

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION**

SUSAN POLGAR

Plaintiff,

VS.

UNITED STATES OF AMERICA CHESS  
FEDERATION, INC., and BILL  
GOICHBERG, JIM BERRY, RANDY BAUER,  
and RANDALL HOUGH, all Individually and  
in their Representative Capacities as Members  
of the Executive Board of the United States of  
America Chess Federation; BILL HALL,  
Individually and in his Representative Capacity  
as Executive Director of the United States of  
America Chess Federation; BRIAN  
MOTTERSHEAD; HAL BOGNER; CHESS  
MAGNET, L.L.C.; CONTINENTAL CHESS  
INCORPORATED; JEROME HANKEN;  
BRIAN LAFERTY; SAM SLOAN; KARL S.  
KRONENBERGER; and KRONENBERGER  
BURGOYNE, LLP,

Defendants.

UNITED STATES OF AMERICA CHESS  
FEDERATION, INC.

Third-Party Plaintiff,

VS.

HOAINHAN TRUONG a/k/a PAUL  
TRUONG, an individual,

Third-Party Defendant.

Case No. C.A. NO. 5-08CV0169-C

**UNITED STATES OF AMERICA  
CHESS FEDERATION'S THIRD-  
PARTY COMPLAINT AGAINST  
HOAINHAN TRUONG a/k/a PAUL  
TRUONG FOR:**

- (1) DEFAMATION**
- (2) BREACH OF FIDUCIARY DUTY**
- (3) FRAUD**
- (4) CONSPIRACY**

**AND**

**DEMAND FOR JURY TRIAL**

Defendant and Third-Party Plaintiff the United States of America Chess Federation, Inc. (the “USCF”), brings this Third-Party Complaint against Hoainhan Truong a/k/a Paul Truong (“Truong”) an individual, and alleges as follows:

### **INTRODUCTION**

1. This case is about an executive board member of the USCF engaging in a pattern of fraud over the course of years, causing hundreds of thousands of dollars in damages to the USCF and, more importantly, tarnishing the reputation of the USCF.

2. The list of Truong’s known misconduct is lengthy, and a few examples are as follows:

a. First, during an election for the USCF executive board, in which Truong was running, Truong impersonated a sitting member of the USCF executive board in over 2500 separate Internet postings (hereinafter, the “Fake Sam Sloan” postings). Truong continued impersonating this and other individuals after Truong was elected to the executive board. The Fake Sam Sloan postings contained racist, sexist, homophobic and generally vile content, and were published with the intent to influence the election of executive board members.

b. Second, Truong made numerous false statements in his campaign for election to the executive board, including that he had earned an MBA and PhD, and that he had “retired” after making his fortune working in multiple executive positions with billion-dollar companies. These statements were false. In fact, during the time of the election process and during the time he was making such statements, Truong failed to disclose that he had filed for bankruptcy protection for a second time. Even more egregious, in the bankruptcy petition, it is believed that Truong engaged in bankruptcy fraud by swearing, under penalty of perjury, that he was unemployed at the time of his bankruptcy filing when, in fact, he was employed by Texas

Tech University at the time. Further, Truong failed to disclose that he was married to Plaintiff Polgar, who was also a candidate for the executive board.

c. And third, Truong violated his fiduciary duties to the USCF by, among other conduct, refusing to cooperate in the investigation into his misconduct, refusing to assist, protect, investigate and stop other people from harming the USCF, including another Executive Board member from doing various bad actions hurting the USCF, and for all of his other illegal and/or improper behavior that has tarnished the reputation of the USCF.

3. As a result of Truong's misconduct, the USCF has been significantly harmed. Among multiple types of harm incurred by the USCF, as a result of Truong's actions, the USCF was sued by Sam Sloan in a case styled *Sam Sloan v. Hoainhan "Paul" Truong, et al.*, 573 F. Supp. 2d 823 (S.D.N.Y. Aug. 28, 2008). Also as a result of Truong's actions, the USCF was sued by Gordon Roy Parker in a case styled *Parker v. Goichberg, et al.*, Civil Action No. 08-CV-829 (E.D. Pa. Jan. 2, 2009). The lawsuits and other legal issues have caused the USCF to incur and/or expect to incur hundreds of thousands of dollars in fees, costs and expenses.

### **PARTIES**

4. Defendant and Third-Party Plaintiff, the USCF, is an Illinois not-for-profit corporation in good standing, with its principal place of business in Crossville, Tennessee. The USCF is governed by a seven-person executive board ("Executive Board")

5. Third-Party Defendant Paul Truong is an individual residing in Lubbock, Texas.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this Third-Party Complaint on the basis of diversity of citizenship of the parties under 28 U.S.C. §1332 because the Defendants on

the one hand, and Truong on the other hand, reside in different states, and because the amount in controversy exceeds \$75,000.

7. This Court has personal jurisdiction over Truong because Truong resides in Texas.

8. Venue is appropriate under 28 U.S.C. §1391(a) because Truong resides in this judicial district.

### **TRUONG'S MISCONDUCT**

9. The USCF is the official, not-for-profit U.S. membership organization for chess players and chess supporters of all ages and strengths, from beginners to Grandmasters. The USCF represents the United States in the World Chess Federation (FIDE), connecting U.S. members to chess players around the world. Founded in 1939 with the merger of the American Chess Federation and the National Chess Federation, the USCF has grown to over 80,000 members and 2,000+ affiliated chess clubs and organizations today. The USCF sanctions thousands of tournaments with over half a million officially rated games annually. Twenty five USCF-sanctioned National Championship events award titles to both amateurs and professionals, ranging from elementary school students to senior citizens. Over fifty USCF-member Grandmasters (one out of every eight Grandmasters in the world) represent the U.S. internationally, and USCF supports the participation of Americans in official FIDE championship events at all levels. USCF also publishes the award-winning monthly magazine Chess Life and the bimonthly Chess Life for Kids.

10. The USCF is governed by a Board of Delegates, composed of a seven-member Executive Board, Delegates at Large, and 125 Delegates apportioned among U.S. states. The

seven-member Executive Board functions as a “board of directors,” tasked with managing the affairs of the USCF.

11. In 2007, both Plaintiff Polgar and Third-Party Defendant Truong, ran for election to the Executive Board and won four-year seats on the Executive Board. As Executive Board members both Polgar and Truong serve as fiduciaries for the USCF and owe the USCF a duty of care, diligence, stewardship, and ethical conduct.

12. After being elected, Truong made various representations that due to his business experience, contacts, savvy and networking skills he would be able to bring in “millions” of dollars in sponsorships and/or grants. For example, Truong many various representations that due to his connections with “billion dollar” companies, he should be in charge of handling such marketing/fund raising duties for the USCF. Based on said representations, Truong was named “VP of Marketing”. Truong has not done as he represented, and in fact, due to his improper actions, Truong has caused the USCF to lose sponsorships, lose members and caused numerous other damages as mentioned herein. Plus, as a result of Truong’s actions, the USCF was faced with trying to make various decisions when one of its seven Executive Board members was being accused of improper behavior. What made it even more difficult is that Truong refused to cooperate to try to defend against such claims. The USCF is still having to defend against many specific allegations against a current board member.

**A. The “Fake Sam Sloan” Internet Postings Made by Truong**

13. New York resident Sam Sloan was elected to the Executive Board in July 2006. Starting on approximately June 28, 2005 and continuing until approximately September 26, 2007—well into Sam Sloan’s tenure as an Executive Board member—Truong posted over 2,500 messages into the Internet USENET service (accessible via <http://groups.google.com> and many

other providers of access to Internet newsgroups) purporting to be Sam Sloan and several other individuals in the chess community. Because a majority of the posts were under the name Sam Sloan, the individual responsible for these Internet posts—*i.e.* Truong—became known as the “Fake Sam Sloan.”

14. The Fake Sam Sloan postings are vile, hateful, racist, sexist and homophobic. A small sampling of the postings of the Fake Sam Sloan is attached hereto as Exhibit A. The real Sam Sloan and the others impersonated in these postings have claimed significant damages as a result, and some have even brought suit against the USCF. Furthermore, the Fake Sam Sloan postings defamed not only the purported authors, but also present and former USCF presidents, officers, committee members, employees, volunteers and sponsors, and the USCF. The Fake Sam Sloan postings defamed the USCF directly, by stating false and damaging statements about the USCF. The Fake Sam Sloan postings also defamed the USCF derivatively, by attacking the USCF’s principals, and thereby tarnishing the operations, management, and ethics of the USCF.

15. As a result of the Fake Sam Sloan postings, Truong has fundamentally tarnished the reputation of the USCF. The USCF survives based on its ability to generate publicity and goodwill in order to help it run chess tournaments and obtain donations. As a direct result of Truong’s Fake Sam Sloan postings, members and non-members of the USCF became disenchanted with the USCF as a chess institution and public-service organization. The public’s perception of the purpose, mission, and ethics of the USCF has deteriorated as a direct consequence of Truong’s Fake Sam Sloan postings. Indeed, one of the Executive Board members resigned, and one or two others have decided not to run in the future as a result of being associated with the perception of the organization created by Truong’s defamatory postings.

**B. Forensic Evidence Has Demonstrated that Truong Is the Fake Sam Sloan and Made the Defamatory Fake Sam Sloan Postings.**

16. Truong left digital footprints that conclusively show that he is the Fake Sam Sloan. As a limited example, for the thirty sample Fake Sam Sloan postings in Exhibit A, each posting was made on a certain day, at a certain time, and at a certain Internet access point (aka an Internet protocol address, or IP address).<sup>1</sup> The IP addresses for the posts in Exhibit A are all owned by one entity, XO Communications, Inc. in Nashville, Tennessee. When the USCF requested information about who used the IP addresses at the dates and times of the postings, XO Communications responded by stating that an account holder at United Online, Inc., with the username, “chessspammer@netzero.net,” had used their IP addresses at issue at those particular dates and times.

17. Thereafter, the USCF requested information from United Online, Inc. about the “dial-up” account that uses the “chessspammer” username. United Online, Inc. responded by providing the full name and contact information for the customer who uses this username (*aka*, “Member ID”). United Online’s response identified the Fake Sam Sloan as Truong.

18. Moreover, the account holder of the American Express card associated with this United Online account is, on information and belief, Susan Polgar, Truong’s wife. Furthermore, on information and belief, Truong is the card holder of this American Express card associated with his wife’s account.

19. Additionally, a comparison of the Fake Sam Sloan postings and Truong’s logins and posts to the USCF member Internet forum also demonstrates that Truong is the Fake Sam Sloan. Truong logged in to the USCF member Internet forum numerous times, under his own

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<sup>1</sup> An Internet access point, such as a desktop computer or a laptop, allows access to the Internet using a unique numeric address called an Internet Protocol (IP) address. An IP address used to access the Internet must be unique by definition and by function, or else data—like information on web page—could not be delivered to the particular computer requesting the information.

name, freely commenting to the USCF membership in his own name, and leaving behind a great number of digital footprints in the form of the IP addresses he used. These IP addresses provide reliable identifying data with which to compare all of the posting information (IP addresses, dates and times) related to the Fake Sam Sloan posts.

20. An IP addresses serve as a recognized and authoritative means to identify a person who has made a posting to the Internet. In fact, IP address analysis is relied upon regularly by law enforcement and in civil litigation to identify offenders or civil defendants. Because IP addresses cannot be faked or otherwise “spoofed,” due to the way in which users connect to, view and post information to the Internet and Usenet, IP addresses serve as particularly reliable forensic evidence.

21. Due to the reliability of IP address evidence, one can use a “Matching Procedure” to determine the identity of a person who has posted content to the Internet. For example, if one knows that an individual posted to the Internet at a certain date and time, using a certain IP address (Person A), and if there is another post to the Internet within minutes or hours using that same IP address (Person B), then there is a high likelihood that Person A and Person B are the same person. Furthermore, if one knows the identity of Person A, there is a very high likelihood that one would thus know the identity of Person B, with the use of the foregoing “Matching Procedure.” This likelihood increases significantly with each multiple incident of matching.

22. Using this IP Matching Procedure, the USCF compared all of the IP addresses, dates and times for all of Truong’s logins and postings to the USCF private forum, to all of the IP addresses, dates and times of the Fake Sam Sloan posts. This comparison revealed three IP addresses were exact matches, namely: an IP address (24.90.223.35) associated with Truong’s Roadrunner ISP account in his former New York home, an IP address (75.111.199.177)



associated with Truong's Suddenlink ISP account in Texas, and another IP address (75.111.194.9) associated with Truong's Suddenlink ISP account in Texas. Truong used these IP addresses to log in as himself to the USCF Internet forums, and then used these same IP addresses to post as the Fake Sam Sloan.

23. After Truong's Fake Sam Sloan postings began to proliferate and tarnish the reputation of the USCF, the USCF began to investigate their source. During this investigation, the USCF Executive Board made specific inquiries on Truong. The USCF engaged the firm of Kronenberger Burgoyne, LLP to investigate such facts. Counsel for the USCF sent Truong a letter on or about November 29, 2007 and made demands that Truong:

- a. Formally admit or deny, in writing, whether he was involved in the "Fake Sam Sloan" postings, or had knowledge of who made such postings;
- b. Provide the IP address of all of his home and work Internet connections since 2005, or provide consent for the Board to obtain and cooperate in the Board obtaining such IP addresses from ISP's and other entities;
- c. Provide all information that would support his argument that he was not located at his computer(s) at the time of alleged Fake Sam Sloan postings, to include information relating to his travel.

24. Truong refused the demands. Plus, in order to try to derail this investigation and to avoid implicating himself, Truong made several material misstatements and omissions to the USCF. Other times, Truong outright refused to comply with the demands on the USCF and the USCF's legal counsel to assist in this investigation. Truong refused to provide the USCF information and documents that would establish or disprove his culpability, Truong refused to consent to have third parties disclose information about his computer use (which information would have linked him to the misconduct), and Truong refused to state under oath, or even in an unsworn written statement, that he had not made the Fake Sam Sloan Postings.

25. Truong likely had other people assisting him in making some of the postings to try to demonstrate that he was purportedly not the Fake Sam Sloan. The USCF also believes Truong worked with various other people to further his overall scheme to hurt and defraud the USCF and/or its volunteers, employees, Executive Board members and/or others. Plus, many of the members of the USCF are minor children. Having an Executive Board member make awful internet postings has hurt the USCF.

### **C. Other False Statements by Truong**

26. Truong engaged in fraudulent and dishonest conduct by making numerous false statements in his campaign for election to the Executive Board. During his campaign for election to the Executive Board, Truong touted his educational background and business successes as reasons he should be elected. Truong claimed that he had earned a PhD. This statement is false. Truong claimed that he earned an MBA, which reflected in Truong's resume. This statement is also false. Despite his multiple personal bankruptcy filings, Truong claimed that due to his business success he had "retired sometimes (sic) in 2001." Truong also stated that in his career he had "saved companies or turned around companies" and that the companies he dealt with were all "billion dollar companies." Truong further stated that he had held multiple high level marketing positions with billion dollar companies. All of these statements were false.

27. In fact, during the time of the election process and during the time he was making such statements, Truong failed to disclose that he had filed for bankruptcy protection for a second time. Even more egregious, in the bankruptcy petition, it is believed that Truong engaged in bankruptcy fraud by swearing, under penalty of perjury, that he was unemployed at the time of his bankruptcy filing when, in fact, he was employed by Texas Tech University at the time. Further, Truong failed to disclose that he was married to Plaintiff Polgar, who was also a

candidate for the executive board. As mentioned above, Truong had made various fraudulent statements, fraudulently failed to disclose many facts and/or tried to hide various facts during the election process and afterwards when Truong was named “VP of Marketing”.

28. As an Executive Board member, Truong owed various duties to the USCF, including fiduciary duties to protect, support, and better the USCF. His many improper actions have instead harmed the USCF. It has incurred hundreds of thousands of dollars in investigating the accusations against Truong and defending and protecting itself and others from claims that have arisen from Truong’s various improper actions. The USCF’s insurance carrier recently elected to not offer to renew existing insurance coverage. As mentioned herein, the USCF has suffered additional damages, including lost sponsorships, lost membership, lost revenue as a result of decreased participation, and had various influential members lose interest and/or decide not to participate. Its reputation has been damaged and the USCF asks this Court to award it all damages for Truong’s improper actions. The USCF is seeking all damages requested herein and expects such amounts to vastly exceed one million dollars.

### **FIRST CAUSE OF ACTION**

#### **DEFAMATION**

29. The USCF incorporates by reference all of the above Paragraphs.

30. Truong, in his Fake Sam Sloan postings, and in various other internet postings under his own name made false statements about the integrity, organization, operations of the USCF and/or that tarnished the reputation of the USCF.

31. For example, Truong in his Fake Slam Sloan postings, made false statements about the integrity, behavior, sexual practices, and ethics of principals of the USCF, which statements inured to the USCF. Other examples were provided above.

32. Truong's false and defamatory statements have been viewed by countless individuals, including both members and non-members of the USCF, and directly affected their perception of the USCF.

33. As a result of Truong's false and defamatory statements, the USCF has suffered significant harm, including but not limited to harm to its reputation and goodwill.

## **SECOND CAUSE OF ACTION**

### **BREACH OF FIDUCIARY DUTY**

34. The USCF incorporates by reference all of the above Paragraphs.

35. As a member of the USCF Executive Board, Truong owes a fiduciary duty to the USCF.

36. Through his numerous incidents of misconduct, directed expressly at the USCF, Truong breached his duty of care, diligence, stewardship, and ethical conduct owed to the USCF.

37. As a direct result of Truong's breaches of his fiduciary duty, the USCF has been substantially harmed. Plus, the actions of Truong have had significant adverse consequences on the ability of the USCF to operate efficiently and achieve its corporate objectives.

## **THIRD CAUSE OF ACTION**

### **FRAUD**

38. The USCF incorporates by reference all of the above Paragraphs.

39. As a member of the USCF Executive Board, Truong made numerous material misrepresentations and omissions to the USCF and its principals. These misrepresentations include over 2500 Internet postings where Truong impersonated third parties; misrepresentations or omissions to the USCF regarding during the USCF's investigation of Truong; and misrepresentations to the USCF about Truong's educational degrees and work experience.

40. Truong was aware that these material misrepresentations and omissions were false at the time he made them, and in fact, made them for the purpose of misleading the USCF, the USCF delegates, and USCF members.

41. The USCF relied on Truong's misrepresentations in deciding how to conduct the USCF's operations.

42. As a result of Truong's misrepresentations, and the USCF's reliance on Truong's misrepresentations, the USCF has been substantially harmed.

#### **FOURTH CAUSE OF ACTION**

##### **CONSPIRACY AND CONSPIRACY TO DEFRAUD**

43. The USCF incorporates by reference all of the above Paragraphs.

44. As discussed herein, Truong was a member of a combination of two or more persons, the object of the combination was to accomplish an unlawful purpose, or a lawful purpose by unlawful means. The members had a meeting of the minds on the object or course of action. One of the members committed an unlawful, overt act to further the object or course of action, and the USCF suffered injury as a proximate result of the wrongful act.

#### **REQUEST FOR JURY TRIAL**

Defendant and Third-Party Plaintiff, the United States of America Chess Federation, Inc. hereby demands a trial of this action by jury.

#### **PRAYER**

WHEREFORE, USCF prays that this Court enter judgment in its favor on each and every claim set forth above, and further prays an award to the USCF of:

1. A preliminary and permanent injunction and judgment enjoining Truong and his agents from making false and defamatory statements about the USCF, its subsidiaries, affiliates, officers, or employees;
2. An award of compensatory and/or statutory damages in an amount to be determined at trial;
3. Punitive and exemplary damages to serve as punishment and deterrent in light of Defendant's substantial wrongful acts;
4. A public retraction by Truong relating to all false and defamatory statements made about the USCF;
5. The USCF's costs and attorneys' fees in this action;
6. Pre-judgment and post-judgment interest; and
7. Such other further relief to which the USCF may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was served by electronic mail by the Clerk of the Court via the ECF system to all parties of record on March 5, 2009, as follows:

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