

1 Janet Carter, Esq. (SBN: 164850)
2 THE ADVOCATE'S LEGAL CENTER, INC.
3 3000 W. MacArthur Blvd., Suite 209
4 Santa Ana, CA 92704
(714)444-2984 Telephone
(714)444-3984 Facsimile

5 Attorney for Defendants/Cross-Complainants,
6 JEFF SMITH; CSN INTERNATIONAL, INC.;
and THE WORD FOR TODAY

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF ORANGE**

9 MICHAEL KESTLER, in his capacity Case No. 06 CC 03054
as a director of CSN
International, Inc.,

CROSS-COMPLAINT FOR
DAMAGES:

10 Plaintiff,

11 v.

12 JEFF SMITH; CSN INTERNATIONAL,
13 INC.; and THE WORD FOR TODAY,
and DOES 1 through 10,
14 inclusive,

Defendants.

- (1) DECLARATORY RELIEF;
(2) CONSPIRACY TO DEFRAUD;
(3) MISAPPROPRIATION/
CONVERSION-Funds/Assets;
(4) CONSTRUCTIVE TRUST;
Count One, Fraud; Count
Two, Accounting; Count
Three, Violation of Trust;
Count Four, Unjust
Enrichment;
(5) BREACH OF FIDUCIARY DUTY;
(6) SELF DEALING TRANSACTION
BY DIRECTOR OF NONPROFIT
ORGANIZATION;
(7) INTENTIONAL INTERFERENCE
WITH ECONOMIC RELATIONS;
(8) APPOINTMENT OF PROVISIONAL
DIRECTOR(S), Counts One &
Two;
(9) REMOVAL OF DIRECTOR,
Counts One and Two; and
(10) PRELIMINARY AND PERMANENT
INJUNCTION.
(11) LEGAL MALPRACTICE-
Negligent Advice to
Client (Counts 1 & 2);
(12) LEGAL MALPRACTICE-
Representation of Adverse
Interests (Counts 1 & 2).

15 CSN INTERNATIONAL, INC., a
16 California Non-Profit
Corporation; THE WORD FOR TODAY,
17 a California Non-Profit
Corporation; and JEFF SMITH in
18 his individual capacity and in
his capacities an officer and
19 director of CSN INTERNATIONAL,
INC.,

20 Cross-Complainants,

21 v.

22 MICHAEL KESTLER, in his capacity
as an individual and in his
23 capacities, alleged or
otherwise, as an officer and
24 director of CSN International,
Inc.; NORA KESTLER, an
25 individual; CALVARY CHAPEL TWIN
FALLS, an Idaho Non-Profit
26 Corporation; FRANK WALKER, an
individual; CARY TEPPER, an
27 individual; CHRISTIAN
BROADCASTING OF IDAHO, an Idaho
28 Non-Profit

Honorable Mary Fingal Erickson
Department "W11"

1
2 Corporation; and ROES 1 through
3 50, inclusive,
4 Cross-Defendants.

5 Cross-Complainants, CSN, INTERNATIONAL, INC., THE WORD FOR
6 TODAY and JEFF SMITH, (hereinafter collectively referred to as
7 "Cross-Defendants"), are informed and believe and thereon allege
8 that:

9 **PARTIES**

10 1. Cross-Complainant CSN INTERNATIONAL, (hereinafter
11 referred to as "CSN"), is a non-profit religious corporation as
12 amended (originally formed under the name CREATIVE CHRISTIAN
13 MINISTRIES), formed and existing under the laws of the State of
14 California, with its principal place of business in the city of Santa
15 Ana, County of Orange.

16 2. Cross-Complainant THE WORD FOR TODAY, (hereinafter
17 referred to as "TWFT"), is a non-profit religious corporation, formed
18 and existing under the laws of the State of California, with its
19 principal place of business in the city of Santa Ana, County of
20 Orange.

21 3. Cross-Complainant, JEFF SMITH, (hereinafter referred
22 to as "J. SMITH") is, and at all times herein mentioned, was either
23 an Officer (President or Vice President) and Director or Chairman of
24 the Board of Directors for CSN, as well as a Director for TWIN FALLS,
25 and Vice President of THE WORD FOR TODAY, and is an individual who
26 resides in Riverside County, and is employed in Orange County,
27 California.

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2 4. Cross-Defendant, MICHAEL KESTLER, (hereinafter referred
3 to as "KESTLER") is, and at all times herein mentioned, was the
4 Senior Pastor and President of CALVARY CHAPEL TWIN FALLS. KESTLER has
5 acted as an Officer and/or Director of CSN at times alleged herein.
6 However, KESTLER continues to improperly claim status as a Director
7 of CSN INTERNATIONAL, INC. per his Local Management Agreement
8 appointment, despite termination of the same, and KESTLER is an
9 individual who resides in Twin Falls, Idaho.

10 5. Cross-Defendant, NORA KESTLER (hereinafter referred
11 to as "N. KESTLER") is, and at all times herein mentioned, was the
12 wife of KESTLER, and an employee of CSN INTERNATIONAL and/or TWIN
13 FALLS and is an individual who resides in Twin Falls, Idaho.

14 6. Cross-Defendant, FRANK WALKER (hereinafter referred
15 to as "F. WALKER") is an individual, and at all times herein
16 mentioned, was the brother of N. KESTLER, the brother-in-law of
17 KESTLER, and an attorney admitted to the State Bar of Idaho, who was
18 retained by and provided legal services to CSN INTERNATIONAL, with
19 regard to various corporate and business matters, who resides in the
20 State of Idaho.

21 7. Cross-Defendant, CARY TEPPER (hereinafter referred
22 to as "TEPPER") is an individual, and at all times herein mentioned,
23 was an attorney admitted to the State Bar of Maryland, who was
24 retained by and provided legal services to CSN INTERNATIONAL and TWIN
25 FALLS and CBI, with regard to Federal Communications Commission
26 matters, who resides in the State of Maryland.

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2 8. Cross-Defendant, CALVARY CHAPEL TWIN FALLS (hereinafter
3 referred to as "TWIN FALLS") is a non-profit religious corporation,
4 formed primary to function as a church, but which currently holds
5 and/or claims ownership rights to various broadcasting assets,
6 network licenses, equipment and permits, which KESTLER is President,
7 Chairman of the Board and holds primary control of TWIN FALLS, and
8 exists under the laws of the State of Idaho, with its principal place
9 of business in Twin Falls Idaho.

10 9. Cross-Defendant, CHRISTIAN BROADCASTING OF IDAHO
11 (hereinafter referred to as "CBI") is a non-profit religious
12 corporation, formed primary as a broadcast network airing television
13 programming, and which KESTLER is President, Chairman of the Board
14 and holds primary control of CBI, and exists under the laws of the
15 State of Idaho, with its principal place of business in Twin Falls
16 Idaho.

17 **GENERAL ALLEGATIONS**

18 10. Cross-Complainants are informed and believe and thereon
19 alleges that the Cross-Defendants making the representations and
20 taking the actions herein alleged and at all times herein mentioned,
21 were either separate corporate entities, or corporate officers or
22 directors, employees, agents, representatives, managers, of the
23 Cross-Defendant corporate entities, and as such, were acting within
24 the course and scope of their agency and/or employment and under the
25 direction, permission, authority, ratification and consent of the
26 Cross-Defendant Officers and/or Directors, and/or ROES 1 through 50,
27 inclusive.

28 11. In the alternative, as to those intentional wrongful

1 acts of Cross-Defendants as alleged herein, which were beyond the
2 course and scope of their employment, fiduciary duties, illegal and
3 or criminal, said Cross-Defendants are sued in their individual
4 capacities as specified herein.

5 12. Cross-Complainants are informed and believes and
6 thereon alleges that at all times mentioned herein, that Cross-
7 Defendants whether individually, or in their capacities as Officer(s)
8 or Director(s), through employees, agents, representatives, or
9 managers, officers, or directors, shareholders, joint venturers, or
10 otherwise, and each of them, conspired and cooperated with each
11 other, in formulating, presenting, maintaining and furthering a means
12 to cause damage to Cross-Complainants as more specifically alleged
13 herein below.

14 13. Cross-Complainants are ignorant of the true names and
15 capacities of Cross-Defendants sued herein as ROES 1-50, inclusive,
16 and therefore sues these Cross-Defendants by such fictitious names.
17 Cross-Complainants will amend this Cross-Complaint to allege their
18 true names and capacities when ascertained.

19 14. Nonetheless, Cross-Complainants are informed and
20 believes and thereon alleges that each of the fictitiously named ROE
21 Cross-Defendants 1-50 inclusive, are responsible in some manner for
22 the occurrences herein alleged, and that Cross-Complainants damages
23 as herein alleged, were proximately caused by their conduct.

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25 15. This action is subject to the provisions of Sections
26 392, 393 and 395(a) of the Code of Civil Procedure, as the principal
27 place of business of the Cross-Complainant corporations is located
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1 and in the city of Santa Ana, County of Orange; it is where the
2 subject agreements were formed between the parties; where the injury
3 to Cross-Complainants occurred; and it is the county in which Cross-
4 Complainants are defending suit against at least one Cross-Defendant
5 in this matter.

6 16. All causes of action alleged within this complaint, are
7 alleged as set forth herein, and/or in the alternative, pursuant to
8 both the legal and equitable remedies allowable to Cross-Complainant
9 under the law.

10 **FIRST CAUSE OF ACTION:**

11 **DECLARATORY RELIEF**

12 **CSN and JEFF SMITH v. KESTLER, TWIN FALLS**

13 17. Cross-Complainants refers to and incorporates herein by
14 reference each and every allegation contained in paragraphs 1 through
15 16 above, as though the same were fully set out at this point.

16 18. CSN is a non-profit religious corporation which
17 operates a radio network providing Bible based Christian teaching and
18 programming nationwide. CSN survives financially on the generous
19 gifts, donations and support of its listening audience and other
20 Religious Broadcasters who air their programs nationwide. As such,
21 the maintenance of CSN'S sterling reputation and integrity throughout
22 the Christian community, is vital to its sustenance and continued
23 existence.

24 19. On or about February 1, 1996, CSN INTERNATIONAL and
25 TWIN FALLS entered into a Local Management Agreement (hereinafter
26 referred to as LMA), in the city of Santa Ana, State of California,
27 for a term of five (5) years, through and including February 1, 2001
28

1 (See Exhibit "A"), at which point the LMA, by its express terms,
2 unless an additional "instrument in writing [was] signed by the
3 parties". (See Exhibit "A", pgs. 11-12, para. 12). The parties (CSN
4 and TWIN FALLS), never executed any additional instrument, writing,
5 or agreement.

6
7 20. The subject LMA was executed by Pastor Chuck Smith
8 on behalf of CSN INTERNATIONAL; and the LMA was executed by Plaintiff
9 KESTLER on behalf of TWIN FALLS. Per the terms of the LMA, each
10 party was to place one (1) additional Board Member to each entity
11 (See Exhibit "A", pg. 6, para. 4).

12 21. As a result, on or about February 1996, Pastor Chuck
13 Smith was added to the Board of TWIN FALLS (Defendant J. SMITH having
14 already been a member of the TWIN FALLS Board); and on or about that
15 same time, Plaintiff MICHAEL KESTLER was added to the Board of CSN
16 INTERNATIONAL.

17 22. During the time that the LMA was in full force and
18 effect, and at times thereafter, CSN worked to provide programming,
19 funds and equipment to TWIN FALLS radio stations and translators, in
20 order to disperse various Bible based Christian programming on a
21 nationwide scale, including Pastor Chuck Smith's radio program "The
22 Word for Today", fulfilling CSN'S obligations per the terms of the
23 LMA, and CSN many times exceeding the same.

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25 23. During the term of the LMA while both Boards of
26 Directors (CSN and TWIN FALLS), and the individual Directors
27 maintained amicable relations, the subject Boards continued to ratify
28 the parties ongoing relationship. CSN INTERNATIONAL and TWIN FALLS,

1 though separate and distinct entities, per the terms of the LMA
2 became inextricably entangled at some broadcast locations, leaving
3 CSN owning equipment and other resources, on TWIN FALLS owned and/or
4 leased tower sites, and at broadcast stations and translators
5 licensed in the name of TWIN FALLS, while those broadcasting assets
6 that were in dominion and control of TWIN FALLS, were actually paid
7 for by CSN monies.

8
9 24. Additionally, there are other assets in the form of
10 numerous pending construction permits, MX's and other applications
11 with the FCC, in the names of both TWIN FALLS and CSN awaiting FCC
12 approval for broadcast stations to be built.

13 25. The tangible property and assets whose ownership
14 interest, dominion and control, is in dispute between the two
15 entities (CSN and TWIN FALLS) are estimated as follows, forty-three
16 (43) full power radio stations and twelve (12) translator broadcast
17 stations, licensed and owned by CSN; approximately three hundred
18 eighty (380), translator broadcast stations and two (2) full power
19 stations, licensed by TWIN FALLS, but whose operating equipment is
20 owned by CSN. Approximately one hundred ninety-seven (197)
21 construction permits total, which have been granted by the FCC to CSN
22 (64 in number) and TWIN FALLS (133 in number); approximately four
23 hundred eight (408) or more applications currently pending before FCC
24 in the names of CSN (110 in number) and in the name of TWIN FALLS
25 (298 in number); approximately four hundred forty (440), licensed
26 facilities in the name of CSN (52 in number), and TWIN FALLS (388 in
27 number) [including 386 translators and 2 full power stations], for
28 which the entities are requesting permission from the FCC to build

1 additional radio stations throughout the nation.

2
3 26. During various times of the term of the LMA and at
4 times continuing thereafter (while various agents of CSN, acting
5 under the direction of KESTLER, including but not limited to N.
6 KESTLER, and CSN Attorneys, F. WALKER and TEPPER who continued to
7 mislead, deceive and provide faulty, or incomplete legal advice to J.
8 SMITH), KESTLER on behalf of TWIN FALLS breached the LMA and/or the
9 resolutions and agreements reached by the Board of Directors, while
10 at the same time refused to acknowledge the termination of the LMA
11 which would have resulted in his automatic removal from the Board of
12 CSN.

13 27. In blatant disregard for the above, KESTLER continues
14 to interfere in CSN business per his claimed ostensible authority,
15 and has attempted and at many times been successful, either
16 personally, with his spouse N. KESTLER, or through directives to his
17 agents (F. WALKER and TEPPER), to obtain, maintain, and take sole and
18 exclusive control of various CSN'S assets, income and revenues by
19 KESTLER'S engaging in the following conduct:

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23 (A) Opening numerous bank accounts, in the name of CSN
24 INTERNATIONAL, TWIN FALLS and/or other names or
25 entities, using improper Federal Tax identification
26 numbers, without the knowledge or approval or
27 consent, of the CSN Board of Directors, or it's
28 President J. SMITH; and while using the U.S. mail

1 system, diverted funds due to be deposited into CSN'S
2 Santa Ana accounts, into other bank accounts
3 controlled by KESTLER;

4 (B) Illegally withdrawing approximately \$30,000.00 from a
5 CALVARY CHAPEL TWIN FALLS local origination bank
6 account (which was set up for CSN INTERNATIONAL but
7 was put in the name of TWIN FALLS per advice of CSN
8 INTERNATIONAL FCC Counsel, Cross-Defendant TEPPER),
9 for which only J. SMITH was a signor; and transferred
10 those funds into a separate account using the TWIN
11 FALLS Federal Tax Identification number, allowing
12 KESTLER and/or N. KESTLER to be signors or in control
13 of said account, more specifically identified as US
14 BANK Money Market Account #7732 (hereinafter referred
15 to the "US BANK MMA"), so as to allow revenues and
16 donations to be deposited, utilized and controlled by
17 KESTLER and/or N. KESTLER, once placed into these
18 unauthorized bank accounts, all done without CSN
19 Board approval or knowledge of CSN'S President J.
20 SMITH and/or other Board Members;

21 (C) Changing the P.O. Box address for receipt of Listener
22 donations from CSN INTERNATIONAL'S Santa Ana,
23 California to a TWIN FALLS, Idaho address so that
24 said donations could be received and deposited by
25 KESTLER into accounts which he controlled without CSN
26 Board approval or knowledge of CSN'S President J.
27 SMITH and/or other Board Members;

1
2 (D) Changing the longstanding use of CSN'S corporate
3 address in Santa Ana, California, to an unauthorized
4 address in TWIN FALLS, Idaho on numerous FCC filings,
5 legal, license and registration documents, in order
6 to first exercise control over these assets and then
7 eventually convert the same;

8 (E) Soliciting changes in donor contributions from the
9 name of CSN INTERNATIONAL to the name of TWIN FALLS;
10 changing contact information, including mailing
11 address for donations, contained on websites from
12 Santa Ana, California to Twin Falls, Idaho;
13 originating and operating a paypal system on CSN'S
14 website in which donors deposited funds into accounts
15 controlled by KESTLER without CSN Board approval or
16 knowledge of CSN'S President J. SMITH;

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18 //

19 (F) Tortuously interfering with the contract agreements
20 in effect between CSN INTERNATIONAL and various
21 Programmers and Underwriters who broadcast their
22 programming on the CSN network and who would pay the
23 costs for programming directly to CSN INTERNATIONAL'S
24 Santa Ana California offices, in blatant disregard to
25 the previous pattern of conduct during the term of
26 the LMA, and despite the fact that these broadcast
27 transmissions would be generated on both the full
28 power stations fully owned by CSN (both licences and

1 equipment), as well as the translator stations
2 (licenced to TWIN FALLS, but whose equipment is owned
3 by CSN);

4 (G) Converting and transferring monies received in, and
5 held in, CSN INTERNATIONAL bank accounts, to other
6 bank accounts where only KESTLER and/or NORA KESTLER
7 were signors and had control; and/or into other for
8 profit entities controlled by KESTLER; improperly
9 using CSN'S non-profit tax exempt monies to pay for
10 KESTLER'S personal expenses;

11 (H) Extorting and then diverting funds from the sale of
12 various CSN INTERNATIONAL owned radio stations
13 (equipment and licenses), and/or real property sales,
14 including but not limited to those areas of New York,
15 Montana, Virginia, by KESTLER misrepresenting his
16 authority to act on behalf of CSN INTERNATIONAL to
17 buyers and refusing to allow the sale of said CSN
18 INTERNATIONAL owned stations (which sales proceeds
19 were desperately needed in order to keep CSN
20 INTERNATIONAL solvent), unless he was given at least
21 one-half of all sales proceeds to be deposited into a
22 CSN INTERNATIONAL TWIN FALLS bank account, in the
23 amount of approximately three (3) million dollars,
24 which KESTLER controlled, rather than into the CSN
25 Santa Ana accounts where those sale proceeds
26 rightfully belonged; and then further diverting those
27 funds in the approximate amounts of 1.6 million
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1 dollars and \$600,000. dollars into two (2) separate
2 bank accounts for which KESTLER and/or N. KESTLER, or
3 other ROES 1-50, had dominion and control, and
4 without CSN Board approval and/or approval from CSN'S
5 President, J. SMITH;

6 (I) Directing Cross-Defendant, TEPPER, to illegally and
7 without approval by the CSN Board, change translator
8 licences from those owned by CSN into the name of
9 TWIN FALLS, so that ownership would transfer to TWIN
10 FALLS a corporation for whom KESTLER was President
11 and Senior Pastor and in which he exercised dominion
12 and control; and/or change the FCC contact addresses
13 to Twin Falls Idaho, for numerous CSN licenses, which
14 previously provided Santa Ana, California contact
15 information to the FCC;

16 (J) Directing and diverting and/or causing CSN employees
17 working out of the Twin Falls area, or TWIN FALLS
18 employees to direct and divert, by telephone call,
19 letters, and/or by changing monthly billing
20 information related to payment for CSN INTERNATIONAL
21 accounts receivables for equipment invoices, income
22 from programmers and underwriters, monthly local
23 origination revenues, all of which had previously and
24 regularly been payable to the Santa Ana Offices of
25 CSN INTERNATIONAL; and demanding of, and/or causing
26 programmers, underwriters, and/or donors to, change
27 the payee name on drafts to CSN and demanding the re-
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1 issuance of the same in the name of TWIN FALLS; and
2 then diverting those revenues and payments to TWIN
3 FALLS bank accounts, by depositing those sums into
4 bank accounts such as the US BANK MMA, which were
5 unauthorized by the CSN Board of Directors; and
6 without advising the CSN Board Members or obtaining
7 approval from the President of CSN, J. SMITH, as a
8 result, Broadcasters/Programmers were being double
9 billed by CSN for air time;

10 (K) Improperly manipulating the CSN corporate books,
11 financial ledgers and/or other corporate documents in
12 order to benefit of KESTLER and/or N. KESTLER, and/or
13 other individuals or entities under KESTLER'S
14 dominion and control; and making the unauthorized use
15 of those diverted CSN funds, and/or laundering,
16 and/or improperly spending those funds for either
17 personal expenses, personal gain, and/or to benefit
18 individuals of KESTLER'S choosing, in violation of
19 non-profit exempt regulations, or creating 'sham'
20 loans, making improper 'gifts', and/or to benefit
21 other for-profit entities such as ESI Corporation;
22 and other non-profit entities such as CBI, in which
23 KESTLER and/or N. KESTLER either have a personal
24 interest, own, and/or control; thus generating and
25 fostering numerous business relationships in conflict
26 with CSN; and causing CSN to become cash flow poor,
27 which lead to a loss of licenses, broadcasting
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1 territory and/or coverage area because of CSN'S
2 inability to build stations for which permits had
3 already been issued by the FCC;

4 (L) Directing TWIN FALLS employees to refuse to disclose
5 and provide accurate financial information and
6 documentation of all CSN, or TWIN FALLS/CSN related,
7 banking accounts, bank statements, negotiated checks,
8 accounting ledgers, accounts receivable, accounts
9 payable, in order to conceal, hide, disguise, or
10 delay the Cross-Complainants ultimate discovery of
11 KESTLER, N. KESTLER and TWIN FALLS corporate
12 embezzlement practices;

13 (M) Attempting to illegally, and without approval by the
14 CSN Board and as advised by F. WALKER, to change
15 translator licences from those owned by CSN into the
16 name of TWIN FALLS, so that ownership would transfer
17 to TWIN FALLS a corporation for whom KESTLER was
18 President and Senior Pastor and in which he exercised
19 dominion and control over those bank accounts;

20 (N) Diverting CSN monies through CBI under the guise of
21 purchasing television stations on behalf of CSN,
22 which was later it was determined by President, J.
23 SMITH, that said title(s), license(s) and ownership
24 of said stations, were placed by KESTLER into the
25 name(s) of other companies; and that instead of
26 utilizing said stations to fulfill CSN corporate
27 objectives as intended, they were used and intended
28

1 by KESTLER for use, only to further KESTLER'S own
2 personal staging exhibitions and to lure women into
3 watching him on television in hopes of fostering
4 additional illicit and/or immoral relationships at
5 some point in the future with his female viewing
6 audience;

7
8 (O) Soliciting donations in the name of CSN over the
9 airwaves, during TEMA (To Every Man an Answer)
10 broadcasts, hosted by KESTLER, and then after
11 receiving these CSN tax deductible gifts and
12 donations from listeners, which were properly made
13 payable to CSN INTERNATIONAL, depositing said monies
14 into the US BANK MMA, or other unauthorized accounts
15 account improperly named CSN, so that said donations,
16 and tax deductible gifts would be more easily
17 deposited and accessible for the improper use by
18 KESTLER and/or N. KESTLER as herein alleged;

19 (P) Causing interference with current CSN Broadcasting
20 agreements with Programmers, by KESTLER
21 misrepresenting his authority taken on behalf of CSN;
22 and changing the payment terms of the existing
23 agreements, for payments to be made and directed to
24 "CSN TWIN FALLS", to a P.O. Box in Idaho, instead of
25 "CSN SANTA ANA" where they had always previously been
26 sent;

27 (Q) Presenting newly drafted unauthorized, unapproved
28 Programmer Agreements on behalf of CSN, for

1 broadcasts aired on both the full power stations
2 (owned by CSN) and the translators (owned by TWIN
3 FALLS), which decreased the amount of revenues per
4 the Agreement terms to be paid by Programmers to CSN,
5 and increased the amount of revenue to be paid by
6 Programmers to TWIN FALLS, thus disproportionately
7 and inequitably, dividing and disbursing the income
8 derived from said Agreements between CSN and TWIN
9 FALLS, creating a disproportionate windfall to TWIN
10 FALLS, to the detriment and diversion of monies
11 rightfully due to CSN for the value provided to the
12 Programmers by CSN;

- 13 (R) Diverting designated donations to US BANK MMA, and
14 then not using those monies as designated by the
15 donors and thus, betraying donor confidence and
16 violating IRS non-profit laws;
- 17 (S) KESTLER misrepresenting himself as President of CSN
18 to CSN'S FCC Attorneys working with CSN authorized
19 personnel, in order to thwart, undermined, and cause
20 the day to day FCC dealings with CSN Counsel, to be
21 halted, delayed and sometimes terminated all
22 together; thus causing CSN licenses not to be timely
23 filed, massive delays in getting modification filings
24 completed with FCC, the inability to get legal
25 Counsel to provide interpretation of FCC rules and
26 regulations which lead to a delay and possible
27 expiration of already issued construction permits
28

1 before CSN had the opportunity to build new broadcast
2 stations;

3 (T) Acting derelict in KESTLER'S duties to build,
4 maintain and technically support all aspects of CSN
5 network broadcast stations in conformity with and
6 adherence to FCC guidelines and regulations; and then
7 directing station managers and others, to refuse
8 entrance to CSN Consultants hired to provide
9 inspection information for CSN in order to cure and
10 correct the ongoing FCC violations at various CSN
11 broadcast stations;

12 (U) Violating the corporate Bylaws [Section 2.07(D) (E)
13 and arguably(F)], and the Biblical precepts
14 incorporated therein, in continuing on with and
15 pursuing inappropriate and sinful sexual and
16 flirtatious misconduct with numerous women over the
17 years; and the pilfering of CSN corporate assets,
18 income, revenues, and placing at risk future
19 potential assets of CSN.

20 (V) Said sexual misconduct has caused numerous complaints
21 to be made to numerous individuals, and other Pastors
22 in authority, including but not limited to Pastor
23 Chuck Smith and has since escalated to the point of
24 both KESTLER and CSN INTERNATIONAL, being sued for
25 sexual harassment in the matter of POLLITT V.
26 KESTLER/CSN filed in the District Court of Idaho.
27 Thus, placing at risk the reputation and existence of
28

1 CSN INTERNATIONAL, a "Christian" religious
2 organization whose reputation and leadership must
3 remain untarnished in order to maintain the respect
4 and listener support from the Christian community;
5

6 //

7 (W) Running up CSN credit accounts to over a quarter
8 million dollars in order to cause a termination of
9 various vendor/suppliers business relations with CSN,
10 so that CSN (TWIN FALLS competitor as reasoned by
11 KESTLER) might be put out of business;

12 (X) Using credit to reimburse KESTLER'S personal credit
13 accounts with CSN funds, for improper expenses that
14 were not for, nor did they relate to CSN business
15 and/or any other CSN ministry purpose or corporate
16 objective, including but not limited to charges at
17 Victoria's Secret, evenings of romantic
18 dinner/drinks, vacation/travel expenses, car parts,
19 gas, airline tickets, food and lodging, at least one
20 gun, as well as the numerous cellular telephone calls
21 made by KESTLER for the purposes of initiating,
22 foster and/or continuing extramarital affairs with
23 various women. Then once revealed and disclosed by
24 those in the accounting department of CSN, KESTLER
25 then punishing those individuals for reporting the
26 same;

27 (Y) Failing to utilize those CSN receivables diverted to
28 pay legitimate CSN expenses, such as translator tower

1 rents, payroll, insurance and other CSN operating
2 expenses in Idaho, and instead diverting said funds
3 to personal or corporate accounts over which KESTLER
4 maintained dominion and control; and
5

6 //

7 (Z) Using CSN paid employees, and their time as paid
8 employees of CSN, to perform work for KESTLER'S
9 personal private automobile restoration business
10 called "Mike's Automotive" (all the while making use
11 of the funds diverted from CSN as alleged herein, to
12 purchase materials, supplies and equipment for said
13 automotive business); and for using CSN paid
14 employees to perform TWIN FALLS church or corporate
15 business; and/or for using CSN Employees or other
16 non-employees to perform tasks such as station
17 management, in violation of and in a failure to
18 conform to EEOC and/or FCC rules and regulations.

19 28. After numerous demands made by CSN INTERNATIONAL, J.
20 SMITH, and others to TWIN FALLS and KESTLER to cease and desist from
21 the misconduct plead in paragraph 27 (A-Z) above, and after allowing
22 TWIN FALLS and KESTLER sufficient time to repent and/or cure the
23 above alleged misconduct, KESTLER, TWIN FALLS and those under
24 KESTLER'S direction, instead of curing or ceasing from this
25 misconduct, rather became even more aggravated, dilatory, derelict,
26 blatant and said misconduct by KESTLER had only increased and
27 escalated.

28 29. For a period of time, from February 1996 to January

1 2003, Pastor Chuck Smith, J. SMITH and KESTLER served as Board
2 Members of both CSN INTERNATIONAL and TWIN FALLS. However, after the
3 resignation of Pastor Chuck Smith from both the TWIN FALLS and CSN
4 INTERNATIONAL Boards, on or about August 2003, after J. SMITH began
5 to realize (through advice received by separate legal counsel), that
6 he had been receiving misleading, deceptive, faulty, and/or
7 incomplete legal advice from F. WALKER (KESTLER'S brother-in-law;
8 Cross-Defendant N. KESTLER'S brother) and Cross-Defendant TEPPER, who
9 were both functioning either unilaterally under the direction of
10 KESTLER, or on their own behalf in advancing KESTLER'S position; and
11 that KESTLER had begun to divert and maintain CSN corporate assets
12 and refused to return the same; and after KESTLER improperly received
13 CSN sales proceeds into bank accounts which he controlled; and after
14 KESTLER'S sexual immorality misconduct increased and perpetuated; the
15 conflict between Cross-Defendant KESTLER, and Cross-Complainant J.
16 SMITH, and thus the two (2) entities, CSN INTERNATIONAL and TWIN
17 FALLS, escalated to the point of KESTLER filing this action on
18 February 14, 2006.

19 30. As alleged in paragraph 4 above, despite the
20 termination of the LMA and all the illegal, immoral, and other
21 actions taken by KESTLER in conflict of interest to CSN and to the
22 detriment of CSN, KESTLER maintains and represents to everyone,
23 including station buyers and the FCC, that he continues to be a
24 director of CSN.

25 31. On or about August 2003, the remaining Board
26 Members for both of the LMA contracting entities (CSN and TWIN
27 FALLS), during the term of the LMA and at times afterward, were as
28

1 argued by KESTLER: KESTLER and JEFF SMITH, Joe Dyer and (John
2 Laudadio who has continually contested his improper removal as a
3 Director, due to the fact that he served and executed documents as a
4 Director and continually served as an Officer/CFO of CSN at times
5 thereafter). Given the fact that J. SMITH'S vote was to discontinue
6 relationships under the LMA once he came to the realizations
7 mentioned in paragraph 28 above; and given the fact that KESTLER
8 claimed his desire to continue to function by the LMA (despite his
9 blatant breach thereof, but clearly in order to continue in his
10 illegal diversion of CSN corporate assets and monies into accounts
11 and businesses under KESTLER'S own personal dominion and control as
12 alleged hereinabove), relations between KESTLER and J. SMITH
13 seriously deteriorated to the point of KESTLER filing this action.

14
15 32. Plaintiff KESTLER'S position as alleged in both his
16 Complaint and First Amended Complaint, is that the Board of CSN is
17 essentially "deadlocked", as KESTLER continues to demonstrate and
18 urge that he is still one, of the remaining two, CSN Board Members.
19 Notwithstanding, Cross-Complainants' allege that KESTLER'S untenable
20 position still fails to render KESTLER'S desired result, as CSN would
21 still be unable to given the authority necessary, per the terms of
22 the LMA, to continue in the business relationship with TWIN FALLS
23 that KESTLER seeks to keep in tact, as the terms of the LMA require
24 "an instrument in writing signed by the parties" in order to continue
25 in and/or maintain the LMA (See Exhibit "A", LMA, pgs. 11-12, para.
26 12).

27 33. Contrary to KESTLER, Cross-Complainant, J. SMITH
28 alleges that he is the only remaining Board Member of CSN (with the

1 exception note above related to CSN Director John Laudadio), as the
2 LMA is no longer in force or effect for the following reasons: the
3 term of the LMA has long expired (February 2001); and neither Board
4 (CSN or TWIN FALLS), is capable of authorizing the continuation of
5 this LMA relationship as evidenced "an instrument in writing" as
6 required by the terms of the LMA, which does not, has never existed;
7 CSN because J. SMITH refuses to enter into any such additional
8 agreement; and TWIN FALLS because it's Board consisting of KESTLER
9 and J. SMITH is deadlocked, again J. SMITH not desiring to enter into
10 any additional agreement, and KESTLER desiring the opposite.

11 34. Cross-Complainants further allege that since the
12 LMA is no longer in effect, KESTLER'S Board appointment to CSN
13 INTERNATIONAL has also expired (despite KESTLER'S protests to the
14 contrary); just as Pastor Chuck Smith's appointment to the TWIN FALLS
15 Board would have also expired, had Pastor Chuck Smith not already
16 resigned as alleged herein above.

17 35. Cross-Complainant J. SMITH refuses to authorize or
18 ratify any continuation of the LMA due to its termination, breach
19 thereof by KESTLER/TWIN FALLS, and the immoral sexual misconduct of
20 KESTLER as alleged herein above, despite the fact that JEFF SMITH,
21 acting as CSN'S President and Chairman of the Board, has done
22 whatever possible to keep the gospel of Jesus Christ on the CSN
23 airwaves in order to continue to fulfill and maintain the
24 corporation's tax exempt status and objectives.

25 36. As a result of the deeply intertwined relationship of
26 the two entities as alleged herein, of sharing assets, employees and
27 other resources, intermixing tower sites and/or at broadcast stations
28

1 and licenses and equipment, applications and permits, has remained
2 unresolved, due to the position taken by KESTLER of an alleged CSN
3 "deadlock" the Original and First Amended Complaints filed in this
4 matter.

5 37. In addition to the times alleged herein, including
6 times when there was no dispute in that three (3) individuals were
7 serving as members on the Board of CSN INTERNATIONAL, and there was
8 no possibility of a "deadlock" to be argued by KESTLER, KESTLER had
9 taken and continues to take, unilateral action separate and apart
10 from President J. SMITH and/or the CSN Board, which caused great
11 damage to CSN including but not limited to loss of income and
12 revenues, including but not limited to, origination fees, Programmer
13 revenues, Listener donations, past, present and future; risk of loss
14 of valuable corporate assets, including broadcast station licenses,
15 the ability to build new stations granted via FCC construction
16 permits, and the pending FCC applications filed to obtain more
17 broadcast territory; loss of benefits from numerous contractual
18 relations and other business relationships; loss of reputation and
19 status as a "Christian" religious corporation, as well as other
20 losses which are to be proven and determined at trial.

21 38. As such, an actual controversy has arisen and now
22 exists between CSN INTERNATIONAL and TWIN FALLS, J. SMITH and
23 KESTLER, for which a judicial determination is necessary in order to
24 determine the rights and responsibilities, if any, under the LMA,
25 including but not limited to: the LMA termination, validity and
26 effect, whether or not a breach has occurred; the ownership interests
27 of the various assets held in the name of CSN and/or TWIN FALLS, and
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1 that equipment purchased by CSN, including but not limited to the
2 questions of ownership to licences, stations, broadcasting and tower
3 equipment, real property, construction permits, pending FCC
4 applications, all obtained, built and/or acquired during the term of
5 the LMA; a determination as to which party who should maintain proper
6 dominion and control over these assets as well as those contracts,
7 receivables, income and revenues of the CSN, including all monies
8 currently held in various bank accounts, in the name of both CSN and
9 TWIN FALLS; and finally, a confirmation by the Court that KESTLER is
10 no longer a Member of the CSN Board of Directors, while J. SMITH
11 still is a Member of the TWIN FALLS Board of Directors, in order that
12 the business of these two entities can be properly conducted through
13 requisite Board approval.

14 39. Finally, Cross-Defendants request a judicial
15 determination of damages to CSN related to as related to the
16 misconduct of KESTLER and TWIN FALLS and or the other Cross-
17 Defendants named in this action, proximately caused by their
18 interference with CSN contractual relations, their failure to
19 properly maintain the CSN network in accordance with FCC guidelines
20 and regulations, their misappropriation of CSN revenues, monies, sale
21 proceeds, licences, permits, other assets and property, loss of
22 reputation, and any other damages suffered by CSN as presented at
23 trial.

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2 **SECOND CAUSE OF ACTION:**

3 **CONSPIRACY TO DEFRAUD**

4 **CSN v. KESTLER, N. KESTLER, F. WALKER, TEPPER**

5 40. Cross-Complainants refers to and incorporates herein by
6 reference each and every allegation contained in paragraphs 1 through
7 39 above, as though the same were fully set out at this point.

8 41. Commencing on or about February 2001, near and around
9 the expiration of the term of the LMA (well before there was ever a
10 KESTLER alleged "deadlock", as CSN INTERNATIONAL had at least three
11 (3) directors at the time), and at times continuing thereafter
12 through and including the filing date of this Cross-Complaint, Cross-
13 Defendant KESTLER, either personally, through his authority as an
14 officer and/or director (actual, ostensible, or otherwise), of both
15 CSN INTERNATIONAL and TWIN FALLS and/or through the direction KESTLER
16 gave to other individuals and/or entities, including, N. KESTLER,
17 other employees, agents, CSN'S Attorneys F. WALKER and TEPPER,
18 C.P.A.'S, bank personnel and/or independent contractors (identified
19 herein as ROE Cross-Defendants 1-50), Cross-Defendants and each of
20 them, did conspire and agree, authorize and/or direct, ratify and/or
21 otherwise knowingly and willingly carry out, or cause to be carried
22 out, numerous wrongful acts which stripped and defrauded CSN, or
23 attempted to strip and defraud CSN, of tangible assets, including but
24 not limited to real property, real property sales proceeds, licenses,
25 permits, applications, MX'S, income, revenues, donations, ongoing and
26 growing contractual interests, as well as other various and numerous
27 network assets of enormous value, rightfully owned by CSN, and/or
28 said Cross-Defendants stripped and defrauded CSN, or attempted to

1 strip and defraud CSN'S Board of Directors, of their rightful control
2 of said CSN assets, income, real property, real property sales
3 proceeds, licenses, permits, applications, MX's, income, revenues,
4 donations, etc.

5 42. In formation of, and in furtherance of the conspiracy
6 to defraud CSN INTERNATIONAL, KESTLER paid money and/or used funds
7 obtained through corporate or other business entities he controlled,
8 to pay money, for services rendered, legal, technical, management and
9 otherwise, and/or KESTLER offered and promised employment positions,
10 perks, benefits, retirement accounts and huge bonuses to key
11 individuals, vendor contracts, independent contractor and/or
12 consulting fees to third parties and third party businesses, and/or
13 paid money, provided tangible property or other perks and benefits
14 personally, to individuals, including but not limited to Cross-
15 Defendants, N. KESTLER, F. WALKER and TEPPER, and as advised by CSN
16 legal counsel (F. WALKER and TEPPER), and in cooperation with the
17 other unnamed Cross-Defendants identified as ROES 1 through 50, all
18 of which knew these directives given by KESTLER along with the
19 related benefits, monetary and otherwise, to be excessive, unearned,
20 or otherwise improper and in violation of State Bar Ethics Codes,
21 criminal laws, non-profit laws, corporate laws and formalities, FCC
22 regulations and/or CSN Board policy.

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25 43. Notwithstanding, Cross-Defendants and each of them,
26 engaged in and performed the wrongful actions necessary to transfer
27 and/or attempt to transfer, ownership, title and/or control of CSN
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1 assets, income, donations and revenues as described herein, with the
2 deliberate and malicious intention of defrauding, converting and/or
3 diverting CSN corporate assets, income, sales proceeds, donations and
4 revenues, to other individuals and/or entities, in which KESTLER, had
5 either a personal interest, and/or over which KESTLER exercised
6 dominion and control, in a manner specifically described in paragraph
7 27 (A-Z) inclusive above, in order that the other named Cross-
8 Defendants might receive and continue to receive future benefits both
9 tangible and monetary, from their continued relationship with
10 KESTLER. Moreover, the full extent of these, as well as other
11 numerous other wrongful actions taken with the intention of
12 defrauding CSN, are unknown at this time and are still under
13 investigation. However, Cross-Defendants KESTLER, N. KESTLER, F.
14 WALKER, and ROES 1 through 50, demonstrated the conduct and took the
15 actions herein alleged pursuant to, and in furtherance of, the
16 conspiracy to defraud per the above-alleged agreement.

17
18 44. Cross-Defendants KESTLER, N. KESTLER, F. WALKER, TEPPER
19 and ROES 1 through 50, furthered their conspiracy by cooperating with
20 and lending aid, legal advice and direction, and other assistance and
21 encouragement to KESTLER, and in their own individual capacities,
22 either directed, initiated, ratified, and/or carried out KESTLER, N.
23 KESTLER, F. WALKER, or TEPPER'S directives which, they all knew or
24 should have know was defrauding, embezzling and pilfering CSN of its
25 tangible and real property assets, revenues, income, contractual
26 benefits and other valuable tangibles, by, including but not limited
27 to, providing legal advice, encouragement and/or assistance, however
28 directly or indirectly, related to the carrying out of the wrongful

1 actions as directed by KESTLER in paragraph 27 (A-Z) above.

2
3 46. More specifically, each Cross-Defendant named herein
4 under, acted in conspiracy with KESTLER, and ROES 1-50, inclusive and
5 each of them, as follows:

6 (A) N. KESTLER, in her own individual capacity,
7 conspired, took action, contributed, encouraged,
8 directed, initiated, ratified, and/or personally
9 carried out, or caused to be carried out, with
10 KESTLER, that conduct as alleged in paragraphs 27
11 (A) (H) (X) (Y) (Z);

12 (B) F. WALKER, in his own individual capacity, and while
13 acting in his capacity as Corporate Counsel for CSN
14 (imputed with the fiduciary duty to act in the "best
15 interests" of CSN), provided legal advice, counsel
16 and direction to CSN, while conspiring, taking
17 action, contributing, encouraging, directing,
18 initiating, ratifying, and/or personally carrying
19 out, and/or causing to be carried out, with KESTLER;
20 and/or while failing to act, correct, reprimand,
21 provide full and complete legal counsel and guidance,
22 and/or full and complete disclosure with regard to
23 legal issues presented and the legal effect of
24 decisions made on behalf of CSN as to those issues,
25 as were necessary to protect the "best interests" of
26 CSN, and thus, assisting, furthering, fostering
27 and/or ratifying that wrongful conduct taken in
28 conjunction with KESTLER, as alleged in paragraphs

1
2 27 (A) (B) (C) (D) (E) (F) (G) (H) (I) (J) (K) (L) (M) (N)
3 (O) (P) (Q) (S) (U) (V) (Y) and (Z); and as well as those
4 negligent, reckless, improper and/or adverse actions
5 as alleged in paragraphs 145 through 155, inclusive
6 and 169 through 176, inclusive, herein below.

7 (C) TEPPER in his own individual capacity, and while
8 acting in his capacity as FCC (Federal Communications
9 Commission) Counsel for CSN (imputed with the
10 fiduciary duty to act in the "best interests" of
11 CSN), provided legal advice, counsel and direction to
12 CSN, while conspiring, taking action, contributing,
13 encouraging, directing, initiating, ratifying, and/or
14 personally carrying out, and/or causing to be carried
15 out, with KESTLER; and/or while failing to act,
16 correct, reprimand, provide full and complete legal
17 counsel and guidance, and/or full and complete
18 disclosure with regard to legal issues presented and
19 the legal effect of decisions made on behalf of CSN
20 as to those issues, as were necessary to protect the
21 "best interests" of CSN, and thus, assisting,
22 furthering, fostering and/or ratifying that wrongful
23 conduct taken in conjunction with KESTLER, as alleged
24 in paragraphs 27 (C) (D) (F) (H) (I) (J) (M) (N) (P) (Q) (S) (T)
25 and (Y); and as well as those negligent, reckless,
26 improper and/or adverse actions as alleged in
27 paragraphs 157 through 167, inclusive and 178 through
28 184, inclusive, herein below.

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2 47. Cross-Complainants are informed and believe and thereon
3 allege, that the acts of Cross-Defendants and each of them, in
4 pursuance of the above described conspiracy commenced on or before
5 December 2003, and continue to date, on a day to day basis, as CSN'S
6 tangible assets are being wrongfully taken and/or ownership/title
7 changes in said assets are being changed, or attempted to be changed;
8 and as CSN revenues, donations and receivables are being diverted and
9 deposited into the US BANK MMA, and other bank and depository
10 accounts controlled by TWIN FALLS and/or KESTLER.

11 48. As a proximate result of the wrongful acts herein
12 alleged, CSN has suffered immeasurable and irreparable damage to its
13 detriment, in loss of tangible assets, real property, real property
14 sale proceeds, income, revenues, donations, construction permits, FCC
15 applications, and other corporate assets including the good-will and
16 reputation of CSN in the Christian community. Cross-Complainants
17 have been generally damaged in a sum unknown at this time, but in the
18 amount which will be presented according to proof at trial.

19 49. Cross-Defendants conduct was fraudulent, wilful and
20 malicious and was intended to cause serious and severe injury to CSN,
21 while at the same time benefit KESTLER, N. KESTLER, F. WALKER,
22 TEPPER, TWIN FALLS, and other individuals and entities identified
23 herein or associated with KESTLER, and as such Cross-Defendants are
24 guilty of malice, oppression and fraud as defined under Civ. Code
25 Section 3294, and in conscious disregard of Cross-Complainant's
26 rights, thereby warranting an assessment of punitive damages in an
27 amount appropriate to punish Cross-Defendants and deter others from
28 engaging in similar conduct.

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THIRD CAUSE OF ACTION:

MISAPPROPRIATION/CONVERSION- Funds/Assets

CSN v. KESTLER, N. KESTLER, TEPPER, F. WALKER, TWIN FALLS and CBI

50. Cross-Complainants refers to and incorporates herein by reference each and every allegation contained in paragraphs 1 through 49 above, as though the same were fully set out at this point.

51. Cross-Complainants specifically allege and incorporate paragraphs 27 (A-Z) inclusive, herein; and allege that at all times mentioned herein, CSN was and still is, the rightful recipient and owner of said tangible assets alleged in paragraph 41 incorporated herein by reference, broadcast stations, equipment, tower leases, programmer revenues, monies, listener donations, payments and receivables, and is entitled to receipt and retention of the same, and that said acts of conversion on behalf of the Cross-Defendants continue to take place to date, and on an ongoing daily basis.

52. In addition, to the CSN owned monies, receivables diverted and other tangible assets converted by Cross-Defendants as alleged herein above, Cross-Complainants allege and thereon believe, that Cross-Defendants, did attempt and at times did succeed, in transferring broadcasting licenses, television stations, and potentially other CSN assets undisclosed to date, from the rightful name of CSN, into the name of TWIN FALLS, CBI, or some other corporate entity, or individual unknown and unnamed at this time, but identified herein as ROES 1-50, inclusive. The aggregate of which has caused an estimated loss of value to CSN INTERNATIONAL, in the tens of millions of dollars.

53. As a proximate result of Cross-Defendants conversion,

1 CSN was put in financial straights and having little working capital
2 became cash poor, and was forced to sell off approximately nineteen
3 (19) licenced broadcast facilities in order to stay solvent. At
4 which point KESTLER interfered in such sales and demanded through
5 "supposed" CSN Counsel, TEPPER, who was and continues to operate in a
6 "conflict of interest" capacity by taking primary unilateral
7 direction from KESTLER in order to extort CSN sale proceeds into
8 accounts controlled by KESTLER; and furthermore, TEPPER, who brokered
9 at least one or more, CSN sales transactions, did so in a dual
10 capacity, representing both buyer and seller without a consent or
11 waiver from CSN, charging an exorbitant "finder's fee" and who
12 arranged for one-half of said revenues to be paid directly into bank
13 accounts which were controlled by KESTLER, and who threatened along
14 with KESTLER, that otherwise the sale would not go through. CSN was
15 thus, forced to comply with KESTLER'S extortion demands, as carried
16 out by TEPPER in his improper "conflict of interest" and "dual
17 capacities", or otherwise CSN was at risk of bankruptcy, loss of
18 stations and other assets, and would then be unable to further,
19 maintain and pursue CSN'S corporate objectives of spreading the
20 Gospel of Jesus Christ nationwide on the airwaves.

21 54. Moreover, during the same period of time KESTLER was
22 extorting and diverting monies from the proceeds of CSN'S asset
23 sales, with the assistance of TEPPER, KESTLER was also converting and
24 diverting to TWIN FALLS, CBI, N. KESTLER and other individuals and
25 entities, the revenues, monies, donations, receivables and other
26 assets rightfully belonging to CSN, as directed by and through the
27 legal counsel provided by, his brother-in-law, F. WALKER, another
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1 supposed CSN attorney who was also taking unilateral direction from
2 KESTLER and who was also operating in a "conflict of interest"
3 capacity, yet supposedly on behalf of CSN.
4

5 55. J. SMITH, the President of CSN, through other retained
6 counsel has attempted on numerous occasions, including most directly
7 after the filing by KESTLER of this action, to terminate TEPPER and
8 F. WALKER, due to their obvious and evident "conflict of interest".
9 However, neither F. WALKER nor TEPPER have complied with this demand,
10 but have rather, snubbed their noses and continued to act under the
11 sole direction of KESTLER, in a dual capacity, and in a capacity
12 adverse to CSN; and while not personally retaining control over the
13 converted CSN assets, sales proceeds, income, donations and revenues,
14 both F. WALKER and TEPPER were instrumental in providing legal advice
15 and directives to KESTLER in order that he may retain control over
16 these converted CSN assets; and then in turn, KESTLER would pay F.
17 WALKER and TEPPER the legal fees incurred, in whatever amount, as
18 they continued to operate unilaterally on behalf of KESTLER, and in a
19 manner adverse to CSN, in gross violation of corporate, legal and
20 ethical regulations.

21 56. The conduct of Cross-Defendants, as allege herein,
22 caused CSN a serious loss of leverage and stability, an inability to
23 pay debts, meet payroll, build additional radio stations (without the
24 need of borrowing money or selling assets); as well as a loss of use
25 and/or dominion and control, of various radio stations, equipment,
26 licenses, construction permits, real property, tower leases, tower
27 sites, and other tangible items which have been converted by Cross-
28 Defendants, at a value well in the millions of dollars, or in an

1 amount to be proven at trial.

2
3 57. Cross-Complainants have attempted by various means,
4 including retention of legal counsel separate and apart from F.
5 WALKER or TEPPER, and payment of tens of thousands of dollars to the
6 same, to resolve the conflict between the parties without the
7 necessity of litigation, while at the same time, still attempting to
8 keep the CSN network functioning, maintaining and fulfilling its tax
9 exempt purposes of declaring the gospel of Jesus Christ.

10 58. The acts of Cross-Defendants KESTLER, N. KESTLER,
11 TEPPER, F. WALKER, and CBI, alleged herein were willful, wanton,
12 malicious and oppressive and were taken with the intent to convert
13 for their own use, dominion and control, revenues, assets, monies,
14 equipment, licenses, leases, real property, sales proceeds, and other
15 tangible items rightfully belonging to CSN INTERNATIONAL and as such,
16 justify an award of exemplary and punitive damages.

17 **FOURTH CAUSE OF ACTION:**

18 **CONSTRUCTIVE TRUST**

19 **Count One, Fraud**

20 **CSN v. KESTLER, N. KESTLER, TWIN FALLS and CBI**

21 59. Cross-Complainant refers to and incorporates herein by
22 reference each and every allegation contained in paragraphs 1 through
23 58 above, as though the same were fully set out at this point.

24 60. Cross-Complainant specifically incorporates, paragraphs
25 27(A-Z) inclusive, 41 through 49, inclusive, and 51 through 58,
26 inclusive as if they were set forth herein.

27 61. By virtue of Cross-Defendants named hereunder and ROES
28

1 1-50's wrongful fraudulent acts, Cross-Defendants and each of them,
2 hold the revenues, donations, tangible assets, including broadcast
3 and satellite equipment, real property, and other items of value
4 owned by Cross-Complainant CSN, as constructive trustee for the CSN'S
5 benefit.

6 62. The aforementioned conduct of Cross-Defendants,
7 KESTLER, N. KESTLER, CBI, was an intentional attempt to defraud by
8 deceit or concealment, with the intention permanently depriving CSN
9 INTERNATIONAL of sales proceeds, income, revenues, donations,
10 contractual benefits, property or legal rights, or otherwise causing
11 injury, and was despicable conduct that subjected Cross-Complainant
12 CSN to a cruel and unjust hardship in conscious disregard of its
13 rights, so as to justify an award of exemplary and punitive damages.

14 **FOURTH CAUSE OF ACTION:**

15 **CONSTRUCTIVE TRUST**

16 **Count Two, Accounting**

17 **CSN v. KESTLER, N. KESTLER, TWIN FALLS and CBI**

18 63. Cross-Complainant refers to and incorporates herein by
19 reference each and every allegation contained in paragraphs 1 through
20 62 above, as though the same were fully set out at this point.

21
22 64. Cross-Complainant specifically incorporates, paragraph
23 60 inclusive, as if it and all included paragraphs contained therein,
24 were set forth herein in full.

25 65. By virtue of Cross-Defendants wrongful fraudulent acts,
26 Cross-Defendants and each of them, hold the revenues, donations,
27 tangible assets, including broadcast and satellite equipment, real
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1 property, and other items of value owned by Cross-Complainant, as
2 constructive trustee for CSN'S benefit.

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4 66. The aforementioned conduct of Cross-Defendants,
5 KESTLER, N. KESTLER, and CBI, was an intentional attempt to defraud
6 by deceit or concealment, with the intention permanently depriving
7 CSN of sales proceeds, income, revenues, donations, contractual
8 benefits, property or legal rights, or otherwise causing injury, and
9 was despicable conduct that subjected Cross-Complainant CSN to a
10 cruel and unjust hardship in conscious disregard of its rights, so as
11 to justify an award of exemplary and punitive damages.

12 67. On or about July 2003, Cross-Complainant, through its
13 President, members of its Board of Directors, or employees, has
14 requested various documents, including but not limited to corporate
15 financial ledgers, banking statements, deposit and withdrawal
16 information, FCC applications, licenses, and other required FCC
17 filings, receipts, invoices, credit card statements, and numerous
18 other documents which would reflect and provide information as to the
19 improper and unlawful transactions alleged herein, up to and
20 including the need for CSN to retain a forensic accountant.

21 68. Cross-Defendants have failed and refused and continue
22 to fail and refuse to cooperate and/or provide the type of financial
23 information necessary in order for Cross-Complainant, its officers,
24 directors, employees, or agent(s), to make a fair and appropriate
25 determination of the donations, revenues, assets and/or benefits
26 retained by Cross-Defendants which rightfully belong to Cross-
27 Complainant. As such Cross-Complainants are unable to ascertain the
28 true and correct amount, or value of the revenues and other tangible

1 assets misappropriated by Cross-Defendants and thus needs an
2 accounting of the same.

3 69. The aforementioned conduct of Cross-Defendants KESTLER,
4 N. KESTLER and CBI, was an intentional attempt to defraud by deceit
5 or concealment, with the intention permanently depriving CSN of sales
6 proceeds, income, revenues, donations, contractual benefits, property
7 or legal rights, or otherwise causing injury, and was despicable
8 conduct that subjected Cross-Complainant CSN to a cruel and unjust
9 hardship in conscious disregard of its rights, so as to justify an
10 award of exemplary and punitive damages.

11 **FOURTH CAUSE OF ACTION:**

12 **CONSTRUCTIVE TRUST**

13 **Count Four-- Violation of Trust**

14 **CSN and THE WORD FOR TODAY v. KESTLER, N. KESTLER,**

15 **TWIN FALLS and CBI**

16 70. Cross-Complainant refers to and incorporates herein by
17 reference each and every allegation contained in paragraphs 1 through
18 69 above, as though the same were fully set out at this point.

19 71. At all times mentioned herein, Cross-Defendant KESTLER,
20 owed a fiduciary duty to Cross-Complainant CSN INTERNATIONAL, serving
21 as both an officer and director of the same commencing on or about,
22 February 1996.

23 72. At all material times herein, Cross-Complainant CSN
24 through the actions of its Board of Directors, relied on, expected
25 and believed in the integrity, honesty, and truthfulness of Cross-
26 Defendant KESTLER and his fidelity to act in the best interests of
27 the corporation, and thus reposed absolute trust and confidence in
28

1 him and his commitment to carrying on and carrying out his fiduciary
2 duties and the non-profit exempt corporate objectives of CSN, as more
3 specifically described in the FIFTH CAUSE OF ACTION- BREACH OF
4 FIDUCIARY DUTY, paragraphs 84 through 85 inclusive, and the SIXTH
5 CAUSE OF ACTION- SELF DEALING BY A DIRECTOR, paragraphs 93 through 96
6 inclusive infra, incorporated herein by reference.

7
8 73. Cross-Complainant specifically incorporates, paragraph
9 60 inclusive, as if it and all included paragraphs contained therein,
10 were set forth herein in full.

11 74. Cross-Defendant CBI was obligated to run programming
12 provided by CSN but failed and refused to do so, yet continued to
13 take monies paid by CSN for airing said programming. As a result,
14 CBI was left owing approximately \$472,000.00 to CSN as of March 31,
15 2006; and approximately \$250,000.00 to THE WORD FOR TODAY.

16 75. By virtue of Cross-Defendant KESTLER'S violation of
17 trust, Cross-Defendants KESTLER, N. KESTLER, TWIN FALLS and CBI, and
18 each of them, hold sales proceeds, revenues, donations, tangible
19 assets, including broadcast and satellite equipment, real property,
20 and other items of value owned by Cross-Complainant CSN, as
21 constructive trustee for the Plaintiffs benefit.

22 76. The aforementioned conduct of Cross-Defendants,
23 KESTLER, N. KESTLER, and CBI was an intentional attempt to defraud by
24 deceit or concealment, with the intention permanently depriving CSN
25 INTERNATIONAL of income, revenues, donations, contractual benefits,
26 property or legal rights, or otherwise causing injury, and was
27 despicable conduct that subjected Cross-Complainant CSN to a cruel
28 and unjust hardship in conscious disregard of its rights, so as to

1 justify an award of exemplary and punitive damages.

2 **FOURTH CAUSE OF ACTION:**

3 **CONSTRUCTIVE TRUST**

4 **Count Four-- Unjust Enrichment**

5 **CSN v. KESTLER, N. KESTLER, TWIN FALLS and CBI**

6 77. Cross-Complainant refers to and incorporates herein by
7 reference each and every allegation contained in paragraphs 1 through
8 76 above, as though the same were fully set out at this point.

9 78. Cross-Complainant specifically incorporates, paragraph
10 60 inclusive, as if it and all included paragraphs contained therein,
11 were set forth herein in full.

12 79. By virtue of Cross-Defendants wrongful fraudulent acts,
13 Cross-Defendants and each of them, have been unjustly enriched and
14 currently hold and/or control sale proceeds, revenues, donations,
15 tangible assets, including broadcast and satellite equipment, real
16 property, and other items of value rightfully owned or which should
17 be controlled by Cross-Complainant CSN, as constructive trustee for
18 CSN'S benefit.

19 80. Moreover, Cross-Defendants and each of them did
20 intentionally give, donate, transfer, hypothecate, or otherwise
21 distribute and disburse these CSN owned monies and assets one to
22 another, and/or to other individuals and entities (unknown at this
23 time but identified herein as ROES 1 through 50), for the benefit of
24 all, and to the detriment of Cross-Complainant CSN.

25 81. The aforementioned conduct of Cross-Defendants,
26 KESTLER, N. KESTLER and CBI, was an intentional attempt to defraud by
27 deceit or concealment, with the intention permanently depriving CSN
28

1 of sales proceeds, income, revenues, donations, contractual benefits,
2 property or legal rights, or otherwise causing injury, and was
3 despicable conduct that subjected Cross-Complainant CSN to a cruel
4 and unjust hardship in conscious disregard of its rights, so as to
5 justify an award of exemplary and punitive damages.
6

7 **FIFTH CAUSE OF ACTION:**

8 **BREACH OF FIDUCIARY DUTY**

9 **CSN v. KESTLER**

10 82. Cross-Complainant refers to and incorporates herein by
11 reference each and every allegation contained in paragraphs 1 through
12 81 above, as though the same were fully set out at this point.

13 83. At all times mentioned herein Cross-Complainants allege
14 that, Cross-Defendant KESTLER, was acting as an Officer of CSN,
15 serving as a Vice President and/or Secretary at all times mentioned
16 herein. CSN brings suit against KESTLER in his capacity as a
17 compensated Officer of CSN; and as to those acts alleged herein
18 alleged, which were beyond the scope and authority of KESTLER, in his
19 capacity as an individual.

20 84. Cross-Defendant KESTLER, owed a duty of fidelity,
21 honesty, and integrity to CSN and any action taken by KESTLER, was to
22 be done with such care, including reasonable inquiry, as to assure
23 that said action was in the best interests of CSN, and as to avoid
24 any risk of injury or damage to CSN'S interests.

25 85. KESTLER breached his Fiduciary Duty to CSN as
26 specifically described in paragraph 27 (A-Z), above inclusive,
27 incorporated herein by reference as though full set forth.

28 86. Moreover, KESTLER, in his capacity as an officer

1 of CSN, specifically Vice President of Technical/Engineering
2 Operations, was responsible to oversee and maintain the bulk of the
3 day to day technical broadcasting duties, attributable to each
4 individual CSN owned full power station, or translator station, and
5 was responsible to over see the management, employees, operations and
6 compliance of said stations in relation to FCC regulations.
7

8 87. Cross-Defendant breached his fiduciary duties by the
9 numerous fraudulent, illegal and inappropriate action taken by
10 KESTLER and others as alleged in paragraphs 27 (A-Z) inclusive, 44
11 through 49 inclusive, 51 through 58, inclusive, supra.

12 88. Additionally, KESTLER has caused, instigated and/or
13 created corporate liability for CSN INTERNATIONAL in KESTLER'S:

- 14 (A) Numerous complaints regarding KESTLER'S inappropriate
15 advances towards women other than his wife, culminating in
16 a Sexual Harassment suit filed against CSN INTERNATIONAL;
- 17 (B) Refusal to step down from the TWIN FALLS pulpit and/or the
18 CSN Board of Directors, and/or KESTLER'S position as an
19 Officer for CSN, despite promises to do so;
- 20 (C) Publication of KESTLER'S sexual misconduct, bringing
21 damage both TWIN FALLS and CSN'S credibility and integrity
22 in the Christian community, causing a loss in donations to
23 CSN and a waste of corporate resources and placing at risk
24 continued insurance coverage for CSN INTERNATIONAL, for
25 excessive claims based on solely KESTLER'S conduct;
- 26 (D) Continued threats that if he (KESTLER) is not left alone
27 by J. SMITH and other Board Members who have since
28 resigned, he would make slanderous reports and stories to

1 well known Orange County newspapers such as the LA Times
2 and Orange County Register in order to damage the
3 reputation of CSN INTERNATIONAL and other prominent
4 Pastors;

5 (E) Use of CSN INTERNATIONAL broadcast time to claim his
6 innocence of the sexual harassment allegations over the
7 airwaves, stating that the people who are attacking me are
8 "tools of Satan and will not make the rapture"; thus
9 intentionally publicizing his sexual harassment charges in
10 the media nationally, causing a loss of spiritual
11 credibility, integrity and loss of listenership in the
12 Christian community;

13 (F) Use of his status as a nationwide radio personality and
14 Pastor to lure women into illicit ungodly relationships
15 with him creating a continued risk to the very existence
16 of CSN INTERNATIONAL, a "Christian" Broadcasting network;

17 (G) Intentionally failing to build out those new CSN broadcast
18 stations within the time permitted by the FCC construction
19 permits; and instead, directing those CSN licensed
20 stations to be downgraded in coverage, below what had been
21 authorized by the FCC, in order that TWIN FALLS licensed
22 translator stations could improperly take over the
23 coverage area from those CSN licensed broadcast stations;

24 (H) Hiring and paying unqualified inexperienced individuals as
25 radio station managers and in other positions, claiming
26 some as missionaries and failing to properly, fully, or
27 completely teach or equip said station managers to do
28

1 their jobs; and then, allowing these individuals have an
2 improper status classification, some as "independent
3 contractors" and others, as CSN "employees" in violation
4 of FCC regulations; and despite being confronted about
5 this conduct, failing to cure the same, causing further
6 risk to CSN's broadcast licenses; and granting these
7 individuals ostensible authority by placing them in
8 management positions with dual or multiple licensees, in
9 violation of FCC regulations, placing CSN at risk of
10 monetary sanctions from the FCC and ultimately the
11 possibility of forfeiture of CSN licenses;

12 (I) Directing non CSN employees, to make contract with various
13 entities to provide management personnel (who are also not
14 CSN employees), for various radio stations owned and
15 licensed by CSN, in violation of FCC regulations, placing
16 CSN at a monetary risk of sanctions from the FCC and
17 ultimately the possibility of forfeiture of CSN licenses
18 and upon FCC inspection, likely resulting in the immediate
19 shut down of the station(s);

20 (J) Directing CSN employees and other agents (such as TEPPER),
21 to transfer and/or convert CSN INTERNATIONAL licensed
22 stations to TWIN FALLS and upon request of TEPPER to
23 advise J. SMITH which stations had been transferred,
24 TEPPER refused;

25 (K) Directing CSN employees and/or other agents (such as
26 TEPPER) to file ownership reports and other FCC
27 documentation, with the FCC in order to change all of the
28

1 approximate forty-three (43) CSN licenced facilities, to
2 TWIN FALLS' address and misrepresenting his position at
3 CSN, stating he is the President of CSN, when J. SMITH has
4 continued to hold the position of President since January
5 2003;

6 (L) Gross neglect and lack of management as to the technical
7 and operational responsibilities for which KESTLER was
8 accountable in his position as Vice President and
9 employee, blatant disregard and failure to properly
10 oversee, instruct and monitor the performance of over
11 forty (40) full power stations and over four hundred (400)
12 translators, placing CSN'S assets and stations, at risk of
13 immediate shut down, due to their lack of conformity with
14 FCC regulations;

15 (M) Refusal to allow inspection to CSN FCC Consultants, and/or
16 turn over the technical, field and engineering operations
17 of the CSN network of stations for which he has
18 demonstrated incompetence, despite his continued failures
19 to comply with FCC regulations, thus placing at risk the
20 potential loss of numerous licenses and station broadcasts
21 owned by CSN INTERNATIONAL;

22 (N) Receiving and/or allowing others to receive, personal
23 gifts, perks and benefits ("payola"), in exchange for
24 airing various programming, music, or underwriting
25 ("plugola"); and failing to air contracted Programming as
26 CSN was obligated to air;

27 (O) Allowing CCTF employees conduct personal business on and
28

1 with assets owned by CSN INTERNATIONAL;

2 (P) Selling a political video for profit over the CSN airwaves
3 placing CSN's Non-Profit IRS exempt status at risk;

4 (Q) Making personal and/or improper personal use of various
5 non-profit revenues and donations made to CSN, thus
6 placing CSN'S IRS tax exempt status at risk; and

7 (R) Taking CSN'S non-profit revenues and donations and
8 diverting or placing those monies into CBI accounts, into
9 non-profit entity, coding them as gifts instead of loans,
10 thus placing CSN'S IRS tax exempt status at risk.

11 89. In acting as herein above described, Cross-Defendant
12 KESTLER, did not exercise the required care required of an Officer or
13 Director of CSN.

14 90. As a proximate result of the acts of Cross-Defendant
15 KESTLER, described herein above, CSN has been damaged by the loss of
16 numerous vital business relationships with Broadcasters, key
17 employees, vendors, suppliers, and other individuals, companies and
18 businesses who specialize in the field of Christian broadcasting,
19 including those who do not want to be affiliated with an operation
20 that has demonstrated a lack of integrity in its leadership. Said
21 damage has put at risk a number of broadcast licenses owned by CSN,
22 caused CSN to revise it's corporate budgeting projections, lower it's
23 building projects on new stations, thus losing millions of potential
24 new listeners and the revenue, gifts and donations generated
25 therefrom, and said damages are estimated to have reached a sum to
26 exceed millions of dollars, or in an amount to be proven at trial.

27 91. The aforementioned conduct of Cross-Defendant KESTLER
28

1 was an intentional attempt to damage CSN and its holdings, by
2 defrauding by deceit or concealment, with the intention of
3 permanently depriving CSN of assets, income, revenues, donations,
4 contractual benefits, property or legal rights, or otherwise causing
5 injury to CSN in KESTLER'S feeble attempts to defend and protect
6 himself from allegations of inappropriate sexual conduct, and was
7 despicable conduct that subjected Cross-Complainant CSN to a cruel
8 and unjust hardship in conscious disregard of its rights, so as to
9 justify an award of exemplary and punitive damages.

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15 **SIXTH CAUSE OF ACTION:**

16 **SELF DEALING TRANSACTION BY DIRECTOR OF NONPROFIT ORGANIZATION**

17 **CSN V. KESTLER, N. KESTLER, TWIN FALLS, CBI**

18 92. Cross-Complainant refers to and incorporates herein by
19 reference each and every allegation contained in paragraphs 1 through
20 91 above, as though the same were fully set out at this point.

21 93. At all times mentioned herein Cross-Complainants allege
22 that, Cross-Defendant KESTLER, was acting as an Officer of CSN and in
23 addition, at all times mentioned herein, KESTLER claims he was an
24 acting Director of CSN (as previously alleged). Though Cross-
25 Complainants, as alleged herein above, plead that the termination of
26 the LMA, also terminated KESTLER'S position as a Director of CSN,
27 should a Court of law find otherwise, Cross-Complainant plead this
28

1
2 cause in the alternative, and as to those self-dealing acts alleged
3 herein, which were beyond the scope and authority of KESTLER acting
4 as an Officer and/or as a claimed Director of CSN, and as to those
5 acts, suit is also brought against KESTLER in his individual
6 capacity.

7 94. Cross-Defendant KESTLER, in his claimed position as a
8 Director of CSN owed a duty of fidelity, honesty, and integrity to
9 CSN and any action taken by KESTLER, was to be done with such care,
10 including reasonable inquiry, as to assure that said action was in
11 the best interests of CSN, and as to avoid any risk of injury or
12 damage. Cross-Complainant specifically incorporates, paragraphs 27
13 (A-Z), and 88 (A-R) supra inclusive, as if they were set forth
14 herein. Cross-Defendants, KESTLER while acting in his claimed
15 position as an "interested director" as defined by Section 9242(a) of
16 the California Corporations Code, and/or including and during the
17 time that KESTLER continued to misrepresent himself as a "Director"
18 of CSN (as plead in paragraphs 4 and 30, 32 through 34, inclusive, as
19 well as in other paragraphs as inferred), took actions, made
20 decisions and directed employees, independent contractors, agents and
21 others, to act to the detriment of CSN, in order to benefit KESTLER
22 and N. KESTLER, personally, and/or Cross-Defendant, TWIN FALLS, a
23 non-profit corporation whose income and assets are controlled by
24 KESTLER; and/or CBI, a for-profit broadcasting corporation whose
25 income and assets are controlled by KESTLER; and possibly other
26 individuals or entities controlled by, related to, or affiliated
27 with, KESTLER (ROES 1-50), all of which, at the hand of KESTLER, have
28 gained a material financial interest in various transactions and

1 wrongful dealings involving CSN owned tangible and real property and
2 monies.

3
4 95. Due to the self-dealing conduct of KESTLER, including
5 receipt and diversion of misappropriated income, revenues, donations,
6 broadcasting licenses, construction permits, broadcast and satellite
7 equipment, proceeds from the sale of radio stations, limiting CSN
8 licensed coverage areas and failing to build CSN stations per FCC
9 construction permit deadlines in order to benefit TWIN FALLS, and/or
10 the taking of other tangible items all owned by CSN, which have since
11 been gifted, transferred, embezzled, hypothecated, or otherwise
12 obtained by KESTLER, TWIN FALLS and/or CBI, over which KESTLER
13 exercises dominion and control, and is thus, able to use, expend,
14 transfer, hide, conceal or otherwise possess taken with the intention
15 of benefitting Cross-Defendants, KESTLER, N. KESTLER, TWIN FALLS, CBI
16 and ROES 1-50, inclusive, CSN has been severely damaged by the loss
17 of numerous vital business income and assets, relationships with
18 Broadcasters, key employees, vendors, suppliers, and other
19 individuals, companies and businesses who specialize in the field of
20 Christian broadcasting, including those who do not want to be
21 affiliated with an operation that has demonstrated a lack of
22 integrity in its leadership. Said damage has caused CSN to revise
23 it's corporate budgeting projections, lower it's building projects on
24 new stations, jeopardized it's FCC licenses due to KESTLER'S false
25 representations to the FCC, causing loss of millions of potential new
26 listeners and the revenue, gifts and donations generated therefrom,
27 and said damages are estimated to have reached a sum to exceed
28 millions dollars, or in an amount to be proven at trial.

1
2 96. The aforementioned conduct of Cross-Defendants,
3 KESTLER, N. KESTLER, CBI and ROES 1-50, inclusive, was an intentional
4 "self dealing" attempt to defraud by deceit or concealment, with the
5 intention of permanently depriving CSN of it's income, revenues,
6 donations, contractual benefits, to convert or diminish the value of
7 CSN owned assets, property or legal rights, and was despicable
8 conduct that subjected Cross-Complainants to a cruel and unjust
9 hardship in conscious disregard of its rights, so as to justify an
10 award of exemplary and punitive damages.

11 **SEVENTH CAUSE OF ACTION:**

12 **INTENTIONAL INTERFERENCE WITH ECONOMIC RELATIONS**

13 **CSN V. KESTLER, N. KESTLER, F. WALKER, TEPPEL, TWIN FALLS, CBI**

14 97. Cross-Complainant refers to and incorporates herein by
15 reference each and every allegation contained in paragraphs 1 through
16 96 above, as though the same were fully set out at this point.

17 98. Commencing in the 1993 calendar year, CSN began
18 building a network of full power radio stations and translators
19 throughout the nation which carried religious programming from
20 various sources, including but not limited to programming from the
21 Calvary Chapel Costa Mesa affiliate churches and pastors throughout
22 the nation.

23 99. In carrying said programing, CSN would enter into
24 various and numerous individual Broadcasting Agreements with each and
25 every Programmer/Pastor/Church Affiliate and the CSN network would
26 broadcast their individual programs nationwide on both their full
27 power and translator stations.

28 100. Cross-Defendants, and all of them, knew of the above

1 described Broadcasting Agreements between CSN and the various
2 Broadcasters mentioned herein above, as they were intricately
3 involved in the building of said stations, scheduling programming,
4 and providing technical support for the feed of the various
5 broadcasters programming which aired on the CSN network.

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9
10 101. Commencing on or about January 2004, Cross-Defendant
11 KESTLER, N. KESTLER, F. WALKER, TEPPER and those Cross-Defendant
12 entities for which KESTLER has dominion and control (TWIN FALLS and
13 CBI), whether personally and with his/her spouse, or through the
14 officers, directors, employees, agents, CSN'S Attorney (F. WALKER and
15 TEPPER), C.P.A.'S, independent contractors, or other associates of
16 the named entities, took various actions with the intention of
17 interfering, undermining, usurping, amending and terminating the
18 Broadcaster Agreements both in full force and effect, as well as
19 those up for renewal, that CSN had entered into with its numerous
20 Programmers, by taking the following wrongful actions:

- 21 (A) Tortuously interfering with the contract agreements in
22 effect between CSN and various Programmers and
23 Underwriters who broadcast their programming on the CSN
24 network and who would pay the costs for programming
25 directly to CSN'S Santa Ana California offices, which was
26 the pattern of conduct during the term of the LMA, despite
27 the fact that their broadcast transmission would be
28 generated on both the full power stations fully owned by

1 CSN (both licences and equipment), as well as the
2 translator stations, licenced to TWIN FALLS, but whose
3 equipment is owned by CSN, as advised by CSN counsel, F.
4 WALKER and carried out by KESTLER and N. KESTLER, either
5 personally, or through their direction given to others;
6

7 //

8 (B) Making direct contact with Broadcasters via telephone,
9 email, correspondence and billing invoices, advising them
10 to no longer send their programming fees to CSN
11 INTERNATIONAL'S Santa Ana, California Offices, otherwise
12 they would be taken off the air on the translator network
13 and as a result, Broadcasters were being double billed for
14 air time, as advised by CSN counsel, F. WALKER and carried
15 out by KESTLER and N. KESTLER, either personally, or
16 through their direction given to others;

17 (C) Directing and diverting and/or causing CSN employees
18 working out of the Twin Falls area, or TWIN FALLS
19 employees to direct and divert, by telephone call,
20 letters, and/or by changing monthly billing information
21 related to payment for CSN INTERNATIONAL accounts
22 receivables for equipment invoices, income from
23 programmers and underwriters, billing statements, all of
24 which had previously and regularly been payable to the
25 Santa Ana Offices of CSN INTERNATIONAL, and diverting
26 those revenues and payments to TWIN FALLS, by depositing
27 those sums into bank accounts such as the US BANK MMA,
28 which were unauthorized by the CSN Board of Directors, but

1 controlled by KESTLER, as advised by CSN counsel, F.
2 WALKER and carried out by KESTLER and N. KESTLER, either
3 personally, or through their direction given to others;
4

5 //

6 (D) Attempting to illegally and without approval by the CSN
7 Board, change translator licences from those owned by CSN
8 into the name of TWIN FALLS, so that ownership would
9 transfer to TWIN FALLS a corporation for whom KESTLER was
10 President and Senior Pastor and in which he exercised
11 dominion and control, as advised by CSN counsel, F. WALKER
12 and TEPPER and carried out by KESTLER and N. KESTLER,
13 either personally, or through their direction given to
14 others;

15 (E) Demanding of, and/or causing programmers, underwriters,
16 and/or donors to, change the payee name on drafts to CSN
17 and demanding the re-issuance of the same in the name of
18 TWIN FALLS, their failure to comply or to do so would
19 result in the termination of their programming on CSN
20 broadcasts, as advised by CSN counsel, F. WALKER and
21 carried out by KESTLER and N. KESTLER, either personally,
22 or through their direction given to others;

23 (F) Causing interference with current broadcasting agreements
24 with programmers, by misrepresenting their authority taken
25 on behalf of CSN and changing the payment terms of the
26 existing agreements, for payments to be made and directed
27 to "CSN TWIN FALLS", to a P.O. Box in Idaho, instead of
28 "CSN SANTA ANA" where they had always previously been

1 sent, as advised by CSN counsel, F. WALKER and carried out
2 by KESTLER and N. KESTLER, either personally, or through
3 their direction given to others;

4 (G) Attempting and often times succeeding, in entering into
5 new agreements with programmers for broadcasts on both the
6 full power stations (owned by CSN) and the translators
7 (owned by TWIN FALLS), and having said payments sent to
8 "CSN TWIN FALLS" and under these new programmer
9 agreements, all the while soliciting and authorizing terms
10 on behalf of CSN to unfairly, disproportionately and
11 inequitably, divide and disburse the income derived from
12 said agreements, primarily to TWIN FALLS' translator
13 stations, when CSN'S full power stations should have been
14 designated the income from the agreements, thus
15 undermining the fair value of the agreement to CSN and
16 causing an unfair, over valued portion of the monies to be
17 paid to TWIN FALLS, as advised by CSN counsel, F. WALKER
18 and carried out by KESTLER and N. KESTLER, either
19 personally, or through their direction given to others;

20 (H) Changing the longstanding use of CSN'S corporate address
21 in Santa Ana, California, to TWIN FALLS on numerous FCC
22 filings, legal, license and registration documents, in
23 order to first exercise control over these assets and then
24 eventually convert the same, as advised by CSN counsel, F.
25 WALKER, TEPPER and carried out by KESTLER and N. KESTLER,
26 either personally, or through their direction given to
27 others; and
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3
4 (I) KESTLER misrepresenting himself as President of CSN to one
5 of CSN'S FCC attorneys (not TEPPER), in order to thwart,
6 undermined, and cause the day to day FCC dealings with CSN
7 counsel, to be halted, delayed and sometimes terminated
8 all together, by refusing to build stations, causing CSN
9 licenses not to be filed, causing massive delays in
10 getting modification filings completed with FCC, causing
11 the inability to get legal counsel on interpretation of
12 FCC rules and regulations, leading to a delay and possible
13 expiration of already issued construction permits before
14 new stations had been built, as advised by CSN counsel, F.
15 WALKER, TEPPER and carried out by KESTLER and N. KESTLER,
16 either personally, or through their direction given to
17 others.

18 102. In addition, Cross-Defendants diverted, converted,
19 provided legal advice on the diversion and/or conversion of various
20 corporate assets, donations, programming revenues, funds, origination
21 fees and listener donations due to CSN and needed to maintain its
22 operations and continue its growth, in an attempt to cause CSN to
23 cease from operation and with the intention of KESTLER, TWIN FALLS
24 and/or CBI to take over dominion and control of all CSN assets,
25 income and revenues, by carrying out the following wrongful actions:

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27 //

28 //

1
2 (A) KESTLER also opened numerous bank accounts, in the name
3 of CSN, TWIN FALLS and/or other names or entities, using
4 improper Federal Tax identification numbers, without the
5 knowledge or approval or consent, of the Board of
6 Directors (which at the time had three members and thus
7 was not deadlocked), and while using the U.S. mail system,
8 diverted funds due to CSN'S legitimate accounts, as
9 advised by CSN counsel, F. WALKER and carried out by
10 KESTLER and N. KESTLER, either personally, or through
11 their direction given to others;

12 (B) Changing the P.O. Box address for receipt of Listener
13 donations from CSN'S Santa Ana, California to TWIN FALLS,
14 Idaho, as advised by CSN counsel, F. WALKER and carried
15 out by KESTLER and N. KESTLER, either personally, or
16 through their direction given to others;

17 (C) Soliciting changes in donor contributions from the name of
18 CSN INTERNATIONAL to TWIN FALLS; changing contact
19 information contained on websites from Santa Ana,
20 California to Twin Falls, Idaho; and filing FCC report
21 with licensee address changes from Santa Ana, California
22 to Twin Fall, Idaho, as advised by CSN counsel, F. WALKER
23 and carried out by KESTLER and N. KESTLER, either
24 personally, or through their direction given to others;

25 //

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27 //

28 (E) Converting monies received in, and held in, CSN

1 INTERNATIONAL bank accounts, to other bank accounts where
2 only MICHAEL KESTLER and/or NORA KESTLER were signors and
3 had control and/or into other for profit entities
4 controlled by KESTLER and/or paying for personal expenses
5 with non profit funding, as advised by CSN counsel, F.
6 WALKER and carried out by KESTLER and N. KESTLER, either
7 personally, or through their direction given to others;

8 (F) Extorting and then diverting funds from the sale of
9 various CSN INTERNATIONAL owned radio stations (equipment
10 and licenses), and/or real property sales, including but
11 not limited to those areas of New York, Montana, Virginia,
12 by KESTLER'S refusal to allow the sale of said CSN owned
13 stations (which sales proceeds were desperately needed in
14 order to keep CSN solvent), and placing the proceeds from
15 those sales into unauthorized CSN bank accounts located in
16 Twin Falls, rather than the CSN'S Santa Ana accounts where
17 they rightfully belonged; and then further diverting those
18 funds into bank accounts for which KESTLER and/or N.
19 KESTLER had dominion and control, as advised by CSN
20 counsel, F. WALKER and TEPPER and carried out by KESTLER
21 and N. KESTLER, either personally, or through their
22 direction given to others;

23 //

24 //

25 (G) Making the unauthorized use of those diverted CSN funds,
26 and/or laundering, and/or improperly spending those funds
27 for either personal gain, such as an unauthorized personal
28

1 retirement account in the amount of \$60,000.00 to
2 \$150,000.00; and also to benefit individuals in violation
3 of non-profit exempt regulations, to create 'sham' loans,
4 or improper 'gifts', and/or to benefit other for-profit
5 entities such as ESI; other and non-profit entities such
6 as CBI, in which KESTLER either has a personal interest,
7 owns, and/or controls, and thus generating and fostering
8 numerous business relationships in conflict with CSN; and
9 causing CSN to become cash flow poor, which has lead to a
10 loss of licenses, broadcasting territory and/or coverage
11 area because of its inability to build stations for which
12 permits have been issued, as advised by CSN counsel, F.
13 WALKER and carried out by KESTLER and N. KESTLER, either
14 personally, or through their direction given to others;

15 (H) Improperly manipulating the CSN corporate books to the
16 benefit of KESTLER and/or individuals or entities under
17 his dominion and control, including but not limited to
18 coding "gifts" to entities in which KESTLER had a personal
19 interest, instead of "loans"; and using CSN corporate
20 funds for either personal gain, or to benefit other profit
21 and non-profit entities, KESTLER either owns or controls,
22 as advised by CSN counsel, F. WALKER and carried out by
23 KESTLER and N. KESTLER, either personally, or through
24 their direction given to others;

25 (I) A failure on the part of TWIN FALLS employees to provide
26 the financial documentation, including but not limited to
27 the disclosure of all CSN, or TWIN FALLS/CSN related,
28

1 banking accounts, providing bank statements, paid checks,
2 accounting ledgers, accounts receivable, accounts payable,
3 etc., as advised by CSN counsel, F. WALKER and carried out
4 by KESTLER and N. KESTLER, either personally, or through
5 their direction given to others, in order to hide,
6 disguise, or delay the Cross-Complainants ultimate
7 discovery of KESTLER, N. KESTLER and TWIN FALLS
8 embezzlement practices;

9
10 (J) Diverting CSN monies through CBI to ostensibly purchase
11 television stations on behalf of CSN, which was later
12 determined went into the name of other companies, as
13 advised by CSN counsel, F. WALKER and carried out by
14 KESTLER and N. KESTLER, either personally, or through
15 their direction given to others, but said television
16 stations were only intended for use to further KESTLER'S
17 own personal staging exhibitions to lure women into
18 watching him on television in hopes of fostering
19 additional illicit relationships with them at some point
20 in the future;

21 (K) Soliciting donations in the name of CSN over the airwaves,
22 during TEMA (To Every Man an Answer) broadcasts, hosted by
23 KESTLER, as advised by CSN counsel, F. WALKER and carried
24 out by KESTLER and N. KESTLER, either personally, or
25 through their direction given to others, and then after
26 receiving these CSN tax deductible gifts and donations
27 from listeners, which were properly made payable to CSN
28 INTERNATIONAL, depositing said monies into the US BANK

1 MMA, or other unauthorized accounts account improperly
2 named CSN, so that said donations, and tax deductible
3 gifts would be more easily deposited and accessible for
4 improper use by KESTLER as herein alleged;

- 5 (L) Diverting designated donations to US BANK MMA, and then
6 not using those monies as designated by the donors and
7 thus, betraying donor confidence and violating IRS laws,
8 as advised by CSN counsel, F. WALKER and carried out by
9 KESTLER and N. KESTLER, either personally, or through
10 their direction given to others;
- 11 (M) Running up CSN credit accounts to over a quarter million
12 dollars in order to cause a termination of their relations
13 with CSN to put them out of business; and/or using credit
14 to reimburse KESTLER'S personal credit accounts with CSN
15 funds, for improper expenses that were not for, nor did
16 they relate to CSN business and/or any other CSN ministry
17 purpose, as advised by CSN counsel, F. WALKER and carried
18 out by KESTLER and N. KESTLER, either personally, or
19 through their direction given to others, including but not
20 limited to charges at Victoria's Secret, dinner,
21 vacation/travel expenses, car parts, gas, airline tickets,
22 personal ebay purchases/sales, food and lodging, at least
23 one gun, and cellular telephone calls made by KESTLER for
24 the purposes of initiating, foster and/or continuing
25 extramarital affairs with various women; KESTLER then
26 punishing those in the accounting department reporting the
27 same;
- 28

1
2 (N) Failing to utilize CSN receivables to pay translator tower
3 rents, payroll and other CSN operating expenses in Idaho,
4 and instead diverting said funds to personal or corporate
5 accounts over which KESTLER maintained dominion and
6 control, in order to intentionally cripple CSN and allow
7 Cross-Defendants to attempt to take control of CSN, as
8 advised by CSN counsel, F. WALKER and carried out by
9 KESTLER and N. KESTLER, either personally, or through
10 their direction given to others; and

11 (O) Using CSN paid employees, and their time as paid by CSN,
12 to perform work for KESTLER'S personal private automobile
13 restoration business called "Mike's Automotive" and making
14 use of the funds diverted from CSN as alleged herein, to
15 purchase materials, supplies and equipment for said
16 automotive business; and/or for TWIN FALLS church or
17 corporate business, and/or to avoid conformity with EEOC
18 and/or FCC rules and regulations, as advised by CSN
19 counsel, F. WALKER and carried out by KESTLER and N.
20 KESTLER, either personally, or through their direction
21 given to others.

22 103. Cross-Defendants conduct indeed caused a disruption
23 and loss of many of the contractual relations, current and renewable,
24 to CSN INTERNATIONAL, and otherwise caused confusion, threats and
25 contention between and towards the numerous Programmers/Broadcasters
26 creating a serious breakdown in business relations of, and the
27 reputation of CSN INTERNATIONAL.

28 104. CSN INTERNATIONAL has suffered grave loss and damage

1 from the misconduct of Cross-Defendants KESTLER, N. KESTLER, F.
2 WALKER, TEPPER and CBI, including but not limited to, the loss of
3 numerous vital business relationships with Broadcasters, change in
4 control over corporate assets and properties, loss of key employees,
5 vendors, suppliers, and other key support individuals, companies and
6 businesses who specialize in the field of Christian broadcasting,
7 including those who do not want to be affiliated with an operation
8 that has demonstrated a lack of integrity in its leadership. Said
9 damage has caused CSN to revise it's corporate budgeting projections,
10 lower it's building projects on new stations, causing a loss of
11 stations, coverage area, millions of potential new listeners, as well
12 as the revenue, gifts and donations generated therefrom, and said
13 damages are estimated to have reached a sum to exceed million
14 dollars, or in an amount to be proven at trial.

15 105. The aforementioned conduct of Cross-Defendants KESTLER,
16 N. KESTLER, F. WALKER, TEPPER and CBI was an intentional attempt to
17 defraud, convert and transfer, by deceit or concealment, CSN business
18 assets and/or business relationships into the dominion and control of
19 KESTLER, N. KESTLER, TWIN FALLS and/or CBI, with the intention
20 permanently depriving CSN INTERNATIONAL of income, revenues,
21 donations; contractual benefits, past, present and future; business,
22 employee, independent contractor, programmer contractual and/or
23 business relationships; as well as diminish in value or convert the
24 tangible property, or legal rights held by CSN, and was despicable
25 conduct that subjected Cross-Complainants to a cruel and unjust
26 hardship in conscious disregard of its rights, so as to justify an
27 award of exemplary and punitive damages.
28

1
2 106. Cross-Defendants, unless restrained will continue to
3 interfere, disrupt and cause overall confusion and the break down of
4 all business relations that CSN INTERNATIONAL has attempted to
5 maintain with all current and prospective Programmers/
6 Broadcasters, causing further great and irreparable harm or injury
7 for which damages would not afford adequate relief, in that as a
8 religious corporation, once prominent Pastors and/or churches
9 determine there is any flaw in the reputation of CSN, and/or
10 misappropriation or wrongful management of the same, will rarely
11 enter into any agreements, broadcasting or otherwise with such an
12 entity, some such broadcasters have already terminated their previous
13 relationships with CSN and/or held back funds rightfully due to CSN
14 because of this conflict.

15 //
16 //
17 //
18 //

19 **EIGHTH CAUSE OF ACTION:**

20 **APPOINTMENT OF PROVISIONAL DIRECTOR(S)**

21 **Count One, on behalf of CSN**

22 **J. SMITH and CSN v. KESTLER**

23 107. Cross-Complainant refers to and incorporates herein by
24 reference each and every allegation contained in paragraphs 1 through
25 106 above, as though the same were fully set out at this point.

26 108. Cross-Complainants J. SMITH and CSN allege and plead
27 this cause in the alternative, as Cross-Complainants allege due to
28 the lapse of the LMA as alleged herein above, the First Cause of

1 Action for DECLARATORY RELIEF, that J. SMITH is the sole remaining
2 director of CSN INTERNATIONAL and that in his rightful position as
3 the only remaining Board Member of CSN, J. SMITH on behalf of CSN and
4 in accordance with its Bylaws (See Exhibit "B" attached hereto), has
5 already either re-appointed (Pastor Chuck Smith), and/or acknowledged
6 the improper removal or failure to acknowledge the authority of
7 previous Board Member John Laudadio. Therefore, notwithstanding J.
8 SMITH and CSN'S allegation that the CSN Board is not currently
9 "deadlocked" having three (3) directors currently serving, J. SMITH,
10 JOHN LAUDADIO and PASTOR CHUCK SMITH, should the Court find
11 otherwise, Cross-Defendants allege this cause of action for
12 Appointment of Provisional Director(s) to CSN.

13 109. Cross-Defendant KESTLER, continues to claim, act
14 and represent himself as a Director of CSN INTERNATIONAL to all
15 employees, vendors, business entities, broadcasters, programmers,
16 listeners, and any and all other individuals and entities.

17 110. Due to Cross-Defendant KESTLER wrongful representations
18 regarding his status a Director of CSN, and his continued refusal to
19 acknowledge the LMA has lapsed, is not renewable, and thus his
20 position as a Director has terminated; Cross-Complainant J. SMITH has
21 been forced to continue to communicate with, confer, confront and
22 contend with KESTLER over the various operations of CSN
23 INTERNATIONAL.

24 111. Cross-Complainant, J. SMITH, alleges that the wrongful,
25 fraudulent, and improper conduct of Cross-Defendant KESTLER as herein
26 alleged in paragraphs, 27 (A-Z), 88 (A-R), 101(A-I) and 102(A-O),
27 inclusive, has created a "deadlock" and ongoing contention between J.
28

1 SMITH and KESTLER as alleged herein paragraphs 26 through 33,
2 incorporated herein by reference, of the Board of Directors of CSN
3 INTERNATIONAL.

4 112. Unless the Court appoints provisional directors, or
5 other appropriate relief is obtained, the deadlock between these two
6 (2) directors will continue to prevent the corporation from
7 conducting business in the normal course thereof.

8 113. CSN alleges that due to the various FCC guidelines and
9 restrictions related to Board "control" and the risk of loss of
10 licenses, applications, permits and MX's to CSN in relation to those
11 FCC restrictions, the proper appointment of Provisional Board Members
12 to CSN, in order to diminish and possibly eliminate any risk of loss
13 of licenses, applications, permits and MX'S, would be the re-
14 appointment and/or reinstatement re-acknowledgment of previous Board
15 Members who have faithfully served on the Board of CSN, especially
16 during the time(s) such applications were made to the FCC.

17 114. Specifically, John Laudadio, C.P.A. having served
18 previously both an Officer (Chief Financial Officer) and Director,
19 and currently serving as an officer, Chief Financial Officer of CSN,
20 has had previous experience in conducting the business of this CSN,
21 is impartial, not a creditor of the corporation, and is not related
22 by consanguinity or affinity within the third degree according to the
23 common law to any of the present directors of the corporation, or to
24 any present judge of the above-entitled court and is ready, willing
25 and able to act as an appointed director pursuant to California
26 Corporations Code Section 308, if so appointed by the Court.

27 115. Pastor Chuck Smith having served previously as both
28

1 an Officer (President) and Director (Chairman of the Board), has had
2 previous experience in conducting the business of this CSN. Moreover,
3 CREATIVE CHRISTIAN MINISTRIES (the predecessor non-profit corporation
4 name of CSN), was incorporated by Paul Smith (brother of Pastor Chuck
5 Smith), in 1987, and said non-profit was always intended to be apart
6 of the numerous Calvary Chapel Costa Mesa, ministries and outreaches,
7 and as such, should remain the same. Pastor Chuck Smith is ready,
8 willing and able to act as an appointed Director pursuant to
9 California Corporations Code Section 308, if so appointed by the
10 Court.

11 //

12 //

13 //

14 **EIGHTH CAUSE OF ACTION:**

15 **APPOINTMENT OF PROVISIONAL DIRECTOR(S)**

16 **Count Two, on behalf of TWIN FALLS**

17 **J. SMITH v. KESTLER and TWIN FALLS**

18 116. Cross-Complainant refers to and incorporates herein by
19 reference each and every allegation contained in paragraphs 1 through
20 115 above, as though the same were fully set out at this point.

21 117. Cross-Complainant, J. SMITH is presently one of only
22 two Directors serving on the Board of TWIN FALLS, Cross-Defendant
23 KESTLER is the second such Director.

24 118. KESTLER, through his attorney of record, DOUGLAS WERTH,
25 ESQ., has filed a Counterclaim and Third Party Complaint, in the
26 Fifth Judicial District of Idaho, case number CV-06-413, entitled
27 CALVARY CHAPEL OF TWIN FALLS and MICHAEL R. KESTLER, director,
28

1
2 against Defendant THE WORD FOR TODAY.

3 119. Although TWIN FALLS is an Idaho non-profit
4 corporation, Cross-Complainants allege that the Court has
5 jurisdiction over a determination and appointment of a provisional
6 Director of this matter, since J. SMITH the second board member of
7 TWIN FALLS, never authorized the bringing of this suit; and
8 notwithstanding the Counterclaim/Third Party Complaint, KESTLER made
9 the choice of first filing suit the County of Orange, State of
10 California in this matter.

11 //

12 //

13 //

14 120. Notwithstanding, due to the inextricably intertwined
15 conduct of KESTLER and J. SMITH in relation to their service on both
16 the CSN and TWIN FALLS Boards during the term of the LMA, and related
17 to J. SMITH and his service on the TWIN FALLS board during times
18 thereafter to the present, as well as the likelihood of inconsistent
19 rulings in findings of fact and conclusions of law, should the matter
20 be heard in a second forum, Cross-Complainants allege this Court has
21 jurisdiction over this controversy and allege as follows:

22 121. Cross-Complainant, J. SMITH, and Cross Defendant,
23 KESTLER, each owe a fiduciary duty to TWIN FALLS, to assure its
24 proper and continued functioning as a Church and a translator
25 broadcast network, as well as overseeing the maintenance and carrying
26 out of its tax exempt status and other tax exempt corporate
27 objectives.

28 122. Cross-Complainant, J. SMITH, alleges that the wrongful,

1 fraudulent and improper conduct of Cross-Defendant KESTLER as herein
2 alleged in paragraph 108 and those referred to and incorporated
3 therein, inclusive, has created a "deadlock" and ongoing contention
4 between J. SMITH and KESTLER as alleged herein paragraphs 26 through
5 33, incorporated herein by reference, of the Board of Directors of
6 TWIN FALLS.

7
8 123. Unless the Court appoints provisional directors for
9 TWIN FALLS, or other appropriate relief is obtained, the deadlock
10 between these two (2) directors will continue to prevent the
11 corporation from conducting business in the normal course thereof.

12 124. As such, Director J. SMITH, on behalf of TWIN FALLS
13 has the authority to request that the Court appoint an Provisional
14 Director for TWIN FALLS, an individual with previous experience in
15 conducting non-profit corporate business, who is impartial, not a
16 creditor of the corporation, and is not related by consanguinity or
17 affinity within the third degree according to the common law to any
18 of the present directors of the corporation, or to any present judge
19 of the above-entitled court and who is ready, willing and able to act
20 as an appointed director, if so appointed by the Court.

21 **NINTH CAUSE OF ACTION:**

22 **REMOVAL OF DIRECTOR**

23 **Count One on Behalf of CSN**

24 **CSN and J. SMITH v. KESTLER**

25 125. Cross-Complainant refers to and incorporates herein by
26 reference each and every allegation contained in paragraphs 1 through
27 124 above, as though the same were fully set out at this point.

28 126. Cross-Complainant J. SMITH alleges that due to the

1 lapse and resulting termination of the LMA as alleged herein above,
2 the First Cause of Action for DECLARATORY RELIEF, that J. SMITH is
3 the sole remaining director of CSN INTERNATIONAL.

4 127. Cross-Complainants J. SMITH and CSN allege and plead
5 this cause in the alternative, as Cross-Complainants allege due to
6 the lapse of the LMA as alleged herein above, the First Cause of
7 Action for DECLARATORY RELIEF, that J. SMITH is the sole remaining
8 director of CSN INTERNATIONAL, as per termination of the LMA, KESTLER
9 had a duty to "immediately" remove himself from the CSN Board. As
10 such, J. SMITH alleges that in his rightful position as the only
11 remaining Board Member of CSN, J. SMITH on behalf of CSN and in
12 accordance with its Bylaws, has already either re-appointed (Pastor
13 Chuck Smith), and/or acknowledged the improper removal or failure to
14 acknowledge the authority of previous Board Member John Laudadio.
15 Therefore, removal of KESTLER as a Board Member of CSN has already
16 occurred per the terms of the LMA which has since terminated (which
17 allowed for KESTLER'S appointment in the first place), despite
18 KESTLER'S protests to the contrary.

19 128. On or about April 2006, the Board of CSN officially
20 and formally acknowledge the termination of the LMA and formally
21 removed KESTLER as an Officer of CSN, while confirming the official
22 CSN corporate position that the LMA had terminated/expired.

23 129. The Board of CSN further found that should a Court of
24 law find otherwise, the CSN Board found that KESTLER'S conduct as
25 alleged herein this Cross-Complaint would constitute good cause, per
26 the CSN Bylaws, provision 2.07(D)(E)(F) (See Exhibit "B" attached
27 hereto), for his termination as both an Officer and/or a Director of
28

1 CSN, as such, Cross-Defendants allege this cause of action for
2 Removal of Director as follows:

3
4 130. Notwithstanding the above allegations, Cross-Defendant
5 KESTLER, now and at all times mentioned here in, continues to claim,
6 act and represent himself as both a Director and Officer of CSN to
7 all employees, vendors, business entities, broadcasters, programmers,
8 listeners, and any and all other individuals and entities.

9
10 131. Due to Cross-Defendant KESTLER wrongful representations
11 regarding his status as a Director of CSN INTERNATIONAL, and his
12 continued refusal to acknowledge the LMA has lapsed, is not
13 renewable, that no additional instrument has ever been executed
14 between the parties which would have continued the LMA relationship,
15 and thus his position as a Director has terminated; Cross-Complainant
16 J. SMITH has been forced not only to continue to communicate with,
17 confer, confront and contend with KESTLER over the various operations
18 of CSN INTERNATIONAL, but to bring this cause of action pursuant to
19 California Corporations Code Section 9223(a), on behalf of CSN and J.
20 SMITH (as a Director), for KESTLER'S removal.

21
22 132. Cross-Complainants, J. SMITH and CSN, allege that the
23 wrongful, fraudulent, and improper actions, gross abuse of discretion
24 and authority, and blatant failure to fulfill his duties and
25 obligations of Cross-Defendant KESTLER, as herein alleged in
26 paragraph 111 and those incorporated therein, inclusive has seriously
27 damaged CSN INTERNATIONAL as herein alleged; and the ongoing
28 contention between J. SMITH and KESTLER as alleged herein paragraphs
26 through 33, incorporated herein by reference, of the Board of
Directors of CSN INTERNATIONAL, has caused interference with

1 Corporate business, and arguably forced a "deadlock" as KESTLER
2 blatantly disregards and refuses to acknowledge both the termination
3 of the LMA and his sinful conduct which would cause him to no longer
4 be suitable for service to CSN in any capacity whatsoever. KESTLER'S
5 continued flagrant disregard for these facts, has made it impossible
6 for the Board of CSN to conduct corporate business, further its non-
7 profit tax exempt objectives, without the intentional interference by
8 KESTLER, which include his fraudulent, wrongful and dilatory actions,
9 but which acts constitute good cause for removal from this religious
10 corporation.

11 **NINTH CAUSE OF ACTION:**

12 **REMOVAL OF DIRECTOR**

13 **Count Two on Behalf of TWIN FALLS**

14 **J. SMITH v. KESTLER and TWIN FALLS**

15 133. Cross-Complainant refers to and incorporates herein by
16 reference each and every allegation contained in paragraphs 1 through
17 132 above, as though the same were fully set out at this point.

18 134. Cross-Complainant J. SMITH, refers to and incorporates
19 herein by reference each and every allegation contained in paragraph
20 108 and those paragraphs referred to therein, inclusive, as though
21 the same were fully set out at this point.

22 135. Cross-Complainant, J. SMITH, alleges that the wrongful,
23 fraudulent, and improper actions, gross abuse of discretion and
24 authority, and blatant failure to fulfill his duties and obligations
25 of Cross-Defendant KESTLER, as herein alleged in paragraphs, 27 (A-
26 G), 88 (A-R), 101(A-I) and 102(A-O), has seriously damaged TWIN FALLS
27 as herein alleged; and the ongoing contention between J. SMITH and
28

1 KESTLER as alleged herein paragraphs 26 through 33, incorporated
2 herein by reference, of the Board of Directors of TWIN FALLS, has
3 caused a "deadlock" which has made it impossible for the Board to
4 take a vote on the removal of KESTLER due to these fraudulent,
5 wrongful and dilatory actions, but which acts constitute good cause
6 for such removal. Cross-Complainants pray for said removal to be
7 ordered in compliance with FCC regulations, in order to avoid placing
8 any additional risk of loss to CSN INTERNATIONAL.

9
10 136. As such, Director J. SMITH, on behalf of TWIN FALLS
11 has the authority to request that the Court remove Cross-Defendant
12 KESTLER as a Director for TWIN FALLS, and in accordance with Count
13 Two of the Eighth Cause of Action above, appoint other individuals
14 with previous experience in conducting non-profit corporate business,
15 who are impartial, not a creditor of the corporation, and is not
16 related by consanguinity or affinity within the third degree
17 according to the common law to any of the present directors of the
18 corporation, or to any present judge of the above-entitled court and
19 who is ready, willing and able to act as an appointed director, if so
20 appointed by the Court.

21 **TENTH CAUSE OF ACTION:**

22 **PRELIMINARY AND PERMANENT INJUNCTION**

23 **CSN v. KESTLER, N. KESTLER, F. WALKER, TEPPER, TWIN FALLS, CBI**

24 137. Cross-Complainant refers to and incorporates herein by
25 reference each and every allegation contained in paragraphs 1 through
26 136 above, as though the same were fully set out at this point.

27 138. CSN INTERNATIONAL is the owner of a nationwide
28 religious broadcasting network operating with assets estimated to

1 reach a value in the hundreds of millions of dollars. Cross-
2 Complainants incorporate paragraphs, 27 (A-Z), 41 through 49, 51
3 through 58, 88 (A-R), 101(A-I), 102(A-O), 152(A-Z), 164(A-M), 166
4 through 173, and 175 through 181, inclusive, by reference just as
5 though the same were fully set forth at this point.

6
7 139. Cross-Defendants wrongful conduct, including the
8 conduct of diverting monies, revenues (KESTLER and N. KESTLER) as
9 advised by F. WALKER; and converting or transferring licenses, FCC
10 contact information for CSN owned assets (KESTLER and N. KESTLER) as
11 advised by TEPPER, unless and until enjoined and restrained by order
12 of this court, this continued legal counsel by F. WALKER and TEPPER,
13 and resulting wrongful conduct of KESTLER, N. KESTLER, TWIN FALLS,
14 and CBI, will cause great and irreparable injury to CSN, in the loss
15 donations, revenues and assets, loss of reputation, loss of numerous
16 vital business relationships with Broadcasters, vendors, and
17 businesses who specialize in the field of Christian broadcasting,
18 including those who do not want to be affiliated with an operation
19 that has demonstrated a lack of integrity in its leadership; the loss
20 of millions of listeners, and potential new listeners of the network
21 broadcasts; as well as the termination, loss of, or failure to renew,
22 FCC licenses, permits and applications which could never be
23 adequately cured.

24 140. Cross-Complainant has no adequate remedy at law for the
25 injuries currently being suffered, as well as those expected to be
26 suffered in the future, as there is no adequate remedy at law that
27 can restore FCC licenses, permits, grants, which are valuable assets
28 that could potentially be lost, restricted or removed by the FCC

1 and/or replace or rebuild any of the CSN broadcast stations that
2 could potentially be shut down or sanctioned by the FCC.

3
4 141. It would be impossible for Cross-Complainants to
5 determine the precise amount of damage it will suffer if Cross-
6 Defendant's conduct is not restrained or if Cross-Complainant will be
7 forced to institute a multiplicity of suits in order to obtain
8 adequate relief or compensation for it's injuries. 142. To
9 date, CSN has suffered grave loss and damage
10 from the misconduct of Cross-Defendants KESTLER, N. KESTLER, F.
11 WALKER, TEPPER, TWIN FALLS and CBI, including but not limited to, the
12 loss of numerous vital business relationships with Broadcasters, key
13 employees, vendors, suppliers, and other individuals, companies and
14 businesses who specialize in the field of Christian broadcasting,
15 including those who do not want to be affiliated with an operation
16 that has demonstrated a lack of integrity in its leadership. Said
17 damage has caused CSN to revise it's corporate budgeting projections,
18 lower it's building projects on new stations, thus losing millions of
19 potential new listeners and the revenue, gifts and donations
20 generated therefrom, and said damages are estimated to have reached a
21 sum to exceed Fifty (50) Million dollars, or in an amount to be
22 proven at trial.

23 143. Cross-Complainants will be further damaged in like
24 manner so long as Cross-Defendants conduct continues. The full
25 amount of this damage is not now known to Cross-Complainants at this
26 time but Cross-Complainants reserve the right to amend this Cross-
27 Complainant once ascertained.

28 **ELEVENTH CAUSE OF ACTION:**

1 **LEGAL MALPRACTICE-Negligent Advice to Client**

2 **Count One**

3 **CSN V. F. WALKER**

4 144. Cross-Complainant refers to and incorporates herein by
5 reference each and every allegation contained in paragraphs 1 through
6 143 above, as though the same were fully set out at this point.

7 145. Cross-Defendant, F. WALKER, was and at all times
8 mentioned herein is, a practicing attorney, admitted to the State Bar
9 of Idaho, and practicing in the City of Boise, State of Idaho; and
10 was the brother of Cross-Defendant N. KESTLER and the brother-in-law
11 of Cross-Defendant KESTLER.

12 146. Commencing on or about April 1996, up to the date of
13 filing this Cross-Complaint, F. WALKER was retained and has been paid
14 on a continual monthly basis, in the thousands and thousands of
15 dollars, for providing legal advice and services to Cross-
16 Complainant, CSN INTERNATIONAL.

17 147. Specifically, F. WALKER provided legal advice to CSN
18 in the areas of corporate formation and maintenance, appointment of
19 officers/directors, corporate amendments, resolutions, minutes; made
20 recommendations regarding partnerships; drafted and reviewed CSN
21 INTERNATIONAL contracts, Programmer Agreements and the other various
22 transactions entered into by CSN with broadcasters, television and
23 radio stations, vendors and other business entities; over saw
24 corporate finances and account/ledger maintenance; gave legal counsel
25 with regard to compliance with IRS regulations as related to non-
26 profit finances; employee disputes and grievances, including advice
27 with regard to the sexual harassment suit pending against CSN,
28

1 brought by POLLITT; and interfaced with and made recommendations and
2 decisions on behalf of CSN, with FCC counsel TEPPER with regard to
3 FCC compliance, license, permit, applications and other amended
4 filings with the FCC, on behalf of CSN.

5
6 148. In providing said legal advice and services, F. WALKER
7 entered into a fiduciary relationship with CSN, and owing to it a
8 duty of care to provide that legal advice and those legal services
9 with the skill, prudence and diligence of similarly situated lawyers
10 with the ordinary skill and capacity commonly possessed and
11 exercised.

12 149. Pursuant to such representation, in rendering legal
13 services to CSN, F. WALKER engaged in numerous telephone
14 conversations with J. SMITH, KESTLER and TEPPER, and wrote numerous
15 items of communication, correspondence, emails, contracts,
16 amendments, and other memorandum, which provided legal advice and/or
17 counsel and presented legal contractual agreements, including
18 providing legal counsel and direction with regard to the sale of
19 various CSN owned radio stations to Cross-Complainant J. SMITH,
20 President of CSN.

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24 150. In addition, with such personal knowledge of CSN
25 corporate information in hand, F. WALKER, contacted, conferred and
26 conveyed CSN'S "confidential" "attorney-client privileged"
27 information, in violation of CSN'S confidences, including but not
28 limited to information regarding the status of CSN'S finances,

1 transactions, pending agreements, status of FCC applications,
2 licenses, permits and MX's, and other vital confidential corporate
3 information unavailable to any one outside of those having a
4 fiduciary relationship with CSN, and F. WALKER conveyed this
5 information to his brother, LLOYD WALKER, who then was given
6 permission by CSN to review all corporate financial books and records
7 contained in the Santa Ana, California offices, on or about in August
8 2005; and then subsequent thereto, F. WALKER'S brother LLOYD WALKER,
9 now represents Cross-Defendant KESTLER, Pro Hac Vice, in this action
10 against CSN, the use of such conveyed information presenting a
11 blatant conflict of interest to CSN as well as resulting damage.

12 151. In rendering the legal services, advice,
13 recommendations, agreements and writings on behalf of CSN; and while
14 providing the legal advice and recommendations to the opposition in
15 this matter, F. WALKER, as alleged in paragraphs 46(B), 101(A-I),
16 102(A-O) and 145 through 155, inclusive, incorporated herein by
17 reference as if fully set forth, in direct conflict with CSN, failed
18 to exercise the reasonable care and skill and either negligently,
19 recklessly and/or deceitfully advised Cross-Complainant.

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21 152. In addition to above, F. WALKER, in blatant personal
22 and professional conflict of interest, intentionally misadvised,
23 misled, and/or failed to properly and fully advise, counsel and/or
24 disclose to President J. SMITH, in order that he could benefit his
25 own family members by assisting KESTLER in transferring dominion and
26 control of CSN as a legal entity, as well as all of the CSN'S
27 millions of dollars of assets to Idaho, where KESTLER and N. KESTLER
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1 (F. WALKER'S sister) could exercise dominion and control, in order
2 that they may all (KESTLER, N. KESTLER, and F. WALKER) reap
3 personally, the benefits of said control. In so doing F. WALKER
4 provided legal counsel to CSN, in the following ways:

5 (A) Offering legal advice to CSN'S President, J. SMITH
6 that the LMA had not terminated (despite its terms to
7 the contrary), and then characterizing J. SMITH'S
8 revelation regarding the fact KESTLER was therefore,
9 terminated from the Board of CSN to be "absurd"; yet,
10 in the same breath,

11 (B) Drafting and presenting an AMENDED LOCAL MARKETING
12 AGREEMENT to J. SMITH to execute, without fully and
13 properly advising him that the original LMA had
14 actually terminated according to its terms; nor
15 advising J. SMITH that said AMENDMENT would have
16 effectively "cured" the actual termination of the LMA
17 and continued the LMA relationship between the
18 parties (as a written 'instrument' was required by
19 the terms of the LMA);

20 (C) While representing the improper legal position that
21 KESTLER/TWIN FALLS and J. SMITH/CSN (the parties to
22 the LMA), were still operating under the LMA, despite
23 the fact that J. SMITH refused to sign the AMENDMENT;
24 and despite the fact the LMA required KESTLER'S
25 immediate removal once terminated; and despite the
26 fact the LMA (even if in effect as represented), had
27 absolutely no terminology that would give KESTLER
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1 control over any of CSN'S assets or station sales
2 proceeds; F. WALKER legally represented, allowed,
3 encouraged and ratified KESTLER'S position and
4 participation as a Director of CSN, at all times
5 mentioned herein, including but not limited to times
6 during the sale of various CSN owned radio stations,
7 advising J. SMITH and others, that KESTLER should
8 sign on the sales and escrow documents and that a
9 portion of proceeds from those sales should
10 rightfully be placed into bank accounts over which
11 KESTLER and/or N. KESTLER (F. WALKER'S sister), had
12 control; and as a result, KESTLER and/or N. KESTLER,
13 received over three (3) million dollars in CSN
14 broadcast station sales proceeds, which funds have
15 since been diverted into other accounts controlled by
16 KESTLER and/or N. KESTLER, and are thus unavailable
17 for proper CSN corporate use;

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19 (D) Wrongfully advising and misrepresenting to the
20 President of CSN, J. SMITH, that "legally" CSN needed
21 also to be incorporated in Idaho; and by then
22 drafting Articles of Incorporation to that effect
23 which upon a winding up, left all CSN assets upon
24 wind up, to TWIN FALLS (CSN'S opposing party to the
25 LMA!); and then by then advising that a subsequent
26 merger between the Idaho CSN and California CSN would
27 be "legally" necessary; and that the merged
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1 corporation would properly be domiciled in Idaho; all
2 in order that F. WALKER'S brother-in-law, KESTLER and
3 his sister N. KESTLER, would gain full control over
4 CSN and all of its millions and millions of dollars
5 of assets and income;

6 (E) Acted under the false and fraudulent pretense as
7 "uninterested" and not acting in "conflict" as
8 Counsel for CSN, in negotiating a split of the all of
9 the assets held by CSN between J. SMITH/CSN and
10 KESTLER/TWIN FALLS, including the sale proceeds of
11 various CSN owned broadcast stations, when and while
12 such asset splitting and/or sales proceeds sharing
13 was not required by law, was not required per the LMA
14 (which F. WALKER claimed was still in effect), and
15 while said transactions were in direct conflict to
16 the best interests of CSN, and only served to
17 financially benefit KESTLER (F. WALKER'S brother-in-
18 law), personally and/or N. KESTLER and F. WALKER,
19 indirectly;

20 (F) Ratifying and/or assisting in the improper,
21 unauthorized change of address maneuvers by KESTLER,
22 causing grave losses to CSN through KESTLER'S
23 diversion of monies, revenues, donations, programmer
24 fees, origination fees, into CSN accounts held Twin
25 Falls (which should have been closed long ago per the
26 expired LMA), but which were controlled by F.
27 WALKER'S brother-in-law Plaintiff, KESTLER;
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- (G) Despite knowing and admitting that KESTLER and N. KESTLER improperly removed Thirty Thousand Dollars (\$30,000.00) from a CSN bank account upon which on J. SMITH was the only signor, F. WALKER failed to take any action whatsoever to correct the misdeed (embezzlement), or have the monies returned to a proper CSN bank account;
 - (H) By failing to properly address, advise and/or correct the fact that monies paid from CSN and/or THE WORD FOR TODAY, were given by KESTLER to the non-profit CBI television station; and then presenting a legal position on behalf of CSN, that those monies did not create any interest to CSN in the CBI television station (for which KESTLER was President and Chairman of the Board), despite the fact the CSN monies were given exclusively in order to obtain such an interest; and rather took the legal position that CSN had no interest in CBI, that KESTLER (and N. KESTLER indirectly) solely and rightfully controlled CBI;
 - (I) Failing to properly address, advise and correct the re-routing and/or re-issuance of broadcast revenues and donations made payable to CSN, which KESTLER demanded be reissued so that he could deposit and take control of said donations into bank accounts on which he or N. KESTLER were signors;
 - (J) By conspiring to defraud CSN as alleged in the Second Cause of Action to this Cross-Complaint, including

1 but not limited to those allegations contained in
2 paragraph 46(B) supra, as if set forth in full at
3 this point;

4 (K) By advising CSN, J. SMITH and others, that with
5 regard to KESTLER'S sexual immorality issues as they
6 related to the damage of the corporation, that F.
7 WALKER could "beat" the POLLITT charges on behalf of
8 both KESTLER and CSN, and thus, contrary to the "best
9 interests" of CSN, F. WALKER advised that CSN should
10 take no immediate action to resolve;

11 (L) By advising CSN to perform an internal investigation
12 with regard to the POLLITT sexual harassment
13 accusations; yet, stating that he [F. WALKER] "would
14 do it himself but it was a little too close to home",
15 F. WALKER instead recommended that a partner in his
16 firm, the same firm in which he worked, to conduct
17 this investigation, in a blatant conflict of interest
18 (recommending someone from his own firm), which was
19 not in the best interests of CSN;

20 (M) While working in conjunction with TEPPER drafting
21 and/or completing and then, failing to correct
22 documents, which listed KESTLER as President,
23 Director, or other positions at CSN, when he either
24 never held those positions, or no longer did, in
25 order to gain control or leverage in various
26 corporate transactions, FCC filings, sales and other
27 corporate matters; and then used the existence of
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1 those improperly filed documents, to coerce and
2 threaten J. SMITH, that if he did not comply with the
3 information placed on these documents (especially
4 during the CSN broadcast station sales), that CSN
5 would be in great risk of loss of valuable assets
6 and/or risk monetary sanctions and/or other
7 liabilities;

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9 (N) By failing to properly advise KESTLER or J. SMITH
10 and/or the Board of Directors of CSN, as to the legal
11 effect and proper action required to be taken
12 according to the terms of the CSN Bylaws with regard
13 to KESTLER'S admitted sexually immoral conduct;

14 (O) By failing to recommend and carry out KESTLER'S
15 removal and/or resignation from his Director's
16 position at CSN, at any time, either during or after
17 the term of the LMA, because he had violated the
18 Bylaws, Section 2.07 (D) (E) (F); and instead,

19 (P) By providing the legal recommendation that J. SMITH
20 should step down from his position as Director of
21 CSN, despite the fact that no where in the CSN Bylaws
22 was there a provision which would provide for his
23 removal;

24 (Q) By improperly representing and ratifying the
25 representation of KESTLER as the President of CSN and
26 N. KESTLER as Secretary of CSN, when in fact neither
27 of them ever held such positions;

28 (R) By trying to convince J. SMITH to allow or give

1 KESTLER the office of President, and then taking the
2 position of CEO to J. SMITH, in order to give KESTLER
3 further improper and unwarranted control over CSN;
4

5 (S) By advising CSN that, in violation of the Bylaws, a
6 two (2) man Board of Directors was proper; then
7 providing improper legal advice to the CSN Board
8 about the removal of a third Director; and the
9 improperly motioning the Board to remove that
10 director (Joe Dyer), based on his own faulty legal
11 advice; which eventually resulted in litigation being
12 filed by KESTLER against CSN wherein KESTLER claims
13 the CSN Board is "deadlocked";

14 (T) By presenting a pretense to J. SMITH of acknowledging
15 KESTLER'S improper sexual behavior and that such
16 behavior was damaging to CSN, but all the while
17 taking no action to correct the problem by removing
18 KESTLER as an officer of CSN; and instead pretending
19 that neither KESTLER nor N. KESTLER were interested
20 in forcing J. SMITH out of the CSN organization and
21 taking over themselves;

22 (U) By conferring solely and exclusively with, and taking
23 unilateral direction as to CSN business from, his
24 brother-in-law KESTLER, to the blatant exclusion of
25 the President and Chairman of the Board, J. SMITH;
26 while such conferring and direction was in conflict
27 of interest to CSN and in blatant disregard of the
28 best interests of CSN, and continues to the date of

1 filing this Cross-Complaint;

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3 (V) By wholly failing to take the action necessary to
4 resolve the rising conflicts and issues at CSN; nor
5 voluntarily stepping down from his Corporate Counsel
6 position at CSN when he himself knew, admitted, and
7 was obviously taking action, or failing to take
8 action in conflict of interest to CSN; in blatant
9 violation of the Professional Code of Ethics, State
10 Bar of Idaho;

11 (W) By using and publicizing documents received in
12 confidence, despite promises made to do so in order
13 to give KESTLER and advantage over CSN and THE WORD
14 FOR TODAY;

15 (X) By supporting and encouraging the informal audit by
16 KESTLER, N. KESTLER and LLOYD WALKER of all CSN
17 Financial documents maintained in the CSN Santa Ana
18 California corporate offices, all the while knowing
19 that F. WALKER'S brother LLOYD WALKER had intended to
20 use those documents against CSN in this pending
21 lawsuit;

22 (Y) By providing faulty legal advice and/or ratification
23 of the past faulty legal advise F. WALKER had given,
24 causing KESTLER to initiate the present litigation
25 brought against CSN, including the legal
26 recommendation and attempt to place CSN into
27 receivership, all to the damage of CSN; and

28 (Z) After F. WALKER encouraged the filing of this suit

1 KESTLER against CSN, and after President, J. SMITH
2 took action to fire F. WALKER, he has and continues
3 to be rebellious, refusing to terminate his
4 interference in CSN related business, despite the
5 blatant conflict of interest presented in violation
6 of the Professional Code of Ethics, State Bar of
7 Idaho.

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9 153. For years CSN, through its President and Chairman of
10 the Board of Directors, J. SMITH, relied on the legal advice and
11 counsel rendered by F. WALKER; having no idea whatsoever, that F.
12 WALKER would use his intimate knowledge of the internal operations
13 and workings of CSN INTERNATIONAL, including his intimate knowledge
14 of both its strength and weaknesses, and then use that information,
15 in violation of his fiduciary duty to CSN INTERNATIONAL, in a
16 conspiracy as alleged in the SECOND CAUSE OF ACTION herein, and in
17 encouraging KESTLER to bring suit against CSN, as well as in
18 providing adversarial advice to his relatives LLOYD WALKER, Pro Hac
19 Vice on behalf of KESTLER in this action; and to his sister, N.
20 KESTLER (sister), as to the most effective means by which to remove
21 J. SMITH from CSN and take total and complete control of all CSN'S
22 millions and millions of dollars of assets for their own personal
23 benefit.

24 154. At the point of KESTLER'S filing his Complaint in this
25 matter, and at times previous as expressed by alternate counsel hired
26 by J. SMITH, J. SMITH came to the realization that for numerous years
27 gone by, he had and was being been deceived by both F. WALKER and
28 TEPPER, as they were secretly conferring and advising and functioning

1 either unilaterally, and/or under the express direction of KESTLER,
2 without the knowledge or consent of J. SMITH, or on their own behalf
3 in advancing KESTLER'S attempts to obtain, convert and transfer all
4 of CSN'S assets and income, to the dominion and control of KESTLER,
5 N. KESTLER and/or those entities controlled by KESTLER, such as TWIN
6 FALLS and CBI, and others.

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10 155. As a proximate cause and result of such negligence
11 and/or reckless advice, CSN, has suffered grave loss and damage,
12 including but not limited to the loss control of millions of dollars
13 in CSN sales proceeds; loss of donations, revenues and other vital
14 business income and assets; and the loss of reputation, relationships
15 with Broadcasters, key employees, vendors, suppliers, and other
16 individuals, companies and businesses who specialize in the field of
17 Christian broadcasting, including those who do not want to be
18 affiliated with an operation that has demonstrated a lack of
19 integrity in its leadership. Said damage has caused CSN to revise
20 it's corporate budgeting projections, lower it's building projects on
21 new stations, jeopardized it's FCC licenses, caused loss of millions
22 of potential new listeners and the revenue, gifts and donations
23 generated therefrom, and said damages are estimated to have reached a
24 sum to exceed millions dollars, or in an amount to be proven at
25 trial.

26 **ELEVENTH CAUSE OF ACTION:**

27 **LEGAL MALPRACTICE-Negligent Advice to Client**

28 **Count Two**

CSN V. TEPPER

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3 156. Cross-Complainant refers to and incorporates herein by
4 reference each and every allegation contained in paragraphs 1 through
5 155 above, as though the same were fully set out at this point.

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8 157. Cross-Defendant, TEPPER, was and at all times
9 mentioned herein is, a practicing attorney, admitted to the State Bar
10 of Maryland, and practicing in the City of Bethesda, State of
11 Maryland.

12 158. Commencing on or about August 1997, up to the
13 date of filing this Cross-Complaint, TEPPER was retained and has been
14 paid on a continual monthly basis, thousands and thousands of
15 dollars, for providing legal advice and services to Cross-
16 Complainant, CSN INTERNATIONAL.

17 159. Specifically, TEPPER provided legal advice and legal
18 services to CSN, as an Attorney specializing in all corporate and
19 legal matters related to the Federal Communications Commission (FCC),
20 including but not limited to legal advice regarding the filing of
21 applications, original, amended and otherwise with the FCC; the
22 obtaining, holding and maintenance of FCC broadcast licenses,
23 construction permits, applications, MX'S, including but not limited
24 to, providing legal counsel on related deadlines for building
25 broadcast stations, adherence to FCC regulations for maintaining
26 broadcast stations, and defending complaints filed against CSN owned
27 stations; drafting and providing legal advise on CSN broadcast
28 station sales agreements, amendments, and addendums; providing legal

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2 advice related to FCC regulations in regards to CSN financial issues,
3 including at least one \$300,000. debt circumvention; advise regarding
4 FCC compliance with regard to CSN employee/independent contractor
5 issues; as well as conferring with corporate counsel F. WALKER
6 regarding various corporate formation, maintenance, financial,
7 contractual, control and ownership interests on behalf of CSN.

8 160. In providing said legal advice and services, TEPPER
9 entered into a fiduciary relationship with CSN, owing to it a duty of
10 care to provide that legal advice and those legal services with the
11 skill, prudence and diligence of similarly situated lawyers with the
12 ordinary skill and capacity commonly possessed and exercised.

13 161. Pursuant to such representation, and while rendering
14 legal services to CSN, TEPPER engaged in numerous telephone
15 conversations with J. SMITH, KESTLER and F. WALKER, drafted,
16 interpreted and provided legal advice on broadcast agreements,
17 broadcast sales contracts, addendums and amendments, and escrow
18 instructions; drafted, reviewed, interpreted, authorized and/or
19 recommended the execution of various CSN legal agreements; wrote
20 numerous items of communication, emails and correspondence, in which
21 he rendered his legal opinion(s); filed numerous documents with the
22 FCC which, inter alia, identified and provided CSN corporate
23 information to the FCC, including but not limited to the
24 identification of corporate officers and directors, as well as
25 corporate mailing address, and other corporate contact information;
26 and provided other types of legal advice and/or related legal counsel
27 to CSN on various corporate and/or contract matters and their effect
28 on CSN corporate assets regulated by the FCC.

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5 162. Having such intimate personal knowledge of CSN'S
6 internal corporate structure, workings and operations in hand,
7 TEPPER, contacted, conferred, conveyed and conspired while discussing
8 CSN'S confidential information during numerous contacts with KESTLER
9 and/or F. WALKER, and others, to the intentional exclusion of J.
10 SMITH (CSN'S President and Chairman of the Board), both in violation
11 of CSN'S Board Policies, and in order to secretly conspire to usurp
12 the authority vested in J. SMITH, including but not limited to the
13 discussion of transactions and corporate information related to the
14 status of CSN'S finances, transactions, pending agreements, status of
15 FCC applications and amendments thereto, licenses, permits and MX's;
16 the improper, unauthorized, changing of "control" information
17 contained on FCC filings, such as corporate address and/or the
18 identification of corporate officers and/or directors, from J.
19 SMITH'S offices to KESTLER'S offices; as well discussions regarding
20 other vital confidential corporate information in order to accomplish
21 a total transfer of control of CSN'S millions of dollars of assets,
22 from CSN'S Santa Ana, California offices to Twin Falls, Idaho, so
23 that KESTLER could exercise dominion and control over said assets.

24 163. In rendering the legal advice and recommendations,
25 and while providing legal services to CSN, TEPPER, as alleged in
26 paragraphs 46(C), 101(A-I), 102(A-O) and 157 through 167, inclusive,
27 incorporated herein by reference as if fully set forth, while acting
28 in direct conflict with CSN, failed to exercise the reasonable care

1 and skill and negligently, recklessly and/or deceitfully, rendered
2 legal advice and services to CSN, through its President and Chairman
3 of the Board of Directors, J. SMITH.

4 164. In addition to above, TEPPER, misadvised, misled,
5 and/or failed to properly and fully advise and/or disclose to
6 President J. SMITH, and took action as follows:

7 (A) During periods when the LMA between CSN and TWIN FALLS had
8 terminated, TEPPER failed to properly advise CSN as to how
9 that fact may have benefitted CSN and what action CSN
10 could or should take as a result. Instead, TEPPER offered
11 vague and ambiguous direction with regard to the LMA
12 (despite the LMA'S express terms to the contrary),
13 suggesting that the parties were operating on a 'month-to-
14 month' agreement, despite the fact he had not personally
15 researched nor presented a review of Idaho law in that
16 regard; and in accord with F. WALKER, acted in concert to
17 place CSN corporate assets in control of KESTLER, who was
18 actually the "opposing" contracting party to the LMA;

19 (B) Allowed, encouraged and ratified KESTLER'S participation
20 as a Director (despite the LMA terms requiring his
21 immediate removal once terminated), in the sale of various
22 CSN owned radio stations, providing legal advise that
23 KESTLER should sign on the sales documents and receive
24 over three (3) million dollars in CSN station sales
25 proceeds, which were then transferred into bank accounts
26 controlled by KESTLER, which funds have since been
27 diverted into other unauthorized accounts controlled by
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1 KESTLER, and left unavailable for proper CSN corporate
2 use;

3 (C) While working in conjunction with F. WALKER, TEPPER
4 drafted and/or completed numerous FCC documents and
5 filings intentionally using wrong and/or improper
6 information, such as listing KESTLER as President,
7 Director, and/or listing KESTLER as holding other
8 positions at CSN, when KESTLER either never held those
9 positions, or no longer held those positions; and when
10 confronted, TEPPER then failed to correct those FCC
11 filings, all in order to assist KESTLER in gaining
12 dominion and control of CSN corporate assets and/or
13 leverage in various CSN broadcast station sales
14 transactions, FCC filings, as well as other corporate
15 matters; and then used the existence of those documents
16 improperly filed by TEPPER, to coerce and threaten J.
17 SMITH, that if he did not comply with and/or confirm the
18 information placed on these documents (especially during
19 the CSN broadcast station sales), that CSN would be in
20 great risk of loss of valuable assets and/or risk monetary
21 sanctions from the FCC and/or risk of other civil
22 liabilities;

23 (D) Used his personal knowledge of the dire financial straits
24 CSN was undergoing, to extract an enormous exorbitant
25 "finders fee" from CSN for the sale of various broadcast
26 stations, in addition to TEPPER'S collection of his
27 regular fees from CSN;
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2 (E) In acting as not only a dual agent (to the buyer and
3 seller CSN) for various CSN broadcast station sales
4 transactions; but also as the escrow agent, in said
5 transactions, all the while providing his own self serving
6 legal advice and/or coerced and threatened J. SMITH as
7 alleged above, in order to obtain escrow disbursement
8 approval from J. SMITH, which not only secured TEPPER'S
9 finders fee, but failed to assure that the full amount of
10 any CSN sale proceeds were deposited into CSN'S Santa Ana,
11 California bank accounts; but instead authorized the
12 release and transfer of over \$3,000,000. (three million
13 dollars) worth of CSN sales proceeds into bank accounts in
14 which KESTLER controlled; while at the same time
15 presenting the faulty and questionable legal position that
16 KESTLER/TWIN FALLS and J. SMITH/CSN (the parties to the
17 LMA), were still operating under the LMA; notwithstanding,
18 the fact that the LMA had absolutely no terminology that
19 would give KESTLER control over any of CSN'S assets or
20 station sales proceeds;

21 (F) Represented both CSN and the Buyers in these CSN broadcast
22 station transactions, drafting sales agreements and acting
23 as the escrow agent for said sales; without providing the
24 required full legal disclosures as to the effect of such
25 dual representation, without advising CSN to seek separate
26 counsel to review said agreements, and without first
27 obtaining a written waiver of conflict of interest from
28 CSN; including disregarding instructions that KESTLER,

1 should not be allowed to receive CSN sales proceeds by the
2 President of CSN; and then later providing faulty legal
3 advise to J. SMITH and the threat of litigation, and
4 coercing the execution of, and forcing the signing of, a
5 Certification Statement, the content of which J. SMITH
6 opposed, in order to close the sales transaction so that
7 TEPPER'S finders fee would be released;

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9 (G) Ratified KESTLER'S wrongful diversion funds from CSN (as
10 alleged herein above in paragraph 27 (A-Z), and when CSN
11 was brought to a point of being without the working
12 capitol necessary to operate, TEPPER then drafted
13 personal loan documentation between KESTLER and CSN (while
14 acting in conflict of interest, without proper disclosures
15 or waiver); and in addition, ratified the loaning of money
16 from KESTLER to CSN, while failing to take any action on
17 behalf of CSN, and/or failing to provide any proper legal
18 advice to stop KESTLER'S improper and illegal diversion of
19 CSN funds;

20 (H) Failed to take any action on behalf of CSN, against
21 KESTLER or CBI when he discovered that KESTLER had been
22 paying for various CBI expenses out of CSN monies, and
23 ratified or authorized the improper classification of
24 these payments as "donations" rather than "loans";

25 (I) By conspiring to defraud CSN as alleged in the Second
26 Cause of Action to this Cross-Complaint, including but not
27 limited to those allegations contained in paragraph 46(C)
28 supra, as if set forth in full at this point;

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- (J) By solely conferring with, and taking the unilateral direction of KESTLER as to CSN'S FCC business, to the intentional exclusion of J. SMITH (President and Chairman of the Board of CSN), all the while initiating the ridicule and debasement of J. SMITH; and in fact, advising others employed by CSN to "disregard" instructions received by J. SMITH;
 - (K) Said faulty legal advice and/or ratification by TEPPER, emboldened KESTLER and thus, contributed to the instigation for the present litigation brought against CSN, to the damage of CSN;
 - (L) By providing faulty legal advice and/or ratification of the past legal advise F. WALKER had given, causing KESTLER to initiate the present litigation brought against CSN, including the legal recommendation and attempt to place CSN into receivership; and
 - (M) Blatant and continued refusal to cease providing legal services to CSN, from October 7, 2005, when fired by Attorney Steve Aarnoff, on behalf of J. SMITH; and continuing through April 2006, after the filing of this suit by KESTLER against CSN, and after President, J. SMITH took action to fire TEPPER for a second time; and to date, TEPPER continues to refuse to terminate his interference in CSN related business and to send CSN'S files to CSN'S Santa Ana corporate offices, all despite his gross and blatant conflict of interest.

165. For years CSN INTERNATIONAL relied on such advice and

1 had no idea whatsoever that TEPPER would use his intimate knowledge
2 of the internal operations and workings of CSN INTERNATIONAL,
3 including his intimate knowledge of both its strength and weaknesses,
4 and then use that information, in violation of his fiduciary duty to
5 CSN INTERNATIONAL, in a conspiracy and suit brought against CSN, as
6 well as in providing adversarial advice to KESTLER, on how to obtain
7 full and complete dominion and control over CSN INTERNATIONAL assets
8 for his own personal benefit, the benefit of N. KESTLER, TWIN FALLS,
9 CBI and/or any other entities KESTLER controls.

10
11 166. At the point of KESTLER'S filing his Complaint in this
12 matter, Cross-Complainant J. SMITH, came to the realization that for
13 numerous years gone by, he had and was being deceived by both F.
14 WALKER and TEPPER, as they were secretly conferring and advising and
15 functioning either unilaterally and/or under the express direction of
16 KESTLER, without the knowledge or consent of J. SMITH, or on their
17 own behalf in advancing KESTLER'S attempts to obtain, convert and
18 transfer all of CSN'S assets and income, to the dominion and control
19 of KESTLER, N. KESTLER and/or those entities controlled by KESTLER,
20 such as TWIN FALLS and CBI, and others.

21 //

22 //

23 167. As a proximate cause and result of such negligence
24 and/or reckless advice, CSN, has suffered grave loss and damage,
25 including but not limited to the loss control of millions of dollars
26 in sales proceeds; loss of donations, revenues and other vital
27 business income and assets; and the loss of reputation, relationships
28 with Broadcasters, key employees, vendors, suppliers, and other

1 individuals, companies and businesses; and said damage has caused CSN
2 to revise it's corporate budgeting projections, lower it's building
3 projects on new stations, jeopardized it's FCC licenses, caused loss
4 of millions of potential new listeners and the revenue, gifts and
5 donations generated therefrom, and said damages are estimated to have
6 reached a sum to exceed millions dollars, or in an amount to be
7 proven at trial.

8 **TWELFTH CAUSE OF ACTION:**

9 **LEGAL MALPRACTICE-Representation of Adverse Interests**

10 **Count One**

11 **CSN V. F. WALKER**

12 168. Cross-Complainant refers to and incorporates herein by
13 reference each and every allegation contained in paragraphs 1 through
14 167 above, as though the same were fully set out at this point.

15
16 169. Cross-Complainant refers to and incorporates herein by
17 reference, specifically, each and every allegation related to F.
18 WALKER'S actions and/or contribution to KESTLER'S actions as,
19 contained in paragraphs 27 (A-Z), 46(B), 88 (A-R), 101(A-I), 102(A-
20 O), and 145 through 155, inclusive, as if fully set forth at this
21 point.

22 170. At the same time Cross-Defendant F. WALKER, was
23 representing CSN in the aforementioned matters, F. WALKER was also
24 related to Cross-Defendant N. KESTLER, by blood (brother); and Cross-
25 Defendant KESTLER, by marriage (brother-in-law).

26 171. F. WALKER conspired with KESTLER (as more specifically
27 alleged herein the Second Cause of Action), in breach of his
28

1 fiduciary duties to CSN, and in furthering interests adverse to CSN,
2 to take control of CSN owned or licenced, assets, income, donations,
3 revenues, and other valuable items of real and/or personal property
4 and convert ownership and/or dominion and control of the same, into
5 KESTLER controlled banking accounts and/or corporate names, including
6 but not limited to TWIN FALLS who was the opposing contracting party
7 per the LMA with CSN.

8
9 172. The legal interests of CSN INTERNATIONAL and KESTLER
10 were clearly adverse at the time of this blatant dual representation
11 and no doubt at times both before, and certainly after, KESTLER filed
12 this suit against CSN in Orange County, California.

13 173. Despite the fact that F. WALKER had been questioned on
14 numerous occasions by J. SMITH as to his loyalty to CSN, and F.
15 WALKER assured and reassured J. SMITH that he was loyal to CSN; and
16 despite the fact F. WALKER was eventually fired by the President of
17 CSN, F. WALKER has failed and refused, and continues to fail and
18 refuse to acknowledge the conflict of interest and his representation
19 of interests adverse to CSN, arguing it would take CSN Board
20 Approval, despite the fact they both knew that no such approval would
21 be forthcoming as F. WALKER was the very person providing improper
22 legal advice to J. SMITH, as well as advising KESTLER that he should
23 interfere with CSN corporate business, and continue to conduct
24 himself as a Director of CSN, despite the terms of the LMA that
25 required his immediate removal upon termination.

26 174. Despite the fact that F. WALKER never disclosed to J.
27 SMITH that he had taken the side of his sister N. KESTLER and
28 brother-in-law KESTLER, and that he was, and for a long period of

1 time had been, acting under the unilateral direction KESTLER, and for
2 the benefit of KESTLER, his sister N. KESTLER and for F. WALKER'S own
3 benefit (allowing him to continue to receive payment for legal
4 services rendered); instead, in stark contrast, F. WALKER to the date
5 of filing this Cross-Complaint, maintains he has legal authority to
6 continue to represent the interests of CSN, despite all of the above
7 and the fact that F. WALKER has never disclosed, or informed or
8 presented CSN with a conflict of waiver release or agreement, that
9 would allow F. WALKER to continue his representation of CSN, instead
10 F. WALKER operated in blatant disregard to the adverse legal
11 interests of (1) of CSN/SMITH vs. KESTLER/TWIN FALLS as represented
12 in the LMA; and (2) KESTLER vs. CSN, after KESTLER filed this suit
13 against CSN in Orange County, California; and (3) F. WALKER'S
14 personal, familial interests, despite the fact said interests were
15 clearly adverse at all times mentioned herein, yet F. WALKER
16 continues to date, to act in dual representation to the detriment of
17 CSN.

18 //

19 175. As a proximate cause and result of the representation
20 of such adverse interests CSN, has suffered grave loss and damage,
21 including but not limited to the loss control of millions of dollars
22 in sales proceeds; loss of donations, revenues and other vital
23 business income and assets; and the loss of reputation, relationships
24 with Broadcasters, key employees, vendors, suppliers, and other
25 individuals, companies and businesses who specialize in the field of
26 Christian broadcasting, including those who do not want to be
27 affiliated with an operation that has demonstrated a lack of
28

1 integrity in its leadership. Said damage has caused CSN to revise
2 it's corporate budgeting projections, lower it's building projects on
3 new stations, jeopardized it's FCC licenses, caused loss of millions
4 of potential new listeners and the revenue, gifts and donations
5 generated therefrom, and said damages are estimated to have reached a
6 sum to exceed millions dollars, or in an amount to be proven at
7 trial.

8 176. The aforementioned conduct of Cross-Defendant F.
9 WALKER, was and has been malicious and intentional, in his attempts
10 to defraud, convert and transfer, by deceit or concealment, CSN
11 business assets and/or business relationships into the dominion and
12 control of KESTLER, N. KESTLER, TWIN FALLS and/or CBI, with the
13 intention of permanently depriving CSN of income, revenues,
14 donations; contractual benefits, past, present and future; business,
15 employee, independent contractor, programmer contractual and/or
16 business relationships; as well as diminish in value or convert the
17 tangible property, and/or other legal rights held by CSN, and was
18 despicable conduct that subjected Cross-Complainants to a cruel and
19 unjust hardship in conscious disregard of its rights, so as to
20 justify an award of exemplary and punitive damages and attorneys fees
21 and costs, per the terms of the retainer agreement (if any), executed
22 between KESTLER and F. WALKER, currently in the possession of Cross-
23 Defendants.

24 **TWELFTH CAUSE OF ACTION:**

25 **LEGAL MALPRACTICE-Representation of Adverse Interests**

26 **Count Two**

27 **CSN V. TEPPER**

1
2 177. Cross-Complainant refers to and incorporates herein by
3 reference each and every allegation contained in paragraphs 1 through
4 176 above, as though the same were fully set out at this point.

5 178. Cross-Complainant refers to and incorporates herein by
6 reference, specifically, each and every allegation related to
7 TEPPER'S actions and/or contribution to KESTLER'S actions as,
8 contained in paragraphs 27 (A-Z), 46(C), 101(A-I), 102(A-O), 157
9 through 167, inclusive, above, as if fully set forth at this point.

10 179. At the same time Cross-Defendant TEPPER, was representing
11 CSN in the aforementioned matters, he was conspiring with KESTLER (as
12 more specifically alleged herein the Second Cause of Action), in
13 breach of his fiduciary duties to CSN, and in furthering interests
14 adverse to CSN, to assist KESTLER in taking control of CSN owned or
15 licenced, assets, income, donations, revenues, and other valuable
16 items of real and/or personal property and convert ownership and/or
17 dominion and control of the same, into KESTLER controlled banking
18 accounts and/or corporate names, including but not limited to TWIN
19 FALLS who was the opposing contracting party per the LMA with CSN.

20 180. In addition, TEPPER operated in blatant disregard to
21 the adverse legal interests of (1) of CSN/SMITH vs.
22 KESTLER/TWIN FALLS as represented in the LMA; (2) CSN vs. the various
23 Buyers that TEPPER also represented in the CSN sales transactions;
24 and (3) KESTLER vs. CSN after, KESTLER filed this suit against CSN in
25 Orange County, California, said interests were clearly adverse at all
26 times mentioned herein, yet TEPPER continued to act dual
27 representation to the detriment of CSN.
28

1
2 181. Despite the fact TEPPER was eventually fired by the
3 President of CSN, TEPPER has failed and refused, and continues to
4 fail and refuse to acknowledge the conflict of interest and his
5 representation of interests adverse to CSN, arguing it would take CSN
6 Board Approval, despite the fact both TEPPER and F. WALKER knew that
7 no such approval would be forthcoming as F. WALKER was the very
8 person providing improper legal advice to KESTLER, that he should
9 interfere with CSN corporate business, fight and argue that KESTLER
10 remained a Board Member.

11 182. Despite the fact that TEPPER never disclosed to J.
12 SMITH that he had taken the side of KESTLER and was acting under the
13 unilateral direction KESTLER, and for the benefit of KESTLER, his
14 sister N. KESTLER and for TEPPER'S own benefit (allowing him to
15 continue to receive payment for legal services rendered); and in
16 stark contrast, TEPPER, to the date of filing this Cross-Complaint
17 maintains he has legal authority to continue to represent the
18 interests of CSN, despite the fact TEPPER has never disclosed, or
19 informed or presented CSN with a conflict of waiver release or
20 agreement, that would allow TEPPER to continue his representation of
21 CSN.

22 183. As a proximate cause and result of the representation
23 of such adverse interests CSN, has suffered grave loss and damage,
24 including but not limited to the loss control of millions of dollars
25 in sales proceeds; loss of donations, revenues and other vital
26 business income and assets; and the loss of reputation, relationships
27 with Broadcasters, key employees, vendors, suppliers, and other
28 individuals, companies and businesses who specialize in the field of

1 Christian broadcasting, including those who do not want to be
2 affiliated with an operation that has demonstrated a lack of
3 integrity in its leadership. Said damage has caused CSN to revise
4 it's corporate budgeting projections, lower it's building projects on
5 new stations, jeopardized it's FCC licenses, caused loss of millions
6 of potential new listeners and the revenue, gifts and donations
7 generated therefrom, and said damages are estimated to have reached a
8 sum to exceed millions dollars, or in an amount to be proven at
9 trial.

10 184. The aforementioned conduct of Cross-Defendant TEPPER,
11 was and has been malicious and intentional, in his attempts to
12 defraud, convert and transfer, by deceit or concealment, CSN business
13 assets and/or business relationships into the dominion and control of
14 KESTLER, N. KESTLER, TWIN FALLS and/or CBI, with the intention
15 permanently depriving CSN INTERNATIONAL of income, revenues,
16 donations; contractual benefits, past, present and future; business,
17 employee, independent contractor, programmer contractual and/or
18 business relationships; as well as diminish in value or convert the
19 tangible property, or legal rights held by CSN, and was despicable
20 conduct that subjected Cross-Complainants to a cruel and unjust
21 hardship in conscious disregard of its rights, so as to justify an
22 award of exemplary and punitive damages and attorneys fees and costs,
23 per the terms of the retainer agreement (if any), executed between
24 KESTLER and F. WALKER, currently in the possession of Cross-
25 Defendants.

26 **WHEREFORE CROSS-COMPLAINANTS PRAY FOR JUDGMENT AS FOLLOWS:**

27 **FIRST CAUSE OF ACTION: Declaratory Relief**
28

1
2 1. For a declaration that CSN be determined to hold
3 various broadcasting assets, permits, applications, equipment, real
4 and personal property, whether or not held in the name of CSN or TWIN
5 FALLS; a determination of legal effect of the LMA and any breach
6 thereof by TWIN FALLS and KESTLER; a determination and identification
7 of the Board Members, Officers and Directors for CSN and TWIN FALLS;
8 and a determination of damage to reputation and other monetary
9 damages related to the misconduct of KESTLER;

10 2. For issuance of a temporary restraining order,
11 preliminary or permanent injunction, enjoining Cross-Defendants from
12 taking any action to the further detriment of CSN;

13 3. For damages in an amount to be proven at trial;

14 4. For costs of suit incurred herein; and

15 5. For such other and further relief as the court may deem
16 proper.

17 **SECOND CAUSE OF ACTION: Conspiracy to Defraud**

18 6. For general damages in the sum according to proof at
19 trial;

20 7. For compensatory damages in the sum according to proof
21 at trial;

22 8. For special damages in the sum according to proof at
23 trial;

24 9. For punitive damages in an amount appropriate to punish
25 Defendants and deter others from engaging in similar misconduct;

26 **THIRD CAUSE OF ACTION: Conversion**

27 10. The value of the property converted;

28 11. For interest at the legal rate on the foregoing sum

1 pursuant to Section 336 of the Civil Code, from date of conversion as
2 determined at trial;

3 12. For damages for the proximate and foreseeable loss
4 resulting from Cross-Defendant's conversion in an amount to be proven
5 at trial;

6 13. For damages for time and money properly expended in
7 pursuit of the converted property in an amount to be proven at trial;

8 14. For punitive and exemplary damages;

9 15. For costs of suit herein incurred; and

10 16. For such other and further relief as the court may deem
11 proper;

12 //

13 **FOURTH CAUSE OF ACTION-- CONSTRUCTIVE TRUST, Count One, Fraud:**

14 17. For an order declaring that the Cross-Defendants hold the
15 revenues, donations, monies, income, equipment, broadcast, satellite
16 and otherwise, licenses, permits, network stations, and other
17 tangible items and/or real property held by Cross-Defendants, in a
18 trust for Cross-Complainants;

19 18. For an order compelling Cross-Defendants to transfer,
20 convey, and/or pay to Cross-Complainants the monetary sums and/or
21 tangible and real property, in the amount proven at trial;

22 19. For an order preliminarily enjoining Cross-Defendants and
23 their employees, agents, servants, representatives, and all persons
24 acting under, in concert with, or for them, from continuing to
25 ostensibly conduct the business CSN INTERNATIONAL;

26 20. For an accounting of all monies owed to Cross-Complainant;
27
28

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2 21. For damages in the amount of all monies found owing and
3 all loss of use or conversion of broadcasting and satellite
4 equipment, licenses, permits, and other tangible items to Cross-
5 Complainant;

6 22. For Punitive damages in an amount appropriate to punish
7 Cross-Defendants and deter others from engaging in similar
8 misconduct;

9 **FOURTH CAUSE OF ACTION-- CONSTRUCTIVE TRUST, Count Two, Accounting:**

10 23. For an order declaring that the Cross-Defendants hold
11 the revenues, donations, monies, income, equipment, broadcast,
12 satellite and otherwise, licenses, permits, network stations, and
13 other tangible items and/or real property held by Cross-Defendants,
14 in a trust for Cross-Complainants;

15 24. For an accounting of all monies owed and property owned by
16 Cross-Complainants; and for an order compelling Cross-Defendants to
17 transfer, convey, and/or pay to Cross-Complainants the monetary sums
18 and/or tangible and real property, in the amount proven at trial;

19 25. For an order preliminarily enjoining Cross-Defendants and
20 their employees, agents, servants, representatives, and all persons
21 acting under, in concert with, or for them, from continuing to:
22 ostensibly conduct the business of CSN INTERNATIONAL; diverting
23 donations, revenues, receivables and other sources of monetary income
24 rightfully due to CSN; and for possessing and exercising dominion and
25 control over, the real and personal property of CSN INTERNATIONAL;

26 26. For damages in the amount of all monies found owing to
27 Cross-Complainant;

28 27. For Punitive damages in an amount appropriate to punish

1 Cross-Defendants and deter others from engaging in similar
2 misconduct;

3 **FOURTH CAUSE OF ACTION--CONSTRUCTIVE TRUST, Count Three, Violation**
4 **of Trust:**

5 28. For an order declaring that Cross-Defendants hold the
6 revenues, donations, monies, income, equipment, broadcast, satellite
7 and otherwise, licenses, permits, network stations, and other
8 tangible items and/or real property held by Cross-Defendants, in a
9 trust for Cross-Complainants;

10 29. For an order compelling Cross-Defendants to transfer,
11 convey, and/or pay to Cross-Complainants the monetary sums and/or
12 tangible and real property, in the amount proven at trial;

13 30. For an order preliminarily enjoining Cross-Defendants and
14 their employees, agents, servants, representatives, and all persons
15 acting under, in concert with, or for them, from continuing to:
16 ostensibly conduct the business of CSN INTERNATIONAL; diverting
17 donations, revenues, receivables and other sources of monetary income
18 rightfully due to CSN; and for possessing and exercising dominion and
19 control over, the real and personal property of CSN INTERNATIONAL;

20 31. For damages in the amount of all monies found owing to
21 Cross-Complainant;

22 32. For Punitive damages in an amount appropriate to punish
23 Cross-Defendants and deter others from engaging in similar
24 misconduct;

25 **FOURTH CAUSE OF ACTION--CONSTRUCTIVE TRUST, Count Four, Unjust**
26 **Enrichment:**

27 33. For an order declaring that the Cross-Defendants hold
28

1 the revenues, donations, monies, income, equipment, broadcast,
2 satellite and otherwise, licenses, permits, network stations, and
3 other tangible items and/or real property held by Cross-Defendants,
4 in a trust for Cross-Complainants;

5 34. For an order compelling Cross-Defendants to transfer,
6 convey, and/or pay to Cross-Complainants the monetary sums and/or
7 tangible and real property, in the amount proven at trial;

8 //

9 35. For an order preliminarily enjoining Defendants and
10 their employees, agents, servants, representatives, and all persons
11 acting under, in concert with, or for them, from continuing to:
12 ostensibly conduct the business of CSN INTERNATIONAL; diverting
13 donations, revenues, receivables and other sources of monetary income
14 rightfully due to CSN; and for possessing and exercising dominion and
15 control over, the real and personal property of CSN INTERNATIONAL;

16 36. For damages in the amount of all monies found owing to
17 Cross-Complainant;

18 37. For Punitive damages in an amount appropriate to punish
19 Cross-Defendants and deter others from engaging in similar
20 misconduct;

21 **FIFTH CAUSE OF ACTION--BREACH OF FIDUCIARY DUTY:**

22 38. For damages in a sum to be proven at trial;

23 39. For interest on that sum at the legal rate;

24 40. For Punitive damages in an amount appropriate to punish
25 Cross-Defendants and deter others from engaging in similar
26 misconduct;

27 41. For costs of suit herein incurred; and
28

1 42. For such other and further relief as the court may deem
2 proper;

3 **SIXTH CAUSE OF ACTION-- SELF DEALING TRANSACTION BY DIRECTOR OF NON**
4 **PROFIT:**

5 43. For damages in a sum to be proven at trial;

6 44. For interest on that sum at the legal rate;

7 //

8 45. For Punitive damages in an amount appropriate to punish
9 Cross-Defendants and deter others from engaging in similar
10 misconduct;

11 46. For costs of suit herein incurred; and

12 47. For such other and further relief as the court may deem
13 proper;

14 **SEVENTH CAUSE OF ACTION-- INTENTIONAL INTERFERENCE WITH ECONOMIC**
15 **RELATIONS:**

16 48. For damages in a sum to be proven at trial;

17 49. For interest on that sum at the legal rate;

18 50. For Punitive damages in an amount appropriate to punish
19 Cross-Defendants and deter others from engaging in similar
20 misconduct;

21 51. For an order requiring Cross-Defendants and each of
22 them, to show cause, if they have any, why they should not be
23 enjoined as set forth below, during the pendency of this action;

24 52. For a temporary restraining order, a preliminary
25 injunction and a permanent injunction, enjoining all Cross-Defendants
26 from any and all interference with the contractual, business and
27 monetary interests of CSN INTERNATIONAL, as specified in paragraphs
28

1 91(A-I) and 92 (A-O) as alleged herein;

2 53. For costs of suit herein incurred; and

3 54. For such other and further relief as the court may deem
4 proper;

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8 **EIGHTH CAUSE OF ACTION-- APPOINTMENT OF PROVISIONAL DIRECTOR(S),**
9 **Counts One and Two:**

10 55. Wherefore, Cross-Complainants pray for a provisional
11 director to be appointed, or that other appropriate relief be
12 granted, pursuant to Corporations Code Section 308 to break the
13 deadlock between Directors of this Non-Profit corporation;

14 **NINTH CAUSE OF ACTION- REMOVAL OF DIRECTOR, Counts One and Two:**

15 56. For removal of Cross-Defendant KESTLER from both the
16 CSN INTERNATIONAL and TWIN FALLS Boards of Directors;

17 57. Cross-Complainants pray for said removal to be ordered
18 in compliance with FCC regulations, in order to avoid placing any
19 additional risk of loss to CSN INTERNATIONAL;

20 58. That Cross-Defendants KESTLER, N. KESTLER be barred
21 from reelection to the office of Director for CSN INTERNATIONAL or
22 TWIN FALLS; and

23 59. For such other and further relief as the court may deem
24 proper;

25 **TENTH CAUSE OF ACTION- PRELIMINARY AND PERMANENT INJUNCTION:**

26 60. For an order declaring that the Cross-Defendants hold
27 the revenues, donations, monies, income, equipment, broadcast,
28

1 satellite and otherwise, licenses, permits, network stations, and
2 other tangible items and/or real property held by Cross-Defendants,
3 in a trust for Cross-Complainants;

4 61. For an order compelling Cross-Defendants to transfer,
5 convey, and/or pay to Cross-Complainants the monetary sums and/or
6 return the tangible and real property, in the inventory and/or amount
7 proven at trial;

8 62. For an order preliminarily enjoining Defendants and
9 their employees, agents, servants, representatives, and all persons
10 acting under, in concert with, or for them, from continuing to:
11 ostensibly conduct the business of CSN INTERNATIONAL; diverting
12 donations, revenues, receivables and other sources of monetary income
13 rightfully due to CSN; and for possessing and exercising dominion and
14 control over, the real and personal property of CSN INTERNATIONAL,
15 and all wrongful acts as alleged herein paragraphs 27 (A-Z), 41-49,
16 88 (A-R), 101(A-I) and 102(A-O), inclusive, as if set forth in full
17 herein;

18 63. For damages in the amount of all monies found owing to
19 Cross-Complainant;

20 64. For Punitive damages in an amount appropriate to punish
21 Cross-Defendants and deter others from engaging in similar
22 misconduct.

23 **ELEVENTH CAUSE OF ACTION- LEGAL MALPRACTICE-Negligent Advice to**
24 **Client(Counts One and Two):**

25 65. For damages in a sum to be proven at trial;

26 66. For interest on that sum at the legal rate;

27 67. For costs of suit herein incurred; and
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68. For such other and further relief as the court may deem proper;

TWELFTH CAUSE OF ACTION- LEGAL MALPRACTICE-Representation of Adverse Interests (Counts One and Two) :

- 69. For damages in a sum to be proven at trial;
- 70. For interest on that sum at the legal rate;
- 71. For costs of suit herein incurred; and
- 72. For such other and further relief as the court may deem proper.

THE ADVOCATE'S LEGAL CENTER, INC.

Dated: May _____, 2006

Janet Carter, Esq., Attorney for
Cross-Complainants, CSN
INTERNATIONAL, THE WORD FOR TODAY and
JEFF SMITH