wegman's and Plaintiff Horrom's reasonable attorneys' fees, and costs to the fullest extent permitted by law; and,
 - i. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiffs Wegman and Horrom hereby demand a trial by jury on all issues of fact and damages stated herein.

Dated: April 17, 2024

Respectfully submitted,

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