

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PAN-ALBANIAN FEDERATION OF AMERICA  
VATRA (THE HEARTH), INC.,

*Plaintiff,*

- against -

Case No.: 1:21-cv-00875-JSR

PAN-ALBANIAN FEDERATION OF AMERICA  
DC CHAPTER; AHMET GIAFFO-ADESA;  
DR. NEXHAT KALICI; GJON BUÇAJ;  
ARMIN ZOTAJ, AND THE “COMMISSION”,

*Defendants.*

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PAN-ALBANIAN FEDERATION OF AMERICA  
VATRA (THE HEARTH), INC.,

*Counter-Plaintiff and  
Third-Party Plaintiff*

- against -

JURY TRIAL DEMANDED

PAN-ALBANIAN FEDERATION OF AMERICA  
VATRA (THE HEARTH), INC.,  
2437 Southern Boulevard  
Bronx, New York 10458

*Counter-Defendant and*

ELMI BERISHA,  
21 South Mesier Avenue  
Wappingers Falls, New York 12590

BESIM MALOTA,  
80 Midland Road  
Trumbull, Connecticut 06511

ALFONS GRISHAJ,  
13304 Mair Drive  
Sterling Heights, Michigan 48313

DRITAN MISHTO,

319 Avenue C, Apt. MH  
New York, New York 10009

NAZO VELIU,  
810 Pelham Pkwy So., # 4B  
Bronx, New York 10462

ZEF BALAJ,  
60 Kerry Lane  
Chappaqua, New York 10514

ADRIATIK SPAHIU, and  
7801 Point Drive Meadows, Unit 2401  
Jacksonville, Florida 32256

MONDI RAKAJ,  
47465 Barbara Road  
Macomb, Michigan 48044

*Third-Party Defendants.*

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**COUNTER AND THIRD-PARTY CLAIM**

Defendant, Counter-Plaintiff, and Third-Party-Plaintiff Pan-Albanian Federation of America Vatra (The Hearth), Inc. (the “October Committee,”<sup>1</sup> “Defendant,” “Counter-Plaintiff,” or “Third-Party-Plaintiff”), by its undersigned counsel, sues Plaintiff and Counter-Defendant Pan-Albanian Federation of America Vatra (The Hearth), Inc. (“Illegitimate VATRA”) and Third-Party Defendants Elmi Berisha (“Berisha”), Besim Malota (“Malota”), Alfons Grishaj (“Grishaj”), Dritan Mishto (“Mishto”), Nazo Veliu (“Veliu”), Zef Balaj (“Balaj”), Adriatik Spahiu (“Spahiu”) and Mondi Rakaj (“Rakaj”) (collectively, Berisha, Malota, Grishaj, Mishto, Veliu, Balaj, Spahiu, and Rakaj, shall be referred to as the “Individual Third-Party Defendants”) (the Individual Third-Party Defendants, collectively, with “Counter-Defendant” / “Illegitimate VATRA,” shall be

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<sup>1</sup> For continuity purposes only, Defendant, Counter-Plaintiff, and Third-Party-Plaintiff Pan-Albanian Federation of America will be referred to herein as the “October Committee,” as a similar phrase was used by Counter-Defendant in its Complaint (Dkt. No. 1).

referred to as “Illegitimate VATRA”). In support thereof, and upon information and belief, the October Committee alleges as follows:

### **INTRODUCTION**

1. The October Committee files these claims in response to Illegitimate VATRA’s attempt to cast aside the long-established governing procedures of the Pan-Albanian Federation of America Vatra (The Hearth), Inc. (“VATRA” or the “Organization”) in an effort to improperly take control of the Organization and manage the Organization for the Individual Third-Party Defendants’ personal benefit.<sup>2</sup>

2. VATRA is a membership association of Albanian Americans, created in 1912, whose purpose is, among other things, to promote Albanian culture, protect the rights of Albanians in the United States, and lobby the United States Congress about the rights and interests of Albanians throughout the world.

3. Instead of handling the internal affairs of VATRA between its members and in accordance with its Bylaws, Illegitimate VATRA opted to file the original complaint in this matter to create the perception that it possesses authority and control over VATRA and its intellectual property.

4. Indeed, Illegitimate VATRA’s Complaint (Dkt. No. 1) wholly ignores the actual and underlying dispute between the parties, which the October Committee, along with numerous other VATRA members, raised with the Individual Third-Party Defendants on a number of occasions prior to the filing of Illegitimate VATRA’s Complaint.

5. As demonstrated herein, Illegitimate VATRA has, since VATRA’s 2017 Convention (the “2017 Convention”), when Mishto was illegitimately elected President of

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<sup>2</sup> “VATRA” or the “Organization” generally refers to the Organization itself, without any association to either group of VATRA members that purport to represent Plaintiff or Defendants.

VATRA pursuant to the Individual Third-Party Defendants' scheme to overtake VATRA, collectively ignored the Organization's Bylaws and Constitution (attached hereto as **Exhibit A**, the "Bylaws") that have guided VATRA and bound its members, including its Presidents, since 1926 (Bylaw **Article 78**).

6. At the 2017 Convention, Illegitimate VATRA implemented a scheme to rig the election so that Dritan Mishto would be elected President of the Organization. In this regard, Illegitimate VATRA: (1) manufactured illegitimate votes in violation of the Bylaws on the day of the 2017 Convention to ensure Mishto had enough votes (albeit illegitimate votes) to win the election; (2) nominated a candidate, Mishto, who was ineligible to serve as VATRA's President pursuant to several Bylaws; and (3) after he won the election, Mishto refused to nominate an Executive Body for membership vote and approval by the verified delegates before he "closed" the 2017 Convention, as is mandated by the Bylaws.

7. The collective effect of these improper acts left Illegitimate VATRA in complete control of VATRA, improperly circumventing the democratic process imbedded in the Organization through its Bylaws.

8. Since the 2017 Convention, Illegitimate VATRA has continued to ignore and violate Bylaws, which has resulted in the Organization being run into disrepair.

9. Aside from failing to respond to the number of Bylaw violations committed by Illegitimate VATRA at and through the 2017 Convention—all of which were presented to Illegitimate VATRA through formal VATRA procedures—Illegitimate VATRA refused to hold either a 2018 "working" convention (a convention specifically held to manage the affairs of VATRA, including voting on Bylaw amendments or other administrative functions) or a 2019

“election” convention (such as the 2017 Convention)—both of which are mandated by the Bylaws to occur in alternate years, so that its membership has a voice in the affairs of the Organization.

10. “Conventions” are the lifeblood of VATRA. They are how the Organization maintains order and adherence to its Bylaws. Conventions give VATRA’s members a voice and prohibit one person, or a small group of people, from complete and unfettered control over the Organization.

11. The Organization prides itself on maintaining the Organization as a democracy.

12. As a result of Illegitimate VATRA’s failure to hold either of the VATRA conventions, the membership was effectively prohibited from electing a new president, resulting in Mishto’s presidency being extended well beyond the term permitted by the Bylaws. Illegitimate VATRA effectively held the Organization hostage.

13. Based on these serious violations of VATRA’s Bylaws, and only after notifying Illegitimate VATRA through formal procedures (and through numerous other communications), the October Committee was forced to take action in order to preserve the order, history, and honor of VATRA.

14. Because Illegitimate VATRA ignored the October Committee’s protests, it notified Illegitimate VATRA that its illegitimate reign had come to an end.

15. In its Complaint (Dkt. No. 1), Illegitimate VATRA classifies the October Committee’s efforts to enforce VATRA’s Bylaws as the acts of “rogue,” disgruntled VATRA members. It attempts to paint the October Committee as a small group of obstructionists. To the contrary, the October Committee is supported in large numbers by VATRA Branches and members throughout the United States that individually have helped build and grow the Organization for the last 30+ years.

16. It is Illegitimate VATRA's Bylaw violations, and the effect such violations have had on VATRA, that must be addressed by this Court before determining whether any of the parties infringed on any intellectual property owned by VATRA or otherwise violated the rights of the other parties.

17. Illegitimate VATRA's Complaint remarkably avoids this threshold issue. That is, whether it even has the right to file a lawsuit in light of the many VATRA Bylaws it violated to improperly gain control of the Organization.

18. Illegitimate VATRA's Complaint simply proclaims that it owns the rights to VATRA, its history, and its intellectual property, and altogether avoids the legitimate grievances levied by the October Committee and other VATRA members. In short, Illegitimate VATRA's Complaint seeks to have this Court judicially approve of the many Bylaw violations and its improper reign over VATRA through a misplaced and premature trademark lawsuit.

19. The Complaint filed by Illegitimate VATRA puts the proverbial cart before the horse to avoid answering for its many Bylaw violations that will serve to undo the past years of organizational strife.

20. This Counter and Third-Party Claim, however, address head on the dispute Illegitimate VATRA wants this Court to ignore.

21. The October Committee first seeks a declaratory judgement on the many Bylaw violations committed by Illegitimate VATRA, which, as discussed below, will serve to restore VATRA to its roots and undo the many unfortunate and untoward acts committed by Illegitimate VATRA committed against its own organization. Only then, may the causes of action stemming from VATRA's trademark rights be determined.

### **THE PARTIES**

22. Defendant, Counter-Plaintiff, and Third-Party Plaintiff, Pan-Albanian Federation of America Vatra (The Hearth), Inc. (the “October Committee”) is a non-profit corporation under the laws of Massachusetts with its principal place of business at 2437 Southern Boulevard, Bronx, New York 10458.

23. Counter-Defendant Pan-Albanian Federation of America Vatra (The Hearth), Inc. (“Illegitimate VATRA”) is a purported group of VATRA members that, in violation of VATRA bylaws and corporate governance, have improperly taken control of VATRA. Illegitimate VATRA has worked in concert with the Individual Third-Party Defendants, as well as other purported VATRA Members that are unknown to Counter-Plaintiff at this time. Such additional members may be identified through discovery in this matter. Illegitimate VATRA’s principal place of business—where each of the Individual Third-Party Defendants operate and conduct business on behalf of Illegitimate VATRA—is located in Bronx, New York.

24. Individual Third-Party Defendant Elmi Berisha (“Berisha”) is a resident of Wappingers Falls, New York. It is unknown how many years Berisha has been a member of VATRA, but Berisha was a founding member of Illegitimate VATRA in 2017. As discussed below, Berisha helped create and accepted the position of “Chief of the Economic Department” of Illegitimate VATRA from 2017-2019—a position not sanctioned by the Bylaws. Berisha is the current “President” of Illegitimate VATRA and, as discussed below, has taken the reigns from Mishto in an effort to carry on with Illegitimate VATRA despite efforts taken by the October Committee to revive the Organization and bring it into conformity with its Bylaws. Berisha operates Illegitimate VATRA from Bronx, New York.

25. Individual Third-Party Defendant Besim Malota (“Malota”) is a resident of Turnbull, Connecticut. It is unknown how many years Malota has been a member of VATRA, but Malota was a founding member of Illegitimate VATRA in 2017. Malota was a member of Illegitimate VATRA’s Executive Board from 2017 – 2019, and continues to be actively involved in Illegitimate VATRA’s activities. Malota operates Illegitimate VATRA from Bronx, New York.

26. Individual Third-Party Defendant Alfons Grishaj (“Grishaj”) is a resident of Sterling Heights, Michigan. Grishaj has been a member of VATRA since, the very earliest, 2012 and was a founding member of Illegitimate VATRA in 2017. Grishaj is a current “Vice President” of Illegitimate VATRA and, as discussed below, has guided Illegitimate VATRA since 2017. Grishaj operates Illegitimate VATRA from Bronx, New York.

27. Individual Third-Party Defendant Dritan Mishto (“Mishto”) is a resident of New York, New York. Dritan Mishto has been a member of VATRA since, the earliest, 2015 and was a founding member of Illegitimate VATRA in 2017. Mishto is the former “President” of Illegitimate VATRA and, as discussed below, led Illegitimate VATRA since 2017. Mishto operates Illegitimate VATRA from Bronx, New York.

28. Individual Third-Party Defendant Nazo Veliu (“Veliu”) is a resident of Bronx, New York. Veliu has been a member of VATRA since 2013 and was a founding member of Illegitimate VATRA. Veliu operates Illegitimate VATRA from Bronx, New York.

29. Individual Third-Party Defendant Zef Balaj (“Balaj”) is a resident of Chappaqua, New York. Balaj has been a member of VATRA for approximately 30 years and was a founding member of Illegitimate VATRA. Balaj operates Illegitimate VATRA from Bronx, New York.

30. Individual Third-Party Defendant Adriatik Spahiu (“Spahiu”) is a resident of Jacksonville, Florida. Spahiu has been a member of VATRA since 2013 and was a founding member of Illegitimate VATRA. Spahiu operates Illegitimate VATRA from Bronx, New York.

31. Individual Third-Party Defendant Mondir Rakaj (“Rakaj”) is a resident of Macomb, Michigan. Rakaj has been a member of VATRA since 2012 and was a founding member of Illegitimate VATRA. Rakaj operates Illegitimate VATRA from Bronx, New York.

### **JURISDICTION AND VENUE**

32. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 as this matter arises under the laws of the United States, including the United States Trademark Act, 15 U.S.C. §§ 1051 *et. seq.* (the “Lanham Act”).

33. This Court also has subject matter jurisdiction over the October Committee’s requests for declaratory judgment pursuant to 28 U.S.C.A. § 2201.

34. This Court has personal jurisdiction over Illegitimate VATRA as its principal place of business, as alleged in its Complaint, is in Bronx, New York (Dkt. 1 at ¶ 4) and, accordingly, its members, including the Individual Third-Party Defendants, engage in business in this District.

35. Venue is proper in this District pursuant to 28 U.S.C. §1391(b)(1) and (2) as Illegitimate VATRA and its members, including the Individual Third-Party Defendants, reside in this District and a substantial part of the events giving rise to this Counter and Third-Party Claim occurred in this District.

**FACTS COMMON TO ALL CAUSES OF ACTION**

***Brief History of Albania***

36. The magnitude of the bad acts committed by Illegitimate VATRA is easily identifiable when viewed in the context of the Organization's foundation and purpose: to champion democracy and celebrate Albanian culture.

37. Albania endured occupation by Italy prior to, and throughout, World War II. After the collapse of the Axis powers, including Italy, Albania became a communist state, the Socialist People's Republic of Albania, which for most of its duration was dominated by a brutal dictator, Enver Hoxha.

38. Many of VATRA's members fought long and hard against Albania's Socialist Party and it is this opposition to communism and the resulting promotion of democracy that is at the center of VATRA's tenets.

***The Pan-Albanian Federation of America Vatra (The Hearth), Inc.***

39. VATRA principally was created in 1912 "[t]o promote among Albanians living in the United States of America... and, through them, among Albanians wherever they may live... the spirit of helping one another and of love for the motherland and for the nation, by means of patriotic activities, conferences, symposiums and publishing books and magazines." Bylaw **Amendment 2 (a)**.

40. VATRA is a membership association of Albanian Americans whose purpose is to promote Albanian culture, protect the rights of Albanians in the United States, and lobby the United States Congress about the rights and interests of Albanians throughout the world.

41. VATRA is comprised of members that belong to branches in various cities throughout the United States and “at large” members who do not have a specific association with a local branch.

42. In 2017, VATRA was comprised of ten branches and “at large” members.

43. In 2017, there were approximately 400 members across the entire Organization.

44. VATRA is governed by its “Executive Body,” which is formally referred to in the Bylaws as the “Central Committee.”

45. The Executive Body is comprised of eleven officers, elected every two years at a convention. The members of the Executive Body are: the President, two vice-Presidents, the Secretary, the Treasurer and six officers. Bylaws **Amendment 6 (a-c)**.

46. Further, the Organization relies on a “Board of Directors,” which is a composition of leaders of the various Branches that represent the interests of those Branches. The Board of Directors, including the Executive Body, must meet at least four times during the year to advance the interests of the Organization. Bylaws **Amendment 8 (a)**.

#### ***The 2017 VATRA Convention***

47. The 2017 VATRA Convention was held on June 10, 2017, at Manhattan College in Bronx, New York (the “2017 Convention”).

48. The incumbent President at the 2017 Convention was Dr. Gjon Buçaj, who, after providing his report on the prior two years of VATRA activities, resigned from his post as President.

49. Dr. Buçaj resigned from his post because the 2017 Convention marked the end of his second two-year term as president and, according to the Bylaws, presidents cannot serve in that role for more than two consecutive, two-year terms. Bylaws **Amendment 11 (a)**.

50. The final session of the 2017 Convention, like all other conventions before it, was designated for the election of a new president.

51. The voting process and rights of VATRA members are guided and constrained by the Bylaws.

52. Pursuant to the **Amendment 10 (c)** of the Bylaws:

Delegates with the authority to vote at the Convention are comprised of those individuals elected in proportion to the number of VATRA members; one (1) delegate per ten (10) members of VATRA, the eleven (11) members of the Executive Body and the heads of each branch.

53. A “qualified member,” *i.e.*, a member that counts toward a branch’s total vote at an election convention, must have “paid dues for at least the previous two (2) years” before the Convention. *See* Bylaws at **Amendment 16 (g)** (“if a branch has thirty (30) qualified members and other non-qualified members, it has the right to send only three delegates excluding the Branch president who is automatically a delegate.”).

54. **Article 34** of the Bylaws requires that the “credentials of the convention delegates [be] examined by the President and the Central Committee in VATRA’s offices before the Convention opens, and determines whether they are in good order or not.”

55. Consistent with **Article 34**, Bylaw **Amendment 10 (d)** provides that delegates must have been “previously accredited by the Executive Body on the basis of the conditions outlined in the Constitution and Amendments,” which are detailed herein (*see, e.g.*, Bylaws **Amendment 16 (g)**).

56. To collect the information necessary to fulfill the obligations under Bylaw **Article 34** and **Amendment 10 (d)**, months before the 2017 Convention, on March 23, 2017, then-President Dr. Buçaj sent a letter to each Branch President instructing each Branch to “send their

complete list of paid memberships no later than April 10, 2017,” to include, for each member, “the date of paid membership dues.”

57. This process is undertaken by each Executive Body in advance of any election Convention in order to comply with the Bylaws.

58. The reasons for this process are obvious: absent accountability, the Branches would be able to fabricate members in order to increase their votes at the election Convention. These Bylaw provisions guarantee that the delegates are representing only the eligible dues-paying members of their respective Branches.

59. However, contrary to the number of *possible* verified votes, 71 votes were *actually* cast at the election during the 2017 Convention.

60. 71 votes was above and beyond the actual size of the Organization. Many of those 71 votes were illegitimately manufactured—in violation of VATRA Bylaws—by Illegitimate VATRA in order to secure the election of Dritan Mishto as president.

61. Leading up to the 2017 Convention, Illegitimate VATRA set its scheme in motion to illegitimately win the 2017 VATRA presidential election and take control of the Organization.

62. Certain Individual Third-Party Defendants, specifically Mishto, Grishaj, Balaj, and Rakaj, began to court VATRA Members in order to gain momentum for their scheme, which was to artificially and improperly inflate the number of voting members for the 2017 Convention election.

63. Indeed, the day before the 2017 Convention, Mishto lobbied legitimate and illegitimate VATRA delegates for their votes in exchange for Executive Body positions within the Organization and also within the Democratic Party of Albania.

64. Knowing full well that election votes needed to be verified *before* the Convention, Illegitimate VATRA organized to have unverified delegates attend the 2017 Convention and pay dues for these so-called members, retrospectively, so that they could vote in the 2017 election for president.

65. To avoid derailment of this objective by the proper VATRA voting delegation (including the members that eventually would create the October Committee in 2019), Illegitimate VATRA employed intimidation tactics upon their arrival at the 2017 Convention. Indeed, Illegitimate VATRA acted in a manner that invoked fear upon other VATRA Members.

66. For example, throughout the 2017 Convention, Illegitimate VATRA—including specifically Grishaj and Balaj—abruptly interrupted, threatened, and insulted delegate speakers, rushed speakers that had the floor, resorted to yelling and screaming at delegates engaging in the business of the 2017 Convention, and otherwise exhibited inappropriate behaviors. In short, Illegitimate VATRA created an environment that was chaotic, uneasy and unsafe.

67. Any attempt by the proper VATRA voting delegation to object to Illegitimate VATRA’s coordinated and fear-invoking efforts, was met with intimidation and the threat of violence.

68. Moreover, Illegitimate VATRA preyed on the fact that it knew the proper VATRA delegation trusted each VATRA member to abide by the Bylaws and conduct themselves in accordance with the mandates of the Organization and its history and purpose. *See* Bylaw **Article 73** (“[e]very person who decides to become a member of VATRA promises to obey the constitution and the by-laws without question.”).

69. On the day of the Convention, and immediately before the election process began, it was noted by several members that payments were being made for membership dues to be

applied retroactively so that Delegates—specifically Illegitimate VATRA members—would have additional votes at the election. Illegitimate VATRA orchestrated the payment of dues on the date of the Convention for this purpose.

70. For example, the October Committee was informed that the members of the Jacksonville Branch, specifically Adriatik Spahiu, working at the direction of Illegitimate VATRA, paid for the dues of his membership retroactively in order to gain additional illegitimate votes for Illegitimate VATRA.

71. Further, Elmi Berisha, purportedly on behalf of his Branch, the Hudson Valley, New York Branch, paid for his Branch's dues at the 2017 Convention in order to gain additional illegitimate votes for Illegitimate VATRA. During this process, Malota stood close by to ensure that there was no resistance.

72. The extent of the payments made and the extent to which Illegitimate VATRA ultimately rigged the 2017 Convention with inflated votes was not fully known to the October Committee until after the 2017 Convention. Indeed, the full extent of Illegitimate VATRA's improprieties in this regard is still not fully known.

73. This effort, coordinated by Illegitimate VATRA, directly violated Bylaws **Article 34** and **Amendment 10 (d)**.

74. Despite the fact that it knew members of VATRA would trust that other members of VATRA—specifically, Illegitimate VATRA—would abide by the Bylaws and act in accordance with Convention rules, Illegitimate VATRA's tactics succeeded. The additional, unverified, and illegal votes were “verified” on the date of the 2017 Convention only moments before the commencement of the election process.

75. Despite objection from law-abiding VATRA members—Zotaj and Zamira Rubjeka (Tampa, Florida Branch)—and without knowing the full extent of the illegal votes obtained by Illegitimate VATRA, Illegitimate VATRA succeeded in having these illegal votes “verified” through the use of its intimidation tactics.

76. Shockingly, upon an objection raised at the 2017 Convention about the inappropriate inflation of delegate votes, these same illegitimate delegates voted to verify the votes, which in and of itself demonstrates the inappropriate tactics undertaken by Illegitimate VATRA to secure the 2017 Convention election.

77. Upon information and belief, had the correct number of votes been cast at the 2017 Convention, Dritan Mishto would not have been elected president. The fraudulent votes that were obtained and cast pursuant to Illegitimate VATRA’s scheme were all votes for Mishto, leading to him winning the election. Stated differently, without these fraudulent votes, Mishto would not have been elected VATRA president.

78. It was unknown to the October Committee until after the conclusion of the 2017 Convention, which was abruptly terminated by Mishto (discussed below), the extent to which Illegitimate VATRA inflated the number of votes so that it could secure the election for Mishto.

79. This violation of the Bylaws directly resulted in the election of Mishto as President of VATRA, and set in motion the decline of VATRA at the hands of Illegitimate VATRA.

*The Election of Dritan Mishto*

80. Pursuant to **Amendment 11 (b)** of the Bylaws:

To be a candidate for President, a person must be a VATRA member in good standing for at least five (5) years with experience in the workings of VATRA, concrete evidence of dedication to serve while respecting the Constitution and having displayed tolerance and respect for differing views while being respected and acceptable by the members and society at large.

81. At the 2017 Convention, two candidates were presented to the membership for election: Dritan Mishto, nominated by Illegitimate VATRA, and Mithat Gashi.

82. As part of the election process detailed in the Bylaws and before votes were collected, the 2017 Convention Chair, Defendant Armin Zotaj, requested that each candidate confirm that they were qualified to serve as President in accordance with the Bylaws.

83. In response to the question of whether the candidates were VATRA members for the mandated five-year period, Mr. Gashi responded that he was a member for over 20 years and, therefore, his nomination satisfied Bylaw **Amendment 11 (b)**.

84. On the other hand, Mishto failed to personally respond to this basic and threshold inquiry.

85. Instead, Alfons Grishaj, apparently speaking for Mishto, interrupted the confirmation process, stating that “candidate Mr. Dritan Mishto satisfies all the criteria, he’s been a member of VATRA for five or six years.”

86. Grishaj speaking for Mishto in this regard was suspect because Mishto was not a member of the Branch to which Grishaj belonged. Indeed, Mishto was a member of the “at large” contingent.

87. Nonetheless, Grishaj continued to speak on behalf of Mishto and declared in front of the entire 2017 Convention that Mishto was “fully qualified” and that he did not need to provide “proof of registration.” Grishaj further stated that because VATRA in the past “allowed a Serbian spy to run for president who was not even a member for three months, there is no question about Mishto.” It was not known at the time to whom Grishaj was referring or how this fact, even if true, was relevant to Mishto’s qualifications to be president.

88. Grishaj provided this information knowing that the 2017 Convention would rely on his representations about the qualifications of the candidate in nominating Mishto and voting on the election.

89. In providing this information, and consistent with Illegitimate VATRA's scheme, Grishaj intended to and successfully intimidated the delegation by raising his voice and appearing visibly agitated to a point where certain members of the VATRA delegation feared a physical altercation between the members of Illegitimate VATRA and any VATRA member standing in their way.

90. The Chairman of the 2017 Convention then opened the floor to the delegation to ask questions of the candidates. As there was still uncertainty from the delegation on the eligibility of Mishto as a candidate, the first question asked of him was whether he was a VATRA member for at least five years prior to the 2017 Convention.

91. Consistent with Illegitimate VATRA's tactic to invoke fear in the delegation in order to achieve the goal of its scheme, members of Illegitimate VATRA, including Grishaj, became unruly in response to this question. Indeed, Delegate Zef Balaj from the At Large Branch, and a member of Illegitimate VATRA, rushed the podium in a threatening manner. He screamed at, threatened, and insulted, the Convention Chairman in front of the entire delegation.

92. This outburst from Illegitimate VATRA provided Mishto with the cover to once again avoid answering the question of whether he had been a member of VATRA for five years before he accepted his nomination for president and further invoked fear into the delegation that a physical altercation was imminent.

93. As the October Committee found out after the close of the 2017 Convention, Mishto could not have been a VATRA member for the requisite 5 years before the 2017 Convention. In

this regard, the October Committee discovered that Mishto had only been a member of the “at large” Branch since 2015, at the earliest.

94. Mishto, accordingly, could not have been nominated for president of VATRA at the 2017 Convention because he was not a member of VATRA for the requisite period of time, *i.e.*, five years.

95. Nevertheless, Mishto won the election with the backing of Illegitimate VATRA and the inflated votes that were cast in contradiction to VATRA’s Bylaws.

96. Mishto’s presidency, from the outset, was in direct contradiction to the Bylaws that have guided VATRA since 1926, including Bylaw **Article 73**, which provides that “[e]very person who decides to become a member of VATRA promises to obey the constitution and the by-laws without question.”

***Illegitimate VATRA Takes Unfettered Control of VATRA***

97. Mishto and Illegitimate VATRA wasted no time in further disregarding the Bylaws and discrediting the Organization.

98. Pursuant to Bylaws **Amendment 10 (g)**, after the election process concludes and a president is elected:

the newly elected President proposes to the Convention coworkers by name: two vice-Presidents, a Secretary, a Treasurer, and six (6) other members of the Executive Body. If there is opposition to the names proposed, then it is decided by a vote. If candidates are voted down, then new names are proposed. The newly elected President presents a list for members of the Board of Directors for approval.

99. Instead of “propos[ing]” candidates for the Executive Body, as required by **Amendment 10 (g)** of the Bylaws, after Mishto illegitimately won the election, he simply concluded the 2017 Convention, declaring that “the work of the Convention is now closed.”

100. Mishto, after closing the Convention and anticipating objection from law-abiding VATRA members, including the members that would eventually create the October Committee, walked up to Zotaj—the 2017 Convention Chair—and informed him that “he can take it from here,” before he walked out of the 2017 Convention.

101. At his direction, Illegitimate VATRA also walked out of the 2017 Convention in order to avoid objection from Bylaw-abiding VATRA members relating to Mishto’s failure to nominate the Executive Body for delegate vote.

102. At no other point during his presidency did Mishto nominate the Executive Body for a delegation vote and, therefore, the delegation was prohibited from selecting the Executive Body to steer the Organization and act on behalf of the diverse number of Branches as provided by the Bylaws.

103. Sometime later, Mishto and Illegitimate VATRA simply appointed the Executive Body in direct contradiction of the Bylaws—appointing other members of Illegitimate VATRA to the Executive Body and Board of Directors, without the membership being able to vote on those members consistent with the Bylaws. To highlight the impropriety of Illegitimate VATRA’s actions, some of the Executive Body members appointed by it had never been members of VATRA until their appointment.

104. In the days after the Convention, Mishto was quick to act on the improper promises he made to VATRA members to secure their votes. Mishto created positions—in direct contradiction to the Bylaws—that provided more Illegitimate VATRA members authority in the Organization. To that end, Mishto created positions for a chief of staff, economic chief, cultural chief, protocol chief, digital media chief, and the “Commission for the Guarantees and Protection

of Bylaws.” None of these positions are provided by the Bylaws and none were voted on by the entire delegation.

105. In accordance with Illegitimate VATRA’s ultimate scheme, this provided Illegitimate VATRA unfettered control over the Organization and, further, prohibited any of the organizational checks and balances, which are prescribed by the Bylaws and its goal of maintaining a democratic organization.

106. At this point, the legitimate membership of VATRA had no recourse for past or future Bylaw violations, specifically those that occurred at the 2017 Convention, and was, therefore, at the mercy of Illegitimate VATRA to bring the organization back into compliance with the Bylaws.

107. Unfortunately, Illegitimate VATRA was just getting started.

***Illegitimate VATRA’s Post-Election Bylaw Violations and its  
Failure to Address Past Bylaw Violations***

108. The day after the 2017 Convention, former VATRA President Dr. Gjon Buçaj met with Mishto to confront him about the events that took place at the 2017 Convention and the Bylaw violations committed therein.

109. Dr. Buçaj requested that Mishto make a public statement to the VATRA membership condemning the aggressive behavior and the violations of Bylaws that occurred at the 2017 Convention.

110. Mishto refused and admitted that doing so “would amount to confirming his own illegitimacy.”

111. Three days after the 2017 Convention, the Chairman of the 2017 Convention, Armin Zotaj, issued a report to Illegitimate VATRA (the “2017 Convention Report”).

112. The 2017 Convention Report detailed the Bylaw infractions that took place at the 2017 Convention.

113. The 2017 Convention Report was a call-to-action for Illegitimate VATRA to undo the improprieties engaged in at the 2017 Convention and re-establish order.

114. Illegitimate VATRA failed to answer for the many Bylaw infractions noted in the 2017 Convention Report.

115. Worse, Illegitimate VATRA failed to publish the 2017 Convention Report in the Organization's newspaper *Dielli*, despite the fact that it was engrained in the Organization's history and customs for each Chairman of the Convention to draft such a report and for that report to be published in the *Dielli* for the entire membership to review.

116. Notably, because Illegitimate VATRA had complete control over the Organization, it too controlled the stories and messages printed in *Dielli*.

117. Accordingly, instead of publishing the 2017 Convention Report, Illegitimate VATRA authored and published an inaccurate version of the events that unfolded at the 2017 Convention.

118. The facts of the 2017 Convention Report were, therefore, not presented to the general membership. Only the narrative contrived by Illegitimate VATRA reached VATRA's members.

119. Despite countless communications from VATRA members (including some of whom would eventually create the October Committee) to remedy the Bylaw violations committed by Illegitimate VATRA, Illegitimate VATRA took no action.

120. Illegitimate VATRA's refusal to address blatant Bylaw violations and its refusal to appropriately nominate and elect the Executive Body had gone ignored for too long.

121. In January of 2018 law-abiding VATRA Members called for a board meeting at VATRA headquarters in Bronx, New York to demand a response to the aforementioned Bylaw violations.

122. As another violation of the Bylaws, Mishto failed to hold Board meetings in accordance with the Bylaws, which require that VATRA meet at least four times a year. Bylaws **Amendment 8 (a)**. This further prevented the membership from having any voice in the Organization and allowed Mishto and Illegitimate VATRA to run the Organization further away from its democratic roots.

123. Accordingly, the October Committee needed to force Mishto to hold a board meeting so that non-Illegitimate VATRA members of VATRA could voice their objections to the Mishto Presidency and the overall lack of respect for the Organization shown by Illegitimate VATRA.

124. This meeting, which was held on March 3, 2018 in Bronx, New York, was attended by a significant portion of the VATRA delegation.

125. The delegates represented the members of their respective Branches at this meeting and, accordingly, spoke on behalf of a majority of the actual members of VATRA.

126. At this meeting, 16 delegates, representing three Branches and the “at large” Branch signed a petition requesting the resignation of Mishto based on the Bylaw violations he and Illegitimate VATRA committed at the 2017 Convention and beyond.

127. Notwithstanding this petition, the result of this meeting was *status quo* for Illegitimate VATRA: it refused and failed to hold a 2018 “working” Convention and nothing was in the works for an “election” Convention for 2019. Worse, Illegitimate VATRA took no action

to remedy the Bylaw violations committed at the 2017 Convention, including the proper election of the Executive Body.

*The October Committee Is Essential to the Future of VATRA*

128. Illegitimate VATRA remained unmoved by the efforts of the Bylaw-abiding members of VATRA and, indeed, failed to hold a 2019 election Convention so that the membership could vote to remove Illegitimate VATRA.

129. Illegitimate VATRA's failure to hold *any* Convention during Mishto and Illegitimate VATRA's hand-selected Executive Body's two-year term was the last straw for law-abiding VATRA members and forced the creation of the October Committee.

130. On October 5, 2019, delegates representing the Branches of Newburgh, New York, Bronx, New York, Washington, D.C., Worcester, Massachusetts, the At Large membership, and members of the Board of Directors, came together in New York City to form the October Committee.

131. While the October Committee consists of seven members, these seven members were selected by the membership of the Branches of Newburgh, New York, Bronx, New York, Washington, D.C., and the At Large membership to represent the interests of VATRA.

132. The October Committee authored a report dated October 5, 2019, that was submitted to Illegitimate VATRA (the "October Committee Report").

133. The October Committee Report detailed the many Bylaw violations committed by Illegitimate VATRA, including those that occurred at the 2017 Convention.

134. Most notably, the October Committee Report admonished Illegitimate VATRA for failing to hold a Convention in each of the years after the 2017 Convention.

135. Illegitimate VATRA's failure to hold *any* Convention during its illegitimate reign prohibited VATRA's membership from participating in the Organization's affairs. Instead, Illegitimate VATRA ran the Organization for itself and refused to acknowledge the Bylaws, which existed long before it devised and implemented its scheme.

136. Illegitimate VATRA's refusal to hold any Convention left Mishto and his hand-selected Executive Body in control of the Organization well after the two-year term mandated by the Bylaws. Effectively, Illegitimate VATRA was holding the Organization hostage and prohibited its members from having a voice and participating in the Organization's affairs.

137. The October Committee, therefore, deemed "[a]ll matters decided on June 11, 2019 and thereafter" to be "completely illegitimate and in violation of the Constitution and Amendments" because they came after the terms of the President and the Executive Body should have ended.

138. Stated differently, according to the October Committee, Illegitimate VATRA was not going to be allowed to hold VATRA hostage because it refused to hold a Convention with a proper election.

139. Accordingly, the October Committee requested that Mishto and the Executive Body of Illegitimate VARTTA resign and that leadership of the Organization be transferred to an authorized and legitimately elected President and Executive Body.

140. Despite this additional call-to-action, Illegitimate VATRA still failed to act.

141. Months after the terms of Mishto's Presidency and his hand selected Executive Body had expired, no Convention was scheduled.

142. Through the October Committee Report, the October Committee informed Illegitimate VATRA that it had assumed control over VATRA to bring the Organization back

within the confines of the Bylaws. The October Committee promptly started planning the next Convention in an effort to get the Organization back on track.

143. To be sure, the October Committee did not intend to “take over” the Organization. Instead, the October Committee simply assumed control of the Organization for purposes of holding a legitimate Convention so that the members of VATRA, through their delegates, could select their President, Executive Body and Board of Directors in accordance with the Bylaws.

144. The October Committee publicized the Convention and made sure to provide all members, including Illegitimate VATRA, notice so that properly verified members and Branches of the Organization could attend and participate in the Convention.

145. The October Committee promoted the Convention on multiple organization Facebook pages, through mass-emails, and newsletters to the entire delegation—including Illegitimate VATRA.

146. Importantly, membership dues were submitted and verified well ahead of the Convention to ensure a proper delegation.

147. The Convention was scheduled for April 25, 2020. However, due to the COVID-19 pandemic, the October Committee was forced to reschedule.

148. The new date was scheduled for October 31, 2020, and all authorized members and branches of VATRA were updated accordingly.

149. At this Convention, which took place virtually due to the continued Covid-19 pandemic, all delegates conducted themselves in a respectful manner.

150. Delegates from the At Large Branch, Newburgh, New York Branch, Washington, DC Branch, Staten Island, New York, and Bronx, New York Branch attended the Convention.

151. No one from Illegitimate VATRA attended the Convention, despite invitation.

152. The former editor of *Dielli* attended the Convention, Mr. Anton Çefa, as well as guests from around the world.

153. Many members of Branches that did not send delegates to the Convention informed the October Committee that it supported the October Committee, but that it did not send delegates because of friction in the specific Branches between them and members of Illegitimate VATRA.

154. After his election as President, Ahmet Xhafo, presented a list of proposed officers to the delegation for their ultimate vote and approval.

155. The October Committee's Convention complied in all respects with the Bylaws, thus restoring order to the Organization.

156. Despite Illegitimate VATRA's failure to turn the Organization over to the October Committee, as requested and justified by the October Committee Report, the October Committee was able to coordinate a Convention—in accordance with the Bylaws—and started to rebuild the Organization back to form.

***Illegitimate VATRA's Sham January 2020 Convention***

157. In the wake of the October Committee scheduling an election Convention consistent with the Bylaws to be held in April, 2020 (as originally scheduled prior to the pandemic), Illegitimate VATRA, on December 11, 2020, quickly scheduled its own Convention (the "Sham Convention") in an effort to control the narrative and in recognition that it needed to do *something* to attempt control over the Organization for another term.

158. The Sham Convention was scheduled for January 19, 2020 to be held in Michigan.

159. At the time of the Sham Convention, Mishto and his hand-selected Executive Body had remained in office for more than six months past their two-year terms, which were illegitimate in the first place.

160. Leading up to the Sham Convention, Illegitimate VATRA continued to ignore the Bylaws.

161. For example, Berisha, as head of the Hudson Valley, New York Branch, submitted for verification 40 purported members, thereby creating 5 total election votes for his Branch, yet the Hudson Valley Branch included only 16 members.

162. Perhaps most alarmingly, Illegitimate VATRA stacked the deck again so that it could retain control of VATRA for at least two additional years by manipulating the Executive Body.

163. Illegitimate VATRA, without any amendment to the Bylaws, also created additional Executive Body positions.

164. Illegitimate VATRA unilaterally added three additional vice presidents, including the vice president of Politics, notwithstanding the fact that **Article 5** of the Bylaws provides that “VATRA should take no part in politics.”

165. This act to create additional votes by Illegitimate VATRA is not recognized by the Bylaws. Should Illegitimate VATRA wished to propose such an amendment to the Bylaws, it must have been considered, voted on by the delegation and, if passed, adopted through a working Convention.

166. In this same vein, Illegitimate VATRA unilaterally created 5 additional Executive Body positions. These additional Executive Body positions—none of which are authorized by the Bylaws—were likewise created by Illegitimate VATRA in an attempt to secure any future elections, including the election to take place at the Sham Convention.

167. These unilaterally created positions were filled by Grishaj, Malota, Spahiu, Rakaj, and Balaj, among others.

168. Additionally, Illegitimate VATRA, at the opening of the Sham Convention, moved to remove the October Committee and its various members from the Organization.

169. Each of these maneuvers attempted to keep VATRA in the hands of Illegitimate VATRA so that it could maintain unfettered control over the Organization.

170. As noted above, however, that Sham Convention was just that—a sham—and was not sanctioned by the Bylaws for purposes of continuing Illegitimate VATRA’s illegitimate reign over the Organization.

171. Prior to the date of the Sham Convention, the October Committee, through counsel, issued a cease and desist letter, requesting—once again—that Illegitimate VATRA cease its actions that ignore the Bylaws.

172. Illegitimate VATRA ignored this request and held the Sham Convention.

#### *The VATRA Trademarks*

173. The trademarks owned by VATRA are as follows (collectively, the “VATRA Marks”):

- a. “The Pan-Albanian Federation of America Vatra (The Hearth)”;
- b. “VATRA”; and
- c.



174. Until Illegitimate VATRA’s reign, the Organization developed, maintained, promoted, used, and protected the VATRA Marks in such sufficient manner to obtain common law trademark rights over them.

175. However, based on Illegitimate VATRA's pattern and practice of complete disregard for the Organization's Bylaws and pursuant to the October Committee Report's findings, Illegitimate VATRA was no longer recognized as having control over the Organization, including control over the rights to use the VATRA Marks.

***The October Committee Retains Trademark Rights to the VATRA Marks***

176. In response to Illegitimate VATRA's apparent attempt to maintain control over VATRA despite its failure to acknowledge or adhere to the Bylaws for years, the October Committee sought to protect the intellectual property of VATRA from further harm caused by Illegitimate VATRA.

177. To that end, the October Committee applied for a trademark with the United States Patent and Trademark Office (Application Serial No.: 90187864, the "Trademark Application") The Trademark Application was filed on September 17, 2020 and was published for opposition on March 16, 2021.

178. On April 12, 2021, Illegitimate VATRA, through counsel, opposed the October Committee's Trademark Application.

179. Consistent with the October Committee's legitimate control over VATRA, it has used the VATRA Marks to advertise and promote the goods and services being offered by VATRA, including, but not limited to, the provision of an online newspaper.

180. The October Committee operates a public website on which the VATRA Marks are used to promote the Organization's services. Among other things, the October Committee uses this website to engage both current and prospective members of VATRA.

181. The October Committee has operated a public Facebook page with approximately 1,000 followers that routinely is used to publish messages to the public using the VATRA Marks.

182. The October Committee further publishes newsletters to both current and prospective members, prominently using the VATRA Marks.

183. The October Committee uses the VATRA Marks to announce traditional cultural activities, such as the Anniversary Commemoration Conference, to be held on May 22, 2021, for the scholar Professor Arshi Pipa (1920-1997), a former VATRA President and editor of *Dielli*.

184. In addition to its Trademark Application, all such uses of the VATRA Marks by the October Committee have guaranteed the October Committee common law trademark rights to the VATRA Marks.

### **CAUSES OF ACTION**

#### ***Count I – Declaratory Judgment (28 U.S.C.A. § 2201)***

185. Counter-Plaintiff and Third-Party-Plaintiff repeats and incorporates by reference each of the allegations set forth in this Counter and Third-Party Claim as if fully set forth herein.

186. An actual, present and justiciable controversy has arisen between the parties concerning the October Committee's rights associated with the control of VATRA and the VATRA Marks in light of Illegitimate VATRA's transgressions.

187. As alleged herein, the support for the October Committee's request for declaratory relief are the many Bylaw violations committed by Illegitimate VATRA since the 2017 Convention.

188. Specifically, because of the number of Bylaw violations committed by Illegitimate VATRA at and after the 2017 Convention, control of VATRA was relinquished to the October Committee, including all rights to the VATRA Marks.

189. The actions and inactions supporting the October Committee's request for declaratory judgment are as follows:

a. Employing intimidation tactics to ensure that its scheme to steal the 2017 Convention was successful;

b. Obtaining illegitimate votes at the 2017 Convention through the improper payment of dues, which secured the election of Mishto as President and provided Illegitimate VATRA with unlimited voting power at the 2017 Convention to ensure total and complete control over the Organization;

c. Mishto was not a proper candidate for President of VATRA because he was not a member of VATRA for the requisite five-years prior to his nomination;

d. Grishaj lied to the 2017 Convention to convince the delegation that Mishto was qualified to be nominated for President, which the delegation relied on in voting at the 2017 Convention;

e. Mishto refused to nominate the Executive Body at the 2017 Convention for Delegation vote and, instead, appointed the members of Illegitimate VATRA as his Executive Body;

f. Mishto created—in contradiction of the Bylaws—additional Executive Body positions to ensure additional votes in future elections;

g. Illegitimate VATRA failed to hold regular Board Meetings during its reign, holding only two board meetings in the two-plus years of holding office, whereas the Bylaws require quarterly meetings, resulting in the VATRA membership being blocked from participating in the affairs of the Organization and Illegitimate VATRA retaining unfettered control over the Organization;

h. Mishto failed to hold a 2018 “working” Convention in violation of the Bylaws;

i. Mishto failed to hold a 2019 “election” Convention in violation of the Bylaws;

j. Because Mishto failed to hold any Conventions, he held the Organization hostage and without recourse, which guaranteed for Illegitimate VATRA complete and unfettered control over the Organization—well past the term of his Presidency; and

k. Illegitimate VATRA failed to respond or address any of the concerns of its members to answer for the many Bylaw violation it committed at and since the 2017 Convention.

190. Based on these many Bylaw violations and Illegitimate VATRA’s complete disregard for the history and purpose of VATRA, the October Committee respectfully requests that this Court enter an order:

a. Declaring that the 2017 Convention was commenced in violation of the Bylaws;

b. Declaring that Mishto was not a proper candidate for president of VATRA;

c. Declaring that it was a Bylaw violation for Mishto to fail to nominate an Executive Body before closing the 2017 Convention;

d. Declaring that Illegitimate VATRA failed to adhere to the Bylaws for the actions and inactions identified herein that took place after the 2017 Convention;

e. Declaring that the October Committee was justified and acted in accordance with the Bylaws in disavowing Illegitimate VATRA’s control over VATRA in October of 2019;

f. Declaring that after October of 2019, Illegitimate VATRA no longer controlled VATRA because of the Bylaw violations it committed;

g. Declaring that Illegitimate VATRA's January 2020 Convention was a sham; and

h. Declaring that the October Committee's Convention held on October 31, 2020 was sanctioned given Illegitimate VATRA's complete failure to adhere to the Bylaws and, specifically, its failure to hold any Convention during Mishto's reign.

191. Alternatively, and based on the same actions and inactions committed by Illegitimate VATRA (*see, e.g.*, ¶ 189) and declarations requested above (*see* ¶ 190 (with the exception of ¶ 190(h)), the October Committee respectfully requests that this Court order that the parties hold a Convention—in strict accordance with the Bylaws and as organized by the October Committee or a third-party assigned by the Court—to bring the Organization back within Bylaw compliance.

***Count II – Trademark Infringement (15 U.S.C. § 1125(a))***

192. Counter-Plaintiff and Third-Party-Plaintiff repeats and incorporates by reference each of the allegations set forth in this Counter and Third-Party Claim as if fully set forth herein.

193. The October Committee, on behalf of the Organization, through their continued use, has the exclusive right to use the VATRA Marks to promote the goods and services of the Organization across the United States.

194. Illegitimate VATRA's use in interstate commerce of those same or similar marks to promote the same or similar services is likely to cause confusion, mistake, or to deceive by creating the false and misleading impression that Illegitimate VATRA's goods and services are sponsored, endorsed, approved, or offered by, or affiliated with the Organization.

195. As a result of Illegitimate VATRA's improper actions, the October Committee and VATRA have been, and will continue to be, damaged and harmed.

196. Unless Illegitimate VATRA's infringing activities are enjoined, they will continue to cause a likelihood of confusion and public deception in the marketplace, resulting in irreparable injury to VATRA's goodwill and reputation for which the October Committee and VATRA have no adequate remedy at law.

***Count III – Common Law Trademark Infringement***

197. Counter-Plaintiff and Third-Party-Plaintiff repeats and incorporates by reference each of the allegations set forth in this Counter and Third-Party Claim as if fully set forth herein.

198. The October Committee, through its continued use, has the exclusive rights under common law to use the VATRA Marks to promote the goods and services of the Organization across the United States.

199. Illegitimate VATRA's use in interstate commerce of those same or similar marks to promote the same or similar goods and services is likely to cause confusion, mistake, or to deceive by creating the false and misleading impression that Illegitimate VATRA's goods and services are sponsored, endorsed, approved, or offered by, or affiliated with VATRA, through the October Committee.

200. As a result of Illegitimate VATRA's improper actions, the October Committee and VATRA have been, and will continue to be, damaged and harmed.

201. Unless Illegitimate VATRA's infringing activities are enjoined, they will continue to cause a likelihood of confusion and public deception in the marketplace, resulting in irreparable injury to VATRA's goodwill and reputation for which the October Committee and VATRA have no adequate remedy at law.

***Count IV – Unfair Competition***

202. Counter-Plaintiff and Third-Party-Plaintiff repeats and incorporates by reference each of the allegations set forth in this Counter and Third-Party Claim as if fully set forth herein.

203. The October Committee controls and operates VATRA as a result of Illegitimate VATRA's failure to operate the Organization in accordance with the mandates of the Bylaws.

204. VATRA, before the 2017 Convention and after the October Committee regained control of VATRA, maintained an outstanding reputation with the general public, both in the United States and throughout the world.

205. Illegitimate VATRA's recent use in interstate commerce of those same or similar marks to promote the same or similar goods and services, and its repeated representations that it is affiliated with VATRA is likely to cause confusion, mistake, or to deceive by creating the false and misleading impression that Illegitimate VATRA's goods and services are sponsored, endorsed, approved, or offered by or affiliated with VATRA, through the October Committee.

206. As a result of Illegitimate VATRA's improper actions, the October Committee and VATRA have been, and will continue to be, damaged and harmed.

207. Unless Illegitimate VATRA's infringing activities are enjoined, they will continue to cause a likelihood of confusion and public deception in the marketplace, resulting in irreparable injury to VATRA's goodwill and reputation for which the October Committee and VATRA have no adequate remedy at law.

***Count V – Unfair Competition (Massachusetts Gen. Laws Ch. 110H, §13)***

208. Counter-Plaintiff and Third-Party-Plaintiff repeats and incorporates by reference each of the allegations set forth in this Counter and Third-Party Claim as if fully set forth herein.

209. The October Committee controls and operates VATRA as a result of Illegitimate VATRA's failure to operate the Organization in accordance with the mandates of the Bylaws.

210. Illegitimate VATRA purports to control VATRA, a Massachusetts entity.

211. VATRA, before the 2017 Convention and after the October Committee regained control of VATRA, maintained an outstanding reputation with the general public, both in the United States and throughout the world.

212. Illegitimate VATRA's recent use in interstate commerce of those same or similar marks to promote the same or similar goods and services, and its repeated representations that it controls, and/or is affiliated with, VATRA is likely to cause confusion, mistake, or to deceive by creating the false and misleading impression that Illegitimate VATRA's goods and services are sponsored, endorsed, approved, or offered by or affiliated with VATRA, through the October Committee.

213. As a result of Illegitimate VATRA's improper actions, the October Committee and VATRA have been, and will continue to be, damaged and harmed.

214. Unless such infringing activities are enjoined, they will continue to cause a likelihood of confusion and public deception in the marketplace, resulting in irreparable injury to VATRA's goodwill and reputation for which the October Committee and VATRA have no adequate remedy at law.

**WHEREFORE**, The October Committee respectfully requests that the Court enter an order in its favor that:

(i) Declares, based on these many Bylaw violations and Illegitimate VATRA complete disregard for the history and purpose of VATRA, that:

a. the 2017 Convention was commenced in violation of the Bylaws;

b. Mishto was not a proper candidate for president of VATRA;

c. it was a violation of the Bylaws for Mishto to fail to nominate an Executive Body for delegation vote before closing the 2017 Convention;

d. Illegitimate VATRA failed to adhere to the Bylaws for the actions and inactions identified herein that took place after the 2017 Convention;

e. the October Committee was justified and acted in accordance with the Bylaws in disavowing Illegitimate VATRA in October of 2019;

f. after October of 2019, Illegitimate VATRA no longer controlled VATRA because of the Bylaw violations it committed;

g. Illegitimate VATRA's January 2020 Convention was a sham.

h. the October Committee's Convention held on October 31, 2020 was sanctioned given Illegitimate VATRA's complete failure to adhere to the Bylaws and, specifically, its failure to hold any Convention during Mishto's reign; and

(i) Alternatively declares, that the 2017 Convention and the 2020 Sham Convention were not conducted in accordance with the Bylaws and, therefore, are not recognized by VATRA, thereby ordering a new Convention to be held in 2021, organized

by the October Committee or a third-party appointed by the Court and conducted in strict accordance with the Bylaws.

(ii) enjoins Illegitimate VATRA, and any individuals or entities affiliated or acting in concert with Illegitimate VATRA, from using the VATRA Marks, or any confusingly similar marks, to promote the goods and services of the same kind as those provided by the October Committee;

(iii) enjoins Illegitimate VATRA, and any individuals or entities affiliated or acting in concert with Illegitimate VATRA, from using the VATRA Marks, or any confusingly similar marks, to promote any similar goods and services to those provided by the October Committee;

(iv) enjoins Illegitimate VATRA, and any individuals or entities affiliated or acting in concert with Illegitimate VATRA, from making any representations that it controls VATRA;

(v) awards the October Committee relief on each of the counts contained in this Counter and Third-Party Claim and enters findings in support of the same;

(vi) awards the October Committee an amount to compensate it for any and all damages they have incurred as a result of Illegitimate VATRA's improper activities alleged herein;

(vii) requires Illegitimate VATRA to reimburse the October Committee for their reasonable attorneys' fees and costs to pursue this action as Illegitimate VATRA's improper actions were engaged in willfully; and

(viii) awards the October Committee such other and further relief as is just.

**PRAYER FOR JURY TRIAL**

Counter-Plaintiff and Third-Party-Plaintiff the October Committee, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, respectfully requests that all issues and claims be tried by a jury.

Respectfully submitted,

*/s/ Kenneth M. Lewis*

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