

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

NATIONAL URBAN LEAGUE, INC.,

Plaintiff,

v.

URBAN LEAGUE OF GREATER
DALLAS & NORTH CENTRAL TEXAS
INC., and TERRY WOODS

Defendants.

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Civil Action No. 3:15-cv-03617

COMPLAINT

Plaintiff, the National Urban League, Inc., by and through its attorneys Patterson Belknap Webb & Tyler LLP and Munsch Hardt Kopf & Harr, P.C., for its Complaint against Defendants, Urban League of Greater Dallas & North Central Texas, Inc. and Terry Woods, hereby alleges as follows:

Preliminary Statement

Plaintiff the National Urban League, Inc. (“National Urban League” or “NUL”) brings this action for injunctive relief and damages to stop the use of and to protect its federally registered service marks, name, and symbols that are now being used by an organization that is no longer affiliated with the NUL or the Urban League Movement. For almost two years, the Urban League of Greater Dallas and North Central Texas, Inc. (“ULGD” or “Affiliate”), and its Board Member and current Board Chair, Terry Woods (collectively “Defendants”), have breached the agreement that governs ULGD’s affiliation with the National Urban League. Specifically, ULGD and Mr. Woods have failed to properly manage their finances and exercise sound organizational governance. After more than a year of NUL’s continued assistance, and

ULGD's continued refusal to implement suggested corrective action, the National Urban League's Board of Trustees voted on July 15, 2015 to disaffiliate ULGD, thereby terminating the agreement between NUL and ULGD and terminating the ULGD's authorization to use the registered service marks owned by the National Urban League. Though the ULGD is no longer affiliated with NUL, Defendants continue to use two of Plaintiff's registered service marks: (1) the "Urban League" name; and (2) the equality symbol of the National Urban League. Use of these well-known service marks by ULGD causes confusion among consumers of National Urban League services and organizations that wish to provide grants to support Urban League Movement programs. Continued unauthorized use of NUL's service marks also causes damage to both NUL's reputation and goodwill.

THE PARTIES

1. Plaintiff National Urban League is a nonprofit corporation having a principal place of business at 120 Wall Street, New York, New York 10005.
2. Defendant ULGD is a nonprofit corporation with a principal place of business at 4315 South Lancaster Road, Dallas, Texas 75216.
3. Defendant Terry Woods is the Chair of the ULGD's Board of Directors ("ULGD Board"). Upon information and belief, Woods's address, in his capacity as ULGD's Chair, is 4315 South Lancaster Road, Dallas, Texas 75216.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to Title 15, United States Code, Section 1121 (action arising under the Lanham Act); Title 28, United States Code, Section 1331 (federal question); and Title 28, United States Code, Section Title 1367 (supplemental jurisdiction).

5. This Court has personal jurisdiction over the Defendants, given Defendants' presence and principal place of business in this District. Also, the conduct that forms the basis of this Complaint occurred in this District.

6. Venue is proper in the Northern District of Texas pursuant to Title 28, United States Code, Sections 1391(b)(1) and 1391(b)(2).

FACTUAL ALLEGATIONS

The National Urban League and the Urban League Movement

7. The National Urban League is a civil rights organization founded in 1910 to combat the segregation and inequality faced by African Americans in our nation. Since its founding, the National Urban League has evolved into a robust and dynamic organization with programs and initiatives across the country related to education, jobs, housing, and health care assistance. The mission of the Urban League Movement is to enable African Americans and others to secure economic self-reliance, parity, power and civil rights.

8. The National Urban League is at the center of the Urban League Movement. NUL has its offices in New York City and the District of Columbia. It also has 95 affiliates in 36 states and the District of Columbia.

9. NUL's affiliate organizations are independent corporations. These independent affiliates agree to adopt the policies, principles, and strategies of the National Urban League and become part of the Urban League Movement.

10. The National Urban League is not the parent company to any affiliate corporation and does not sit on the governing board of any affiliate corporation. Each affiliate is a separate 501(c)(3) organization, licensed in the state of its operation, and governed by its own board of directors.

11. The National Urban League and each affiliate enter into a written contract titled, “Terms of Affiliation” (“Affiliation Agreement” or “Terms of Affiliation”). Under the Terms of Affiliation, affiliates agree to comply with the Affiliation Agreement as well as the official Urban League Movement Mission Statement (“Mission Statement”) and the Policy, Standards, and Procedures Manual (“Affiliate Manual”).

12. The Affiliate Services Department of the National Urban League acts as the principal liaison between NUL and its 95 affiliates.

13. Though the Terms of Affiliation have no expiration date, the National Urban League reviews the Terms of Affiliation every two years, updates the agreement if necessary, and re-executes the agreement with each affiliate organization. This periodic contract renewal ensures that affiliate governing boards, which may experience frequent turnover, are aware of the terms that govern the organization’s affiliation with NUL.

The Affiliation of the Urban League of Greater Dallas

14. On January 17, 2014, the National Urban League and the ULGD entered into an Affiliation Agreement, which amended and restated the March 17, 2011 agreement executed by the parties. (A true copy of the January 17, 2014 Terms of Affiliation is attached as **EXHIBIT 1-C** to the Affidavit of Herman L. Lessard, Jr., attached hereto as **EXHIBIT 1**.)

15. On behalf of ULGD, the Affiliate Board Chair, Affiliate Board Secretary, and Affiliate President and CEO signed the Affiliation Agreement. On behalf of NUL, the Senior Vice President of Affiliate Services, the President and CEO, and Chairman of the Board of Trustees signed the contract. Prior to the execution of the January 17, 2014 agreement, the relationship between the parties was governed by an agreement executed in 2011 that contained identical terms.

16. Section II.A of the January 17, 2014 Terms of Affiliation set forth the terms and conditions of affiliation, and obligates the ULGD to “remain in compliance with the Official Urban League Movement Mission Statement, the Terms of Affiliation, and Manual” to retain its affiliation. Section I.C of the Affiliation Agreement states that the effectiveness of the Urban League Movement depends upon “close National-local collaboration and strict adherence to the policies and standards established by the National Urban League for the Urban League Movement as a whole.”

17. By entering into the Terms of Affiliation, the ULGD pledged, pursuant to Articles I.B, II.A, and II.C of the agreement, to comply with and operate its programs in accordance with the Terms of Affiliation themselves, the Urban League Movement Mission Statement, and the Affiliate Manual as a condition of affiliation. (A true copy of the Affiliate Manual is attached as **EXHIBIT 1-D** to the Affidavit of Herman L. Lessard, Jr., attached hereto as **EXHIBIT 1**).

18. Under Section II.A of the Affiliation Agreement, each affiliate must “remain compliant” with these documents “in order to retain affiliation with the National Urban League.”

19. The Affiliation Agreement requires the National Urban League to provide Technical Assistance to non-compliant affiliate organizations. The goal of Technical Assistance is to help affiliates develop, reach, and maintain appropriate standards of governance, oversight, fiscal management, resource development, strategic planning, and program performance. Technical Assistance includes site visits to the affiliate and, when necessary, the development of a corrective action plan to bring the affiliate into compliance with the Terms of Affiliation.

**Decline of the ULGD and Substantial Technical Assistance
Provided by the National Urban League**

20. Since at least January 2014, the ULGD has committed several material breaches of the Affiliation Agreement. The ULGD's mismanagement of its financial affairs and its failure to establish and maintain stable internal governance have led to consistent violations of the Terms of Affiliation and have harmed the reputation, credibility, and effectiveness of the Urban League Movement.

21. In or around January 2014, the National Urban League began to receive reports of serious fiscal mismanagement at the ULGD. In particular, the ULGD had failed to submit invoices to the National Urban League necessary to receive continued funding through a federal reimbursable grant program, titled the "Navigators Grant," funded by the United States Department of Health and Human Services. The grant's purpose is to recruit uninsured persons to sign up for policies offered pursuant to the Affordable Care Act.

22. In response to these reports, NUL provided Technical Assistance to ULGD. On two separate occasions in January and February 2014, National Urban League staff from two departments, Affiliate Services and the Programs Department, traveled to Dallas to assist ULGD staff with the invoicing process related to the Navigators Grant. The NUL team also sought to improve ULGD's fiscal record-keeping related to other federal grant programs. The second visit by NUL staff focused on the invoicing procedures related to "Project Ready," a United States Department of Education grant that seeks to prepare urban youth for post-high school success.

23. On February 27 and 28, 2014, the National Urban League's Senior Vice President of Affiliate Services and the Senior Director for Affiliate Fiscal Operations ("Senior

Staff Members”) traveled to Dallas to investigate the Affiliate’s invoicing process and to confer with members of the ULGD’s Board of Directors, including Defendant Woods.

24. During the February 27 and 28, 2014 visit, National Urban League’s executives identified additional violations of the Affiliation Agreement. These violations included operation for nearly two years without a chief financial officer or fiscal leadership, a failure to issue financial statements, a failure to complete bank reconciliations, and the apparent use of capital campaign restricted purpose funds for a purpose not designated by the grantor.

25. The February 27 and 28 visit left the NUL Senior Staff Members with serious concerns related to the financial health and daily operations of the Affiliate.

26. In response to these concerns, in or around March and April 2014, NUL provided additional Technical Assistance, including another site visit. That site visit uncovered approximately \$200,000 in payable expenses for which no invoice for payment had been sent by the ULGD’s Financial Department.

27. The site visit also uncovered ULGD’s failure to complete a 2013 audit. The absence of a 2013 audit triggered concerns among local funders of ULGD’s programs about the fiscal stability of the Affiliate and ULGD’s use of the funds previously awarded.

28. In response to these and other violations, Senior Staff Members documented their findings and revealed them in a Site Visit Investigative Report, dated May 12, 2014.

29. To communicate the seriousness of the violations uncovered and the corresponding corrective action required, National Urban League staff members, including the Senior Vice President of Affiliate Services, returned to Dallas to present the Site Visit Investigative Report to ULGD’s executive officers and its Board, including Defendant Woods.

30. The corrective action plan included in the Site Visit Investigative Report set forth specific steps necessary for the ULGD to adhere to the Affiliation Agreement, such as the immediate establishment of a financial management system that would include revenue and expense reports by department, monthly financial statements prepared on an accrual basis, and supporting documentation for general ledger entries.

31. The ULGD failed to implement the corrective action plan set forth in the May 2014 Site Visit Investigative Report.

32. Despite ULGD's refusal to implement the changes recommended by NUL, it continued to receive additional Technical Assistance from NUL. Affiliate Services staff conducted two additional site visits in June and August 2014.

33. In or around May or June 2014, approximately five ULGD Board members resigned.

34. Surprised by this development, NUL recommended that the ULGD implement a Transition Board, which other National Urban League affiliate organizations had used successfully when faced with similar circumstances. NUL's management introduced ULGD's management to another NUL affiliate that had used a Transition Board in the past, and facilitated a discussion between the two affiliates.

35. Even after discussing the pros and cons with another affiliate's management team, ULGD did not implement the recommended Transition Board.

36. On September 2, and 3, 2014, NUL staff again provided Technical Assistance during a site visit to the ULGD's offices. During this visit, NUL Affiliate Services staff assisted ULGD's interim CFO with invoicing necessary to receive reimbursement from federally funded grant programs.

ULGD's Grants are Suspended

37. In December 2014, three entities that provided funding for ULGD programs, the United Way of Dallas, the Texas Department of Housing and Community Affairs, and the United States Veteran's Affairs Administration, suspended all funding to the ULGD.

38. Upon information and belief, the suspension of funding was due to the ULGD's failure to complete a 2013 audit and the ULGD's failure to responsibly manage its fiscal affairs.

39. Upon learning that ULGD's grants had been suspended, the National Urban League provided Technical Assistance to ULGD. Specifically, NUL's Affiliate Services staff helped ULGD's staff prepare the 2013 annual audit. The 2013 audit was substantially completed in March 2015 following extensive assistance from Affiliate Services staff, including a senior staff member who was a licensed certified public accountant.

ULGD's Management and Leadership Deficiencies

40. ULGD's CEO retired on September 30, 2014.

41. On October 1, 2014, the ULGD Board hired an Interim CEO. The Interim CEO had not been approved by the National Urban League and did not hold a Bachelor's Degree from any accredited college.

42. The ULGD Board's hiring of the Interim CEO violated the Terms of Affiliation and the Affiliate Manual. Section II.E of the Affiliation Agreement requires affiliates to appoint CEOs "only from among nominees who have been certified as meeting standards set by the National Urban League as outlined in the Manual." Policy 3.1 of the Affiliate Manual sets forth standards for CEOs and provides, among other standards, that "a Bachelor's degree is required"; Policy 3.8, Standard 1, requires that Interim CEOs "meet the requirements necessary for an affiliate President/CEO."

43. Less than four months later, in January 2015, the ULGD Board terminated the Interim CEO's contract for cause due to allegations of unprofessional conduct.

44. Despite the Interim CEO's dismissal for cause, she was rehired three months later—in March 2015—by Defendant Woods and two volunteer individuals who claimed to be acting as the ULGD Board.

45. The rehiring of the Interim CEO in March 2015 violated the provisions of both the Affiliation Agreement and, separately, Paragraph 41 of the Affiliate Manual. It also violated Policy 3.1 of the Affiliate Manual, which requires that CEO candidates have a “[p]roven track record of leadership and management in a modern community-based nonprofit organization.”

The National Urban League Continues to Provide Technical Assistance

46. As of February 2015, the ULGD was operating without a CEO, without funding from federal and state organizations, and without a stable department or infrastructure to manage its fiscal affairs.

47. In response, the NUL provided ULGD with Technical Assistance. Senior Staff Members returned to Dallas to meet with the Affiliate's remaining officers and its remaining Board Members, including Defendant Woods.

48. On February 19, 2015, National Urban League Senior Staff Members submitted a Follow-up Investigative Report and Emergency Action Plan to ULGD. The corrective action plan included in the Report was the *second* formal corrective action plan provided to the ULGD.

49. Among other steps, the *second* corrective action plan again recommended the creation of a Transition Board, reassignment of an individual with an

accounting background to serve as a Grant Accountant, and the use of two volunteer CPAs, identified by a current ULGD Board Member, to assist with the Affiliate's bank reconciliations and fiscal record-keeping.

50. Upon information and belief, the ULGD failed to implement any recommendation contained in the *second* corrective action plan.

51. On March 23, 24, and 25, 2015, three additional members of the ULGD Board resigned due to concerns about the imminent lapse of ULGD's policy for director and officer liability insurance coverage, due to non-payment of insurance premiums. The resignations of these individuals left Defendant Woods as the sole remaining Board Member. Upon information and belief, Defendant Woods then designated himself as Board Chair.

Material Breaches of the Terms of Affiliation

52. The ULGD has committed multiple material breaches of the Terms of Affiliation. In contrast, NUL has complied with all of its obligations under the Affiliation Agreement.

53. Policy 4.1 of the Affiliate Manual requires the ULGD to "acquire and retain the requisite fiscal resources to carry out its mandate to provide Urban League program and services to its local community" and to maintain a governing board that "carries out its stewardship responsibilities with respect to the affiliate's fiscal assets, including real estate, in a responsible manner."

54. Article II.F of the Terms of Affiliation and Policy 9.1 of the Affiliate Manual require the ULGD to maintain and to supply the National Urban League with fiscal records, including "monthly financial statements" and the ULGD's "verification of monthly bank

reconciliation.” Affiliates submit these documents by uploading them to the National Urban League’s Affiliate Data Management System.

55. Since at least January 2014, the ULGD has failed to submit the required financial statements, including a statement of revenue and expenses by program, a statement of cash flow, and completed bank reconciliations, all in violation of the Affiliation Agreement.

56. Upon information and belief, the ULGD was unable to submit these documents because they were not created or maintained. Failure to maintain financial records violates the Affiliation Agreement and risks the loss of funding and goodwill for the ULGD and the Urban League Movement. Failure to maintain financial records increases the risk that the ULGD will be unable to manage charitable donations in the manner required by state and federal rules and regulations.

57. Section II.C of the Terms of Affiliation requires the ULGD “to maintain tax-exempt status under section 501(c)(3) of the federal tax laws as a separate nonprofit in good standing in its state of incorporation” and to “provide evidence annually to its board and the National Urban League” that its “local, state, and federal corporate status is up to date.” Section II.F specifically requires that the ULGD provide Internal Revenue Service (“IRS”) Forms 990 and 941 to the National Urban League.

58. Upon information and belief, the ULGD has not submitted quarterly Form 941 filings to the IRS since at least March 2014, in violation of the Affiliation Agreement. The ULGD has not submitted quarterly Form 941 filings to NUL since at least March 2014.

59. The ULGD has not submitted Form 990s for the years 2013 or 2014 to the IRS or to the National Urban League. Failure to submit these required tax forms violates the obligation of the ULGD to maintain its tax-exempt status under federal and local law.

60. Section II.F of the Terms of Affiliation and Policy 5.5 of the Affiliate Manual require the ULGD to complete and submit to the National Urban League an annual audit “prepared by a Certified Public Accountant that conforms to the standards as set forth in the American Institute of Certified Public Accountants’ current Industry Guide for Audits of Voluntary Health and Welfare Organizations” within one hundred and eighty days of the end of the Affiliate’s operating year.

61. In violation of Section II.F and Policy 5.5, the ULGD has failed to conduct or complete an annual audit for the year 2013. The 2013 audit ultimately was completed in 2015, only after National Urban League staff members assumed the management responsibility for completing the audit.

62. The ULGD has not conducted or completed an annual audit for the year 2014.

63. Three organizations that funded ULGD initiatives and programs withdrew their funding from ULGD because of its failure to complete an annual audit.

64. The failure to conduct and complete annual audits for 2013 and 2014 violates the Terms of Affiliation and the Affiliate Manual, risks the ULGD’s ability to attract and retain the financial support necessary to carry out its mission, and risks the reputation and associated goodwill of the National Urban League and the Urban League Movement.

65. Section II.J of the Terms of Affiliation and Policy 8.1 of the Affiliate Manual require the ULGD to pay annual dues to the National Urban League. NUL relies upon affiliate dues payments, in part, to carry out its mission, conduct its daily operations, and to provide Technical Assistance to affiliates that need the help. The ULGD currently owes the National Urban League \$39,250 in unpaid affiliate dues. Failure to pay dues violates the Terms

of Affiliation and diminishes the resources necessary for the National Urban League to carry out its mission.

66. The Affiliate Manual, specifically, Policy 1.2, requires all affiliates to fulfill “all corporate obligations . . . as required by local, state, and federal governments.”

67. Texas Business Organizations Code Section 22.353 requires Texas corporations, including non-profit corporations, to “keep records, books, and annual reports of the corporation’s financial activity at the corporation’s registered or principal office” in Texas, and to make those records, books and reports available for public inspection. Section 22.354 of the Texas Business Organizations Code makes the failure to maintain these records as required by Section 22.353 a criminal offense.

68. Policy 5.8 of the Affiliate Manual requires affiliates to “account for all funds received for contracts in which the National Urban League is the prime contractor with the funding source,” including federal grant funding. Policy 7 requires the ULGD to maintain its eligibility for these initiatives and to meet the minimum requirements of the programs, including the submission of “timely program and fiscal reports.”

69. Contrary to the terms of the Affiliation Agreement, the ULGD has failed to adhere to the rules and requirements for at least five federally funded grant programs by failing to maintain required reports, and invoice expenses. It also has failed to provide the National Urban League with invoices sufficient for the National Urban League to seek reimbursement under the terms of the grants. The failure to complete and provide invoices for grant-related expenses violated the Terms of Affiliation, and risked the eligibility of the National Urban League and other affiliates of the Urban League Movement to participate in these programs.

70. Policy 4.1 of the Affiliate Manual requires the ULGD to “acquire and retain the requisite fiscal resources to carry out its mandate to provide Urban League programs and services to its local community.” The ULGD lacks the financial resources to provide programs and services, carry out its daily operations, or to pay its creditors.

71. Upon information and belief, the ULGD cannot satisfy the following financial obligations: (a) three months of back pay due to ULGD employees, (b) \$585,626 in mortgage payments due for the Affiliate’s Dallas facility, (c) a \$307,536 loan, (d) \$27,000 per month due to its telephone and data service provider, AT&T, and (e) over six months of payments for office equipment rentals.

72. Section II.O of the Terms of Affiliation require any former affiliate to “promptly cease to use in any way the phrase ‘Urban League’ or brand service logo as part of its name or in connection with its operation.” Since its disaffiliation, the ULGD has continued to use the “Urban League” name and the equality symbol in violation of this provision. Upon information and belief, the ULGD will continue to use the “Urban League” name and equality symbol in the future.

March 2015: the Formal Disaffiliation Process Begins

73. Despite the Technical Assistance provided and the issuance of *two* corrective action plans that outlined specific remedial steps to correct ULGD’s violations of the Affiliation Agreement, by March 2015, the ULGD had failed to take any steps to stabilize its finances, select and retain qualified executives, or to otherwise comply with the Terms of Affiliation.

74. On March 27, 2015, the National Urban League issued to the ULGD a Notice of Default and an Opportunity to Cure, suspended the Affiliate’s sub-grant funding, and

notified the ULGD that the National Urban League would proceed with disaffiliation should ULGD's default under the Affiliation Agreement continue.

75. On April 3, 2015, the National Urban League issued a second notice to the ULGD's outside counsel regarding the corrective action plans provided to the ULGD and the Affiliate's continued failure to comply with the Terms of Affiliation.

76. On April 8, 2015, the National Urban League issued a notice to the ULGD regarding the ULGD's failure to submit timely and accurate reports in connection with three separate programs funded by the United States Department of Housing and Urban Development ("HUD"). The National Urban League receives and distributes to its affiliates by sub-grant agreements grant monies received from HUD, including the "Comprehensive Counseling Program," in which NUL has participated since 2005.

77. By May 2015, the ULGD was insolvent. The Affiliate's unmet financial obligations included (a) three months of back pay due to ULGD employees, (b) \$585,626 in mortgage payments due for the Affiliate's Dallas facility, (c) a \$307,536 loan, (d) \$27,000 per month due to its telephone and data service provider, AT&T, and (e) over six months of payments for office equipment rentals.

78. On May 4, 2015, at ULGD's request, the Affiliate Services Committee held a hearing at NUL's offices in New York City to discuss the Affiliate's continued violations of the Affiliation Agreement. National Urban League leadership's senior management, including CEO and President Marc H. Morial and National Urban League Affiliate Services Committee Chairman John Mack, along with Affiliate Services Committee members Valerie Thompson and Sam Hobbs, attended the hearing. Representatives of the ULGD, including Chairman of the Board Defendant Woods, and counsel for ULGD also attended.

79. After the National Urban League's management detailed the ULGD's extensive non-compliance with the Affiliation Agreement, the parties agreed to convert the hearing into a discussion of a proposed resolution. The parties agreed in principle to a plan to correct ULGD's conduct. The plan included a proposed transition board, a monitor who would evaluate the ULGD's compliance with any agreement reached, new directors and officers, and adherence to a comprehensive corrective action plan. The National Urban League reduced this agreement in principle to a written Memorandum of Understanding.

80. On May 7, 2015, the National Urban League provided the written Memorandum of Understanding to the ULGD, along with a corrective action plan.

81. Shortly after receiving the plan, Defendant Woods and the leadership of the ULGD refused to sign the Memorandum of Understanding and refused to implement the corrective action plan, the *third* such plan provided to the ULGD.

82. After Defendant Woods and the ULGD refused to enter into the Memorandum of Understanding, on June 18, 2015, the National Urban League sent the ULGD a *second* Notice of Non-Compliance and a *fourth* corrective action plan.

83. On July 3, 2015, the National Urban League's management advised the ULGD that it had been placed on probation, pending implementation of corrective action, and that the ULGD had until July 13, 2015 to bring itself into compliance with the Terms of Affiliation.

84. On July 13, 2015, the ULGD was still in breach of its obligations under the Terms of Affiliation, and the National Urban League informed the ULGD that it would recommend the disaffiliation of the ULGD to NUL's Board of Trustees.

NUL Disaffiliates ULGD and Prohibits Its Use of NUL's Service Marks

85. On July 15, 2015, after considering the information provided to it by NUL's senior management, the National Urban League's Board of Trustees accepted NUL management's disaffiliation recommendation. The Board also adopted a resolution to disaffiliate the ULGD.

86. By letter dated July 23, 2015, ULGD was notified of its disaffiliation and informed that it was required to "promptly cease the use in any way of the phrase 'Urban League' or brand services logo as part of its name or in connection with its operation."

87. On August 2, 2015, the ULGD notified the National Urban League of its intent to appeal its disaffiliation.

88. On September 2, 2015, the Affiliate Services Appeals Committee ("Committee") issued a Scheduling Order that adhered to the appeal schedule set forth in Policy 16 of the Affiliate Manual, and required the ULGD to submit a written statement of its concerns and grievances, with supporting information, by September 17, 2015. The National Urban League's management was directed by the Committee to respond by October 2, 2015.

89. On September 18, 2015, the ULGD submitted by facsimile and e-mail, its responses and objections to the process set forth by the Scheduling Order. The statement submitted by ULGD focused exclusively on the procedure set forth for the appeal process in the September 2, 2015 notice. ULGD's submission did not address the substantive allegations of ULGD's numerous breaches of the Affiliation Agreement that NUL's management had set forth in the notices provided to the ULGD, including the June 18, 2015 *second* Notice of Non-Compliance.

90. On September 24, 2015, ULGD resubmitted its September 18 statement to the Committee.

91. The NUL's management submitted its response to the Committee on October 2, 2015.

92. The Committee met on October 15, 2015, to review and discuss the briefs submitted by the parties. The Committee upheld the disaffiliation of the ULGD in a decision issued November 3, 2015.

The National Urban League's Registered Service Marks

93. Only approved affiliates of the National Urban League may use the organization's Registered Marks: the name "Urban League" and the equality symbol of the Urban League Movement. The name "Urban League" and the equality symbol are registered service marks that refer to the community services designed to secure equal opportunities for African Americans and other minorities with a special emphasis on housing, health and welfare, education, and employment.

94. The "Urban League" service mark was most recently registered with the U.S. Patent and Trademark Office ("USPTO") on December 17, 1996 (Serial Number 75013386, Registration Number 2023561). The Registrant and Owner of the "Urban League" service mark is the National Urban League, Inc.

95. The equality symbol of the National Urban League and the Urban League Movement is a registered service mark that refers to the services provided by the Urban League. The equality symbol mark consists of an encircled equal sign on the left, the words "National Urban League" to the left of a vertical line, and "Empowering Communities Changing Lives" to the right of the vertical line:



Each portion of the service mark, such as the equal sign enclosed within a circle, is understood to be a Registered Mark of the National Urban League and to refer to Urban League Movement services.

96. The equality symbol service mark was most recently registered with the USPTO by the National Urban League, Inc. on January 28, 2014 (Serial Number 7784821, Registration Number 4475460). The Registrant and Owner of the equality symbol service mark is the National Urban League, Inc.

97. Use of the Registered Marks has made both marks distinctive to consumers and potential consumers of services provided by the Urban League Movement. The community served by the Urban League Movement understands the Urban League name and equality symbol to indicate an organization that shares the goals of the National Urban League. Specifically, donors, grant award organizations, consumers and potential consumers understand the Urban League name and equality symbol to be associated with services related to job training, education, housing, and healthcare for African Americans and others who seek economic empowerment. The Urban League name also stands for quality, integrity and professionalism.

98. Each registered affiliate of the National Urban League has “Urban League” as part of its official name to identify to the public that the organization is part of the Urban League Movement. Furthermore, registered affiliates of the National Urban League use the registered equality symbol in conjunction with the local affiliate name to identify themselves both as part of the Urban League Movement and as a provider of Urban League signature programs, such as “Project Ready.” The Urban League name and equality symbol allow consumers to identify the source and quality of the services provided.

99. All official written and electronic communications from the National Urban League and Urban League affiliates contain and display the Registered Marks. Among other topics, these communications describe services and programs provided by the Urban League Movement. Affiliates likewise use the name “Urban League” and the equality symbol on their communications and publications that describe programs and services related to jobs, education, housing, and healthcare.

100. Most importantly, in today’s digital age, both the National Urban League and its affiliate organizations use the “Urban League” name and equality symbol service marks on the Internet through their official websites and e-mail communications.

101. As a result of the extensive and long-running use by the National Urban League and its official affiliates of the “Urban League” and equality symbol service marks, those service marks have achieved “secondary meaning” and widespread recognition by consumers, potential consumers, funders, and potential funders of Urban League Movement’s programs and services.

102. The National Urban League, as the center of the Urban League Movement, has used and continues to use the Registered Marks in connection with its services, and plans to continue such use in the future.

ULGD's Unauthorized Use of the National Urban League's Registered Marks

103. Without authorization, the ULGD continues to use the Registered Marks and to hold itself out as an Urban League affiliate. ULGD's website homepage uses the "Urban League" as part of the organization's name, provides a "History of Affiliate," and describes the organization as "one of 93 affiliates of the National Urban League" that provides "core services, programs in health, housing, education (adult and youth), training, employment . . . and specialized services." (True copies of November 5, 2015 "screenshots" of ULGD's website is attached as **EXHIBITS 1-O** through **1-R** to the Affidavit of Herman L. Lessard, Jr., attached hereto as **EXHIBIT 1**.)

104. Additionally, the "Programs" page of the organization's website continues to use the registered equality symbol of the National Urban League and describes program services similar to those offered by the National Urban League, including career development, education and youth services, and housing assistance. (**EXHIBIT 1-Q**.)

105. Since its disaffiliation, the ULGD has distributed flyers and newsletters that use the Registered Marks, including an advertisement for an event that was to be held on November 7, 2015. (**EXHIBITS 1-M, 1-N**.)

106. In a letter dated October 19, 2015, the ULGD requested donations using the Registered Marks. (**EXHIBIT 1-S**.)

107. The ULGD's continued use of the Registered Marks owned by the National Urban League creates a likelihood of confusion among donors, consumers and potential consumers of Urban League services in the Dallas/Fort Worth area.

108. The continued use of these Registered Marks, in conjunction with the fact that the ULGD holds itself out as a National Urban League affiliate, creates confusion

regarding the provider of Urban League Movement services and the source and origin of the services offered.

109. The ULGD's continued use of the Registered Marks owned by the National Urban League creates a substantial likelihood of confusion regarding the source of any services provided by the ULGD, and provides the false impression that the ULGD is a NUL affiliate and continues to be part of the Urban League Movement.

110. The ULGD's use of the Registered Marks creates confusion among funders and potential funders of Urban League Movement programs as to the provider or source of services funded. It also provides the false impression that ULGD will use funds donated to it in a manner consistent with NUL's programs, policies and procedures.

CAUSES OF ACTION

COUNT I

Breach of Contract

111. Plaintiff repeats and incorporates the allegations set forth in paragraphs 1 through 110 of this Complaint as if fully set forth herein.

112. The affiliation between the National Urban League and the ULGD was at all relevant times a relationship governed by the Terms of Affiliation. The Affiliation Agreement obligated the ULGD to comply with the terms set forth therein.

113. By entering into the Terms of Affiliation, ULGD purposefully availed itself of the benefits and privileges of affiliation with the National Urban League and the Urban League Movement, including but not limited to the Technical Assistance provided by the National Urban League.

114. ULGD materially breached the Terms of Affiliation on multiple occasions throughout 2014 and 2015, by its failure to conduct the organization's fiscal affairs, internal governance, and daily operations in accordance with the provisions of the Affiliation Agreement.

115. NUL has provided extensive Technical Assistance at its own expense to the ULGD throughout 2014 and 2015.

116. NUL has satisfied all duties and obligations imposed upon it by the Terms of Affiliation.

117. As a direct and proximate result of the ULGD's material breach of the Terms of Affiliation, the National Urban League has suffered and will continue to suffer reputational and financial harm, and is entitled to monetary damages in an amount to be determined at trial but, at least \$39,250.

COUNT II

Federal Trademark Infringement 15 U.S.C. Section 1114(1) (Lanham Act, Section 32)

118. NUL repeats and incorporates the allegations set forth in paragraphs 1 through 110 of this Complaint as if fully set forth herein.

119. NUL is the owner of all right, title, and interest in and to the Registered Marks.

120. Defendants, without authorization and in violation of the Terms of Affiliation, have used Plaintiff's Registered Marks in connection with programs and services of an organization that is no longer affiliated with the Urban League Movement.

121. Defendants' past use and confirmed use of NUL's Registered Marks are likely to cause confusion or mistake among consumers of NUL's services as to the source of origin or affiliation of the non-affiliated services.

122. Defendants' acts have injured and are likely to injure the image and reputation of the Urban League Movement and the National Urban League with consumers in this judicial district and elsewhere in the United States, by creating confusion about and/or dissatisfaction with Urban League Movement organizations and services.

123. Defendants' acts have injured or are likely to cause imminent injury to the Urban League Movement and the National Urban League in this judicial district and elsewhere in the United States by representing to the public that they continue to be affiliated with NUL and the Urban League Movement, and that they are authorized to provide NUL's programs and services.

124. Defendants also are causing consumer confusion, a diminution of the value of the goodwill associated with the Registered Marks, and a loss of funding for the Urban League Movement.

125. Defendants' acts have been committed knowingly, deliberately and willfully, with knowledge of the National Urban League's exclusive right to and goodwill in the Registered Marks. Defendants' acts also have been committed with knowledge that they are infringing the Registered Services Marks of NUL as they continue offering services to the public.

126. Defendants are using NUL's Service Marks with knowledge, bad faith, and intent that such use would cause confusion, mistake, or would deceive consumers of the services that the Urban League Movement provides.

127. As a result of Defendants' trademark infringement, Plaintiff has suffered and will continue to suffer substantial and irreparable injury, loss, and damage to its rights in and to the Registered Marks, and damage to the goodwill associated therewith, for which it has no adequate remedy at law.

128. If not restrained, Defendants will have unfairly deprived and will continue to deprive consumers and funders of Urban League Movement services as a result of their acts of infringement.

129. As the acts alleged herein constitute infringement of the Registered Marks under 15 U.S.C. Section 1114(1), and as Plaintiff has no adequate remedy at law, Plaintiff is entitled to injunctive relief as well as to damages, any profits obtained by Defendants as a result of their conduct, and other remedies provided by 15 U.S.C. Sections 1116, 1117, 1118, and to reasonable attorneys' fees and prejudgment interest pursuant to 15 U.S.C. Section 1117.

COUNT III

False Designation of Origin and Unfair Competition 15 U.S.C. Section 1125 (Lanham Action, Section 43(a))

130. NUL repeats and incorporates the allegations set forth in paragraphs 1 through 110 above of this Complaint as if fully set forth herein.

131. Defendants have, without authorization, used the Registered Marks in interstate commerce on their website and in communications for programs and services that are not part of the Urban League Movement.

132. Moreover, the quality of services advertised and offered by Defendants are materially different from the quality of services offered by the National Urban League and its affiliates. Such use is likely to cause confusion, mistake, or to deceive as to affiliation and the origin, sponsorship, or approval of the services advertised.

133. Defendants' acts constitute a false representation and a false designation of origin, sponsorship, or approval of Defendants' non-affiliated services, by the National Urban League and the Urban League Movement.

134. Defendants' acts constitute a false representation and a false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. Section 1125(a).

135. Defendants' acts have been committed with knowledge of Plaintiff's exclusive common law rights and goodwill in the Registered Marks, as well as with bad faith and the intent to cause confusion or mistake, and/or to deceive.

136. Plaintiff has suffered and, if Defendants are not enjoined, will continue to suffer great and irreparable injury, loss, and damage to its rights in and to the Registered Marks, and the goodwill and reputation associated therewith for which Plaintiff has no adequate remedy at law.

137. If not restrained, Defendant will have unfairly derived funding and other opportunities as a result of their acts of infringement.

138. As the acts alleged herein violate Section 43(a) of the Lanham Act, 15 U.S.C. Section 1125(a), and as Plaintiff has no adequate remedy at law, Plaintiff is entitled to injunctive relief and to damages and other remedies provided by 15 U.S.C. Sections 1116, 1117, and 1118, and to reasonable attorneys' fees and prejudgment interest pursuant to 15 U.S.C. Section 1117.

COUNT IV

Common Law Trademark Infringement

139. NUL repeats and incorporates the allegations set forth in paragraphs 1 through 110 above of this Complaint as if fully set forth herein.

140. Defendants' acts constitute an infringement of Plaintiff's trademark rights in the Registered Marks in violation of common law, including the common law of the State of Texas and elsewhere.

141. As a result of Defendants' acts, Plaintiff has suffered and, if Defendants are not enjoined, will continue to suffer great and irreparable injury, loss, and damages to its rights in and to the Registered Marks, and to the goodwill associated therewith, for which Plaintiff has no adequate remedy at law.

COUNT V

Federal Trademark Dilution 15 U.S.C. Section 1125(c) (Lanham Act Section 43(c))

142. NUL repeats and incorporates the allegations set forth in paragraphs 1 through 110 above of this Complaint as if fully set forth herein.

143. Plaintiff's Registered Marks are famous and distinctive within the meaning of 15 U.S.C. Section 1125(c).

144. Plaintiff's Registered Marks are widely recognized by the general consuming public of the United States as a designation that the National Urban League, as the center of the Urban League Movement, is the source of services, including services related to housing, education, healthcare, and job training.

145. Since the Registered Marks have become famous, Defendants have utilized marks that are likely to cause dilution by blurring and/or tarnishment of Plaintiff's famous Registered Marks.

146. Defendants' acts greatly and irreparably damage Plaintiff and will continue to do so unless restrained by this Court. Therefore, Plaintiff is without an adequate

remedy at law and is entitled to, among other things, an order enjoining and restraining Defendants from use of the famous Registered Marks.

COUNT VI

Common Law Unfair Competition

147. NUL repeats and incorporates the allegations in paragraphs 1 through 110 above of this Complaint as if fully set forth herein.

148. Defendants' acts constitute an infringement of and unfair competition to Plaintiff's trademark rights in violation of common law, including the common law of the State of Texas and elsewhere.

149. As a result of Defendants' acts, Plaintiff has suffered and, if Defendants are not enjoined, will continue to suffer great and irreparable injury, loss, and damage to its rights in and to the Registered Marks, and to the goodwill associated therewith for which Plaintiff has no adequate remedy at law.

COUNT VII

State Trademark Infringement (Tex. Bus. & Com. Code Section 16.102)

150. NUL repeats and incorporates the allegations set forth in paragraphs 1 through 110 above of this Complaint as if fully set forth herein.

151. Plaintiff's Registered Marks are distinctive service marks under federal and state law, including Texas Bus. & Com. Code Section 16.001.

152. Without Plaintiff's consent, Defendants have used the Registered Marks in connection with the distribution and advertising of services. Such actions are likely to cause confusion or mistake among consumers as to the source of origin or affiliation of the non-affiliated services.

153. Defendants' acts have injured and are likely to injure the image and reputation of the Urban League Movement and the National Urban League by creating confusion about and/or dissatisfaction with Urban League Movement organizations and services.

154. Defendants' acts have injured or are likely to cause imminent injury to the Urban League Movement and the National Urban League in this judicial district and elsewhere in the United States, by causing consumer dissatisfaction, a diminution of the value of the goodwill associated with the Registered Marks, and a loss of market share among consumers, and a loss of funding for the Urban League Movement.

155. Defendants' acts were committed with actual knowledge that Defendants had no right to use Plaintiff's Registered Marks, and with bad faith and the intent to cause confusion, mistake, or to deceive.

156. Defendants' acts have been committed in violation of Tex. Bus. & Com. Code Section 16.102 and, as Plaintiff has no adequate remedy at law, Plaintiff is entitled to injunctive relief and to damages and other remedies provided by that provision.

COUNT VIII

State Law Trademark Dilution (Tex. Bus. & Com. Code Section 16.103)

157. NUL repeats and incorporates the allegations set forth in paragraphs 1 through 110 above of this Complaint as if set fully forth herein.

158. The Registered Marks have become famous and distinctive within the meaning of Tex. Bus. & Com. Code Section 16.103, and are widely recognized by the public throughout the State of Texas and in the Greater Dallas area to refer to and identify Urban League Movement services, including services related to housing, education, healthcare, and jobs.

159. Defendants' use of the Registered Marks has caused and likely will cause dilution of the famous Registered Marks, which were famous within the meaning of Tex. Bus. & Com. Code Section 16.103, prior to Defendants' illegal use.

160. Through their acts, Defendants have and are continuing to injure Plaintiff's reputation and associated goodwill, and have caused and will continue to cause dilution of the Registered Marks.

161. Defendants' acts greatly and irreparably damage Plaintiff and will continue to do so unless restrained by this Court. Therefore, Plaintiff is without an adequate remedy at law and is entitled to, among other things, an order pursuant to Tex. Bus. & Com. Code § 16.103, enjoining and restraining Defendants from use of the famous Registered Marks.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests judgment entered in its favor against all Defendants and that Plaintiff be provided the following relief:

- a. an order of judgment in favor of Plaintiff against Defendants, jointly and severally;
- b. an order temporarily restraining, and preliminarily and permanently enjoining, all Defendants from use of Plaintiff's Registered Marks and compelling Defendants to submit to Plaintiff a report in writing under oath, pursuant to 15 U.S.C. Section 1116(a), that details the manner and form in which Defendants have complied with the injunction;
- c. damages to Plaintiff for all losses, including attorneys' fees and reasonable costs of suit, that have resulted from Defendants' wrongful conduct, regardless of where such conduct has occurred;

d. grant such other and further relief as this Court may deem just, equitable, and appropriate.

JURY DEMAND

Plaintiff demands a trial by jury on all issues in this action

DATED: November 9, 2015

Respectfully Submitted,

s/ Nolan C. Knight _____

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* *Pro hac vice* pending