

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

RADIO WV, LLC, a West Virginia limited  
liability company,

Plaintiff,

Supreme Court Docket No. 23-707

Kanawha County Circuit Court  
Case No. 23-C-916  
Judge Maryclaire Akers

v.

JOHN D. PRICE, and  
PRICE HILL RECORDS, LLC, dba  
APPALACHIA UNTOLD, a West Virginia limited  
liability company,

Defendants.

TO: THE HONORABLE CHIEF JUSTICE TIM ARMSTEAD

PLAINTIFF'S RENEWED MOTION TO REFER  
TO THE WEST VIRGINIA BUSINESS COURT DIVISION

COMES NOW the Plaintiff, Radio WV, LLC, by and through undersigned counsel, and respectfully renews with this Court its Motion to Refer the above-captioned case to the West Virginia Business Court Division, pursuant to West Virginia Code § 51-2-15 and West Virginia Trial Court Rule 29. In support of this Motion, the Plaintiff attaches, and incorporates, as if fully restated herein, the entirety of its earlier Motion, which was filed on December 13, 2023.

Since the filing of the Motion, the Defendants have submitted pleadings to this Court indicating that they have no objection to the referral to the Business Court Division. Due to the pressing nature of the litigation, the Plaintiff now respectfully asks this Court to issue a ruling granting the Motion so that the parties can proceed before the assigned Business Court Division Judge.

20-23

FILED  
2023 MAR 18 PM 2:20  
CATHY S. GATSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

Respectfully submitted this 14<sup>th</sup> day of March, 2024,

RADIOWV, LLC,  
By counsel,

/s/Jonathon C. Stanley

Jonathon C. Stanley (WV Bar #13470)

Kent J. George (WV Bar #4842)

Mary G. Williams (WV Bar #14306)

ROBINSON & McELWEE PLLC

400 Fifth Third Center

700 Virginia Street East

Charleston, WV 25301

jcs@ramlaw.com

kjg@ramlaw.com

mary.williams@ramlaw.com

304-344-5800

FILED

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

2024 MAR 28 PM 2:20

CATHY S. GILSON, CLERK  
KANAWHA COUNTY CIRCUIT COURT

RADIO WV, LLC, a West Virginia limited  
liability company,

Plaintiff,

Supreme Court Docket No. 23-707

Kanawha County Circuit Court

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v.

JOHN D. PRICE, and  
PRICE HILL RECORDS, LLC, dba  
APPALACHIA UNTOLD, a West Virginia limited  
liability company,

Defendants.

CERTIFICATE OF SERVICE

I, Jonathon C. Stanley, do hereby certify that on this 14<sup>th</sup> day of March, 2024, I served the foregoing "Plaintiff's Renewed Motion to Refer to the West Virginia Business Court Division," through File And Serve X-Press, hand delivery, or First-Class mail, postage prepaid on counsel for the Defendants Lonnie C. Simmons, DiPiero Simmons McGinley & Bastress, PLLC, P.O. Box 1631 Charleston, WV 25326; to the Office of the Circuit Clerk of Kanawha County, at Kanawha County Judicial Building, P.O. Box 2351, 111 Court Street, Charleston, WV 25301; to Kanawha County Judge Maryclaire Akers, at Kanawha County Judicial Building, P.O. Box 2351, 111 Court Street, Charleston, WV 25301; and to the Business Court Division Central Office, Berkeley County Judicial Center, 380 West South Street, Suite 2100, Martinsburg, WV 25401.

/s/Jonathon C. Stanley  
Jonathon C. Stanley (WV Bar #13470)

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

FILED

2023 MAR 18 PM 2:20  
SCA EFiled: Dec 13 2023  
05:24PM EST  
Transaction ID: 71618245

RADIO WV, LLC, a West Virginia limited  
liability company,

Plaintiff,

v.

JOHN D. PRICE, and  
PRICE HILL RECORDS, LLC, dba  
APPALACHIA UNTOLD, a West Virginia limited  
liability company,

Defendants.

Case No. 23-C-916  
Kanawha County Circuit Court  
Judge Carrie L. Webster

TO: THE HONORABLE CHIEF JUSTICE ELIZABETH D. WALKER

PLAINTIFF'S MOTION TO REFER  
TO THE WEST VIRGINIA BUSINESS COURT DIVISION

COMES NOW the Plaintiff Radio WV, LLC ("Radio WV"), by and through undersigned counsel, and respectfully moves this Court, on good cause shown by the below arguments and assertions, as well as the documents attached hereto, to refer the above-captioned civil action to the West Virginia Business Court Division (the "Business Court"), pursuant to West Virginia Code § 51-2-15 and West Virginia Trial Court Rule 29. In support of this Motion, the Plaintiff states as follows:

*Applicable Law*

The Business Court is established for, and has jurisdiction over, "Business Litigation," as this term is defined in Trial Court Rule 2.04(a). To qualify as a Business Litigation, an action must be before the circuit court, and satisfy each of the following standards:

- (1) the principal claim or claims involve matters of significance to the transactions, operations, or governance between business entities; and

20-23

- (2) the dispute presents commercial and/or technology issues in which specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy because of the need for specialized knowledge or expertise in the subject matter or familiarity with some specific law or legal principles that may be applicable; and
- (3) the principal claim or claims do not involve: consumer litigation, such as products liability, personal injury, wrongful death, consumer class actions, actions arising under the West Virginia Consumer Credit Act and consumer insurance coverage disputes; non-commercial insurance disputes relating to bad faith, or disputes in which an individual may be covered under a commercial policy, but is involved in the dispute in an individual capacity; employee suits; consumer environmental actions; consumer malpractice actions; consumer and residential real estate, such as landlord-tenant disputes; domestic relations; criminal cases; eminent domain or condemnation; and administrative disputes with government organizations and regulatory agencies, provided, however, that complex tax appeals are eligible to be referred to the Business Court Division.

W. Va. Trial Court Rule 29.04(1)(1)–(3). If a case satisfies each of these standards, the rules dictate that the case is fit for the Business Court.

*Application of the Law Supports Granting this Motion*

The movant Plaintiff, RadioWV, is a limited liability company authorized to do business in the State of West Virginia, with Draven Riffe as its sole member. In 2019, Riffe and Defendant Price entered into an agreement where they would make professional-grade video recordings to post on social media profiles under the name “radiowv.” In May of 2023, Riffe and Price’s *de facto* partnership in this enterprise was dissolved through mediation and a subsequently signed Settlement Agreement. Also pursuant to the Settlement Agreement, Price agreed to transfer to the LLC any and all rights, title, and interests in the radiowv enterprise’s assets, whether physical, digital, tangible, or intangible in a bill of sale. Additionally, the parties agreed that, going forward, RadioWV, LLC would pay Price a royalty payment on all advertising revenue raised on a monthly basis.

In the present action, RadioWV’s Complaint alleges that Price and Price Hill Records, LLC (“Price Hill”, collectively “the Defendants”) breached the Settlement Agreement by retaining an

asset of RadioWV and using it as their own. In the weeks following the Settlement Agreement, Price Hill, or Price, as its sole member, posted a video, entitled “Jake Kohn-‘Dreams,’” on their social media pages ,under the business name of “Appalachia Untold.” This video was recorded and produced by RadioWV and was therefore the intellectual property of RadioWV. Thus, RadioWV alleges that the Defendants breached the Settlement Agreement by retaining RadioWV’s video, and unjustly enriched themselves by gaining viewership and royalties from posting RadioWV’s video. On November 27, 2023, the Defendants filed an Answer and Counterclaim alleging breach of contract among other claims.

Accordingly, this case is one regarding the “transactions, operations, or governance between business entities” and “presents commercial and/or technology issues in which specialized treatment is likely to improve the expectation of a fair and reasonable resolution of the controversy.” Trial Court Rule 29.04(1)(1), (2). This is an intellectual property case involving online businesses and their rights arising from a bill of sale where all interests were conveyed to one entity. It will involve the calculation of complex economic damages relating to the net present value of social media engagement, specifically as it relates to the music industry, both in terms of revenues gained and revenues lost. Expert witness testimony and an underlying expertise in these complex economic matters will be of paramount importance in resolving this dispute, as will a Resolution Judge with specialized knowledge of business matters. Additionally, on even date herewith, or shortly thereafter, the Plaintiff will file a motion for imposition of a constructive trust on the continuing royalty payments, which may require additional specialized oversight in equity. This case is thus a matter best suited for the Business Court under the applicable standards of Trial Court Rule 29.

As such, this case presents complex matters of business which would be most appropriately handled by the Business Court. Additionally, the Business Court's appointment of a Resolution Judge with special knowledge and expertise in business matters, who can serve as a mediator and potentially an arbitrator can, and hopefully will, assist in resolving these matters in a reasonable manner for the benefit of the business of RadioWV, LLC, and Price and Price Hill Records, LLC.

The Plaintiff represents that the case does not involve any of the claims that would disqualify it from consideration as a Business Litigation under Trial Court Rule 29.04(3).

The Complaint and Answer are being submitted concurrently herewith for the Court's review.

WHEREFORE, the Plaintiff, RadioWV, LLC respectfully move this Court to grant this Motion, and thus refer the above-captioned civil action to the Business Court Division.

Respectfully submitted this 13<sup>th</sup> day of December, 2023,

RADIOV, LLC,  
By counsel,

/s/Jonathon C. Stanley  
Jonathon C. Stanley (WV Bar #13470)  
Kent J. George (WV Bar #4842)  
Mary G. Williams (WV Bar #14306)  
ROBINSON & McELWEE PLLC  
400 Fifth Third Center  
700 Virginia Street East  
Charleston, WV 25301  
jcs@ramlaw.com  
kjd@ramlaw.com  
mary.williams@ramlaw.com  
304-344-5800

FILED

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

2024 MAR 18 PM 2:20

CATHY S. GARNER, CLERK  
KANAWHA COUNTY CIRCUIT COURT

RADIOWV, LLC, a West Virginia limited  
liability company,

Plaintiff,

v.

JOHN D. PRICE, and  
PRICE HILL RECORDS, LLC, dba  
APPALACHIA UNTOLD, a West Virginia limited  
liability company,

Defendants.

Case No. 23-C-916  
Kanawha County Circuit Court  
Judge Carrie L. Webster

CERTIFICATE OF SERVICE

I, Jonathon C. Stanley, do hereby certify that on this 13 day of December, 2023, I served the foregoing "Motion to Refer Case to Business Court Division," through File And Serve X-Press, hand delivery, or First-Class mail, postage prepaid counsel for the Defendants Charles R. "Rusty" Webb, The Webb Law Center at 716 Lee Street, East, Charleston, WV 25301; to the Office of the Circuit Clerk of Kanawha County, at Kanawha County Judicial Building, P.O. Box 2351, 111 Court Street, Charleston, WV 25301; to Kanawha County Judge Carrie L. Webster, at Kanawha County Judicial Building, P.O. Box 2351, 111 Court Street, Charleston, WV 25301; and to the Business Court Division Central Office, Berkeley County Judicial Center, 380 West South Street, Suite 2100, Martinsburg, WV 25401.

/s/Jonathon C. Stanley  
Jonathon C. Stanley (WV Bar #13470)



IN THE CIRCUIT COURT OF KANAWHA COUNTY  
WEST VIRGINIA

23 OCT 13 PM 3:11  
CATHY A. CRISSELL, CLERK  
KANAWHA COUNTY CIRCUIT COURT

RADIO WV, LLC, a West Virginia  
limited liability company,

Plaintiff,

v.

Case No. 23-C-916

Judge Webster

JOHN D. PRICE, and  
PRICE HILL RECORDS, LLC dba  
APPALACHIA UNTOLD, a West Virginia  
limited liability company,

Defendants.

COMPLAINT

Comes now the Plaintiff in the above-captioned proceeding, Radio WV, LLC, by and through undersigned counsel, file this Complaint against John D. Price and Price Hill Records, LLC, Defendants, and hereby allege as follows:

1. Plaintiff Radio WV, LLC, is a West Virginia limited liability company authorized to do business in the State of West Virginia, with sole possession of the tradenames "AppalachianRadio" and "radiowv"; Draven A. Riffe is a resident of Kanawha County, West Virginia and is the sole Member of Radio WV, LLC.

2. Defendant John D. Price is a resident of Kanawha County, West Virginia.

3. Defendant Price Hill Records, LLC, is a West Virginia limited liability company authorized to do business in the State of West Virginia, with possession of the tradename "Appalachia Untold," and doing business thereunder; Price is a Member of Price Hill Records, LLC.

4. On the basis of the foregoing, as well as further supported by the paragraphs below, jurisdiction is proper in the Circuit Courts of the State of West Virginia, and venue is proper in the

Courts of Kanawha County, West Virginia.

*Background*

5. In 2016, along with a friend, Riffe started a company called Burly Boy, which operated as a purveyor of men's grooming products.

6. In 2018, in an effort to promote Burly Boy's business, Riffe began an online sponsorship-marketing effort in which he would create professional-grade video recordings of aspiring or up-and-coming musicians around the State and post these videos on YouTube and Facebook.

7. In connection therewith, Riffe used his personal information to create YouTube, Instagram, and Facebook pages, which pages were solely in his possession and control, and gave these pages the profile name "radiowv."

8. In 2019, along with his then-partner in Burly Boy, Riffe established RadioAppalachia, LLC, which claimed the tradenames "radiowv" and "AppalachiaRadio"; the Defendant Price was never a Member of RadioAppalachia, LLC.

9. To assist in making these professional-grade video recordings to post under the radiowv profile, Riffe entered into an arrangement with Price, whereby the two would work either together or separately to record videos under the radiowv banner, edit them, and post them on the radiowv social media profile pages.

10. By 2019, Riffe had come to enjoy the radiowv side of the Burly Boy enterprise far more than the men's-grooming side, and so entered into an agreement with his Burly Boy partner to sever the partnership, with his former partner retaining the Burly Boy business operations, and Riffe having sole control of radiowv's tradename and operations.

11. Thus, radiowv became its own business enterprise, with Riffe as the sole owner of

the social media profiles under which it operated.

12. In and around the time that Riffe severed his Burly Boy partnership, Riffe and Price came to an agreement that they would continue to work together to produce music videos for posting under the radiowv name and profile, and they would each be compensated on a "50-50" basis of all advertising revenues raised in connection therewith—though radiowv did not make any advertising revenue at all until over a year later.

13. Therefore, Riffe and Price became *de facto* general partners in the radiowv enterprise (sometimes referred to hereinafter as the "radiowv partnership" or the "General Partnership"), with duties and obligations inuring to each other and to their business.

14. The radiowv business model was such that Riffe or Price would work with independent musicians in the Appalachian region with the promise that they would record a music video to be posted online under the radiowv name; the radiowv partnership would own these videos outright in perpetuity, and would collect all advertising revenue raised thereby, but radiowv would have no other claim to the musician or the musician's content going forward; in other words, if the musician were to sign with a label as a result of its exposure through radiowv, radiowv would not make any claim to royalties or other rights in connection with that signing, and would only claim ownership of the video radiowv produced, posted, and maintained on its social media sites, and, by extension, all rights to advertising revenues that said video raises.

15. Radiowv has seen tremendous success, as many of its videos have gained hundreds of thousands to millions of views, and it has launched several new musical careers, including that of Oliver Anthony; the video for his original song "Rich Men North of Richmond," which was recorded and produced solely by Riffe after his partnership with Price was dissolved (as discussed below), was posted by radiowv's on August 8, 2023, and has received approximately 80 million

views on YouTube, while the song itself reached the top (#1) of the *Billboard* Hot 100 chart for two consecutive weeks.

16. On January 28, 2023, sixteen-year-old singer Jake Kohn, in a hand-written agreement signed by Kohn's parents and Riffe and Price, gave radiowv full permission to upload recordings of his original songs titled "Dreams," "Frostbite," "Lorraine," and "Hard as Stone"; Price, Riffe, and Kohn agreed that radiowv owned the video and the advertisement revenue on Kohn's videos that were produced by radiowv and posted on radiowv's social media profiles.

17. Radiowv recorded the four songs the day that the agreement between it and Kohn was signed (*i.e.* January 28, 2023); it was one of the last times (if not the last time) that Riffe and Price recorded a video together in partnership.

18. Radiowv produced and then posted Jake Kohn's video for "Hard as Stone" on January 31, 2023, "Lorraine" on February 9, 2023, and "Frostbite" on March 17, 2023.

19. Radiowv planned to upload the video for "Dreams" on its social media accounts in or around October of 2023.

*The Previous Action and Settlement Agreement between the Parties*

20. Plaintiff incorporates paragraphs 1 through 19 above, as if fully restated herein.

21. In or around April of 2023, Price took action to deny Riffe access to radiowv and the benefit of his business investments therein by changing the passwords to radiowv's social media and email accounts that were created by Riffe and by removing Riffe's credential from those accounts, effectively locking Riffe out of those accounts.

22. Therefore, on May 4, 2023, Riffe filed a complaint for preliminary injunctive and other relief against Price in the Circuit Court for Kanawha County West Virginia, docketed as Civil Action No. 23-P-123, alleging breach of contract, breach of duty, conversion, defamation,

slander of title, tortious interference, and unjust enrichment in connection with Price's actions.

23. On June 6, 2023, a mediation was held before Charles Piccirillo, Esq., where Riffe and Price participated in good faith to resolve all claims associated with or related to Civil Action No. 23-P-123, which were or could have been made.

24. After mediation, Riffe and Price reached a settlement, resolving their dispute and releasing all claims against each other, as laid out in that certain "Settlement Agreement and Release" between and among them individually and RadioWV, LLC, dated effective June 6, 2023 ("Settlement Agreement").

25. Pursuant to the Settlement Agreement, the parties, Price, Riffe, and RadioWV, LLC, agreed to dissolve their *de facto* general partnership in the radiowv enterprise.

26. Pursuant to the Settlement Agreement, upon dissolution of the general partnership, each party agreed "all rights and interests, except as otherwise provided for in this Agreement, in the 'radiowv' enterprise, including all right, title, and interest in any and all assets, shall become the sole property of [RadioWV,] LLC, which is hereby acknowledged to be, and is, solely owned by Riffe"; the parties defined the partnership's assets, rights, and interests to be transferred to RadioWV, LLC, "to include *inter alia*, all rights, title, and interests to tradenames, trademarks, intellectual property, websites, web pages, social media platforms (including related forums), goodwill, bank accounts, and other assets, physical or digital, tangible or intangible, which were in any way used owned by the General Partnership or any of the Parties to further the interests of the General Partnership."

27. Pursuant to the Settlement Agreement, the parties agreed that "Price further acknowledges that he has delivered, or agrees that he immediately will deliver, to Riffe, as representative of the LLC, all physical assets, including, but not limited to microphones, SD Cards

or other digital storage devices, and video or audio clips, which were purchased by Riffe for use in the Partnership.”

28. Pursuant to the Settlement Agreement, Price and Riffe agreed that RadioWV, LLC, would pay Price “an amount equal to 45% of all advertising revenue raised by the direct monetization of in-stream advertisements, side-banner advertisements, or any other form of advertising that is placed by the social media platforms of their parent companies emanating from each and every ‘radiowv’ social media page. . . .”

29. Pursuant to the Settlement Agreement, the parties agreed that the terms of the Settlement Agreement were to remain confidential and were not to be disclosed except upon agreement by the parties.

30. Pursuant to the Settlement Agreement, the parties agreed that they would not disparage each other, directly or indirectly, or make any representations about the other which could be construed in a negative personal light.

31. Pursuant to the Settlement Agreement, the parties also agreed that they would be entitled to continue to work and compete against one another in the music industry, provided that they do so at all times in “legal, ethical, and honorable [ways],” which comport with a stated “code of conduct”; said “code of conduct,” by its terms, was “meant to be construed in the broadest terms afforded by interpretive maxims and by the law, in order to accomplish the ends of [the Settlement] Agreement.”

#### *Defendants' Breach and other Bad Acts*

32. In April of 2023, while still part of the radiowv partnership, Price created his own, competing social media profiles on YouTube, Facebook, Instagram, and TikTok, under the name “Appalachia Untold,” where he posts music videos of independent Appalachian musicians, similar

to radiowv's business model; a few days prior to mediation, also while still part of the radiowv partnership, Price shared and promoted this new, competing business on radiowv's social media accounts.

33. On August 22, 2023, in violation of the Settlement Agreement Price posted RadioWV, LLC's video of Jake Kohn singing his original song "Dreams" on the Appalachia Untold YouTube, Facebook, TikTok, and Instagram profiles.

34. The video for "Dreams," as it appears on Appalachia Untold's pages, features video clips that were filmed by Price during the initial recording while he was partnered with Riffe in the radiowv partnership and audio clips that were recorded by Riffe at the same time; Price was obligated to deliver these video and audio clips to RadioWV, LLC pursuant to the terms of the Settlement Agreement.

35. As of the filing of this complaint, the Jake Kohn – "Dreams" video on Appalachia Untold's social media platforms has received over 480,000 views on YouTube, over 7.9 million views on TikTok, and over 84,000 views on Facebook, making it Appalachia Untold's most viewed video to date on all platforms.

36. Appalachia Untold has gained over 12,000 subscribers on YouTube and over 178,000 followers on TikTok since its creation and most were presumably gained because of Kohn's video.

37. As stated above, the Jake Kohn – "Dreams" video was recorded by Riffe and Price in their capacity as owners and partners of the radiowv partnership, under radiowv's agreement with Kohn, and is therefore rightly the property of RadioWV, LLC.

38. In fact, RadioWV, LLC does indeed continue to have possession of the clips of video and audio necessary to create production-worthy music video for "Dreams," and had every

intention of doing so when the time was best, both for it and Kohn—ideally sometime in the early fall of 2023, which would have given the radiowv pages another likely surge after the successes of “Rich Men North of Richmond,” and would have put Kohn in position from a marketing perspective to be, potentially, the next featured radiowv “star.”

39. In fact, this likelihood of success for both Kohn and RadioWV, LLC by posting the Dreams video is supported by the fact that Kohn has seen significant success (*albeit* to a lesser degree than he likely would have achieved) on the Appalachia Untold platform, as described above.

40. As property of RadioWV, LLC, in accordance with the terms of the Settlement Agreement, the “Dreams” video should have been turned over to Riffe and RadioWV, LLC upon dissolution of Riffe and Price’s partnership, and, thus, Appalachia Untold should not even have had the ability to produce and post this video.

41. By retaining and posting Jake Kohn’s “Dreams” video that was and is property of RadioWV, LLC, Price has failed to conform to the terms of the Settlement Agreement requiring Price to transfer all rights, title, and interest in any and all assets upon dissolution of the partnership to RadioWV, LLC and Riffe; thus, Defendants have breached their contract with Riffe.

42. Furthermore, Price and Appalachia Untold have misappropriated digital property that is rightfully the property of RadioWV, LLC, to their own benefit, and by so doing have deprived RadioWV, LLC of corporate opportunities and income.

43. Upon information and belief, based on statements made to Riffe by members of the community, Price has informed individuals of the terms of the Settlement Agreement; and worse, has misstated those terms by wrongfully representing that Price is to receive 45% of all assets and revenue gained by Riffe and RadioWV, LLC under the Settlement Agreement.



44. By discussing the terms of the Settlement Agreement with individuals who are not a party to the Agreement, Price has breached the Settlement Agreement's confidentiality provision; thus, Defendants have breached their contract with RadioWV, LLC.

45. The Defendants' acts and behavior have constituted breaches as well of the code of conduct, as described above, insofar as they amount to illegal, unethical, and dishonorable acts, which are anti-competitive in nature, and designed to benefit themselves at the direct detriment of RadioWV, LLC and its sole owner, Draven Riffe.

46. RadioWV, LLC has fully complied with the terms of the Settlement Agreement by paying Price his owed share of the royalties for June and July of 2023, but the damages RadioWV, LLC has incurred are substantial, as will be further described below, and Price's actions historically have caused RadioWV, LLC to be concerned about Price's ability to pay these damages upon rendering of a verdict in RadioWV, LLC's favor, including the potential of asset secretion and fraudulent transfer; accordingly, Riffe has informed Price that the royalties due Price for the month of August 2023, going forward, are being deposited into an interest-bearing escrow account in undersigned counsel's name at Summit Bank until this matter can be resolved.

#### COUNT ONE – BREACH OF CONTRACT

47. Plaintiff incorporates paragraphs 1 through 46 above, as if fully restated herein.

48. As a remedy for Prices' breaches of the Settlement Agreement, as they have been set forth herein, the Plaintiff is entitled to an order for damages from Price that would place the Plaintiff in the same position in which it would have been had the contract between these entities not been breached as herein alleged.

49. Plaintiff is entitled to expectancy damages in the amount of revenue and royalties that would have been gained by RadioWV, LLC had radiowv uploaded the "Dreams" video that

was rightfully owned by them, plus the value of the views, followers, and engagement radiowv would have gained had radiowv been able to upload the video, as these damages will be supported in discovery, including expert discovery.

50. Additionally, Price's acts, which are breaches of a settlement agreement entered into in good faith to resolve a litigation, are willful, wanton, vexatious, and in bad faith---thus, Plaintiff is entitled not only to consequential and compensatory damages in connection therewith, but also punitive damages and attorney's fees under West Virginia law.

51. Furthermore, as will be proven, Appalachia Untold is essentially and in all respects an alter-ego of Price, and by the theory of reverse veil-piercing, is and ought to be held liable for Price's breach of the Settlement Agreement, to the extent that Price is unable to pay individually or has secreted his assets into the Appalachia Untold business.

#### COUNT TWO – UNJUST ENRICHMENT

52. Plaintiff incorporates paragraphs 1 through 51 above, as if fully restated herein.

53. By posting RadioWV, LLC's video in violation of the Settlement Agreement, the Defendants have secured an enriching benefit to themselves at the expense of RadioWV, LLC.

54. By receiving and retaining, and, upon information and belief, intending to continue to receive and retain during the pendency of this action, revenue and royalties from the Jake Kohn – "Dreams" video that are and will be rightly due and owing to RadioWV, LLC, the Defendants have enriched themselves.

55. By receiving and retaining market share in the form of views, followers, and exposure from the Jake Kohn – "Dreams" video that were rightly due and owing to RadioWV, LLC, and which would have manifested with RadioWV, LLC to a greater extent than that has been realized thus far by Appalachia Untold, had the opportunity not been taken by the Defendants, the

Defendants have enriched themselves.

56. As a remedy for this unjust enrichment, RadioWV, LLC is entitled to a judgment for the amount by which the Defendants have benefited; thus, Plaintiff is entitled to the revenue and royalties the Defendants have unjustly retained.

57. Furthermore, because the Defendants' behavior has been willful, wanton, vexatious, and in bad faith, Riffe is entitled not only to consequential and compensatory damages in connection with this cause of action, but also punitive damages and attorney's fees under West Virginia law.

58. As stated in paragraph 51, above, Price and Appalachia Untold are alter-egos of one another; accordingly, Price cannot justly enjoy the benefit of a shield of liability in this instance, and is and ought to be held jointly and severally liable along with his limited liability company for the unjust enrichment described herein.

#### COUNT THREE – CONVERSION

59. Plaintiff incorporates paragraphs 1 through 58, above, as if fully restated herein.

60. As described above, the Defendants have converted the rightful digital property of RadioWV, LLC—namely, the video and audio clips from which the Jake Kohn – “Dreams” video was created.

61. Additionally, the Defendants have converted and misappropriated the intellectual property that is solely and wholly owned by RadioWV, LLC—namely the intellectual property rights to the “Dreams” music video, in any form, which were assigned to and obtained by the “radiowv” partnership by Jake Kohn himself, and which were assigned to RadioWV, LLC by the Settlement Agreement.

62. Finally, the Defendants have converted a corporate opportunity from RadioWV,

LLC, which has deprived RadioWV, LLC from the increase in market share, views, internet engagement, and followership that it otherwise would have received.

63. These acts by the Defendants would amount to tortious conversion, with or without the existence of the Settlement Agreement's terms obligating Price to return all property to Riffe in his capacity as the sole owner of RadioWV, LLC.

64. As a remedy for these acts of tortious conversion, RadioWV, LLC is entitled to a judgment for the value of the Jake Kohn – "Dreams" video, as that will be determined in discovery, and particular expert discovery, as well as an award for the value of the corporate opportunity that has been taken from RadioWV, LLC.

65. Furthermore, because the Defendants' behavior has been willful, wanton, vexatious, and in bad faith, Riffe is entitled not only to consequential and compensatory damages in connection with this cause of action, but also punitive damages and attorney's fees under West Virginia law.

66. As stated in paragraphs 51 and 58, above, Price and Appalachia Untold are alter-egos of one another; accordingly, Price cannot justly enjoy the benefit of a shield of liability in this instance, and is and ought to be held jointly and severally liable along with his limited liability company for the unjust enrichment described herein.

#### COUNT FOUR – TORTIOUS INTERFERENCE

67. Plaintiff incorporates paragraphs 1 through 66, above, as if fully restated herein.

68. As stated above, the rights to create, post, and profit from an original music video for Kohn's song "Dreams" contractually belonged to the radiowv partnership.

69. All such rights were assigned to RadioWV, LLC by the Settlement Agreement (and bills of sale that were executed in conjunction therewith).

70. Accordingly, RadioWV, LLC and Jake Kohn have a contract for the production and promotion of the original "Dreams" music video, in whatever form that video would have taken, including the Jake Kohn – "Dreams" music video currently on the Appalachia Untold platforms.

71. The Defendants have interfered tortiously with the contractual and business rights between RadioWV, LLC and Kohn.

72. RadioWV, LLC is therefore entitled to an award for the monetary damages it has sustained as a proximate result of this tortious interference, to be determined in discovery.

73. Furthermore, because the Defendants' behavior has been willful, wanton, vexatious, and in bad faith, Riffe is entitled not only to consequential and compensatory damages in connection with this cause of action, but also punitive damages and attorney's fees under West Virginia law.

74. As stated in paragraphs 51, 58, and 66, above, Price and Appalachia Untold are alter-egos of one another; accordingly, Price cannot justly enjoy the benefit of a shield of liability in this instance, and is and ought to be held jointly and severally liable along with his limited liability company for the unjust enrichment described herein.

#### COUNT FIVE – SLANDER

75. Plaintiff incorporates paragraphs 1 through 74 above, as if fully restated herein.

76. Upon information and belief, based on statements made to Riffe by members of the community, Price, individually, and as a representative of Appalachia Untold, has informed individuals of certain terms of the Settlement Agreement, stating that Price is to receive 45% of all assets and revenue gained by RadioWV, LLC.

77. These statements made by Price are false, as, under the Settlement Agreement,

Price is only to receive 45% of the advertising royalty gained by RadioWV, LLC.

78. Accordingly, by falsely representing the terms of the agreement made between RadioWV, LLC and Price about the revenue due Price, Price has slandered RadioWV, LLC and Riffe, which affects or could affect their reputation and ability to engage competitively in the industry.

79. These acts are willful, wanton, vexatious, and in bad faith; thus, Riffe is entitled not only to consequential and compensatory damages in connection therewith, but also punitive damages and attorney's fees under West Virginia law.

80. Further, as stated in paragraphs 51, 58, 66, and 74 above, Price and Appalachia Untold are alter-egos of one another; accordingly, Price cannot justly enjoy the benefit of a shield of liability in this instance, and is and ought to be held jointly and severally liable along with his limited liability company for the unjust enrichment described herein.

#### REMEDIES

81. Plaintiff incorporates paragraphs 1 through 80 above, as if fully restated herein.

82. As remedies for the above-listed causes of action, on the bases alleged, the Plaintiff asserts that it is entitled to the following:

- a. Expectancy damages for the amount of advertising revenue and royalties RadioWV, LLC and Riffe would have gained had the Settlement Agreement not been breached by Price, as well as expectancy damages for the value of the followers, views, and engagement RadioWV, LLC and Riffe would have gained had the Settlement Agreement not been breached.
- b. Damages in the amount Price has been unjustly enriched by the revenue and royalties gained by posting a video that was not rightly his.

- c. Additional compensatory and consequential damages to address the pecuniary effect of the damage Price's actions have caused to the RadioWV, LLC's professional reputations and competitive ability in the industry;
- d. Punitive damages arising from the Defendants' repeated and intentional bad acts, which have been done in bad faith, vexatiously, wantonly, and willfully; and
- e. An award of attorney's fees and costs expended in connection with this action, on the basis of Price's breach of the valid and enforceable Settlement Agreement and the basis of Price's bad faith, and willful, wanton, and vexatious acts.

PRAYER

For the reasons above alleged and described, by this Complaint and Application, the Plaintiff, RadioWV, LLC hereby prays that this Court grant it the remedies requested above, including any other award or sanction that this Court deems in the interests of justice appropriate to grant.

Submitted this 13<sup>th</sup> day of October, 2023.

RADIOWV, LLC,  
Plaintiff,

By counsel,

Jonathon C. Stanley *WJP mslw*  
Jonathon C. Stanley (WV Bar #13470)  
Kent J. George (WV Bar #4842)  
Mary G. Williams (WV Bar #14306)  
ROBINSON & McELWEE PLLC  
400 Fifth Third Center  
700 Virginia Street East  
Charleston, WV 25301  
jcs@ramlaw.com  
kjc@ramlaw.com  
mary.williams@ramlaw.com  
304-344-5800

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

DRAVEN RIFFE, and  
RADIO WV, LLC, a West Virginia  
limited liability company,

Plaintiffs,

v.

Civil Action No.: 23-C-916  
Judge Webster

JOHN D. PRICE, and  
PRICE HILL RECORDS, LLC dba  
APPALACHIA UNTOLD,  
a West Virginia limited liability company.

Defendants.

**ANSWER AND COUNTERCLAIM**

Defendants, John D. Price and Price Hill Records, LLC dba Appalachia Untold, a West Virginia limited liability company ("Defendants"), by counsel, respectfully responds to Plaintiff's Complaint filed in the above- referenced action as follows:

**First Affirmative Defense**

Plaintiff's Complaint fails to state a claim upon which relief can be granted pursuant to the West Virginia Rules of Civil Procedure.

In response to the specific averments and allegations in Plaintiff's Complaint, Defendants state as follows:

1. Upon information and belief, the Defendants admit allegations of paragraph 1 of the Complaint.
2. Defendants admit the allegations contained in Paragraph 2 of Plaintiff's Complaint.
3. Defendants admit the allegations contained in Paragraph 3 of Plaintiff's Complaint.
4. Defendants admit the allegations contained in Paragraph 4 of Plaintiff's Complaint.



5. Defendants admit the allegations contained in Paragraph 5 of Plaintiff's Complaint.

6. Defendants admit the allegations contained in Paragraph 6 of Plaintiff's Complaint.

7. Defendants deny the allegations contained in Paragraph 7 of Plaintiff's Complaint and demand strict proof thereof.

8. Defendants deny the allegations stated in Paragraph 8 of Plaintiff's Complaint and demand strict proof thereof.

9. Defendants admit the allegations contained in Paragraph 9 of Plaintiff's Complaint.

10. Defendants deny the allegations stated in Paragraph 10 of Plaintiff's Complaint and demand strict proof thereof.

11. Defendants deny the allegations stated in Paragraph 11 of Plaintiff's Complaint. Defendants further state that John D. Price was a co-owner of radiowv and the social media profile under which it operated.

12. Defendants admit the allegations contained in Paragraph 12 of Plaintiff's Complaint.

13. Defendants admit the allegations contained in Paragraph 13 of Plaintiff's Complaint.

14. Defendants admit the allegations contained in Paragraph 14 of Plaintiff's Complaint.

15. Defendants admit the allegations contained in Paragraph 15 of Plaintiff's Complaint.

16. Defendants deny the allegations stated in Paragraph 16 of Plaintiff's Complaint and demand strict proof thereof. Further the Defendants are without knowledge or sufficient information with which to form a belief as to the truth of the allegations that Kohn agreed that

radiowv owned the video and advertisement revenue on the Kohn videos that were produced by radiowv and posted on its social media profiles; but to the extent that those allegations pertain to Defendants, those allegations are denied.

17. Defendants admit the allegations contained in Paragraph 17 of Plaintiff's Complaint.

18. Defendants admit the allegations contained in Paragraph 15 of Plaintiff's Complaint.

19. Defendants are without sufficient knowledge or information with which to form a belief as to the truth of the matters alleged in paragraph 19 of Plaintiff's Complaint; but to the extent that those allegations pertain to Defendants, those allegations are denied.

20. In response to Paragraph 20 of Plaintiff's Complaint, Defendants restate and reassert the answers to Paragraph 1 through 19 of Plaintiff's Complaint as if such answers were set out herein verbatim.

21. Defendants admit the allegations contained in Paragraph 21 of Plaintiff's Complaint.

22. Defendants admit the allegations contained in Paragraph 22 of Plaintiff's Complaint.

23. Defendants admit the allegations contained in Paragraph 23 of Plaintiff's Complaint.

24. Defendants admit the allegations contained in Paragraph 24 of Plaintiff's Complaint.

25. Defendants admit the allegations contained in Paragraph 25 of Plaintiff's Complaint.

26. Paragraphs 26-31 of Plaintiff's Complaint states legal conclusions to which no response is required. By way of further response, Paragraphs 26-31 appear to refer to the Settlement Agreement entered between the parties herein, Defendants and Radio WV LLC. This is a written document, which speaks for itself. Accordingly, Defendants deny the allegations insofar as they are inconsistent with the contents of the written document or otherwise attempted to paraphrase the document.

32. Defendants deny the allegations contained in Paragraph 32 of Plaintiff's Complaint and demand strict proof thereof.

*Defendants' Breach and other Bad Acts*

33. Defendants deny the allegations contained in Paragraph 33 of Plaintiff's Complaint and demand strict proof thereof.

34. Defendants deny the allegations contained in Paragraph 34 of Plaintiff's Complaint and demand strict proof thereof.

35. Defendant deny the allegations contained in Paragraph 35 of Plaintiff's Complaint and demand strict proof thereof.

36. Defendants deny the allegations contained in Paragraph 36 of Plaintiff's Complaint and demand strict proof thereof.

37. Defendants deny the allegations contained in Paragraph 37 of Plaintiff's Complaint and demand strict proof thereof.

38. Defendants are without sufficient knowledge or information with which to form a belief as to the truth of the matters alleged in paragraph 38 of Plaintiff's Complaint. Defendants further state said allegations are purely speculative and not factual allegations.

39. Defendants are without sufficient knowledge or information with which to form a belief as to the truth of the matters alleged in paragraph 39 of Plaintiff's Complaint.

40. Defendants deny the allegations stated in Paragraph 40 of Plaintiff's Complaint and demands strict proof thereof.

41. Defendants deny the allegations stated in Paragraph 41 of Plaintiff's Complaint and demands strict proof thereof.

42. Defendants deny the allegations stated in Paragraph 42 of Plaintiff's Complaint and demands strict proof thereof.

43. Defendants deny the allegations stated in Paragraph 43 of Plaintiff's Complaint and demands strict proof thereof.

44. Defendants deny the allegations stated in Paragraph 44 of Plaintiff's Complaint and demands strict proof thereof.

45. Defendants deny the allegations stated in Paragraph 45 of Plaintiff's Complaint and demands strict proof thereof.

46. Defendants deny the allegations stated in Paragraph 46 of Plaintiff's Complaint and demands strict proof thereof. Defendants further state Plaintiff has unlawfully withheld Defendant's royalties from August 2023 to present, to prevent him from retaining counsel. Therefor counsel in this matter is representing him pro bono.

#### **COUNT ONE – BREACH OF CONTRACT**

47. In response to Paragraph 47 of Plaintiff's Complaint, Defendants restate and reassert the answers to Paragraph 1 through 46 of Plaintiff's Complaint as if such answers were set out herein verbatim.

48. Defendants deny the allegations stated in Paragraph 48 of Plaintiff's Complaint and demands strict proof thereof.

49. Defendants deny the allegations stated in Paragraph 49 of Plaintiff's Complaint and demands strict proof thereof.

50. Defendants deny the allegations stated in Paragraph 50 of Plaintiff's Complaint and demands strict proof thereof.

51. Defendants deny the allegations stated in Paragraph 51 of Plaintiff's Complaint and demands strict proof thereof.

#### **COUNT TWO – UNJUST ENRICHMENT**

52. In response to Paragraph 52 of Plaintiff's Complaint, Defendants restate and reassert the answers to Paragraph 1 through 51 of Plaintiff's Complaint as if such answers were set out herein verbatim.

53. Defendants deny the allegations stated in Paragraph 53 of Plaintiff's Complaint and demands strict proof thereof.

54. Defendants deny the allegations stated in Paragraph 54 of Plaintiff's Complaint and demands strict proof thereof.

55. Defendants deny the allegations stated in Paragraph 55 of Plaintiff's Complaint and demands strict proof thereof.

56. Defendants deny the allegations stated in Paragraph 56 of Plaintiff's Complaint and demands strict proof thereof.

57. Defendants deny the allegations stated in Paragraph 57 of Plaintiff's Complaint and demands strict proof thereof.

58. Defendants deny the allegations stated in Paragraph 58 of Plaintiff's Complaint and demands strict proof thereof.

**COUNT THREE - CONVERSION**

59. In response to Paragraph 59 of Plaintiff's Complaint, Defendants restate and reassert the answers to Paragraph 1 through 58 of Plaintiff's Complaint as if such answers were set out herein verbatim.

60. Defendants deny the allegations stated in Paragraph 60 of Plaintiff's Complaint and demands strict proof thereof.

61. Defendants deny the allegations stated in Paragraph 61 of Plaintiff's Complaint and demands strict proof thereof.

62. Defendants deny the allegations stated in Paragraph 62 of Plaintiff's Complaint and demands strict proof thereof.

63. Defendants deny the allegations stated in Paragraph 63 of Plaintiff's Complaint and demands strict proof thereof.

64. Defendants deny the allegations stated in Paragraph 64 of Plaintiff's Complaint and demands strict proof thereof.

65. Defendants deny the allegations stated in Paragraph 65 of Plaintiff's Complaint and demands strict proof thereof.

66. Defendants deny the allegations stated in Paragraph 66 of Plaintiff's Complaint and demands strict proof thereof.

#### COUNT FOUR – TORTIOUS INTERFERENCE

67. In response to Paragraph 67 of Plaintiff's Complaint, Defendants restate and reassert the answers to Paragraph 1 through 66 of Plaintiff's Complaint as if such answers were set out herein verbatim.

68. Defendants deny the allegations stated in Paragraph 68 of Plaintiff's Complaint and demands strict proof thereof.

69. Defendants deny the allegations stated in Paragraph 69 of Plaintiff's Complaint and demands strict proof thereof.

70. Defendants deny the allegations stated in Paragraph 70 of Plaintiff's Complaint and demands strict proof thereof.

71. Defendants deny the allegations stated in Paragraph 71 of Plaintiff's Complaint and demands strict proof thereof.

72. Defendants deny the allegations stated in Paragraph 72 of Plaintiff's Complaint and demands strict proof thereof.

73. Defendants deny the allegations stated in Paragraph 73 of Plaintiff's Complaint and demands strict proof thereof.

74. Defendants deny the allegations stated in Paragraph 74 of Plaintiff's Complaint and demands strict proof thereof.

#### COUNT FIVE - SLANDER

75. In response to Paragraph 75 of Plaintiff's Complaint, Defendants restate and reassert the answers to Paragraph 1 through 74 of Plaintiff's Complaint as if such answers were set out herein verbatim.

76. Defendants deny the allegations stated in Paragraph 76 of Plaintiff's Complaint and demands strict proof thereof.

77. Defendants deny the allegations stated in Paragraph 77 of Plaintiff's Complaint and demands strict proof thereof.

78. Defendants deny the allegations stated in Paragraph 78 of Plaintiff's Complaint and demands strict proof thereof.

79. Defendants deny the allegations stated in Paragraph 79 of Plaintiff's Complaint and demands strict proof thereof.

80. Defendants deny the allegations stated in Paragraph 80, inclusive of all subparts, of Plaintiff's Complaint and demands strict proof thereof.

#### **REMEDIES**

81. In response to Paragraph 81 of Plaintiff's Complaint, Defendants restate and reassert the answers to Paragraph 1 through 80 of Plaintiff's Complaint as if such answers were set out herein verbatim.

82. Defendants deny the allegations stated in Paragraph 82, inclusive of all subparts, of Plaintiff's Complaint and demands strict proof thereof.

#### **Second Affirmative Defense**

In the event the evidence indicates, Plaintiff's Complaint is barred, in whole or in part, under the doctrine of unclean hands.

#### **Third Affirmative Defense**

In the event the evidence indicates, Plaintiffs' damages, if any, were not proximately caused by any act or omission of the Defendants but by the intervening acts or omissions of other persons or entities for whose actions the Defendants are not legally responsible.



**Fourth Affirmative Defense**

Plaintiff's Complaint is barred, in whole or in part, under the gist of the action doctrine.

**Fifth Affirmative Defense**

Plaintiff's Complaint is barred, in whole or in part, by Plaintiff's own acts or failure to act.

**Sixth Affirmative Defense**

In the event the evidence indicates, Plaintiff's Complaint is barred, in whole or in part, by anticipatory repudiation.

**Seventh Affirmative Defense**

In the event the evidence indicates, Plaintiff's Complaint is barred, in whole or in part, by the doctrine of estoppel.

**Eighth Affirmative Defense**

In the event the evidence indicates, Plaintiff's Complaint is barred, in whole or in part, for want of consideration.

**Ninth Affirmative Defense**

Plaintiff's Complaint is barred, in whole or in part, by Plaintiff's own acts of conversion.

**Tenth Affirmative Defense**

In the event the evidence indicates, Plaintiff's Complaint is barred, in whole or in part, based on Plaintiffs' failure to mitigate their damages.

**Eleventh Affirmative Defense**

Defendants reserves the right to plead all defenses, including all affirmative defenses provided in Rules 8 and 12 of the *West Virginia Rules of Civil Procedure*, as well as any matter constituting an avoidance, affirmative defense and/or equitable bar to recovery, if warranted by subsequent investigation and discovery.

### COUNTERCLAIM

1. This is a Counterclaim against Draven Riffe and RadioWV LLC (herein "Plaintiff" or "Counterclaim-Defendants") for breach of contract, and detrimental reliance on representation and fraud.

2. Defendant John D. Price is a resident of Kanawha County West Virginia (herein "Defendants" or "Counterclaimant").

3. Defendant Price Hill Records, LLC, is a West Virginia limited liability company authorized to do business in the State of West Virginia, with possession of the trade name "Appalachia Untold" and doing business thereunder; Defendant John D. Price is a member of Price Hill Records, LLC, collectively (herein "Defendants" or "Counterclaimants").

4. Jurisdiction and Venue are proper in the Circuit Court of Kanawha County, West Virginia as all Defendants all transact business in Kanawha County, West Virginia and Kanawha County is where the acts or omissions took place.

5. The parties entered into a contract on *June 6, 2023* to resolve a prior dispute.

6. As consideration for granting Plaintiff exclusive right, title and ownership or RadioWV, paragraph 4 of the Agreement set forth, that which Defendant, Price would receive:

*"Commencing July 1, 2023, and going on in perpetuity, the LLC, or its agents or assigns, as applicable, shall pay to Price an amount equal to 45% of all advertising revenue raised by the direct monetization of in-stream advertisements, side-banner advertisements, or any other form of advertising that is placed by the social media platforms or their parent companies emanating from each and every "radiowv" social media page (i.e. each and every social media page or channel rightfully bearing the "radiowv" name, over which Riffe has any direct or indirect control). This royalty shall be paid monthly, for the previous month's applicable revenue, via a preferred payment method which will be sent to Price, on the first business day of every month. Each monthly royalty payment shall be accompanied with a statement prepared by the LLC, with supporting documentation, showing the revenue to which the royalty is to be applied for the previous month, with a calculation of the royalty accordingly owed to Price. Price shall receive from the LLC, or its successors or assigns, an annual IRS Form 1099 in connection with this royalty. Monthly royalty payments shall be deemed "late" if not received by Price within fifteen (15) business days from when they are due to be sent. Upon a monthly royalty payment becoming "late," Price shall give written notice to the LLC of the "late" payment, at the receipt of which the*

*LLC will have seven (7) business days to cure. Upon any failure to cure the "late" payment within the timeframe allotted, interest shall begin to accrue at the current IRS-imputed rate. "*

7. **THAT THIS COMPLAINT IS NOTHING BUT A SMOKE SCREEN AND PRETEXT FOR NOT PAYING PRICE HIS ENTITLED ROYALTIES.**

8. Upon information and belief, when substantial revenue started flowing in, via paragraph 4, Riffe realized he struck a bad bargain.

9. This Complaint is nothing more than an abuse of process in an attempt to get the parties back to the bargaining table.

10. Riffe and Price became *de facto* general partners in RadioWV and therefore a *de facto* trust was created.

11. Price has not violated ANY terms with the agreement.

12. Riffe is simply angry that he struck a bad deal and is jealous of Price's bargain and of Price's success.

13. RadioWV has been exceptionally successful. Many of the videos have gained hundreds of thousands to millions of views. RadioWV has assisted in launching several new music careers, including that of Oliver Anthony, the video for his original song "Rich men North of Richmond," was recorded and produced by RadioWV on August 8, 2023, and has received approximately 80 million views on YouTube. The song itself reached the top number 1 Billboard Hot 100 chart for 2 consecutive weeks.

14. Upon information and belief, this Oliver Anthony video alone, earned Price approximately \$156,000.00 in August alone.

15. Even Riffe's counsel has remarked what a favorable bargain Price struck.

16. Between January and March RadioWV produced and posted Jake Kohn's videos for songs: "Hard as Stone", "Lorraine" and "Frostbite".

17. No royalties have been paid for those artists since September.

#### COUNT ONE- BREACH OF CONTRACT

18. The Defendant incorporates paragraphs 1 through 17 above, as if fully restated herein.

19. In the RadioWV partnership, Riffe and Price had a *de facto* partnership agreement with one another, whereby they entered a joint enterprise and evenly shared the profits thereof emanating from the advertising revenue raised thereby.

20. In refusing to share the revenues and make payments rightly due and owing to Price, and by essentially freezing Price out of all benefits of his investment or ability to contribute to the RadioWV partnership going forward, Riffe has breached the fundamental terms of his partnership agreement and contract with Price.

21. Price is thus entitled to expectancy damages sufficient to restore him to where he would be had the contract not been breached, including any interest accrual; furthermore, either as an independent basis under this Count One, or under any other theories alleged hereinbelow, Price is entitled to compensatory and consequential damages, because mere expectancy damages are not in this instance sufficient to compensate him fully-nor are the interests of justice in this case furthered by simply relying on expectancy damages.

#### COUNT TWO- BREACH OF DUTY

22. The Defendant incorporates paragraphs 1 through 21 above, as if fully restated herein.

23. As *de facto* partners Riffe has a fiduciary duty to Price, and the highest degree of good faith is required of them both (i.e., Riffe must pay Price 45% of RadioWV in perpetuity).

24. Riffe has violated his fiduciary duty to Price by intentionally and tortiously withholding Price's 45% payments for August, September, and October of 2023, and apparently intends to do so until otherwise ordered by this Court.

25. Indeed, Riffe's acts have constituted acts of freeze-out or oppression, designed to prevent Price from realizing any further benefit from his investment-which has included the creativity, intellectual property, time, and labor that has created the RadioWV business-and have also constituted acts of extortion designed to force Price out of the business that Riffe started.

26. These acts are willful, wanton, vexatious, and in bad faith-thus, Price is entitled not only to consequential and compensatory damages in connection therewith, but also punitive damages and attorney's fees under West Virginia law.

#### **COUNT THREE- CONVERSION**

27. The Defendant incorporates paragraphs 1 through 26 above, as if fully restated herein.

28. These acts are willful, wanton, vexatious, and in bad faith- thus, Price is entitled not only to consequential and compensatory damages in connection therewith. But also, punitive damages and attorney's fees under West Virginia law.

#### **COUNT FOUR-DEFAMATION**

29. The Defendant incorporates paragraphs 1 through 28 above, as if fully restated herein.

30. By suing Price, making false allegations against him and creating a faux pretext not to pay Price his agreed income, indicating or otherwise implying Price engaged in wrongful acts and in otherwise taking efforts to harm Price's reputation in his industry, Riffe has both libeled and slandered Price.

31. These acts are willful, wanton, vexatious, and in bad faith-thus, Price is entitled not only to consequential and compensatory damages in connection therewith, but also punitive damages and attorney's fees under West Virginia law.

#### **COUNT FIVE- SLANDER OF TITLE**

32. The Defendant incorporates paragraphs 1 through 31 above, as if fully restated herein.

33. In taking full control of the RadioWV name and its use in the marketplace, and in making other affirmative acts such as representing to others that Price has acted ultra vires vis-à-vis the RadioWV partnership, Riffe has slandered Price's title to his and his LLC's intellectual property.

34. These acts are willful, wanton, vexatious, and in bad faith-thus, Riffe is entitled not only to consequential and compensatory damages in connection therewith, but also punitive damages and attorney's fees under West Virginia law.

#### **COUNT SIX- TORTIOUS INTERFERENCE**

35. The Defendant incorporates paragraphs 1 through 34 above, as if fully restated herein.

36. As alleged and demonstrated above, the parties have a contractual relationship, and Plaintiff Riffe has intentionally interfered with that contractual relationship.

37. This tortious interference by Riffe has caused damage to Price financially, professionally, and reputationally.

38. These acts are not only intentional, but willful, wanton, vexatious, and in bad faith-thus, Price is entitled not only to consequential and compensatory damages in connection therewith, but also punitive damages and attorney's fees under West Virginia law.

#### **COUNT SEVEN - UNJUST ENRICHMENT**

39. The Defendant incorporates paragraphs 1 through 38 above, as if fully restated herein.

40. By receiving and retaining, and, upon information and belief, intending to continue to receive and retain during the pendency of this action, funds that are and will be rightly due and owing to Price, Riffe has enriched himself.

41. It would be inequitable and unconscionable to permit Riffe to avoid payment therefore, and thus the law requires that Riffe pay for these monetary benefits.

42. Furthermore, because Riffe's behavior has been willful, wanton, vexatious, and in bad

faith, Price is entitled not only to consequential and compensatory damages in connection with this cause of action, but also punitive damages and attorney's fees under West Virginia law.

#### **BREACH OF TRUST**

- 43. The Defendant incorporates paragraphs 1 through 42 above, as if fully restated herein.
- 44. Such acts constitute breach of trust for which Defendant Price, seeks damages.

#### **BREACH OF FIDUCIARY DUTY**

- 45. The Defendant incorporates paragraphs 1 through 44 above, as if fully restated herein.
- 46. Such acts constitute breach of fiduciary duty for which Defendant Price, seeks damages.

#### **REMEDIES**

- 47. The Plaintiff incorporates paragraphs 1 through 42 above, as if fully restated herein.
- 48. As remedies for the above-listed causes of action, on the bases alleged, the Plaintiff asserts that he is entitled to the following:

- a. As expectancy damages under various causes of action, an amount equal to the 45% proportion of all advertising revenues raised by the Radio WV partnership, including funds already withheld from him, and which, upon information and belief, will be withheld from him going forward;
- b. Additional compensatory and consequential damages to address the pecuniary effect of Price's and Appalachia Untold's now-damaged professional reputation, and as damages for misappropriation of the Radio WV gross advertising receipts, to be calculated based on the evidence presented in discovery;
- c. In equity, Orders of Preliminary and Permanent Injunction, ordering the Plaintiff

Riffe to immediately cease and desist all acts of interference, breach, freeze-out, oppression, defamation, conversion, and unjust enrichment toward the Defendant Price-namely, to cease and desist all posts and other communications implicating or accusing Price, as such are described hereinabove; and to take affirmative actions immediately to restore Price's and Appalachia Untold's reputation, by rescinding all previous accusations and other defamatory acts, including dismissal of his complaint;

- d. An award of attorney's fees and costs expended in connection with this action, based on Riffe's intentional oppressive conduct, bad faith, and willful, wanton, and vexatious acts and breach of trust; and
- e. Punitive damages for the intentional tortious acts alleged herein, to be determined by the factfinder, as limited, or defined by West Virginia law.

#### PRAYER

For the reasons above alleged and described, by this Counterclaim and Application, the Defendant John Douglas Price hereby prays that this Court grant him the remedies requested above, including any other award or sanction that this Court deems in the interests of justice appropriate to grant.

The Plaintiff demands a trial by jury.

Submitted this 27th day of November, 2023.

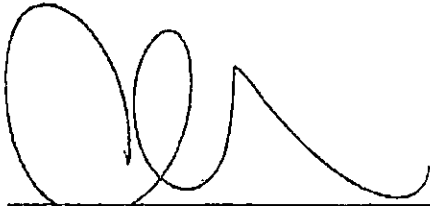
WHEREFORE, Defendants pray for judgment against RadioWV, as follows:

- a. Pre-judgment and post-judgment interest:
- b. Awarding attorney's fees, expenses and costs for egregious conduct; and



c. Providing such other and further relief as this Honorable Court may deem just and proper.

**DEFENDANTS DEMAND A JURY ON ALL TRIABLE ISSUES.**



Charles R. "Rusty" Webb (WVSB No.: 4782)  
THE WEBB LAW CENTRE, PLLC  
716 Lee Street, East  
Charleston, West Virginia 25301  
(304) 344-9322 - *telephone*  
(304) 344-1157 - *facsimile*  
rusty@rustywebb.com

JOHN D. PRICE, and  
PRICE HILL RECORDS, LLC dba  
APPALACHIA UNTOLD,  
a West Virginia limited liability company,  
By Counsel,



IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

DRAVEN RIFFE, and  
RADIOWV, LLC, a West Virginia  
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Plaintiffs,

v.

Civil Action No.: 23-C-916  
Judge Webster

JOHN D. PRICE, and  
PRICE HILL RECORDS, LLC dba  
APPALACHIA UNTOLD,  
a West Virginia limited liability company.

Defendants.

VERIFICATION OF VERIFIED COMPLAINT FOR INJUNCTIVE  
AND OTHER RELIEF

I, John Douglas Price, the Defendant in the above-captioned litigation, do hereby verify that I have read the foregoing "Verified Complaint for Injunctive and Other Relief" and that the factual allegations set forth therein are true and correct to the best of my knowledge, except to the extent they are alleged upon information and belief, in which case I believe them to be true.

Signed: [Signature]  
John Douglas Price

Dated: 11/27/2023

Taken, subscribed and sworn to me this 27<sup>th</sup> day of November, 2023.

My commission expires on the 22<sup>nd</sup> day of June 2027.

[Signature]  
NOTARY PUBLIC

