

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

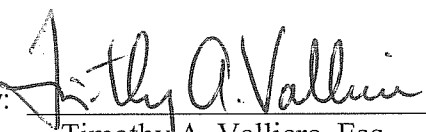
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American Pro Squash, Inc., d/b/a, Pro Squash : Index No.
Tour, :
: Plaintiff designates New York
Plaintiff, : County as the place of Trial
:
- against - : **SUMMONS**
:
Professional Squash Association, John G. : Jury Trial Demanded
Nimick, and Event Engine, Inc., :
:
Defendants. X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's Attorney within 20 days after service of this summons, exclusive of the day of service (or within 30 days after service is complete if the summons is not personally delivered to you within the State of New York); and in case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
October 25, 2010

SMITH VALLIERE PLLC

By: 
Timothy A. Valliere, Esq.

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d/b/a, Pro Squash Tour*

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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American Pro Squash, Inc. d/b/a :
Pro Squash Tour, : Index No.
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 Plaintiff, :
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 :
 - against - : **COMPLAINT**
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 Professional Squash Association, :
 John Nimick and Event Engine, Inc., :
 :
 :
 Defendants. :
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Plaintiff American Pro Squash, Inc. d/b/a Pro Squash Tour (“Plaintiff” or “PST”) by its undersigned attorneys, Smith Valliere PLLC, as and for its Complaint against Defendants Professional Squash Association (“PSA”), John Nimick (“Nimick”) and Event Engine, Inc. (“Event Engine”) (together, “Defendants”), alleges as follows:

NATURE OF THE CASE

1. On October 14, 2010, by an imperial edict harkening back to the times when England tried to impose unreasonable control and taxes on the American colonies, the United Kingdom-based PSA banned its players from playing in any United States-based PST squash tournaments. The PSA took this action without advance notice to the PST or PSA’s own players. Moreover, the ban was a predatory act intended solely to eliminate the fledgling PST tour. The unreasonable ban, which does not apply to other professional tournaments and events worldwide, effectively takes food off of the plates of PSA’s own players – the very people the PSA professes to protect. The PSA attempts to justify its unreasonable and punitive ban by stating that it acted to protect its own world rankings of professional squash players. Yet, this excuse is nothing more than a sham because the PST does not even issue any rankings, world or otherwise.

2. In truth, the PSA's predatory and anti-competitive conduct is nothing more than a selfish effort to corner the professional squash player market at the expense of the professional squash players it purports to represent. There is no rational basis, however, for the PSA to unilaterally decide who can host a squash tournament for professional squash players. In a sport based on competition, one would think that the PSA would allow the marketplace to determine what events are appealing to players. Instead, the PSA seeks to create its own monopoly over the sport of professional squash.

3. The PSA ban against participation in PST tournaments contradicts the PSA's own Tour Guide regarding participation in non-PSA events, which permits its members to play in non-PSA events unless falling within certain restrictions not applicable here. Its own ranking system discourages top players from participating in more than 13 PSA sanctioned events in a season, thereby limiting the income opportunities for PSA professional squash players. As a consequence, and given the finite career of a professional squash player, many professional squash players play in other non-PSA leagues in England, Europe and elsewhere in the world – without any complaint from the PSA. Yet, the PSA applies a different (anti-competitive) standard to the United States-based PST.

4. The PSA's unfair and predatory conduct has caused players who had agreements to play in upcoming PST events to withdraw, has interfered with PST's relations with its sponsors and tournament host sites, and caused damages to the PST – as well as the PSA players affected by the draconian ban. The PSA's tortious and anti-competitive conduct is actionable under the law and the PST seeks all appropriate relief so that professional squash players can play in future PST events.¹

¹ As appropriate, Plaintiff exercises the right to plead legal and other theories in the alternative pursuant to CPLR 3014.

JURISDICTION AND VENUE

5. Defendants are subject to jurisdiction in New York pursuant to CPLR §§ 301 and 302 in that they are doing business in New York State. Defendants have also taken acts outside of the State that have an effect within the State of New York.

6. Venue is proper before this Court pursuant to CPLR § 509 in that Plaintiff has selected this venue.

PARTIES

7. Plaintiff American Pro Squash, Inc., d/b/a Pro Squash Tour, is a Massachusetts corporation that organizes, manages and conducts tournaments and events for professional squash players throughout various states in the United States, including in New York.

8. Upon information and belief, Defendant Professional Squash Association (the “PSA”) is a private company registered in England and Wales whose registered office is at 123 Cathedral Road, Cardiff, Wales, United Kingdom CF11. The PSA sanctions professional squash tournaments throughout the world, including tournaments in New York, thereby conducting ongoing and substantial business activities in New York.

9. Upon information and belief, Defendant John G. Nimick (“Nimick”) is a Massachusetts resident that at all relevant times has been President, Treasurer, and a Director of Defendant Event Engine Inc., as well as an apparent and/or actual agent of Event Engine, Inc. in New York with respect to the annual Tournament of Champions squash competition that Event Engine runs in Grand Central Station. Upon information and belief, Nimick has thus had and has the authority to bind and to otherwise act on behalf of Event Engine, Inc. and has conducted ongoing and continuous business activities in New York.

10. Upon information and belief, Defendant Event Engine Inc. is a Massachusetts corporation that operates the annual Tournament of Champions squash competition, which has been held in New York City since at least 1993, thereby conducting ongoing and substantial business activities in New York.

STATEMENT OF FACTS

The PSA's Dictatorial Ban

11. On October 14, 2010, the PSA banned all of its member players from participating in any PST professional squash events. Upon information and belief, the ban was issued without warning to the players and without a player vote and contradicts the rules set forth in the PSA's own Tour Guide.

12. In fact, at a meeting with PST Chief Executive Officer Joseph McManus on or about September 30, 2010, PSA Chief Executive Officer Alex Gough raised no concerns about the PST except a passing reference that PST and PSA events should not overlap. Mr. Gough had invited Mr. McManus to Chicago for the meeting, which Mr. McManus attended after flying to Chicago at his own expense. During the meeting, Mr. Gough made no mention of the then still to be issued ban. Instead, he discussed getting squash qualified as an Olympic sport and promoting the sport generally in the United States. Mr. Gough said that it made sense to have a "gentleman's agreement" that PST events would not overlap with PSA events. In concluding the meeting, Mr. Gough indicated that the PSA will discuss player loyalties at its December meeting.

13. Yet, less than two weeks later, and in un-gentlemanly fashion, the PSA issued its ban.

14. The effect of the ban is to deprive players of additional opportunities to make money by playing squash. Even though PST events do not conflict with PSA events, but,

instead, supplements them; upon information and belief, the PSA has told PSA members that if they play any PST events, they can no longer play on the PSA Tour.

15. Moreover, the PSA waited to issue its ban until after the season had begun and many players had set their schedule for the season and after several players had committed to playing in various PST events. Upon information and belief, the PSA knew that some its members had agreed to play in some PST events and its ban was designed to punish those players if they did so and to induce them to breach their agreements with the PST.

16. On October 19, 2010, the PSA attempted to bolster its decision by issuing another letter that explained it promulgated the ban to protect the PSA world rankings system. This reason is nothing more than a sham. There is no reasonable justification for the ban because the PST does not issue rankings. Moreover, the PST provides supplemental income opportunities for professional squash players, whether or not they belong to the PSA. Until now, PST events have not conflicted with the PSA Tour Guide restriction on non-PSA tournaments because they have not overlapped within a week of and take place within 50 miles of any PSA event.

17. In short, there is no reasonable justification for the ban and the only conclusion is that it was designed solely to unfairly eliminate PST from the United States market. The PSA ban singles out the PST but allows PSA members to play in other professional squash leagues and tournaments throughout the world.

The PSA Ban Violates The PSA's Own Mission Statement and Tour Guide

18. Upon information and belief, the PSA produces a Tour Guide for its members that “contains information on the Rules and Regulations of the PSA World Tour, so that players and tournament promoters adhere to the same conditions throughout the world.”

19. Upon information and belief, the “Mission Statement” of the PSA Tour Guide sets forth the goals of the PSA as, among other things, “Increase member income opportunities” and “Promote interest in the game among players and non-players”.

20. However, the PSA ban contradicts both of these PSA Mission Statement goals. It decreases member income opportunities by preventing PSA members from playing in PST events. It does not promote interest in the game of squash among United States players and non-players. The PST has received strong fan support for its events and media coverage from such television giants as the New England Sports Network. PST events allow PSA lower ranked and non-ranked players to compete against players more highly ranked by the PSA – something that rarely happens on the PSA Tour.

21. The PSA’s past indifference to the United States market is reflected in its discussion about the “PSA World Tour Calendar.” There, the PSA protects certain calendar periods, including the Olympic Games, World Men’s Team Championships, and the Annual European Team Championships, but nothing in the United States.

22. In addition to violating its own Mission Statement, the PSA ban also violates the tournament rules set forth in the PSA Tour Guide.

23. The only restriction on non-PSA events in the PSA Tour Guide is: “A PSA player will not play an exhibition or tournament of any sort in a 50-mile (80 km) radius of a sanctioned PSA tournament within seven (7) days on either side or during that tournament without written permission of the tournament promoter or PSA.” The PSA ban now restricts a PSA player from playing in any PST event regardless how remote in time or geography from a PSA event.

The PSA Ban Limits How Professional Squash Players Can Make Money

24. Upon information and belief, only the very top professional squash players can make a living by playing squash full time. Only the very top players are able to live off their squash tournament winnings.

25. In addition to charging its members an annual subscription fee, upon information and belief, the PSA takes 5% of a player's winnings at a PSA sanctioned event and an additional 5% of the total prize money for a PSA sanctioned event from the promoter of that event.

26. The PSA has recently stated that it expects prize money on the PSA World Tour to approach \$3,450,000 for the 2010 season.

27. The PSA requires that all international television rights for its tournaments belong to the PSA.

28. In short, although a self-described non-profit organization, the PSA greatly benefits from the sweat off its members' brows.

29. Like any professional athlete, a squash player's playing career is finite.

30. Yet, the PSA world ranking system discourages top players from playing in more than 13 PSA events in a season to protect that player's world ranking. Although, lower ranked players may play more events, they are much less likely to finish in the money. Upon information and belief, the PSA prohibits the receipt of gratuities and appearance fees for PSA members.

31. As consequence, upon information and belief, many squash players participate in other non-PSA tournaments and events worldwide to supplement their income.

32. The PSA ban now eliminates PST events as a source of income for PSA members, with a particularly disparate effect on U.S. players and foreign players who now reside in the United States. This is particularly unfair to PST and PSA members because it precludes

PSA members from playing in PST events, while the PSA Tour Guide allows promoters of PSA sanctioned events to permit up to 25% of an event's draw to be filled by local players who are not members of the PSA. In effect, the PSA allows non-PSA members to compete for tournament prizes against its own members, but will not allow those members to compete against non-members at a PST event.

33. That the PSA bans its members from earning supplemental income from PST events is particularly hypocritical given its Mission Statement in the PSA Tour Guide and its advice to its members on how to keep costs down while playing at a PSA sanctioned event. Upon information and belief, this advice is set forth at length in the PSA Membership Directory. For example, the PSA counsels:

- “soft drinks: don't use the mini bar in your room - prices are extortionate, suggest you check out the local supermarket and stock up from there. Remove the contents of the mini bar and replace when you leave.
- telephone: calls from rooms are really expensive - buy an international telephone card and use this for all your telephone calls back home or use a pay phone.
- laundry: this can also be expensive if you use the hotel service. When you check in see if there is a discount rate. If not, use a local laundrette - most offer a service-wash at a low cost.
- food: check on arrival for reasonably priced local restaurants eg Pizza Hut or McDonalds. If you eat in the hotel restaurants it can be very pricey.
- room service: this is normally costly.
- films: if you want to watch a film in your room check beforehand whether it is pay-per-view and what the charges are.”

34. So, on the one hand, the PSA micromanages how its members should limit their expenses, but refuses to allow them to supplement their income by playing PST events.

The PSA Unfairly Singles Out PST Events And Is More Concerned With Non-U.S. Events

35. PSA's concern about developing interest in squash in the United States is belied by its own actions. Upon information and belief, PSA has only one staff person based in the United States. In addition to his PSA duties, he is a full time squash professional at a country club in Richmond, Virginia. Of the top 50 professional players ranked by the PSA as of October 2010, only one player is listed as a United States player.

36. In contrast, the PST is actively promoting the sport of squash throughout the United States. It is providing more opportunities for professional squash players to compete and earn prizes. It is providing an option for players no different from the European squash leagues. But, the PSA has singled out the PST for economic extermination.

37. Upon information and belief, the PSA does not ban its members from playing in other professional squash events besides the PST. For example, the Premier Squash League ("PSL") has some teams in different parts of Europe, with an emphasis on England venues. Perhaps, because PSA CEO Alex Gough and PSA COO Lee Beechill play in this league, it is treated differently than the PST even though it provides a very similar function to the PST in that players will fill in their schedule with these matches when they are in town. PSL matches include current PSA players of all levels, recently retired players, and may include some non-PSA players and local players.

38. Upon information and belief, other events used by PSA members to supplement their income include the British Squash Professionals Association, the French League, the ISDA doubles tour and the Bundesliga – none of which are subject to a PSA ban.

39. Upon information and belief, there are 185 countries in the world that are part of the squash community.

The PST Puts Players First And Promotes Squash In The United States

40. The PST focuses on promoting squash in the United States. The PST provides opportunities in the United States for professional squash players to earn money. It promotes a fan-friendly version of squash that brings fans, younger and more established players together. In its short tenure, the PST has already secured television outlets for the broadcast of squash in the United States.

41. Unlike the PSA, the PST is actively involved in each of its events. The PST takes on the financial risk of running each event instead of licensing its name to some third party to use in conjunction with an event. In contrast, the PSA is nothing more than a licensing organization. It allows promoters to use the PSA name for 5% of the total purse. The PSA does not run the events. Instead, it outsources everything related to the event. Literally, PSA tournaments are PSA in name only.

42. Approximately 17 players who play PST events are PSA members. Because of the PSA ban, some of these players have reversed their prior agreement to play in a future PST event.

The PST

43. The concept of the PST began in April of 2009, when Joseph McManus, with the support of a few friends, began planning a pro squash tournament in suburban Boston. There had not been a pro event there in several years and they were interested in bringing some top players to their club for a tournament. The event was named the Cross Courts Invitational, took place on September 17-19, 2009, and was very successful. Mr. McManus had acquired the domain name www.usprosquash.com and promoted the Cross Courts Invitational under the US Pro Squash name.

44. He quickly discovered that there were many professional squash players who wanted to be a part of this event. They liked the concept and the event filled a gap that was not provided by the PSA or anyone else. Simply put, there are not enough pro events for squash players in the United States. Its success went beyond local professional squash players. Two-time world Champion David Palmer expressed great satisfaction with the event and enthusiasm to participate in future such events.

45. Apparently the success of the event reached US Squash, the national governing body of squash in the United States, and they requested a meeting with Mr. McManus to discuss his use of US Pro Squash name. They believed US Pro Squash overlapped too closely with their name and were interested in protecting their rights. Although Mr. McManus disagreed with their position, he agreed to accept their offer to license the name to him for \$1/year for as long as he needed it. In doing so, he avoided an early legal fight, which allowed him to focus on preparing to do a series of events under the name US Pro Squash.

46. In November 2009, American Pro Squash, Inc. was incorporated and did business as US Pro Squash. In March of 2010, US Pro Squash hosted its second event at the Westchester Country Club in Rye, New York, and a third event the following month at Franklin and Marshall College in Lancaster, PA. In May of 2009, US Pro Squash hosted two tournaments, the Men's New England Open and the Women's New England Open. The women's New England Open was part of the WISPA tour (women's world tour). US Pro Squash operated each of these events without any problems from any squash sanctioning bodies.

47. At the third tournament, US Pro Squash began testing some new concepts related to the traditional rules of squash. Mike Riley (one of only 4 World Certified Squash Referees) had done a clinic for US Pro Squash to help train referees for its events. After the clinic, a

discussion ensued about improving the game of squash by eliminating the “let” in squash. It had become an antiquated rule in his view.

48. Mr. McManus ran this revolutionary idea by some of the top professional squash players. They agreed with the concept and wanted to test it out. This idea, evidently, had been around for many years, and no one had taken it seriously. However, many top pros believed the increasing use of the let and squash’s complicated rules were making it too difficult for the average fan to understand the game. Some said it was a contributing factor in squash not yet having a place in the Olympics.

49. After testing limited lets in a couple tournaments, Mr. McManus realized that the complete elimination of the let was the answer. So, the first tournament in September would involve ‘no let’ squash.

50. During US Pro Squash’s first season, many people asked about how it ranked its players. US Pro Squash did not have a ranking system but said that it would consider having one. Over the summer, instead it decided to give points to its players. It was not a ranking system but a list of standings that US Pro Squash would update after each set of tournaments. US Pro Squash avoided the kind of ranking used by the world tours, but wanted something to reflect that its players were playing for points and prize money.

51. Late in the spring 2010, Kevin Klipstein, CEO of US Squash, and Mr. McManus had another conversation about the US Pro Squash name. He was interested in having Mr. McManus tie US Pro Squash tournaments more closely to US Squash and asked to change the deal under which they had been operating. Mr. McManus noted that US Squash was not popular in the United States. In fact, many clubs did not want to host US Pro Squash events because they thought the events were connected to US Squash. Therefore, US Pro Squash felt more

comfortable sticking to the original agreement with US Squash. But, Mr. Klipstein refused to honor that agreement and informed Mr. McManus that US Squash would not be willing to renew the license.

52. In response, US Pro Squash decided to change its name. Mr. McManus searched for available domains and discovered www.ProSquashTour.net and decided to use this name and site to promote the squash product he offered. Until the recent PSA ban, the success of US Pro Squash had continued under the Pro Squash Tour name.

53. Squash clubs were interested in hosting PST events because of several reasons. These reasons include the fact that PST actually manages its own events. In contrast to the PSA, which will send a Tour Guide book and supportive emails, the PST committed to taking the financial risk for an event, managing it from beginning to end, and hosting a fun, fan-friendly event. For a club squash pro, who has enough to do managing his pro shop, teaching lessons, and recruiting new members, the offer to have an outside group host an event for him is a great sales point.

54. Also, PST assumed the financial risk for its events, which was a huge bonus to clubs. The host clubs could have a great event, with no downside financially. Because top squash players liked the format and prize money of the events, a number of them agreed to participate in PST events. Because PST operates and manages its own events, its experience allows it to run a very entertaining event. Squash club pros, unsolicited, began contacting PST to manage events at their clubs.

55. In just a year's time, PST has succeeded in bringing a well-run, entertaining product to United States squash fans, professional players and United States media outlets.

56. Apparently this success, and not any imaginary threat to PSA's world rankings, is the real concern of the PSA. But, instead of competing fairly in the market place, and acting in a way to benefit its members, the PSA issued its ban. Simply put, the PSA ban is about unreasonably and unfairly preserving PSA's own power and control.

Upon Information And Belief, Nimick And Event Engines Collude With The PSA

57. Upon information and belief, Nimick and Event Engines have colluded and conspired with the PSA to restrict competition in the professional squash player market for the United States. Upon information and belief, Nimick and/or Event Engines have contacted PSA players to encourage them not to participate in PST events. Upon information and belief, they have also contacted host clubs to discourage them from allowing PST to stage events there, including host clubs who have already agreed with PST to host a PST event. Upon information and belief, Nimick and Event Engines benefit from such anti-competitive conduct because they operate the Tournament of Champions PSA sanctioned event, which takes place in New York City's Grand Central Station.

FIRST CAUSE OF ACTION
(Tortious Interference With Contract)

1. Plaintiff repeats and realleges each of the foregoing paragraphs as if set forth fully herein.
2. The Defendants knew that the PST had a protectable contractual relationship in the form of, among other things, ongoing contractual agreements with members of the PSA who also play in PST events, as well as with host sites.

3. Despite this knowledge, the Defendants unlawfully, intentionally and tortiously interfered with the PST's contractual relationships with its players that are also PSA members and with PST host sites, when the Defendants, based solely upon malice and/or through improper means, conspired and colluded to institute a new policy banning PSA members from participating in any PST events.

4. By this improper predatory conduct, the Defendants intentionally seek to undermine and sever the contractual relationships between the PST and the players planning to play in PST events who are also PSA members, as well as with the host sites for PST events.

5. The PST has been damaged as a direct and proximate result of the Defendants' tortious interference with PST contractual relations with its players that are also PSA members, as well as with PST event site hosts, in an amount to be determined at trial.

SECOND CAUSE OF ACTION
(Tortious Interference With Prospective Economic Advantage)

6. Plaintiff repeats and realleges each of the foregoing paragraphs as if set forth fully herein.

7. The Defendants knew that the PST has prospective business relationships with members of the PSA who frequently also play in PST events in addition to PSA sanctioned events, as well as with squash clubs who host PST events.

8. Despite this knowledge, the Defendants unlawfully, intentionally, and tortiously interfered with the PST's prospective business relationships with PST players and with squash clubs that host PST events, when the Defendants, based solely upon malice and/or through wrongful means of anti-competitive conduct and unfair competition, conspired and colluded to institute a new PSA policy banning outright PSA members from participating in PST events.

9. By this improper conduct, the Defendants intentionally seek to injure and destroy the prospective contractual relationships between the PST and the players who intend to play in PST events who are also PSA members, as well as the relationships between the PST and the squash clubs that host PST events.

10. The Defendants' conduct in conspiring and colluding to institute this policy to preclude its members from participating in the PST events amounts to an unlawful independent tort against the PST and exceeds the bounds of legitimate, robust competition.

11. The PSA's conduct in instituting this policy to preclude its members from participating in the Pro Squash Tour is wrongful because, *inter alia*, it constitutes improper economic pressure on the PSA members that are also PST players, it directly contradicts the PSA's own published rules and Mission Statement about increasing income opportunities for its members and promoting the sport of squash, and it limits competition in the marketplace.

12. Moreover, the Defendants' conduct is not justified by or even motivated by economic self-interest because it serves to support the economic interest of neither the PSA nor the members of the PSA that are also Pro Squash Tour players. In other words, the PSA will not benefit economically from the new policy and neither will the PSA members who previously could participate in the PST events. The only result, as the PSA intended, of the new PSA ban will be to eliminate competition in the United States market for professional squash players and to cause damages to the PST. Any justification by the PSA of its ban is merely a sham. There is no need to protect its world rankings from the PST because the PST has no such rankings.

13. The PST has been damaged as a direct and proximate result of the Defendants' tortious interference with the PST's prospective contractual relationships with its players that are

also PSA members and with the squash clubs who host PST events, in an amount to be determined at trial.

THIRD CAUSE OF ACTION
(Prima Facie Tort)

14. The PST repeats and realleges each of the foregoing paragraphs as if set forth fully herein.

15. The Defendants have intentionally attempted without excuse or justification, and motivated solely by malice, to damage the PST's business by conspiring and colluding to institute the new PSA policy prohibiting PSA members from participating in the Pro Squash Tour.

16. Even if the PSA were lawfully free to have instituted this policy for its members generally, under these circumstances, and because of the Defendants' sole motivation of malice without excuse or justification, the Defendants have committed a prima facie tort.

17. The Pro Squash Tour has suffered and will suffer additional special damages as a direct and proximate result of the Defendants' prima facie tort, including but not limited to lost revenues, the loss of host sites for PST events, the loss of professional squash players available to play PST events, as well as specific and identifiable legal fees, in an amount to be determined at trial.

FOURTH CAUSE OF ACTION
(Declaratory Judgment)

18. The PST repeats and realleges each of the foregoing paragraphs as if set forth fully herein.

19. Because the PSA has instituted a new policy of selectively prohibiting its members from participating in the Pro Squash Tour, there is a substantial controversy, between

the parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment by this court.

20. Therefore, the PST is entitled to a declaration that the PSA's new policy of prohibiting its members from participating in the PST is anti-competitive, unlawful and a violation of the rights of both the PSA members who participate in PST events and of the rights of the PST itself.

FIFTH CAUSE OF ACTION

(Deceptive Business Acts and Practices/ Unfair Competition)

21. Plaintiff repeats and realleges each of the foregoing paragraphs as if set forth fully herein.

22. The conduct of the Defendants in conspiring and colluding to create a new PSA policy of prohibiting PSA members from participating in the PST events violates the prohibitions under New York General Business Law §§ 349 and 350 on deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service and constitutes unfair competition under New York law.

23. The PST has standing to bring a claim under New York General Business Law §§ 349 and 350 because there is a clear harm to the public at large in the form of any individual who may want to be both a member of the PSA and participate in PST events. Thus, the unlawful and deceptive business actions and practices impact not only the PST, but also affect the public interest in New York generally. Such conduct that harms competition in the market place has an undeniable effect on the public at large.

24. The PSA has publicly misled its members in stating that the new policy that prohibits PSA members from participating in PST events (but not other non-PSA squash tournaments) is in the interests of PSA members, which is false and misleading.

25. The PSA's bad faith conduct in creating this new prohibition clearly targeting only PST events amounts to a misappropriation of the labors and expenditures of its members who wish to also participate in PST events and such conduct is likely to materially mislead the PSA members.

26. The PSA has therefore damaged both Plaintiff, in an amount to be determined at trial, and also the New York public generally.

SIXTH CAUSE OF ACTION
(Monopolization In Restraint of Trade)

27. Plaintiff repeats and realleges each of the foregoing paragraphs as if set forth fully herein.

28. The conduct of the Defendants in conspiring and colluding to create a new policy of prohibiting PSA members from participating in PST events violates New York General Business Law § 340's prohibition on a monopoly in restraint of trade.

29. The Defendants' conduct attempts to achieve a monopoly in the conduct of a business, trade or commerce or in the furnishing of any service in New York state, and whereby competition and the free exercise of professional squash competition as conducted as a business, trade or commerce or is or may be improperly restrained by the Defendants' unlawful conduct.

30. The Defendants have thus engaged in predatory or anticompetitive conduct with a specific intent to monopolize and a dangerous probability of achieving monopoly power.

31. Because of the PSA's power and influence within the market for professional squash competition, not only internationally, but also specifically in the United States and New York State markets, the PSA's unlawful actions have had or are likely to have the effect of controlling prices or excluding competition within the professional squash competition market, thus creating or maintaining market power and a monopoly.

32. The PSA's new policy, created for the purpose of establishing or maintaining such a monopoly or unlawfully interfering with the free exercise of professional squash competition as conducted as a business, trade or commerce, improperly seeks to restrain such business, trade or commerce, is thus against public policy, illegal and void.

33. The PST has standing to bring a claim under New York General Business Law § 340 because there is a clear harm to the public at large in the form of any individual who may want to be both a member of the PSA and participate in PST events. Thus, the attempt of the PSA to establish a monopoly and stifle competition within the professional squash arena impacts not only the PST but also affects the public interest in New York generally.

34. Defendants have engaged in a combination or conspiracy that has restrained the free exercise of competition in the United States market, including New York, or that has resulted in a monopoly. There is no pro-competitive justification for Defendants' conduct.

35. The Defendants have therefore damaged both Plaintiff in an amount to be determined at trial and also the New York public generally.

WHEREFORE, the Pro Squash Tour respectfully requests an order and judgment as follows:

(a) On the first, second, third, fifth and sixth claims for tortious interference with contract; tortious interference with prospective business relations; prima facie tort; deceptive business acts and practices/unfair competition; and monopolization in restraint of trade, awarding Plaintiff damages and special damages resulting from the PSA's misconduct, in an amount to be determined at trial;

(b) on the fourth claim for declaratory judgment, declaring the PSA's actions in instituting a new policy prohibiting its members from participating in the Pro Squash Tour is

unlawful and a violation of the rights of both the PSA members who participate in the Pro Squash Tour and of the rights of the Pro Squash Tour itself;

(c) permanently enjoining the PSA from enforcing its ban prohibiting PSA members from participating in PST events;


(d) awarding all costs and disbursements of this action, reasonable attorneys' fees plus interest and pre- and post-judgment interest; and

(e) granting such other and further relief as the Court deems just and proper.

Dated: New York, New York
October 25, 2010

Respectfully submitted,

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