

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:24-cv-02039

CHILL BRANDS GROUP PLC and
ZOETIC CORPORATION,

Plaintiffs,

v.

ANTONIO RUSSO, TREVOR TAYLOR, and
CHILL NORTH AMERICA LLC,

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiffs Chill Brands Group PLC and Zoetic Corporation, by and through undersigned counsel, allege and state as follows:

I. SUMMARY OF THE ACTION

1. This action arises out of the blatant fraud, embezzlement, theft, and numerous breaches of corporate fiduciary duties owed by Defendants Antonio Russo and Trevor Taylor (“**Individual Defendants**”) to Plaintiffs Chill Brands Group PLC (“**Chill**”) and its wholly owned subsidiary Zoetic Corporation (“**Zoetic**”). Russo and Taylor were directors of both Chill and Zoetic and officers of Chill. When their poor management of Chill led shareholders to seek their ouster, Russo and Taylor embarked on a scheme to misappropriate assets and funds of Chill and Zoetic, such as their primary domain name CHILL.COM, and to then use them to compete with Plaintiffs through Chill North America LLC (“**CNA**”), a company they formed. In executing

their scheme, Russo and Taylor abused their corporate positions, deceived the other members of Chill's Board of Directors, improperly excluded Chill's CEO from a Board meeting, and misappropriated company assets, funds, intellectual property and trade secrets. When Russo and Taylor were formally removed as Chill directors the day after their bogus Board meeting, Plaintiffs discovered that Individual Defendants had concocted a sham corporate transaction to steal Chill's domain name CHILL.COM, its most valuable non-cash asset (which is used for Chill's flagship online presence), associated intellectual property rights, and approximately four hundred thousand dollars in company funds.

II. PARTIES

2. Plaintiff Chill Brands Group PLC is a public limited company formed under the laws of England and Wales with its registered office address and principal place of business in London, England. Shares of its stock trade on the London Stock Exchange.

3. Plaintiff Zoetic Corporation is a Colorado corporation that has its principal place of business in Grand Junction, Colorado. Zoetic is a wholly owned subsidiary of Chill.

4. Defendant Antonio Russo is an individual Colorado resident who resides in Grand Junction, Colorado.

5. Defendant Trevor Taylor is an individual Colorado resident who resides in Palisade, Colorado.

6. Defendant Chill North America LLC is a Delaware limited liability company that conducts business in Colorado and requires all legal notices to be sent to its representative in Denver, Colorado (together with Individual Defendants, the "**Defendants**").

III. JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction as this case arises under federal law and presents a federal question. *See* 28 U.S.C. § 1331. Plaintiffs allege specific violations of the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836, and the Lanham Act of 1946, 15 U.S.C. § 1125.

8. This Court has supplemental subject matter jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

9. This Court has or may acquire personal jurisdiction over each of the Defendants, each of which is believed to be a citizen of Colorado.

10. Venue is proper pursuant to 28 U.S.C. § 1391(b) as the Individual Defendants reside in Colorado, Chill North America LLC has its principal place of business in Colorado, and many of the relevant events occurred in Colorado.

IV. FACTUAL ALLEGATIONS

A. Chill Brands Group PLC

11. Chill is engaged in the distribution of highly differentiated consumer goods, including tobacco alternatives and wellness products. Among other things, Chill offers premium nicotine-free vape products in collaboration with local partners across the United States and the United Kingdom.

12. Chill's sales are made through a network of retail stores in the U.S. and U.K., as well as via an official website at CHILL.COM which Chill has been developing as an e-commerce marketplace. The site features Chill's own products, third-party brands and products containing natural, functional ingredients.

B. Company Formation and Hiring of Russo and Taylor

13. Chill was formed in 2015 and was originally known as Highland Natural Resources PLC. In September 2019, the company changed its name to Zoetic International PLC before becoming known as Chill Brands Group PLC in August 2021.

14. In February 2019, Chill formed Zoetic Corporation, a Colorado corporation, as a wholly owned subsidiary and the entity responsible for its consumer goods business in the United States.

15. In September 2021, Chill entered into an “Employment, Noncompetition, Confidentiality and Inventions Agreement” with both Russo and Taylor (“Confidentiality Agreements”). In the Confidentiality Agreements, Russo and Taylor each acknowledged that he “is employed at the will of the Company, in a position of trust and confidence in which Employee learns of, has access to and will or may continue to develop proprietary, confidential and trade secret information of Company, and will or may be involved in the development of intellectual property for the Company.”

16. In the Confidentiality Agreements, Russo and Taylor agreed to not disclose Confidential Information (as defined therein) and to protect its confidentiality.

17. The Confidentiality Agreements require Russo and Taylor not to directly or indirectly compete with Chill while employed and for a twelve-month period following termination of employment. Likewise, under the Confidentiality Agreements, Russo and Taylor are prohibited from soliciting any Chill employee or customer during their employment and for twelve months after termination of employment. The Confidentiality Agreements also provide that “Employee, shall not, during the term of Employee’s employment with Company, have any

additional job, work for another employer, work as an independent contractor or engage in other business activities (‘Outside Work’) . . .” and “shall comply with his or her common law duty of loyalty to the Company, which prevents conflicts of interest”

18. In September 2021, Chill entered into an Executive Employment Agreement with each of Russo and Taylor (the “Employment Agreements”). The Employment Agreements provide that each executive would render services to Chill “to the very best of Executive’s ability” and “devote his full time, energy and skill to the performance of the services in which the Company is engaged” without performing unauthorized work “for any other entity.” In the Employment Agreements, Russo and Taylor also agreed to “comply with all and any statutory, fiduciary or common law duties to [Chill] and to any other Group Company of which he is a director” and “to ensure compliance by himself and the Company with the UK Companies Act of 2006,” among other laws.

19. Under the Employment Agreements, Chill has the right to immediately terminate the employment of Russo and Taylor for cause “at any time and without notice.” Termination for cause can be based on grounds including “failure to perform the duties of the Executive’s position in a satisfactory manner,” “fraud, misappropriation, embezzlement or acts of similar dishonesty,” “breach of the Executive’s duty of loyalty,” “breach of any material terms of this Agreement,” “willful disregard of Company policies and procedures” and “vacation . . . or removal from your office as a director of the Company”

20. The Employment Agreements incorporate by reference the terms of the Confidentiality Agreements and also contain their own separate confidentiality obligations, which apply “during Executive’s employment and following the conclusion of Executive’s

employment, whether voluntary or involuntary” and require holding “in the strictest confidence” and not disclosing “Confidential Information” (as defined therein) to anyone not an Executive of Chill.

21. During their employment with Chill, Russo and Taylor had access to, were exposed to and obtained “Confidential Information” of Chill (as defined in the Confidentiality Agreements and the Employment Agreements), including trade secrets and other sensitive confidential information such as lists of key suppliers and Chill’s negotiated business terms with them.

C. Russo and Taylor Consistently Acted in their Own Self-Interest, Not in the Best Interest of Chill and its Shareholders

22. In 2020, Russo and Taylor became co-CEOs of Chill following disagreements with the Company’s former CEO. They also were directors of both Chill and Zoetic.

23. Under the leadership of Russo and Taylor, Chill experienced volatility and increasingly poor performance. Its operating and financial condition became weak.

24. Accordingly, in April 2022, Callum Sommerton was appointed Chief Executive Officer of Chill to chart a new course for the company. Mr. Russo then became Chill’s Chief Commercial Officer, and Mr. Taylor became its Chief Operating Officer.

25. Also in 2022, Chill funded the completion of Zoetic’s purchase of the domain name CHILL.COM (the “**Domain**”) for \$1.6 million, its most valuable non-cash asset. The Domain would ultimately be used for Chill’s online presence for an e-commerce website and for information concerning Chill and the products being offered for sale.

26. In late 2022, due to U.K. restrictions on hemp-related activities, Chill began to explore options to enable its subsidiary to participate in commercial activities relating to hemp

products without breaching those restrictions. Zoetic, as a wholly owned subsidiary of Chill, could not conduct such activities without risking noncompliance with U.K. laws.

27. Chill considered, among other options, the possibility of a spin-out transaction to separate its operation and expand its presence in the United States by creating a new United States entity. Chill and the Individual Defendants discussed joint ownership of the new entity.

28. Accordingly, in May 2023, Chill North America LLC was formed under Delaware law with Russo as a member. Chill was to hold a partial ownership interest in CNA, along with Russo, but Defendants ultimately never provided Chill with any unit certificates in CNA or other evidence of an ownership interest in it.

29. On October 30, 2023, Zoetic and CNA executed a Domain Lease Agreement that granted CNA the limited right to create and use a sub-domain within the Domain to exclusively sell certain agreed-upon products in the U.S. under a sub-domain within Chill's primary website. Apart from its rights under the 2023 Domain Lease Agreement, CNA had no other rights or assets.

30. On January 26, 2024, Chill announced a £2.4 million capital raise to scale its operations and meet growing appetite for its products.

31. Shortly thereafter, discussions resumed over a possible transaction to spin out Zoetic or its business (including the assumption of its liabilities), with the express condition that Chill would retain the Domain and lease rights to CNA to use a sub-domain.

32. Chill made a number of alternative offers to lease a sub-domain within the Domain to CNA under generous terms; for example, Chill suggested leasing a sub-domain within the Domain to CNA for a period of 30 or more years.

33. Discussions continued throughout March 2024. In mid- April, however, discussions stalled due to Individual Defendants’ insistence that CNA should own the Domain. Individual Defendants consistently rejected Chill’s good faith alternative offers.

34. At the same time, Chill’s largest shareholder, Jonathan Swann—who was a significant participant in Chill’s January 2024 capital raise—reiterated a request he made previously for the addition of a director with appropriate financial experience to Chill’s Board of Directors who would help improve Chill’s financial controls.

35. Russo and Taylor resisted Mr. Swann’s requests each time the issue surfaced.

D. Chill Shareholders Challenge Russo’s and Taylor’s Directorships, Spurring a Host of Illegal Actions by Individual Defendants

36. On April 16, 2024, Chill received a notice that Mr. Swann had requisitioned a general meeting of Chill shareholders to vote on resolutions to remove Russo and Taylor as directors and to appoint Graham Duncan and Aditya Chathli as directors.

37. With their positions threatened, Russo and Taylor began orchestrating a scheme to take control of Chill, to execute the spin out of Zoetic on terms determined unilaterally by them, and to engineer an *ultra vires* transfer of the Domain and other Chill assets to CNA.

38. Russo and Taylor began by manufacturing allegations of insider trading to oust Mr. Sommerton as CEO.

39. One day after Chill publicly announced Mr. Swann’s requisition notice, Russo and Taylor hired Fieldfisher LLP—a law firm that was *not* Chill’s corporate counsel but was *personally* representing Individual Defendants in a separate, unrelated loan default action in the London Circuit Commercial Court—to investigate unsubstantiated and unparticularized insider trading allegations that Individual Defendants made against CEO Mr. Sommerton.

40. Russo and Taylor, admitting their goal of making significant changes to Chill's board, attempted to incentivize Fieldfisher's cooperation by offering to have that firm replace Chill's incumbent corporate counsel, DMH Stallard LLP.

41. Russo and Taylor scheduled a Board meeting for April 19, 2024 (with Taylor as the Chair), "with the intention of suspending Callum Sommerton (the current CEO) and terminating relationships with Allenby Capital (the Nomad [nominated advisor financial service firm]) and DMH Stallard (legal representatives)"—all with the obvious goal of usurping control.

42. Russo and Taylor instructed Fieldfisher to assist with their goals.

43. On April 22, 2024, Russo and Taylor caused Chill to issue a public release announcing the suspension of Mr. Sommerton from his position as CEO pending Fieldfisher's investigation "after allegations were raised around the use of inside information."

44. Russo and Taylor promised Chill's shareholders that they would appoint an interim CEO. They never did so.

45. Rather, in a clear attempt to cling to power for as long as possible, Russo and Taylor sought to reject Mr. Swann's proper requisition request, noting in a public release that "The Company is taking legal advice as to the validity of Requisitioner's Letter and a further announcement will be made in due course." They were informed, however, that the request was valid and must be honored.

46. Accordingly, on May 7, 2024, Chill announced a general meeting to take place on June 4, 2024, to vote on the resolutions proposed by Mr. Swann—the replacement of Russo and Taylor with two new directors. Notably, Russo and Taylor waited until the last permissible date under the U.K.'s Companies Act of 2006 both to announce the meeting and to set its date.

47. In Chill's public announcement of the May 7 meeting, Russo and Taylor included a letter to the shareholders apologizing for their poor communications but desperately asking the shareholders to help them retain their positions by "firmly reject[ing] the resolutions proposed at the Requisitioned General Meeting."

48. Russo and Taylor also promised to hold a virtual Question and Answer session so that shareholders could fully understand their views and the reasons why they should retain them as directors, but they abandoned this endeavor without explanation.

49. To further their effort to retain power and hide facts, Russo and Taylor did not provide shareholders with Mr. Swann's statement explaining the reasons for his requisition, which is an express requirement under Section 314 of the Companies Act of 2006, and instead only placed Mr. Swann's statement on the Chill website *on the evening before the general meeting*.

50. With only a month left before the shareholder vote, Russo and Taylor began a frenetic race to finish their scheme. While Fieldfisher's investigation of the CEO was ongoing, Russo and Taylor drafted—or instructed their counsel to draft—agreements to transfer ownership of the Domain and other Chill assets to CNA, terminate the October 2023 domain lease agreement, and execute a new domain lease agreement from CNA to Chill granting Chill a limited right to use a sub-domain within the Domain for sales of products only in the United Kingdom and Europe and nowhere else in the world.

51. Indeed, after first having Chill retain Vicente LLP as its counsel, Russo and Taylor unilaterally instructed that law firm to *switch* to the opposite side in the middle of their attempt to

fraudulently accomplish the transfer transaction, acting as counsel for CNA. Russo and Taylor purported to sign a conflict waiver for Chill without approval.

52. On May 25, 2024, Russo and Taylor learned that Fieldfisher had determined that, based on all of the information presented, no case could be made against Mr. Sommerton, because the information Individual Defendants alleged he traded on could not be considered inside information. In other words, outside counsel determined that the insider trading allegations against the CEO lacked merit.

53. Rather than immediately notify Chill, its other directors, its shareholders and Mr. Sommerton, and rather than immediately reinstating him as CEO, Individual Defendants elected to conceal this material information for over a week until they could complete their scheme.

54. On May 30, 2024, Russo and Taylor received the initial results of the shareholder proxy vote, showing an overwhelming (75%) approval of the resolutions to terminate their positions as directors of Chill. Although it was theoretically possible that the remaining shareholders would appear in person to the June 4, 2024 meeting and change the result, this possibility was remote. In essence, then, Russo and Taylor had actual knowledge of their impending removal.

55. Russo and Taylor once again chose to conceal this material information from the rest of the Board of Directors, hoping to use their remaining days to try to force a sale of the Domain to CNA at the June 3, 2024 meeting, just hours before their formal removal as directors.

56. On May 31, 2024—the day after Russo and Taylor learned that they had lost their director positions—they logged into Chill’s GoDaddy account and transferred the registration of

the Domain to CNA (or themselves) without authorization from the Board—and without informing Chill or Zoetic.

E. Russo and Taylor Unilaterally Draft and Sign Sham Agreements to Steal from Chill

57. Individual Defendants used the June 3, 2024 Board of Directors meeting to seek *ex post facto* approval for their theft of Chill’s assets—without providing accurate or complete information. Prior to the meeting, Russo and Taylor had instructed Vicente to unilaterally draft a group of five documents dated June 3, 2024 (the “Sham Agreements”), that Russo and Taylor purported to sign on behalf of both Chill (without authorization) and CNA. These include:

- **Asset Purchase Agreement** between Chill and CNA, in which CNA purports to “buy” from Zoetic the CHILL.COM domain for a price to be set later and paid out over years and to acquire intellectual property rights of Chill for no consideration;
- **License Agreement**, in which CNA purports to license back to Chill the limited right to use certain intellectual property rights;
- **Lease Termination and Domain Lease Agreement**, in which CNA terminates its 2023 domain lease agreement with Zoetic and then purports to lease to Chill the limited right to use a sub-domain
- **Membership Interest Pledge Agreement**, in which Russo pledges his ownership interest in CNA to secure performance a “Domain Name Purchase and Sale Agreement dated June 3, 2024” (despite the fact that Individual Defendants have never provided an agreement with that name).

58. Taylor, purporting to act as Chill’s COO, signed the Sham Agreements on behalf of Chill. Russo signed on behalf of CNA and himself. No one else at Chill had ever seen these documents before they were signed.

59. In blatant disregard of their duties as directors, Russo and Taylor did not circulate drafts of the Sham Agreements or discuss alternative proposals with any other director—and in

particular the CEO whose suspension Individual Defendants had contrived. Indeed, Russo and Taylor did all of this *without the Board's knowledge or authorization*.

60. In addition, contrary to earlier board discussions around the spin out of the US activities, these agreements involved only the transfer of assets, with no corresponding assumption of liabilities. Worse, CNA did not provide any consideration for these assets at the time of executing the Sham Agreements. The APA does not state a price. Instead, the APA purports to delegate the purchase price of the Domain to <Sedo.com>, a domain name marketplace (unilaterally selected by Individual Defendants), pursuant to an “appraisal” (of just the domain name) to be conducted at some unspecified time using an unspecified methodology. The sham APA supposedly plans to value the Domain using 10 factors but identifies only three. Under the APA, Russo and Taylor gave CNA a commercially unreasonable installment payment plan spanning 1,120 days to pay the Domain’s appraised value starting whenever Sedo.com completed its appraisal.

61. In addition to the Domain, the APA also provided for the “sale” of Chill’s intellectual property rights to CNA, including three trademark registrations for the CHILL mark, ownership rights concerning CHILL.COM and “common law rights for other pending trademark applications.” The Sham Agreements, however, do not require CNA to pay for these rights or provide any other consideration. In all discussions preceding June 3, 2024, no transfer of Chill’s trademark or intellectual property rights had been contemplated or approved by Chill or its Board.

62. While helping themselves to Chill’s assets under laughably inadequate terms, Russo, Taylor and CNA then purported to terminate the legitimate 2023 Domain Lease

Agreement (with Zoetic leasing limited rights in the Domain to CNA) and—based on their purported transfer of ownership of the Domain to CNA through a prior undisclosed illegal transfer of the Domain to a registrar account they controlled—and then executed a purported new Domain Lease Agreement, this time with CNA granting Chill the limited right to create and use a sub-domain within the CHILL.COM website for the exclusive sale of products in the U.K. and European Union.

63. Russo and Taylor did not provide copies of those agreements to the other Board members in advance of or during the June 3 board meeting. During the meeting, one director directly asked to see a copy of the agreements, but Russo and Taylor refused to disclose them.

64. Instead, according to meeting minutes prepared by Taylor and Russo, there was a vote only “to finalize the spinoff”—without any further specifics or terms in the Sham Agreements.

65. After Russo and Taylor refused to tell director Scott Thompson the price or other material terms for “the spinoff” transaction, he voted against this proposal.

66. Russo, obviously conflicted due to his position and interest in CNA (the Sham Agreements identify him as its “Chief Executive Officer”), abstained from the vote. Taylor, on the other hand, despite being equally conflicted due to his involvement with CNA, did not abstain as required by Article 106 of the Articles of Association of Chill. Had he abstained properly, the final vote on the resolution would have been a 1-1 tie between the two directors eligible to vote.

67. The vote, of course, was also improper because CEO Callum Sommerton had been excluded from the meeting and, thus, was unable to vote. Although Russo and Taylor knew

that Fieldfisher’s investigation had disproved their allegations of insider dealing against Mr. Sommerton, they did not invite him to the June 3, 2024 meeting.¹

68. In any event, a vote “to finalize the spinoff”—even if it had been properly passed—was far too vague a proposal to constitute authorization for Taylor to sign the Sham Agreements, the terms of which were unknown to anyone but him and Russo, on Chill’s behalf.

69. Based on an improper vote on a vague resolution at a Board meeting that excluded one non-conflicted director and counted the vote of a conflicted director—all based on woefully inadequate information and occurring just hours before Chill’s new directors replaced them—Russo and Taylor proceeded to sign the Sham Agreements in an effort to make the theft of Chill’s property appear legitimate.

70. Russo and Taylor concealed from the other directors Fieldfisher’s preliminary conclusion that their insider trading allegations against Mr. Sommerton lacked merit. And, to ensure the others did not learn that fact, Russo and Taylor excluded Fieldfisher from the June 3, 2024 Board of Directors meeting as well.

71. Russo and Taylor also failed to disclose the results of the final proxy vote before or during the June 3 meeting, depriving the other directors of the material information that this was their last act as Chill directors.

¹ In fact, even if Mr. Sommerton had been validly suspended as CEO, which he was not, he nevertheless was entitled to appear and vote as a director of Chill at the June 3 meeting.

F. Russo and Taylor Absconded with Company Funds

72. Russo and Taylor further concealed from the Board a plan to embezzle funds under the guise of “severance” pay. To do so, Russo and Taylor asserted fabricated claims of “constructive termination.”

73. As reflected in the June 3 Board meeting minutes—created and circulated by Individual Defendants—Russo and Taylor believed that “Jonathan Swann has indicated that Trevor Taylor and Antonio Russo will be terminated”—even though Mr. Swann, as a shareholder, is not authorized to terminate anyone’s employment at Chill—and that they felt there was “a hostile work environment”—despite having an office in Colorado that Individual Defendants managed thousands of miles away from any supposed adversaries in England.

74. The minutes nowhere indicate, however, that Russo and Taylor considered their employment terminated and would be awarding themselves a self-calculated “severance payment” of approximately \$400,000. Russo and Taylor never reported any harassment or hostile work environment in accordance with Chill’s policies, and neither of them ever sent a resignation letter to Chill.

75. Nevertheless, without approval from or notice to anyone else at Chill, Russo and Taylor transferred approximately \$400,000 from Chill’s bank account with Virgin Money to an account controlled by Zoetic (which Individual Defendants controlled as directors of Zoetic) and then to their personal bank accounts. After this embezzlement, Chill learned that Chill’s external accountants had refused to authorize this so-called “severance” transfer when asked by Taylor in a May 30 email and warned that they should seek legal advice before making such a transfer.

76. Contrary to the U.K. Financial Conduct Authority’s Disclosure Guidance and Transparency Rules, Russo and Taylor failed to announce the transfer of Chill’s assets, the payment of the “severance” or their resignation as employees prior to the June 3 Board Meeting or June 4 General Meeting. Rather, they requested that a representative of Fieldfisher make a statement on their behalf, which made no mention of any of these actions.

G. Their Scheme Revealed, Russo and Taylor Are Removed as Directors

77. On June 4, 2024, the results of Chill’s shareholder vote were revealed and—with 80% of the votes in favor of the proposals—Russo and Taylor were formally removed as directors. Chill’s new directors participated in a Board of Directors meeting that which they declared that the Sham Agreements, signed as a result of the June 3 meeting, were unauthorized and invalid. Russo and Taylor were also removed as directors of Zoetic.

78. When Chill learned that Russo and Taylor were planning to solicit commercial opportunities from Chill’s customers without informing Chill, Chill’s CEO asked them to copy him on their future emails. Russo and Taylor ignored this request.

79. Meanwhile, Russo and Taylor ceased coming to work at the Zoetic office. They put in place an “out of office” automatic reply to incoming work emails. And they stopped doing any work for Chill or Zoetic.

80. After June 3, 2024, Chill also learned that Russo and Taylor had been variously misusing company funds to pay for personal expenses and used a company email account to engage with an X-rated business for personal purposes.

81. Accordingly on July 24, 2024, Chill provided notice to Russo and Taylor that their employment with Chill was terminated for cause. Chill demanded the return of all company

property, assets and funds. To date, Russo and Taylor have not done so or indicated a willingness to comply.

82. Defendants' unauthorized actions have damaged Chill and Zoetic, including causing exceptional reputational harm to Chill and its executive leadership. E-commerce transactions on the website have dropped precipitously since Defendants absconded with the Domain. The value of Chill's marks and goodwill also have been diminished by Defendants' misconduct, much of which has been publicly reported as required by Chill's regulators and UK law.

83. Prior to filing this action, Plaintiffs demanded that Defendants return the stolen assets such as the CHILL.COM domain name and company funds. Defendants refused.

V. CLAIMS FOR RELIEF

Count I

[Violations of the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1832(a)(1)]

84. Plaintiffs repeat, reallege, and incorporate by reference the allegations set forth in Paragraphs 1–83 of this Complaint.

85. The Defend Trade Secrets Act imposes penalties against anyone who “knowingly . . . with intent to convert a trade secret, that is related to a product or service used in or intended for use in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly . . . steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information; . . . [or] without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies,

replicates, transmits, delivers, sends, mails, communicates, or conveys such information; [or] receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization.” 18 U.S.C. § 1832(a).

86. Defendants used improper means to misappropriate Chill’s propriety information, including lists of customers, sensitive contact information and pre-negotiated price terms with those customers.

87. Defendants were not and are not authorized to use these trade secrets for any purpose other than conducting the business of Chill and Zoetic, and they are expressly prohibited from using these trade secrets to assist a competing business, like that of CNA.

88. Chill took commercially reasonable measures to protect the confidentiality of these trade secrets, such as requiring employees (including Russo and Taylor) to sign confidentiality agreements, and the trade secrets derive value from their secrecy. Chill has spent years cultivating relationships with customers and negotiating contracts with them, the terms of which are not known by the public or Chill’s competitors in the CBD and vape markets. Disclosure of Chill’s heavily negotiated contractual terms with customers would enable competitors to unfairly compete with Chill by calculating its profit margins and negotiating their own terms with the same businesses using Chill’s trade secrets.

89. In furtherance of their misappropriation, Russo and Taylor made misrepresentations to and concealed vital information from Chill’s Board of Directors, executive leadership, and even its shareholders.

90. Plaintiffs have been damaged by Defendants’ misappropriation of these trade secrets in an amount to be proven at trial.

Count II

[Violations of the Lanham Act of 1946, 15 U.S.C. § 1125(a)]

91. Plaintiffs repeat, reallege, and incorporate by reference the allegations set forth in Paragraphs 1–90 of this Complaint.

92. Until May 2024, the CHILL.COM Domain and website were exclusively associated with Plaintiffs, and Plaintiffs controlled the user interface, the product descriptions and the fulfillment of all e-commerce transactions. Plaintiffs also exclusively controlled the CHILL marks prior to May 2024.

93. Defendants’ misappropriation and unauthorized use in commerce of the Domain is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of CNA’s products. Because Defendants have failed and refused to provide Chill with any evidence of an ownership interest in CNA, Defendants operate CNA without Plaintiffs’ input and Chill no longer has any quality control over Defendants’ activities and use of the CHILL marks.

94. Individual Defendants have committed the foregoing acts of unfair competition with full knowledge of Plaintiffs’ prior rights in the Domain and related trademarks.

95. On information and belief, CNA has not been able to timely and accurately fulfill e-commerce orders placed on the Chill.com website since misappropriating the Domain. Defendants’ conduct is causing immediate and irreparable harm and injury to Plaintiffs, and to Plaintiffs’ goodwill and reputation, and will continue to both damage Plaintiffs and confuse the public unless enjoined by this court. Plaintiffs have no adequate remedy at law.

96. Plaintiffs are entitled to, among other relief, injunctive relief, an award of actual damages or Defendants’ profits, enhanced damages, reasonable attorneys’ fees, and costs of the

action under Section 43(a) of the Lanham Act, 15 U.S.C. §§ 1125, together with prejudgment and post-judgment interest.

Count III

[Breach of Fiduciary Duties Owed to Zoetic under C.R.S. 7-108-401]

97. Plaintiffs repeat, reallege, and incorporate by reference the allegations set forth in Paragraphs 1–96 of this Complaint.

98. Under Colorado law, fiduciaries owe a duty of utmost good faith and a fiduciary's obligations include a duty of loyalty, a duty to exercise reasonable care and skill, and a duty to deal impartially with beneficiaries.

99. As directors of Zoetic, Individual Defendants owed a fiduciary duty of loyalty to Zoetic, including acting for the benefit of Zoetic and in its best interest with utmost good faith.

100. Individual Defendants breached their fiduciary duties to Zoetic by refusing to act in the best interest of Chill or Zoetic and intentionally misappropriating company assets, including the Domain, intellectual property rights and \$400,000 in funds. Individual Defendants engaged in these activities to benefit CNA and themselves at the expense of Chill and Zoetic, thereby damaging Plaintiffs in an amount to be proven at trial.

Count IV

[Breach of Fiduciary Duties Owed to Chill under C.R.S. 7-108-401 and the Laws of the United Kingdom]

101. Plaintiffs repeat, reallege, and incorporate by reference the allegations set forth in Paragraphs 1–100 of this Complaint.

102. As officers and directors of Chill, Russo and Taylor owed fiduciary duties to Chill under both Colorado and English law, including a duty of loyalty, a duty to exercise reasonable care and skill, and a duty to deal impartially with beneficiaries.

103. Russo and Taylor breached their fiduciary duties to both Chill and Zoetic, and each aided and abetted the other's breaches.

104. Russo and Taylor violated the Companies Act 2006 under the laws of the United Kingdom, including but not limited to the following ways:

- a. Under section 171(a), to act in accordance with Chill's constitution and, under section 171(b) of the Act, only to exercise powers for the purposes for which they were conferred;
- b. Under section 127, to act in the way they considered, in good faith, would be most likely to promote the success of Chill for the benefit of its members as a whole;
- c. Under section 173, to exercise independent judgment;
- d. Under section 174, to act with reasonable care, skill and diligence; and
- e. Under section 175, to avoid conflicts of interest.

105. As officers and directors of Chill, Individual Defendants failed to act for the benefit of Chill and in Chill's best interest with utmost good faith.

106. Individual Defendants breached their fiduciary duties to Chill by refusing to elevating their own interests and those of CNA over the best interests of Chill or Zoetic, including by intentionally misappropriating the Domain, intellectual property rights and \$400,000 in funds and by engaging in a scheme of concealment and deception to carry out such misappropriation.

107. Individual Defendants' breaches of their fiduciary duties damaged Plaintiffs in an amount to be proven at trial.

Count V

[Civil Theft/Conversion under C.R.S. § 18-4-405]

108. Plaintiffs repeat, reallege, and incorporate by reference the allegations set forth in Paragraphs 1–107 of this Complaint.

109. Under Colorado law, “[a]ll property obtained by theft, robbery, or burglary shall be restored to the owner, and no sale, whether in good faith on the part of the purchaser or not, shall divest the owner of his right to such property. The owner may maintain an action not only against the taker thereof but also against any person in whose possession he finds the property.” C.R.S. § 18-4-405.

110. Defendants have wrongfully exerted dominion over the Plaintiff’s property for their own or another use and benefit.

111. Specifically, Individual Defendants have converted close to \$400,000 of company funds in a fraudulent attempt to claim constructive and wrongful termination. Further, based on misappropriation by Russo and Taylor, CNA has acquired through inappropriate means the Domain, which is Chill’s most valuable non-cash asset.

112. Through these acts, Defendants have committed conversion and civil theft of Plaintiffs’ property.

Count VI

**[Breach of Contract, specifically the September 2021
Employment and Confidentiality Agreements]**

113. Plaintiffs repeat, reallege, and incorporate by reference the allegations set forth in Paragraphs 1–112 of this Complaint.

114. In September 2021, Russo and Taylor entered into the Confidentiality Agreements and Employment Agreements with Chill in which they committed, among other things, to not disclose and to protect the confidentiality of Chill’s sensitive and proprietary information, to not directly or indirectly compete with Chill while employed and for a twelve-month period following termination of employment, to not solicit any Chill employee or customer during their employment and for twelve months after termination of employment, and to render services to Chill “to the very best of Executive’s ability” and “devote his full time, energy and skill to the performance of the services in which the Company is engaged” without performing unauthorized work “for any other entity.”

115. The Confidentiality Agreements also provide that “Employee, shall not, during the term of Employee’s employment with Company, have any additional job, work for another employer, work as an independent contractor or engage in other business activities (‘Outside Work’) ...” and “shall comply with his or her common law duty of loyalty to the Company, which prevents conflicts of interest”

116. The Employment Agreements further provide that Russo and Taylor would “comply with all and any statutory, fiduciary or common law duties to [Chill] and to any other Group Company of which he is a director” and “to ensure compliance by himself and the Company with the UK Companies Act of 2006,” among other laws.

117. Individual Defendants breached the terms of both these contracts when they conspired and carried out their plan to oust Mr. Sommerton as CEO with fabricated claims of insider trading, misrepresented and concealed information from Plaintiffs and the Chill Board of Directors, unilaterally drafted and signed the Sham Agreements purporting to transfer ownership

of the Domain and Chill's valuable associated trademarks to CNA (their company), converted approximately \$400,000 in company funds under the guise of "severance pay," refused to restore the misappropriated assets and funds to Plaintiffs, used Plaintiffs' trade secrets to unfairly compete with Chill, used the company credit card for personal expenses and improperly used a company email account for personal prurient matters.

118. In addition, since at least the beginning of 2024, Russo and Taylor failed to effectively perform their job responsibilities for Chill and Zoetic. Pre-occupied with trying to generate business opportunities for CNA and with carrying out their scheme to control Chill and misappropriate its assets, Individual Defendants neglected their roles with Plaintiffs, resulting in dismal sales performance for Zoetic.

119. Plaintiffs have been damaged by Individual Defendants' breaches of these contracts in an amount to be proven at trial.

Count VII

[Violations of the Colorado Consumer Protection Act, C.R.S. §§ 6-1-101, *et seq.*]

120. Plaintiffs repeat, reallege, and incorporate by reference the allegations set forth in Paragraphs 1–119 of this Complaint.

121. The Colorado Consumer Protection Act is a statutory scheme adopted by the Colorado legislature intended to deter and punish businesses that engage in unfair or deceptive trade practices with the public. The statutory scheme provides for both a public and private right of action.

122. A person engages in a deceptive trade practice when, among other things, in the course of the person's business, the person "either knowingly or recklessly passes off goods,

services, or property as those of another”; “either knowingly or recklessly makes a false representation as to the source, sponsorship, approval, or certification of goods, services, or property”; and “either knowingly or recklessly makes a false representation as to affiliation, connection, or association with or certification by another” C.R.S. § 6-1-105(a)-(c).

123. Defendants’ fraudulent and deceptive acts constitute a deceptive and unfair trade practices; specifically, their scheme to misrepresent and conceal facts to steal Chill’s Domain and intellectual property and to use the Domain for CNA’s business.

124. Defendants have also knowingly made false representations “as to affiliation, connection, or association” of CNA with Chill and Zoetic, which is misleading to the public.

125. Plaintiffs have been injured in their business as a result of Defendants’ deceptive trade practices. Until May 2024, the chill.com Domain and website were exclusively owned and operated by and associated with Plaintiffs, and Plaintiffs controlled the user interface, the product descriptions and the fulfillment of all e-commerce transactions. Defendants’ misappropriation and unauthorized use in commerce of the Domain is likely to deceive consumers as to the origin, source, sponsorship, or affiliation of CNA’s products.

126. On information and belief, CNA has not been able to timely and accurately fulfill e-commerce orders placed on the Chill.com website since misappropriating the Domain. Defendants’ conduct is causing immediate and irreparable harm and injury to Plaintiffs, and to Plaintiffs’ goodwill and reputation, and will continue to both damage Plaintiffs and confuse the public unless enjoined by this court.

127. Defendants' reckless conduct and deceptive trade practices, including diverting sales and failing to fulfill e-commerce transactions, are causing actual damages and losses to Plaintiffs and significantly impacting the public.

128. Defendants have committed the foregoing acts of unfair competition intentionally and with full knowledge of Plaintiffs' prior rights in the Domain and related trademarks. Defendants also have engaged in bad faith conduct through their fraudulent, willful, knowing and intentional conduct causing injury and losses to Plaintiffs.

129. As a result of Defendants' violations, Plaintiffs are entitled to their actual damages, treble damages and injunctive relief.

Count VIII

[Declaratory Judgment under 28 U.S.C. § 2201 and C.R.S. § 13-51-105]

130. Plaintiffs repeat, reallege, and incorporate by reference the allegations set forth in Paragraphs 1–129 of this Complaint.

131. An actual and justiciable controversy exists as to the validity of the Sham Agreements. Plaintiffs contend that Taylor was not authorized to sign the Sham Agreements on behalf of Chill and the Sham Agreements were induced by fraud and false pretenses, while, on information and belief, Defendants contend that the Sham Agreements are valid.

132. A judicial declaration will resolve this controversy and afford relief from uncertainty and insecurity with respect to the rights, status and other legal relations and effects of the Sham Agreements.

133. Plaintiffs seek a judicial declaration that:

- f. The June 3, 2024 meeting of the Chill Board of Directors was inappropriately held without inviting or including director Callum Sommerton and, thus, all votes taken at that meeting were invalid and not binding;
- g. The Sham Agreements are unenforceable, invalid and not binding on Chill because Taylor was not authorized to sign them on Chill's behalf, Taylor and Russo failed to show the agreements to the Board before voting, the Board did not vote to approve those agreements, the Domain already had been transferred before the Board voted, and the agreements were induced by fraud.
- h. Taylor and Russo were not constructively terminated from their employment with Chill but, rather, abandoned their jobs and were terminated with cause.

134. Plaintiffs are entitled to declaratory judgment that the Domain and associated trademarks are the rightful property of Plaintiffs.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and against Defendants as follows:

- i. For injunctive relief requiring Defendants to restore and return Plaintiffs' property, including the Domain, their intellectual property rights and the converted \$400,000;
- j. For injunctive relief prohibiting unfair competition by Defendants;
- k. For Plaintiffs' actual damages in an amount to be proven at trial;
- l. For Plaintiffs' treble damages under the Colorado Consumer Protection Act;
- m. For a declaratory judgment that the Sham Agreements are unenforceable and

invalid; that all votes taken at the June 3, 2024 Chill Board of Directors meeting were invalid and not binding; and that Russo and Taylor were terminated for cause and not constructively terminated

- n. For an award of punitive damages in favor of Plaintiffs to punish Defendants for their intentional and malicious conduct;
- o. For an award of Plaintiffs' attorneys' fees and costs under any applicable authority; and
- p. For such other and further relief as this Court deems just and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs demand trial by jury on all issues except the claim for declaratory judgment.

Dated: July 24, 2024

Respectfully submitted,

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