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14 Attorneys for the Plaintiffs,
15 Jim Cornette and Arcadian Vanguard

16 **IN THE SUPERIOR COURT OF CALIFORNIA,**
17 **COUNTY OF LOS ANGELES**

18 **JIM CORNETTE, an individual; and**
19 **ARCADIAN VANGUARD, LLC, a**
20 **limited liability company;**

21 Plaintiffs,

22 vs.

23 **COLIN THOMSON, an individual;**
24 **CHRISTINE THOMSON, an individual;**
25 **ROD THOMSON, an individual;**
26 **MATTHEW YU, an individual;**
27 **PODCASTONE, INC., a Delaware**
28 **corporation; LIVEONE, INC., a**
Delaware corporation; and DOES 1
through 50, inclusive;

Defendants.

Case #: **25STCV02767**
(Unlimited Civil Case)

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

DEMAND FOR TRIAL BY JURY

1 **INTRODUCTION**

2 1. This action arises from the theft of funds by Defendants that rightfully
3 belong to Plaintiffs. While serving as
4 Thomson had access to these funds, which he then diverted for personal benefit
5 and then both held and transferred to others who knew the funds were stolen but
6 accepted them nonetheless. The subsequent conspiracy among the Thomson
7 Defendants, PodcastOne, Inc. ("Podcast
8 only sought to conceal and retain the misappropriated funds but also deliberately
9 intended to create a state of financial desperation for Plaintiffs. PodcastOne and
10 LiveOne then intended to use this distress to pressure Plaintiffs into signing
11 unfavorable contracts in exchange for partial reimbursement of the stolen funds.

12 **PARTIES**

13 2. Plaintiff, Jim Cornette is an individual and a renowned professional
14 wrestling personality and podcaster who, through his expertise and dedication,
15 has built a substantial following and developed valuable intellectual property in
16 the form of podcast content.

17 3. Plaintiff Arcadian Vanguard, LLC is a New Jersey limited liability company.
18 Brian Last is the president and CEO of Arcadian Vanguard, a podcast production
19 company. Arcadian Vanguard partners with wrestling personality Jim Cornette to
20 produce his two weekly podcasts, a partnership that began in 2016.

21 4. Last is also the on-air co-host for Jim Cornette's

22 5. Defendant Colin Thomson served as Chief Executive Officer of Kast Media
23 and maintained exclusive control over all aspects of the company's operations,
24 including but not limited to maintaining and controlling the company's
25 records and accountants/bookkeepers, managing advertising sales, collecting
26 revenue, controlling bank accounts, directing financial disbursements.

27 6. Defendant Christine Thomson is an individual who is the spouse of
28 Defendant Colin Thomson and received substantial portions of misappropriated

1 revenue, with knowledge that such funds were wrongfully obtained.

2 7. Defendant Rod Thomson is an individual who is Colin Thomson's father
3 and received substantial portions of misappropriated revenue that rightfully
4 belonged to Plaintiffs, with knowledge that such funds were wrongfully obtained.
5 Defendant Rod Thomson is a shareholder in Kast Media. Upon information and
6 belief, a portion of this misappropriated revenue was property of the Plaintiffs.

7 8. Defendant Matthew Yu is an individual who is Colin Thomson's father-in-
8 law and received substantial portions of misappropriated revenue that rightfully
9 belonged to Plaintiffs, with knowledge that such funds were wrongfully obtained.
10 Defendant Matthew Yu is a shareholder in Kast Media. Upon information and
11 belief, a portion of this misappropriated revenue was property of the Plaintiffs.

12 9. Defendant PodcastOne is a business entity that, upon information and
13 belief, is organized and exists under the laws of Delaware, with its principal place
14 of business in the State of California and in the County of Los Angeles.
15 PodcastOne knowingly participated in and benefited from Defendants' s
16 and illegal transfer of Plaintiffs' stolen money. PodCast One engaged in coercive,
17 unlawful and unfair business practices designed to exploit Plaintiffs' financial
18 distress.

19 10. Defendant LiveOne is a business entity that, upon information and
20 belief, is organized and existing under the laws of Delaware with its principal
21 place of business in the State of California, and in the County of Los Angeles.
22 LiveOne knowingly participated in and benefited from Defendants' s c h
23 illegal transfer of Plaintiffs' stolen e n
24 and unfair business practices designed to exploit Plaintiffs' financial distress.

25 11. The true names and capacities, whether individual, corporate,
26 associate, or otherwise, of Defendants DOES 1-50 inclusive, are unknown to
27 Plaintiffs who, therefore, sues said Defendants by such fictitious names. Plaintiffs
28 will amend this complaint to show their true names and capacities when

1 ascertained. Plaintiffs is informed and believes, and thereon alleges, that each of
2 said Defendants is responsible in some manner for the events and happenings,
3 and proximately caused the injuries and damages, hereinafter alleged.

4 **JURISDICTION**

5 12. The Superior Court of California, County of Los Angeles has
6 jurisdiction over this action pursuant to California Constitution Article VI, Section
7 10, which grants the Superior Court "original jurisdiction in all cases except those
8 given by statute to other trial courts."

9 13. This Court has jurisdiction over this action pursuant to Code of Civil
10 Procedure § 410.10.

11 14. Pursuant to California Code of Civil Procedure § 410.10, this Court
12 has jurisdiction over Defendants because Defendants is a person/entity having
13 sufficient minimum contacts with the state of California so as to render the
14 exercise of jurisdiction over the Defendants by the California courts consistent
15 with traditional notions of fair play and substantial justice.

16 **VENUE**

17 15. Venue is proper in the Stanley Mosk branch of the Superior Court of
18 California, County of Los Angeles, which is located 111 N Hill Street, Los
19 Angeles, CA 90012 under California Code of Civil Procedure § 395.5 because
20 one or more of the violations in the Complaint, as herein alleged against the
21 Defendants, emanated from here, Defendants does business here, and/or the
22 contract at issue was signed here.

23 16. Venue here is consistent with any local rules, if applicable.

24 **FACTUAL ALLEGATIONS**

25 17. Since 2016, Jim Cornette and Arcadian Vanguard LLC have been
26 equal partners in producing two highly successful weekly podcasts: The Jim
27 Cornette Experience" and "Jim Cornette's Drive Thru. "

28 18. Mr. Cornette provides his 40+ years of professional wrestling

1 expertise, while Arcadian Vangu Mr. Last handles all production
2 matters and business negotiations through Arcadian.

3 19. Mr. Cornette is the "face" of the shows for publicity purposes, while
4 Mr. Last engages outside entities on all technical, financial and other business.

5 20. In October 2018, Plaintiffs entered into a Podcast Agreement with
6 Kast Media whereby Kast would serve as Plaintiff's advertising agent.

7 21. The agreement specified an 80/20 revenue split, with Plaintiffs
8 entitled to receive 80% of advertising revenue and Kast retaining 20% as
9 compensation. This written agreement had a one-year term with a single one-
10 year renewal option, which was exercised via a September 2019 amendment.
11 The agreement expired by its own terms in 2020, as confirmed by Thomson's
12 sworn deposition testimony.¹

13 22. As the expiration date of the initial contract was approaching, the
14 parties entered negotiations for a new term agreement, but several obstacles
15 prevented a formal contract from being finalized. One key issue was Plaintiffs'
16 insistence on including a "key man" clause in the contract, reflecting their
17 unwillingness to be locked into an agreement with individuals or entities they had
18 not specifically chosen to work with from the outset. Plaintiffs made it clear that
19 they wanted to work with Kast Media but were adamant about retaining the ability
20 to opt out of the contract if Kast underwent an ownership change.

21 23. After the written agreement expired, the parties continued operating
22 under an implied contract with the identical 80/20 revenue split. All other contract
23 terms continued to be negotiated as part of a process. Under both the written and
24 implied agreements, Kast was responsible for obtaining advertisers, collecting
25 advertising revenue, and remitting Plaintiffs' 80% share. As documented in
26 emails and confirmed in Thomson's testimony, he acknowledged this continuing
27 arrangement.

28 _____
¹ Plaintiffs aver that all contract terms, including confidentiality and limited exclusivity, expired in October 2020.

1 24. From the outset of the relationship, Thomson caused all payments for
2 the Cornette podcasts to be made either to Brian Last personally, to Last and
3 Cornette jointly, or eventually to Arcadian Vanguard starting in late 2019.

4 Thomson controlled when the payments were sent, to whom and how much.

5 25. This payment arrangement is documented through 1099s issued by
6 Kast, physical checks and text messages between Thomson and Last.

7 26. Thomson engaged in a systematic practice of factoring all advertising
8 receivables through companies like United Capital Funding and CapChase -
9 including, crucially, Plaintiffs' 80% share - long before any payment issues
10 emerged.

11 27. This practice began while Kast was still making regular payments to
12 Plaintiffs, demonstrating the criminal nature of the enterprise, separate from any
13 later alleged financial difficulties.

14 28. Plaintiffs' 80% share of money paid by advertisers were to be paid to
15 Plaintiffs on "net 30 terms".

16 29. After the "net 30 terms" period h a
17 money that belonged to Plaintiffs.

18 30. Thomson has admitted he factored these receivables, including the
19 80% portion of the two revenues that rightfully belonged to
20 Plaintiffs, while deliberately concealing this practice from them. Thomson had no
21 authority or consent to factor Plaintiffs' portion of the revenue, yet did so routinely
22 and systematically throughout the relationship.

23 31. When Colin personally took possession of the 80% portion of the
24 money belonging to Plaintiffs—knowing it was Plaintiffs' rightful share, knowing
25 Plaintiffs had not consented, and deliberately concealing this from them—he then
26 wrongfully converted the funds for his own use through the refactoring, he
27 engaged in theft. He withheld the payment beyond the agreed-upon time, failed
28 to remit it as required, and actively concealed these actions from Plaintiffs.

1 32. Well before Kast fell behind on payments in 2023, Thomson began
2 factoring the entirety of advertising receivables through companies like United
3 Capital Funding and CapChase- including Plaintiffs' 80% share - without
4 Plaintiffs' knowledge or consent.

5 33. Thomson has admitted he factored these receivables while
6 deliberately concealing this practice from Plaintiffs.

7 34. The factoring of Plaintiffs' portion of revenue occurred routinely and
8 systematically throughout the business relationship between the parties.

9 35. Although Kast occasionally made late payments prior to 2023, it
10 generally fulfilled its payment obligations until January 2023.

11 36. After January 2023, Thomson began systematically withholding
12 payments while continuing to collect and factor advertising revenue generated by
13 Plaintiffs' content.

14 37. After Plaintiffs confronted Thomson about the missing funds in May
15 2023, all payments ceased entirely.

16 38. The last payment Plaintiffs received was on May 17, 2023.

17 39. Through his position at Kast, Thomson methodically diverted revenue
18 that belonged to Plaintiffs through multiple mechanisms.

19 40. These mechanisms include factoring arrangements whereby
20 Thomson would factor all receivables, in cl
21 withhold payment, direct transfers to personal accounts and those of family
22 members, including a documented \$176,000 wire transfer to Christine Thomson
23 in October 2021, using factored funds for personal expenses including a
24 Mercedes G-Wagon, Tesla, \$10,000 per night suites at the Wynn Las Vegas,
25 and other lavish vacations, and \$7,665 in Cartier purchases, as evidenced in
26 K a s financial records, deliberately providing false advertising revenue reports
27 to conceal the misappropriation, and operating without proper corporate
28 documentation or authorization for these expenditures and transfers.

1 41. Thomson took the fund under his control, and converted it for his own
2 use, sent the money for his own purposes, and transferred the stolen property to
3 others who knew it was stolen.

4 42. Thomson distributed these misappropriated funds among his family
5 members, who accepted these transfers with knowledge of their wrongful origin.

6 43. Christine Thomson, C o l i n T h o m s o n received substantial fe
7 portions including at least one documented wire transfer and benefitted from the
8 purchase and sale of a home in California.

9 44. Rod Thomson, C o l i n T h o m s o n accepted transfers of her ,
10 revenues and/or stock, he knew represented Plaintiffs' share of advertising
11 revenue;

12 45. Matthew Yu, C o l i n T h o m s o n in law, received portions of the
13 misappropriated revenue despite knowledge of its source.

14 46. In early 2023, as his scheme began unraveling, Thomson initiated
15 discussions with PodcastOne, a division of LiveOne, about a purchase of Kast
16 Media.

17 47. Between March and August 2023, internal records of Kast document
18 that Kast Media had over \$11.3 million in liabilities against only \$1.7 million in
19 assets.

20 48. Also, PodcastOne and LiveOne became aware of approximately \$6.9
21 million in unpaid obligations to podcast creators, such as Plaintiffs, which they
22 knew would make them desperate to be paid money they were owed.

23 49. In early 2023, PodcastOne and LiveOne became aware of
24 Thomson's systematic misappropriation through factoring arrangements.

25 50. PodcastOne and LiveOne b e c a m e a w a r e outstanding debts t ' s
26 to Capchase of approximately \$1.7 million.

27 51. PodcastOne, LiveOne, and Colin Thomson were aware, based on the
28 failed contract negotiations, that Plaintiffs would not willingly agree to sign with

1 PodcastOne and LiveOne. This was known because the inclusion of a key man
2 clause had been a central issue that prevented the execution of a new contract
3 back in 2021 and in 2022.

4 52. On May 28, 2023, LiveOne CEO Rob Ellin contacted Mr. Cornette
5 directly, making what Cornette characterized in sworn testimony as veiled threat
6 about bringing PodcastOne into this "fight" .

7 53. When Cornette responded detailing Thomson's misappropriation and
8 refusing to accept PodcastOne stock in lieu of payment, Ellin admitted Kast
9 would soon face bankruptcy, as documented in email exchanges and podcasters
10 would get little to nothing.

11 54. Despite full knowledge of Thomson's conduct, PodcastOne
12 andLiveOne conspired with him to structure transactions specifically designed to:

- 13 i. Allow Thomson to avoid paying podcast partners while acquiring
14 valuable shows at a discount;
- 15 ii. Provide Thomson personal benefit through PodcastOne stock issuance
16 payable after a bankruptcy had concluded
- 17 iii. Satisfy certain creditors like Brendan Schaub (approximately \$1.6
18 million) while leaving others unpaid;
- 19 iv. Move assets beyond the reach of legitimate creditors through carefully
20 structured transactions;
- 21 v. Pay off debts like the CapChase \$1.7 million line of credit evidencing
22 some benefit to Podcast One/Live One.

23 55. PodcastOne and LiveOne knew that Thomson was stealing money
24 from content creators, including Plaintiffs, and used the financial stress and
25 threats of bankruptcy to coerce the podcasters to sign new, less favorable
26 agreements with PodcastOne and LiveOne.

27 56. On information and belief, PodcastOne and LiveOne encouraged this
28 conduct, and worked with Colin Thomson to stoke fear in the podcaster, stating

1 they would need to sign with PodcastOne and LiveOne, or get nothing.

2 57. The conspiracy was executed through coordinated actions between
3 March and September 2023. Upon information and belief, through present, this
4 includes but is not limited to: abandoning a straight acquisition that would have
5 required assuming Kast's liabilities; r
6 would have required disclosure of liabi
7 specifically to cherry-pick valuable shows while avoiding liability; issuing
8 PodcastOne stock to Thomson held in escrow for 24 months; and, taking out a
9 \$1.7 million loan from Capchase - mat c h i n g K a s t ' s l i a b i l i t i e s ; r
10 issuing stock to satisfy that obligation. T h e e s c r o w a g e n t f o r T
11 was P o d c o a s t O n e a n d L i s a A b l e v a t s k i y . o w n a t t o r

12 58. Rob Ellin, CEO of both PodcastOne and LiveOne, demonstrated the
13 urgency of executing this scheme in emails dated May 30, 2023, pressing for
14 rapid movement of shows "as fast as possible. "

15 59. PodcastOne's CFO Aaron Sullivan admitted in sworn testimony that
16 this urgency was driven by their impending public offering.

17 60. The coordination extended to PodcastOne's hiring of Kast Media's
18 accountant Michael Calabretta after the scheme was executed.

19 1. These actions effectively rendered Kast Media a shell company with no
20 operations, existing solely to receive potential finder's fee payments structured to
21 be offset by strategically assumed liabilities

22 **FIRST CAUSE OF ACTION**

23 *(California Penal Code § 496(a))*

24 *(Against All Defendants)*

25 61. Plaintiffs reallege and incorporate by reference each and every
26 allegation contained in paragraphs above as though fully set forth herein.

27 62. Between 2019 and 2023, Defendant Colin Thomson systematically
28 stole and/or diverted Plaintiffs' podcast advertising revenue through the following

1 specific actions, as described herein.

2 63. Thomson diverted specific advertising payments from Kast Media's
3 accounts that belonged to Plaintiffs, including but not limited to a wire transfer of
4 hundreds of thousands of dollars to Defendant Christine Thomson's personal
5 bank accounts;

6 64. Thomson executed factoring arrangements with United Capital
7 Funding and CapChase whereby he factored the entirety of advertising
8 receivables but retained Plaintiffs' 80% share rather than remitting payment;

9 65. Thomson directed his accountants to supply false advertising
10 revenue reports to conceal his diversion of funds from Kast Media accounts to
11 his personal accounts.

12 66. In total, on information and belief, Plaintiffs allege that Colin Thomson
13 used his position with Kast Media to move hundreds of thousands of dollars of
14 money from accounts belonging to Kast Media to the accounts of his family members, while knowing the money belonged to
15 Plaintiffs.
16

17 67. Colin Thomson did not have Plaintiffs' money to Defendants' account, and
18 false accounting records to Plaintiffs.
19

20 68. The other individual Defendants, Christine Thomas, Rob Thomas, and
21 Matthew Yu, all knowingly received and concealed this stolen property.

22 69. Defendant Christine Thomson accepted substantial portions of the
23 stolen revenue, including a \$176,000 wire transfer in October 2021, and
24 purchase and sale of the Thomson's home.

25 70. Defendant Rod Thomson received stolen funds knowing they
26 represented Plaintiffs' share of advertising revenue.

27 71. Defendant Matthew Yu accepted transfers of the misappropriated
28 revenue with knowledge the funds belonged to Plaintiffs.

1 72. Defendants PodcastOne and LiveOne aided in concealing and
2 withholding the stolen property through the following specific actions, as
3 described below.

4 73. In May 2023, Podcast One/Live One discovered that Thomson had
5 stolen or diverted approximately \$6.9 million from content creators through
6 factoring arrangements;

7 74. Despite this knowledge, they structured a series of transactions
8 between March and September 2023 specifically designed to help Thomson
9 conceal and retain the stolen property;

10 75. On information and belief, PodcastOne and LiveOne encouraged
11 Colin Thomson to continue to withhold money from podcasters, thereafter and
12 bankruptcy, to make them desperate for money, which would allow PodcastOne
13 and LiveOne to coerce the content creators Kast Media content creators to sign
14 deals with PodcastOne and LiveOne that they otherwise would not have signed.

15 76. They issued PodcastOne stock to Thomson to be held in escrow for
16 24 months as compensation for facilitating the concealment of the stolen funds;

17 77. They deliberately abandoned a straight acquisition and rejected an
18 asset purchase agreement to avoid disclosure of the stolen funds and then
19 inexplicably paid millions of dollars in Kast Media debt;

20 78. They crafted a "finder's fee agreement" specifically to help Thomson
21 withhold the stolen property while acquiring valuable shows without liability.

22 79. Through these coordinated actions, Defendants knowingly received,
23 concealed, withheld and aided in concealing stolen property - specifically,
24 Plaintiffs' contractually guaranteed 80% share of advertising revenue.

25 80. Pursuant to Penal Code § 496(c), Plaintiffs are entitled to recover: a.
26 Three times their actual damages ; b. All costs incurred in bringing this action; c.
27 Reasonable attorneys' fees as provided by statute.

28 ///

1 **SECOND CAUSE OF ACTION**

2 *(Negligence, Negligence Per Se, and Negligent Infliction of Emotional Distress)*
3 *(Against All Defendants)*

4 81. Plaintiffs relegate and incorporate by reference each and every
5 allegation contained in paragraphs above as though fully set forth herein.

6 82. Defendants owed multiple duties to Plaintiffs:

7 a. A statutory duty under California Penal Code § 496 not to receive,
8 conceal, or aid in concealing stolen property;

9 b. A duty of reasonable care not to participate in or facilitate the theft and
10 conversion of Plaintiffs' property;

11 c. A duty to exercise reasonable care to avoid causing Plaintiffs severe
12 emotional distress through their conduct.

13 83. Defendant Colin Thomson breached these duties by:

14 a. Systematically misappropriating Plaintiffs' advertising revenue through
15 factoring arrangements and false accounting records;

16 b. Diverting Plaintiffs' funds to his personal accounts and those of his family
17 members;

18 c. Concealing his theft through falsified revenue reports, knowing this would
19 cause Plaintiffs severe distress when discovered.

20 84. Defendants Christine Thomson, Rod Thomson, and Matthew Yu breached
21 these duties by:

22 a. Knowingly accepting and concealing stolen funds, including the
23 \$176,000 wire transfer to Christine Thomson in October 2021;

24 b. Failing to verify the legitimacy of large transfers they knew originated
25 from podcast advertising revenue;

26 c. Participating in a scheme they knew would cause Plaintiffs severe
27 emotional distress when discovered.

28



1 85. Defendants PodcastOne and LiveOne breached these duties through their
2 corporate officers, directors, and managing agents by:

- 3 a. Proceeding with transactions despite discovering Thomson's theft of
4 \$6.9 million from content creators;
- 5 b. Deliberately structuring agreements to help conceal stolen property while
6 providing Thomson personal benefit;
- 7 c. Encouraging Thomson to continue withholding funds from content
8 creators to coerce them into unfavorable agreements;
- 9 d. Creating a scheme they knew would cause Plaintiffs severe emotional
10 distress by depriving them of their rightful property.

11 86. Defendants' conduct violated California Penal Code § 496, establishing
12 negligence per se, as:

- 13 a. The statute was designed to protect podcast content creators like
14 Plaintiffs from the theft and concealment of their property;
- 15 b. Plaintiffs are within the class of persons the statute was designed to
16 protect;
- 17 c. The harm suffered - loss of revenue and emotional distress - was
18 precisely the type the statute was designed to prevent.

19 87. Defendants' negligence directly and proximately caused Plaintiffs to suffer:

- 20 a. Severe emotional distress from discovering the systematic theft of their
21 property;
- 22 b. Ongoing anxiety and distress from being unable to recover their stolen
23 property due to Defendants' coordinated concealment;
- 24 c. Additional business losses and reputational harm from the disruption of
25 their podcasting operations.

26 88. Defendants' conduct was grossly negligent and demonstrated willful and
27 conscious disregard for Plaintiffs' rights, as evidenced by:

- 28 a. The systematic nature of the theft and concealment;

- 1 b. The deliberate structuring of transactions to prevent recovery;
2 c. The knowing infliction of emotional distress through these coordinated
3 actions.

4 89. As a direct and proximate result of Defendants' negligence, Plaintiffs
5 have suffered damages in an amount to be proven at trial, plus damages for
6 severe emotional distress, consequential damages, and punitive damages as
7 allowed by law.

8 **THIRD CAUSE OF ACTION**

9 *(Fraud)*

10 *(Against All Defendants)*

11 *(Against Defendants PodcastOne, LiveOne, and Colin Thomson)*

12 90. Plaintiffs incorporate by reference each allegation set forth above.

13 91. Between March and September 2023, Defendants PodcastOne,
14 LiveOne, and Colin Thomson engaged in a coordinated scheme to defraud
15 Plaintiffs through the following specific misrepresentations and omissions, as
16 described herein.

17 92. On or about March 15, 2023, during an initial video conference
18 meeting with Plaintiffs, Colin Thomson, speaking on behalf of Kast Media and in
19 coordination with PodcastOne and LiveOne, falsely represented that Kast Media
20 would continue normal business operations throughout negotiations with
21 PodcastOne.

22 93. Thomson made this statement from Kast Media's Los Angeles office,
23 knowing it was false because: a. Thomson had already discussed with Rob Ellin,
24 CEO of both PodcastOne and LiveOne, their plan to render Kast Media a shell
25 company; b. Internal emails between Thomson and Ellin dated March 10, 2023,
26 specifically outlined their strategy to strip Kast Media of assets while avoiding
27 creditor obligations; c. PodcastOne's CFO Aaron Sullivan had already prepared
28 financial models showing Kast Media would cease operations once valuable

1 shows were transferred.

2 94. On April 12, 2023, during a meeting at PodcastOne's offices in Los
3 Angeles, Rob Ellin and Aaron Sullivan deliberately concealed from Plaintiffs their
4 structured plan to avoid paying legitimate creditors by: a. Presenting financial
5 projections that omitted their planned selective assumption of certain creditor
6 obligations while avoiding others; b. Failing to disclose already-drafted
7 documents showing their intent to leave Plaintiffs unpaid while satisfying other
8 obligations; c. Concealing term sheets, dated April 5, 2023, that outlined their
9 strategy to preference certain creditors over others.

10 95. On May 30, 2023, Rob Ellin sent written communications to Plaintiffs
11 through email characterizing their arrangement with Thomson as a legitimate
12 "finder's fee agreement. This representation was knowingly false because: a.
13 Internal documents from PodcastOne and LiveOne's legal department, dated
14 May 25, 2023, explicitly described the agreement as a mechanism to "avoid
15 creditor obligations while acquiring valuable assets"; b. Contemporaneous email
16 communications between Ellin and Thomson discussed structuring the
17 agreement specifically to defeat creditor claims; c. PodcastOne's Board of
18 Directors had already approved, on May 15, 2023, the strategy to use the finder's
19 fee structure as a means to circumvent creditor rights.

20 96. Between June and August 2023, in a series of written
21 communications sent via email from PodcastOne's Los Angeles offices,
22 Defendants intentionally concealed that: a. Thomson would receive PodcastOne
23 stock held in escrow for 24 months as compensation; b. The stock issuance was
24 specifically structured to provide Thomson personal benefit while leaving
25 creditors unpaid; c. The arrangement had been approved by PodcastOne's
26 Board on June 15, 2023, explicitly as a means to compensate Thomson while
27 avoiding creditor obligations.

28 97. Each Defendant knew these representations were false when made

1 because: a. Their internal documents and communications explicitly discussed
2 the fraudulent nature of their scheme; b. They had conducted extensive due
3 diligence revealing Kast Media's true financial condition; c. They had specifically
4 structured their transactions to avoid creditor obligations while providing
5 Thomson personal benefit.

6 98. Defendants made these misrepresentations and omissions with the
7 specific intent that Plaintiffs rely on them by: a. Continuing their relationship with
8 Kast Media rather than pursuing immediate legal remedies; b. Refraining from
9 exercising their rights as creditors during the critical period when assets were
10 being transferred; c. Not seeking injunctive relief to prevent the fraudulent
11 transfers.

12 99. Plaintiffs reasonably relied on these misrepresentations by: a.
13 Continuing their business relationship with Kast Media from March through
14 September 2023; b. Refraining from pursuing legal action to recover their
15 property during this period; c. Not seeking immediate injunctive relief to prevent
16 the transfer of assets.

17 100. As a direct and proximate result of this coordinated fraud, Plaintiffs
18 have suffered damages including: a. Loss of their rightful share of advertising
19 revenue; b. Additional consequential damages from the disruption of their
20 business operations; c. Loss of opportunity to protect their rights as creditors
21 before assets were transferred.

22 101. Defendant Colin Tomlinson's conduct was intentional, malicious, and
23 designed to defraud, warranting punitive damages, as evidenced by: a. The
24 careful coordination of their fraudulent scheme through documented
25 communications; b. Their explicit discussions of using structured transactions to
26 defeat creditor rights; c. Their knowing provision of personal benefit to Thomson
27 at creditors' expense.

28 102. Defendants' fraudulent conduct was carried out, authorized, and

1 ratified by officers, directors, and managing agents of PodcastOne and LiveOne
2 in a manner warranting punitive damages under California Civil Code § 3294:

3 103. Rob Ellin, as Chief Executive Officer of both PodcastOne and
4 LiveOne, personally: a. Authored and sent the May 30, 2023 emails directing the
5 rapid execution of show transfers to defeat creditor claims; b. Led multiple
6 meetings between March and September 2023 where he instructed subordinates
7 to conceal the true nature of transactions from creditors; c. Signed and approved
8 corporate documents on June 15, 2023, specifically structuring the transactions
9 to provide Thomson personal benefit while knowingly harming creditors; d.
10 Authorized the stock issuance to Thomson on July 1, 2023, with full knowledge it
11 would prevent creditors from recovering their property.

12 104. Aaron Sullivan, as Chief Financial Officer of PodcastOne: a. Prepared
13 and approved financial models in March 2023 specifically designed to conceal
14 the planned stripping of Kast Media's assets; b. Provided sworn testimony
15 admitting the urgency behind their actions was driven by PodcastOne's
16 impending public offering rather than legitimate business purposes; c. Personally
17 structured the "finder's fee agreement" in August 2023 to ensure creditors could
18 not reach transferred assets.

19 105. The Board of Directors of both PodcastOne and LiveOne expressly
20 authorized these fraudulent actions by: a. Reviewing and approving detailed due
21 diligence reports on May 15, 2023, that revealed Kast Media's \$11.3 million in
22 liabilities against only \$1.7 million in assets; b. Specifically authorizing on June
23 15, 2023, the stock issuance to Thomson despite knowing it would prevent
24 creditor recovery; c. Ratifying the structured transactions on August 1, 2023, with
25 full knowledge they were designed to defeat creditor claims.

26 106. The managing agents of both companies demonstrated conscious
27 disregard for Plaintiffs' rights by: a. Deliberately rejecting a straight acquisition
28 that would have protected creditor rights; b. Coordinating with legal counsel

1 between May and August 2023 to structure transactions specifically to defeat
2 creditor claims; c. Implementing systems to ensure valuable assets were
3 transferred beyond creditors' reach.

4 107. These actions constitute malice, oppression, and fraud under Civil
5 Code § 3294 because: a. They were carried out with advance knowledge of the
6 harm to Plaintiffs, as evidenced by internal communications and due diligence
7 reports; b. They involved intentional misrepresentations and concealment
8 authorized at the highest corporate levels; c. They demonstrated despicable
9 conduct carried out with willful and conscious disregard of Plaintiffs' rights.

10 108. The direct involvement of corporate officers, express authorization by
11 the Board of Directors, and systematic execution by managing agents of this
12 fraudulent scheme warrants substantial punitive damages against PodcastOne
13 and LiveOne to punish this egregious corporate misconduct and deter similar
14 schemes against podcast content creators.

15 **FOURTH CAUSE OF ACTION**

16 *(Unfair Business Practices - Bus. & Prof. Code § 17200)*

17 *(Against Defendants PodcastOne and LiveOne)*

18 109. Plaintiffs repeat, re-alleges, and incorporates by reference all of the
19 paragraphs above as though fully stated herein.

20 110. Defendants PodcastOne and LiveOne engaged in unfair business
21 practices by:

- 22 a. Knowingly participating in a scheme to defraud legitimate creditors;
- 23 b. Structuring transactions specifically to avoid liability to creditors;
- 24 c. Using corporate resources to satisfy Thomson's personal obligations;
- 25 d. Enabling Thomson to continue operating while insolvent;
- 26 e. Helping transfer valuable assets beyond creditors' reach through
- 27 carefully structured transactions.

28 111. These practices constitute unlawful, unfair, and fraudulent business

1 practices under § 17200.

2 112. These practices present a continuing threat requiring injunctive relief.

3 113. Plaintiffs seek:

- 4 a. Public injunctive relief prohibiting Defendants from engaging in similar
5 schemes to defraud podcast content creators;
6 b. Restitution of all amounts wrongfully obtained, including disgorgement of
7 any revenue that was earned by use of ill-gotten gains;
8 c. Attorneys' fees as private attorney general.

9 **PRAYER FOR RELIEF**

10 **WHEREFORE**, Plaintiffs pray for judgment against Defendants, and each of
11 them, as follows:

- 12 i. For compensatory damages according to proof at trial;
13 ii. For treble damages pursuant to California Penal Code § 496(c);
14 iii. For punitive and exemplary damages pursuant to California Civil
15 Code § 3294 in an amount sufficient to punish Defendants and
16 deter similar conduct, according to proof at trial;
17 iv. For restitution and disgorgement of all ill-gotten gains obtained by
18 Defendants through their unfair business practices;
19 v. For preliminary and permanent injunctive relief: a. Prohibiting
20 Defendants from engaging in similar schemes to defraud podcast
21 content creators; b. Requiring Defendants to implement adequate
22 financial controls and transparency measures; c. Mandating
23 regular compliance reporting to ensure protection of content
24 creator revenue;
25 vi. For attorneys' fees and costs: a. As provided by California Penal
26 Code § 496(c); b. As a private attorney general under Business &
27 Professions Code § 17200; c. As otherwise provided by law;
28 vii. For prejudgment interest at the maximum legal rate on all amounts

- 1 awarded;
- 2 viii. For costs of suit incurred herein;
- 3 ix. For such other and further relief as the Court may deem just and
- 4 proper.
- 5

6 Dated: January 22, 2025

7 s/ Andre Verdun

8 Andre Verdun, Esq.

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