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8 Attorneys for REFUGE RECOVERY

9  
 10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA  
 12

13 REFUGE RECOVERY, a California  
 14 nonprofit public benefit corporation,

15 Plaintiff,

16 vs.

17 NOAH LEVINE, an individual;  
 18 REFUGE RECOVERY HOUSE, LLC,  
 a California limited liability company;  
 19 REFUGE RECOVERY CLINICAL  
 SERVICES, LLC, a California limited  
 liability company; REBEL SAINTS  
 20 MEDITATION SOCIETY dba  
 REFUGE RECOVERY RETREATS a  
 Washington nonprofit corporation; and  
 21 DOES 1 through 10, inclusive,

22 Defendants.

Case No.

**COMPLAINT FOR**

1. **Breach of Fiduciary Duty;**
2. **Declaratory Relief – Copyright;**
3. **Trademark – False Designation of Origin;**
4. **Declaratory Relief – Ownership of Trademarks;**
5. **Unfair Business Practices;**
6. **Infringement of State Trademark.**

**DEMAND FOR JURY TRIAL**

23  
 24 Plaintiff REFUGE RECOVERY, a California non-profit public benefit  
 25 corporation, alleges as follows:  
 26

**PARTIES**

27 1. Plaintiff, REFUGE RECOVERY (“Plaintiff”), is a California  
 28 nonprofit organization organized under the Nonprofit Public Benefit Corporation

1 Law for charitable purposes. Specifically, Plaintiff is organized to provide  
2 support for people suffering from all forms of addiction by offering various  
3 resources for recovery. Plaintiff's principal place of business is 177 Park Avenue,  
4 Suite 200, San Jose, California, 95113.

5 2. Defendant NOAH LEVINE ("Levine") is a resident of Los Angeles,  
6 California.

7 3. Defendant REFUGE RECOVERY HOUSE, LLC ("Refuge  
8 Recovery House") is a California limited liability company, organized under the  
9 laws of California. Levine is its sole member. Its business address is listed with  
10 the Secretary of State of the State of California as, and Plaintiff is informed and  
11 believes, and alleges thereon that, its principal place of business is, 2516 Lincoln  
12 Blvd., Venice, California, 90291.

13 4. Defendant REFUGE RECOVERY CLINICAL SERVICES, LLC  
14 ("Refuge Recovery Services") is a California limited liability company, organized  
15 under the laws of California. Levine is its sole member and its business address is  
16 listed with the Secretary of State of the State of California as, and Plaintiff is  
17 informed and believes, and alleges thereon that, its principal place of business is,  
18 4302 Melrose Avenue, Suite 5C, Los Angeles, California, 90029.

19 5. Plaintiff is informed and believes, and alleges thereon that Defendant  
20 REBEL SAINTS MEDITATION SOCIETY doing business as REFUGE  
21 RECOVERY RETREATS ("Refuge Recovery Retreats"), is a Washington  
22 nonprofit corporation with its principal place of business located at 518  
23 Broadway, Seattle, Washington; Plaintiff is further informed and believes, and  
24 alleges thereon, that Refuge Recovery Retreats does business within the  
25 jurisdiction of this Court, including by selling tickets to residents of the State of  
26 California, County of Los Angeles, to purported "Refuge Recovery Retreats".

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**JURISDICTION AND VENUE**

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2           6.     This court has subject matter jurisdiction in this matter pursuant to  
3 15 U.S.C. § 1121(a), 28 U.S.C. §§ 1331, 1338(a) and (b) as the claim for false  
4 origination arises under the trademark laws of the United States.

5           7.     This court also has subject matter jurisdiction as, Plaintiff seeks a  
6 declaratory judgment pursuant to the Declaratory Judgment Act, 28 U.S.C.  
7 §2201, as discussed in detail below, an actual, substantial, and continuing  
8 justiciable controversy exists between Plaintiff and Defendants Refuge Recovery  
9 House and Levine that requires a declaration of rights by this court.

10           8.     This court has personal jurisdiction over Levine, Refuge Recovery  
11 House, and Refuge Recovery Services, because their principal places of business  
12 are located within the jurisdiction of this court, and has personal jurisdiction over  
13 Refuge Recovery Retreats as it conducts business within the jurisdiction of this  
14 court and maintains contacts within this forum so as to warrant jurisdiction.

15           9.     This court also has supplemental jurisdiction over Plaintiff’s claims  
16 for Breach of Fiduciary Duty and violation of the California Business &  
17 Professions Code under 28 U.S.C. § 1367(a).

18           10.    Venue is proper under 28 U.S.C. Section 1391 because Levine  
19 resides within this District, because Refuge Recovery House’s principal place of  
20 business is located within this District, the principal places of businesses of  
21 Refuge Recovery House and Refuge Recovery Services are located within this  
22 District, Refuge Retreats conducts business within this district, and a substantial  
23 part of the events or omissions giving rise to the claims have occurred within this  
24 District.

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**FACTS**

**A. Defendant Levine**

11. Levine is an author and Buddhist teacher who has achieved recognition by publishing books which instruct readers on the principles of Buddhism and how they can be used to cope with social stresses and addiction.

12. Plaintiff is informed, believes, and alleges thereon that between 2003 and 2011, Levine authored, in whole or in part, three (3) books: Dharma Punx, Against the Stream, and Heart of the Revolution.

13. Dharma Punx was an autobiographical work, published in June 2003 and led to the creation of approximately 20 small Buddhist communities throughout the globe.

14. Against the Stream was published in May 2007, and focused on Buddhism as a method to escape suffering.

15. Heart of the Revolution was published in April 2011 and concerns forgiveness, compassion, and kindness.

**B. Creation of Against the Stream Buddhist Meditation Society**

16. In October 2007, to build upon the success of the book Against the Stream, Against the Stream Buddhist Meditation Society (“ATS”) was incorporated as a California nonprofit to help create and sustain communities of healthy, accountable, wise, and compassionate people; Levine served as a director.

17. In 2008, ATS established a meditation center in Los Angeles.

18. Over the following ten (10) years, ATS grew to have several locations and employees, including Levine, who became an officer of ATS and provided various services.

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1 **C. The Emergence of “Refuge Recovery” Group Meetings, Collaboration**  
2 **to Create the “Refuge Recovery” Program and Book, and the Creation**  
3 **of Plaintiff to Carry Out the “Refuge Recovery” Program**

4 19. In 2009, as ATS grew, members held meetings to discuss the  
5 principles of Buddhism and how they can be used to overcome spiritual and  
6 personal adversity, including addiction; the meetings among members of ATS  
7 who used the teaching of Buddhism to overcome addiction began to use the term  
8 “Refuge Recovery.” “Refuge Recovery” was adopted by ATS in 2010 to identify  
9 meetings which focused on overcoming addiction and was used in advertising  
10 materials for such meetings and related events.

11 20. As the “Refuge Recovery” groups grew and ATS held conferences  
12 on “Buddhism and Recovery” which included discussions on research concerning  
13 the use of mindfulness meditation as part of the recovery process, ATS and  
14 Levine agreed it would be in the best interest of ATS to have ideas that emanated  
15 from the conferences reduced to written form. Levine, an employee of ATS at  
16 the time, developed the idea for a book entitled “Refuge Recovery,” also known  
17 as “Refuge Recovery: a Buddhist Path to Recovering from Addiction,” with the  
18 intent, in part, to raise revenue for a new nonprofit, Plaintiff, so it could develop  
19 and grow the “Refuge Recovery” program using donations solicited by the book.

20 21. While employed by ATS, Levine collaborated with others at ATS,  
21 and third parties, to write the nontheistic recovery portion of the book. Levine  
22 also obtained personal stories from third parties regarding their experiences using  
23 the principles of Buddhism to recover from addiction.

24 22. Plaintiff is informed and believes and alleges thereon that ATS  
25 created a separate book account within in its internal financial record keeping  
26 system to manage funds expected to be donated for Plaintiff.

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1           23. Plaintiff is informed and believes and alleges thereon that, on or  
2 about March 16, 2011, in anticipation of the book project and to provide  
3 information on the nonprofit to be created, the domain name  
4 [www.refugerecovery.org](http://www.refugerecovery.org) was created by Noah Levine for the benefit of Plaintiff  
5 and its use.

6           24. On or about May 30, 2012, ATS filed a Fictitious Business Name  
7 Statement for the name “Refuge Recovery” with the County Clerk of Los  
8 Angeles.

9           25. In June 2014, the book, “Refuge Recovery,” was published; although  
10 Levine was employed by ATS while writing the book, and despite the  
11 acknowledgment that it was collaborative effort with persons at ATS and the  
12 inclusion in the book of stories written by eight other individuals, Levine was  
13 identified as the author.

14           26. Although Levine was identified as the author, the book provided the  
15 following statement with solicitation for a tax-deductible contribution in  
16 furtherance of the above purpose of the book, i.e., that it would be a source of  
17 revenue for Plaintiff:

18           “Refuge Recovery is a nonprofit organization. It is our vision and  
19 intention to build an extensive and comprehensive network of Refuge  
20 Recovery meetings, communities, and treatment options. We are  
21 actively seeking donations to build treatment centers with both  
22 residential and outpatient services. Our goal is to raise the capital to  
23 start treatment centers through tax-deductible donations, so that all the  
24 profit that comes from these services can go back into the community  
25 in the form of reduced rates for residential treatment for those without  
26 insurance coverage, as well as to scholarships to meditation retreats,  
27 access to outpatient services, and building of the infrastructure of the  
28 nonprofit. Please consider making a tax-deductible donation at  
[www.refugerecovery.org](http://www.refugerecovery.org).”

25           27. The book was immensely popular, and donations were sent to the  
26 nonprofit referenced in it, Plaintiff, which were received and handled by ATS dba  
27 Refuge Recovery until Plaintiff was incorporated.

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1 28. Plaintiff was incorporated as a domestic nonprofit on February 27,  
2 2015, and ATS dba Refuge Recovery turned over handling of the funds received  
3 for the “Refuge Recovery” program to Plaintiff. Levine served on its board of  
4 directors at this time.

5 29. Since its inception, Plaintiff has grown and there are “Refuge  
6 Recovery” groups in 49 states, and at least 660 registered weekly meetings occur.

7 **D. Levine Obtains the Copyright to the “Refuge Recovery” Book and**  
8 **Does not Share Proceeds from It with Plaintiff.**

9 30. Despite acknowledging that the book was a collaborative effort with  
10 ATS, identifying third parties who contributed to the book, and including stories  
11 from third parties concerning their use of the principles of Buddhism in recovery,  
12 the publisher of the book identified Levine as the author and Levine obtained the  
13 Copyright to the book and receives royalty payments from the sale of the book.

14 31. When questioned as to why he has been identified as the sole author  
15 of the “Refuge Recovery” book, Levine has not refuted that the book was a  
16 collaborative work, but rather has stated the publisher would not have published  
17 or promoted the book if it was identified as a collaborative work with other  
18 anonymous authors.

19 32. Although the “Refuge Recovery” book serves as a textbook that  
20 would assist persons seeking to apply the principles of Buddhism for addiction  
21 recovery, Plaintiff is unable to promote the book to its members for this purpose,  
22 or any other purpose, as it could be seen as providing a benefit to Levine and  
23 thereby jeopardizing Plaintiff’s nonprofit status.

24 33. Plaintiff’s Asset Sharing Committee has discussed with Levine how  
25 his holding the copyright to the “Refuge Recovery” book impacts Plaintiff’s  
26 ability to promote the book. Levine recognized the issue and agreed to grant  
27 copyrights rights, specifically derivative rights, to the “Refuge Recovery” book to  
28 Plaintiff so that Plaintiff could promote its use without fear of harm to its

1 nonprofit status, and promised to include a member of Plaintiff's board of  
2 directors in discussions with the publisher to remove himself as the author.

3 34. Levine, however, did not include a member of Plaintiff's board in a  
4 later discussion he had with the publisher of the book concerning his removal as  
5 the author, and then refused to grant any rights to the "Refuge Recovery" book to  
6 Plaintiff, but intimated he would change his mind if Plaintiff made changes to its  
7 executive leadership. Then, on October 19, 2018, Levine stated he would not  
8 grant any rights in the "Refuge Recovery" book to Plaintiff.

9 35. By retaining the copyright to the "Refuge Recovery" book for his  
10 personal benefit instead of for Plaintiff, any promotion by Plaintiff of the book  
11 can still be considered as inuring to the benefit of Levine, thereby jeopardizing  
12 Plaintiff's nonprofit status.

13 **E. Levine's Creation of Defendants REFUGE RECOVERY HOUSE,**  
14 **LLC and REFUGE RECOVERY CLINICAL SERVICES, LLC, to**  
15 **the Detriment of Plaintiff, and Cross-Promotion of the Defendant**  
16 **Entities with Plaintiff**

17 36. Although the book "Refuge Recovery" was written by Levine while  
18 he was an employee of ATS, was a collaborative effort with ATS, its members,  
19 and others, the purpose of which was to generate funds for Plaintiff, and despite  
20 knowing that ATS was doing business as Refuge Recovery with the intent to hand  
21 funds and operations of the "Refuge Recovery" program to Plaintiff so it could  
22 develop treatment centers, Levine established the for-profit limited liability  
23 company, Defendant Refuge Recovery House, on February 13, 2014 to conduct  
24 the same business as Plaintiff, and thereafter caused an insert to be placed in the  
25 book to promote Refuge Recovery House.

26 37. Despite serving on Plaintiff's board since its incorporation in  
27 February 2015, Levine continued to promote Defendant Refuge Recovery House,  
28 for the same or substantially similar purposes as Plaintiff, thereby causing



1 consumer confusion as to whether or not Plaintiff and Defendant Refuge  
2 Recovery House were the same or related entities.

3 38. Moreover, in March 2015, Levine caused the creation of another  
4 limited liability company, Defendant Refuge Recovery Services, which Plaintiff  
5 is informed and believes, and alleges thereon, was intended to also utilize the  
6 “Refuge Recovery” addiction treatment program, and which wrongly uses  
7 “Refuge Recovery” in its name.

8 39. The Defendant Refuge Recovery House maintains a website which  
9 utilizes the “Refuge Recovery” name, but does not attempt to distinguish itself  
10 from Plaintiff, despite informal demands that it so distinguish itself.

11 40. In addition to a website, the Defendants also provide material to the  
12 public via social media, such as YouTube, and do not distinguish themselves  
13 from the Plaintiffs on social media.

14 41. The creation by Levine of the for-profit Defendants, the conduct of  
15 the Defendants online without stating they are not affiliated with Plaintiff and the  
16 confusion this conduct creates in the public as between Plaintiff and Defendants  
17 harms Plaintiff’s reputation and threatens its tax status as a nonprofit.

18 **F. Defendant REFUGE RECOVERY HOUSE, LLC Obtains**  
19 **Trademarks for Plaintiff’s Name and Logo.**

20 42. While on the board for Plaintiff, Levine also caused Defendant  
21 Refuge Recovery House to register two (2) trademarks for REFUGE  
22 RECOVERY. Specifically, Defendant, Refuge Recovery House, on or about  
23 November 22, 2016, obtained trademark registration number 5085888 for  
24 REFUGE RECOVERY in Class 25 for caps and shirts, and in Class 44 for a  
25 number of therapeutic services, including addiction treatment and detoxification  
26 services. On or about July 4, 2017, Defendant also obtained trademark  
27 registration number 5224303 for REFUGE RECOVERY in Class 16 for printed  
28 matter including worksheets, decals and bumper stickers, among other items, and

1 in Class 41 for educational services including providing training in addiction  
2 treatment and detoxification, among other related services.

3 43. To obtain the trademarks Defendants made false representations as  
4 to the origin and ownership of the trademark REFUGE RECOVERY. The  
5 November 22, 2016 trademark registration provided a “first use” date of January  
6 1, 2013, while the July 4, 2017 trademark registration provided a different “first  
7 use” date of March 2014. Both dates, however, follow the use of REFUGE  
8 RECOVERY by Plaintiff’s predecessor in interest, ATS, in materials beginning  
9 in 2010 and its Fictitious Business Name Statement filed on May 30, 2012.

10 44. In addition to causing Defendant Refuge Recovery House to obtain  
11 trademarks with Plaintiff’s name while he was a board member, Levine also  
12 caused Defendant Refuge Recovery House to obtain trademarks for at least one  
13 logo associated with Plaintiff. Namely, Defendant Refuge Recovery House holds  
14 trademarks 5224303 and 5237934 for Plaintiff’s three jewels logo, which has  
15 three jewels within a circle that connect at the center as follows:



20 45. Defendant Refuge Recovery House filed for trademarks 86960529  
21 and 86960533 on March 31, 2016, claimed a first use date in both file  
22 applications of April 2014, and received registrations as follows: November 22,  
23 2016 for trademark 5224303 (serial number 86960529) and June 13, 2017 for  
24 trademark 5237934 (serial number 86960533), as with the trademarks for  
25 REFUGE RECOVERY, the first use dates post-date Plaintiff’s predecessor in  
26 interest’s use of the logo.

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1 **G. Levine Diverts \$130,000.00 from Plaintiff to Defendant REFUGE**  
2 **RECOVERY HOUSE, LLC**

3 46. Plaintiff is informed and believes, and alleges thereon, that prior to a  
4 change of record keeper in 2017, it received \$130,000.00 in donations which were  
5 intended to be used by Plaintiff for scholarships to pay the costs of rehabilitation  
6 and treatment for individuals who could not otherwise afford treatment.

7 47. Plaintiff is informed, believes, and alleges thereon that, instead of  
8 using the \$130,000.00 in funds to provide scholarships to pay for the costs of  
9 rehabilitation and treatment for individuals who could not otherwise afford  
10 treatment, Levine caused the \$130,000.00 in funds to be distributed to Defendant  
11 Refuge Recovery House to pay its costs, including employee salaries.

12 **H. Defendants Levine and Refuge Recovery Retreats' Wrongful**  
13 **Conduct with Respect to the Use of "Refuge Recovery" to Promote**  
14 **Retreats.**

15 48. On or about July 19, 2018, Plaintiffs' former board member, Joseph  
16 Sourhada, sent an email to other members of Plaintiff's board of directors  
17 announcing the formation of a new entity by Levine, who would receive  
18 assistance from Mr. Sourhada and a Ms. Rachel Savage, to be called "Refuge  
19 Recovery Retreats," which would provide "official" "Refuge Recovery" retreats  
20 to Plaintiff's members. Members of Plaintiff's board later learned that, when the  
21 email was sent, a refugerecoveryretreats.org website had already been created and  
22 Refuge Recovery Retreats was selling reservations for an upcoming event.

23 49. Members of Plaintiff's board of directors resolved to demand that  
24 Levine cease the creation of Refuge Recovery Retreats. A board member  
25 contacted Levine to demand that he cease the creation of Refuge Recovery  
26 Retreats, and stated that "Refuge Recovery," should not have been nor should be  
27 used in the name of other entities, and stated that if the conduct with respect to the  
28 creation of retreats did not cease Plaintiff would initiate litigation and seek an

1 injunction.

2 50. In discussions with members of Plaintiff's board, Levine agreed to  
3 cease the use of "Refuge Recovery" in retreats and thereafter Refuge Recovery  
4 Retreats began to host meditation retreats lead by Levine without including the  
5 name "Refuge Recovery" in the retreats, but instead using their incorporated  
6 name Rebel Saints Meditation Society.

7 51. On or about October 18, 2018, Refuge Recovery Retreats was,  
8 however, again actively engaged in marketing retreats, including retreats which  
9 contain "Refuge Recovery" in the name of the retreats, including for a retreat held  
10 on January 10, 2019, and continues to market future "Refuge Recovery" retreats;  
11 Refuge Recovery Retreats also includes the REFUGE RECOVERY and logo  
12 trademarks on its webpage, but does not represent to members of the public the  
13 retreats are not affiliated with Plaintiff.

14 52. This has caused significant confusion in the public as to whether the  
15 retreats put on by Refuge Recovery Retreats are officially connected with  
16 Plaintiff, and confusion as to Levine's affiliation with Plaintiff causes it harm to  
17 Plaintiff's reputation.

18 **I. The Damaged Reputation and Diminished Status of Levine and the**  
19 **Unfortunate Closure of ATS.**

20 53. In early 2018, multiple allegations of sexual misconduct by Levine  
21 were reported to the Los Angeles Police Department.

22 54. Although charges were not filed against Levine, the allegations  
23 caused a divide amongst several communities, including ATS, which in March  
24 2018 announced it was suspending Levine as a teacher.

25 55. As the controversy continued it impacted ATS, which was closely  
26 associated with the persona of Levine, including its ability to fundraise, and ATS  
27 ceased its operations in September, 2018.

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1 **J. The Assignment of ATS’ Rights to “Refuge Recovery” to Plaintiff and**  
2 **the Assignment to Plaintiff of Rights by Persons Who Wrote Personal**  
3 **Stories contained in the “Refuge Recovery” Book to Plaintiff .**

4 56. After ATS ceased operating its centers it assigned any and all rights  
5 it had to “Refuge Recovery” to Plaintiff. A true and correct copy of the  
6 Assignment is attached hereto as **Exhibit 1**.

7 57. Moreover, Plaintiff is informed and believes and alleges thereon that  
8 certain of the eight individuals who provided the personal stories contained in the  
9 book “Refuge Recovery” have not assigned any rights to Levine to use their  
10 stories. Two out of the eight individuals have assigned their rights to the stories  
11 contained in the book to Plaintiff.

12 **K. Defendants Infringement on Plaintiff’s Rights, Likelihood of**  
13 **Confusion, and Injury to Plaintiff.**

14 58. Plaintiff continues to operate, however, it too has been impacted by  
15 the allegations against Levine, which Levine did not immediately disclose to  
16 Plaintiff. Levine has voluntarily left its board.

17 59. Despite past representations by Levine that he and Refuge Recovery  
18 House would provide rights in intellectual property regarding the “Refuge  
19 Recovery” book and REFUGE RECOVERY trademarks to Plaintiff, Levine still  
20 holds the copyright to the book “Refuge Recovery” and Refuge Recovery House  
21 still holds trademarks.

22 60. As discussed above, Plaintiff is informed and believes and alleges  
23 thereon that the Defendants continue to use the “Refuge Recovery” name to  
24 promote events they are organizing; specifically Levine and Refuge Recovery  
25 Retreats have organized and are organizing retreats in Raleigh, North Carolina,  
26 Arizona, and Washington as official “Refuge Recovery” retreats, and that  
27 Levine’s and Refuge Recovery Retreats use of “Refuge Recovery” to promote  
28 causes consumer confusion as to whether or not Plaintiff is organizing or

1 affiliated with the events.

2 61. As a result of Defendants' use of "Refuge Recovery" for events not  
3 affiliated with Plaintiff, persons are inquiring as to whether Plaintiff is conducting  
4 the events, and are rebuking Plaintiff as being affiliated with the Defendants,  
5 thereby causing harm to Plaintiff, the goodwill associated with its name, and its  
6 reputation.

7 **FIRST CLAIM FOR RELIEF**

8 **(Breach of Fiduciary Duty Against NOAH LEVINE)**

9 62. Plaintiff incorporates the allegations contained in paragraphs 1  
10 through 61 as though fully set forth herein.

11 63. Levine, as a member of the board of Plaintiff, owed Plaintiff  
12 fiduciary duties, including the duty of loyalty, the duty of care, the duty of the  
13 utmost good faith, fairness and honesty, the duty to refrain from abusing his  
14 position of control, the duty to not waste corporate resources, and the duty to not  
15 favor his own interests at the expense of Plaintiff.

16 64. Levine breached his fiduciary duties to Plaintiff by, among other  
17 things: (1) converting \$130,000.00 from Plaintiff for an undisclosed and improper  
18 use by his for-profit limited liability company, (2) depreciating Plaintiff's assets,  
19 specifically decreasing the value of Plaintiff's use and enjoyment of its name and  
20 logo by causing Refuge Recovery House to obtain trademarks for the same and  
21 failing to include Plaintiff in the acquisition of the intellectual property, (3)  
22 refusing to grant Plaintiff rights to the book "Refuge Recovery," (4) attempting to  
23 use trademarks held by his for profit company to exert control of Plaintiff, (5)  
24 failing to disclose to Plaintiff that he was the subject of criminal allegations made  
25 to the Los Angeles Police Department for over two months despite knowing the  
26 harm that could result to Plaintiff, and (6) usurping the business opportunities of  
27 Plaintiff, including by creating the entity Defendants to engage in the same scope  
28 of work as Plaintiff and conduct "Refuge Recovery" retreats.







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**FOURTH CLAIM FOR RELIEF**

**(Declaratory Relief that Plaintiff is the Owner of Trademarks)**

**(Against REFUGE RECOVERY HOUSE, LLC)**

76. Plaintiff incorporates the allegations contained in paragraphs 1 through 61 as though fully set forth herein.

77. An actual controversy has arisen and now exists between Plaintiff and Refuge Recovery House concerning their respective rights and duties with respect to ownership of the trademarks for “Refuge Recovery” and the logo, Plaintiff contends that is the rightful owner of the trademarks, that Defendant Refuge Recovery House holds the trademarks in constructive trust for Plaintiff, and Defendant Refuge Recovery House must assign its rights to the trademarks to Plaintiff.

78. Plaintiff desires a judicial determination of its rights to the trademarks and a declaration as to whether it holds all rights to the trademarks.

79. A judicial declaration is necessary and appropriate at this time under the circumstances in order that Plaintiff may ascertain its rights and duties with respect to the trademarks.

**FIFTH CLAIM FOR RELIEF**

**(Unfair Business Practices – Cal. Bus. & Profs. Code section 17200)**

**(Against REFUGE RECOVERY HOUSE, LLC, REFUGE RECOVERY CLINICAL SERVICES, LLC, and REBEL SAINTS MEDITATION DBA REFUGE RECOVERY RETREATS)**

80. Plaintiff incorporates the allegations contained in paragraphs 1 through 61 as though fully set forth herein.

81. Defendants Refuge Recovery House, Refuge Recovery Services, and Refuge Recovery Retreats conduct business in the State of California and Plaintiff is informed and believes that Defendant Refuge Recovery Services, although it has ceased business operations, continues to exist and hold funds from when it

1 operated.

2 82. California Business & Professions Code § 17200 prohibits any  
3 unlawful, unfair or fraudulent business act or practice.

4 83. The actions of Refuge Recovery House, Refuge Recovery Services,  
5 and Refuge Recovery Retreats in intentionally and falsely holding themselves out  
6 as affiliated with Plaintiff, a nonprofit, confused and confuses individuals into  
7 thinking they are financially supporting and otherwise endorsing Plaintiff, a  
8 nonprofit, when in fact they are not, this conduct for money and publicity  
9 constitutes an unfair and/or fraudulent business practice under California  
10 Business & Professions Code § 17200.

11 84. The actions of Refuge Recovery House, Refuge Recovery Services,  
12 and Refuge Recovery Retreats in engaging in the acts described hereinabove,  
13 constitute an unfair and/or fraudulent business practice under California Business  
14 & Professions Code § 17200.

15 85. The actions of Refuge Recovery House, Refuge Recovery Services,  
16 and Refuge Recovery Retreats, as alleged herein, create a likelihood to deceive  
17 and confuse members of the general public who are interested in supporting  
18 Plaintiff, a nonprofit, and causes irreparable and substantial harm to Plaintiff and  
19 its reputation.

20 86. As a direct and proximate cause of Refuge Recovery House, Refuge  
21 Recovery Services, and Refuge Recovery Retreats' violation of California  
22 Business & Professions Code § 17200, Plaintiff has lost money and suffered  
23 injury in fact and damages in the form of lost revenue, fees, and other costs,  
24 which Refuge Recovery House and Refuge Recovery Services are required to  
25 disgorge, in an amount according to proof.

26 87. The actions of Refuge Recovery House and Refuge Recovery  
27 Services described herein, in violation of California Business & Professions Code  
28 § 17200, were malicious, willful and intentional, and done in conscious disregard

1 of the rights of Plaintiff, justifying an award of exemplary and punitive damages  
2 in an amount to be proven at trial

3 **SIXTH CLAIM FOR RELIEF**

4 **(Common Law Trademark Infringement)**

5 **(Against REFUGE RECOVERY HOUSE, LLC, REFUGE RECOVERY**  
6 **CLINICAL SERVICES, LLC, and REBEL SAINTS MEDITATION DBA**  
7 **REFUGE RECOVERY RETREATS)**

8 88. Plaintiff incorporates the allegations contained in paragraphs 1  
9 through 61 as though fully set forth herein.

10 89. Plaintiff's predecessor in interest, ATS dba Refuge Recovery, used  
11 the REFUGE RECOVERY mark and logo earlier than Defendants Refuge  
12 Recovery House, Refuge Recovery Services, and Refuge Recovery Retreats, and  
13 has continuously, used the same.

14 90. Defendants Refuge Recovery House, Refuge Recovery Services, and  
15 Refuge Recovery Retreats, have, as set forth above, wrongly used Plaintiff's  
16 trademarks subsequent to Plaintiff's predecessor in interest's use of the  
17 trademarks.

18 91. As discussed above, there is a likelihood of confusion in the minds  
19 of the public that Defendants Refuge Recovery House, Refuge Recovery  
20 Services, and Refuge Recovery Retreats businesses are the same as, or affiliated  
21 with, Plaintiff's business.

22 92. The actions of Defendants Refuge Recovery House, Refuge  
23 Recovery Services, and Refuge Recovery Retreats, described herein, were  
24 malicious, willful and intentional, and done in conscious disregard of the rights of  
25 Plaintiff, justifying an award of exemplary and punitive damages in an amount to  
26 be proven at trial.

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1 **SEVENTH CLAIM FOR RELIEF**

2 **(Common Law Conversion)**

3 **(Against NOAH LEVINE, REFUGE RECOVERY HOUSE, LLC and**  
4 **REFUGE RECOVERY CLINICAL SERVICES, LLC)**

5 93. Plaintiff incorporates the allegations contained in paragraphs 1  
6 through 61 as though fully set forth herein.

7 94. Plaintiff is, and all times relevant herein was, the owner or otherwise  
8 was entitled to possession of donations in an amount not less than \$130,000.00.

9 95. Plaintiff is informed and believes, and alleges thereon, Levine  
10 intentionally exerted control over the above referenced donations in contradiction  
11 of Plaintiff's rights to the donations and thereby converted the same by diverting  
12 the donations to Refuge Recovery House for Refuge Recovery House to use for  
13 its own benefit and/or for the benefit of Levine as the sole member of Refuge  
14 Recovery House and Refuge Recovery Services.

15 96. Plaintiff is informed and believes, and alleges thereon, Refuge  
16 Recovery House and/or Refuge Recovery Services accepted the donations  
17 converted from Plaintiff by Levine, with knowledge that the donations were to be  
18 used for the benefit of Plaintiff, and while the donations were in its possession  
19 improperly used the funds for its own benefit and/or the benefit of its sole  
20 member, and thereby further converted the donations.

21 97. As a result of Levine's, Refuge Recovery House's, and Refuge  
22 Recovery Services' acts of conversion, Plaintiff has been damaged in an amount  
23 to be proven at trial, including all compensatory damages.

24 98. The actions of Levine, Refuge Recovery House and Refuge  
25 Recovery Services, described herein, were malicious, willful and intentional, and  
26 done in conscious disregard of the rights of Plaintiff, justifying an award of  
27 exemplary and punitive damages in an amount to be proven at trial.

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**PRAYER**

WHEREFORE, Plaintiff prays for judgment against defendants, and each of them, as follows:

**As to the First Claim for Relief:**

1. For actual and compensatory damages in an amount according to proof at the time of trial;

**As to the Second Claim for Relief:**

1. A declaration that Plaintiff is a coauthor of the book “Refuge Recovery” or, in the alternative, that Levine performed work on the book “Refuge Recovery” as a works made for hire for ATS and that Plaintiff, as the assignee of ATS holds all rights currently held by Levine to the intellectual property affiliated with “Refuge Recovery,” including the copyright for the book “Refuge Recovery;”

2. For the issuance of a preliminary and permanent injunction that enjoins Levine from:

a. Using or profiting from Plaintiff’s intellectual property, including the book “Refuge Recovery;”

b. Advertising, selling, listing, promoting, displaying, offering for sale or shipping, or taking any steps to advertise, sell, list, promote, display, offer for sale or ship, any product or service that uses Plaintiff’s intellectual property, including the book “Refuge Recovery”;

d. Inducing, assisting or abetting any other person or entity in engaging in or performing any of the activities proscribed in the paragraphs above; and,

e. Engaging in any further infringement on Plaintiff’s intellectual property, including its rights to the book “Refuge Recovery”.

**As to the Third Claim for Relief:**

1. For actual and compensatory damages in an amount according to

1 proof at the time of trial;

2 2. For interest on general damages at the rate of 10% per annum in an  
3 amount according to proof at the time of trial;

4 3. For exemplary and punitive damages in an amount to be proven at  
5 trial;

6 4. For an order to recall, impound and destroy all goods, advertising or  
7 other items infringing the Plaintiff's marks pursuant to 15 U.S.C. § 1118, or  
8 otherwise; and,

9 5. For the issuance of a preliminary and permanent injunction that  
10 enjoins Defendant Refuge Recovery House, including all partners, offices, agents,  
11 servants, employees, attorneys, subsidiaries and successors-in-interest from:

12 a. Using Plaintiff's "Refuge Recovery" marks or any mark that is  
13 confusingly similar to Plaintiff's, whether alone or in combination with any other  
14 words or symbols;

15 b. Advertising, selling, listing, promoting, displaying, offering  
16 for sale or shipping, or taking any steps to advertise, sell, list, promote, display,  
17 offer for sale or ship, any product or service with the "Refuge Recovery" mark;

18 c. Inducing, assisting or abetting any other person or entity in  
19 engaging in or performing any of the activities proscribed in the paragraphs  
20 above; and,

21 d. Engaging in any further infringement.

22 **As to the Fourth Claim for Relief:**

23 1. A declaration that Plaintiff is the owner of the trademarks and logo,  
24 and that Refuge Recovery House holds all rights to the trademarks for "Refuge  
25 Recovery" in trust for Plaintiff;

26 2. For the issuance of a preliminary and permanent injunction that  
27 enjoins Defendant Refuge Recovery House including all partners, offices, agents,  
28 servants, employees, attorneys, subsidiaries and successors-in-interest from:

1 a. Using Plaintiff's REFUGE RECOVERY marks or any mark  
2 that is confusingly similar to Plaintiff's, whether alone or in combination with any  
3 other words or symbols;

4 b. Advertising, selling, listing, promoting, displaying, offering  
5 for sale or shipping, or taking any steps to advertise, sell, list, promote, display,  
6 offer for sale or ship, any product or service with the REFUGE RECOVERY  
7 mark;

8 c. Inducing, assisting or abetting any other person or entity in  
9 engaging in or performing any of the activities proscribed in the paragraphs  
10 above; and,

11 d. Engaging in any further infringement.

12 **As to the Fifth Claim for Relief:**

13 1. For an order that defendants, Refuge Recovery House, Refuge  
14 Recovery Services and Rebel Saints Meditation Society dba Refuge Recovery  
15 Retreats, disgorge all revenue and profits earned from the sale of any products or  
16 services that bore Plaintiff's marks;

17 2. For the issuance of a preliminary and permanent injunction that  
18 enjoins Defendants Refuge Recovery House, Refuge Recovery Services, and  
19 Refuge Recovery Retreats, including all partners, offices, agents, servants,  
20 employees, attorneys, subsidiaries and successors-in-interest from:

21 a. Using Plaintiff's REFUGE RECOVERY marks or any mark  
22 that is confusingly similar to Plaintiff's, whether alone or in combination with any  
23 other words or symbols;

24 b. Advertising, selling, listing, promoting, displaying, offering  
25 for sale or shipping, or taking any steps to advertise, sell, list, promote, display,  
26 offer for sale or ship, any product or service with the REFUGE RECOVERY  
27 mark;

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1 c. Inducing, assisting or abetting any other person or entity in  
2 engaging in or performing any of the activities proscribed in the paragraphs  
3 above; and,

4 d. Engaging in any further infringement.

5 **As to the Sixth Claim for Relief:**

6 1. For actual and compensatory damages in an amount according to  
7 proof at the time of trial;

8 2. For interest on general damages at the rate of 10% per annum in an  
9 amount according to proof at the time of trial;

10 3. For an order to recall, impound and destroy all goods, advertising or  
11 other items infringing the Plaintiff's marks pursuant to 15 U.S.C. § 1118, or  
12 otherwise; and,

13 4. For the issuance of a preliminary and permanent injunction that  
14 enjoins Defendants Refuge Recovery House, Refuge Recovery Services, and  
15 Refuge Recovery Retreats, including all partners, offices, agents, servants,  
16 employees, attorneys, subsidiaries and successors-in-interest from:

17 a. Using Plaintiff's REFUGE RECOVERY marks or any mark  
18 that is confusingly similar to Plaintiff's, whether alone or in combination with any  
19 other words or symbols;

20 b. Advertising, selling, listing, promoting, displaying, offering  
21 for sale or shipping, or taking any steps to advertise, sell, list, promote, display,  
22 offer for sale or ship, any product or service with the REFUGE RECOVERY  
23 mark;

24 c. Inducing, assisting or abetting any other person or entity in  
25 engaging in or performing any of the activities proscribed in the paragraphs  
26 above; and,

27 d. Engaging in any further infringement.

28 ///



1           5.     For exemplary and punitive damages in an amount to be proven at  
2 trial;

3           **As to the Seventh Claim for Relief:**

4           1.     For actual and compensatory damages in an amount according to  
5 proof at the time of trial;

6           2.     For interest on general damages at the rate of 10% per annum in an  
7 amount according to proof at the time of trial;

8           3.     For exemplary and punitive damages in an amount to be proven at  
9 trial;

10           **As to All Causes of Action**

11           1.     For costs of suit incurred herein; and,

12           2.     For such other and further relief as the Court may deem just and  
13 proper.

14 Dated: January 28, 2019

COLEMAN & HOROWITT, LLP

16 By: \_\_\_\_\_

  
DARRYL J. HOROWITT  
SHERRIE M. FLYNN  
CRAIG A. TRISTAO  
Attorneys for Plaintiff REFUGE  
RECOVERY

21           **DEMAND FOR JURY TRIAL**

22           Plaintiff, REFUGE RECOVERY, hereby demands a trial by jury.

23 Dated: January 28, 2019

COLEMAN & HOROWITT, LLP

25 By: \_\_\_\_\_

  
DARRYL J. HOROWITT  
SHERRIE M. FLYNN  
CRAIG A. TRISTAO  
Attorneys for Plaintiff REFUGE  
RECOVERY