

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Central Justice Center
700 W. Civic Center Drive
Santa Ana, CA 92702

SHORT TITLE: Ho vs. Le

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

CASE NUMBER:
30-2022-01261310-CU-DF-CJC

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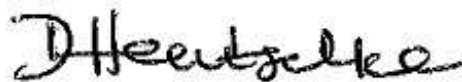
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CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE – CENTRAL JUSTICE CENTER**

THANH DUC NGUYEN, DUNG NGOC HO,
HAI THI NGUYEN, TAN HUU TRAN,
TRIEU MINH VO, TU THI THAI, NGOC
KIM NGUYEN, MY-HEN THI LY, HA
QUANG DINH, LAN THI DO, TRUNG DIEN
DOAN, HANG NGUYEN, THANH VAN
BUI, and VAN HAI TRAN, derivatively on
behalf of DAI-DAO TAM-KY PHO-DO, TOA-
THANH TAY-NINH, and Individually,

Plaintiffs,

vs.

HAI TUAN TRAN aka JAMES TRAN, LINH
HOANG NGUYEN, SUONG NGOC HO,
THANH NGOC TRUONG, MINH THANH
TRAN aka MICHAEL TRAN, CHUT VAN
LE, NHAN THE HOA, HAU TRUNG LE,
NGHIEP TAN TRAN, DAI-DAO TAM-KY
PHO-DO, TOA-THANH TAY-NINH, and
DOES 1 through 20, inclusive,

Defendants.

CASE NO. 30-2022-01261310-CU-DF-CJC
[Civil Unlimited]

*Assigned for all purposes to the Honorable Lee
L. Gabriel, Dept. C-32*

STATEMENT OF DECISION

Complaint Filed: May 24, 2022

Phase 1 - Trial Date: August 5, 2024

Phase 2 – Trial Date: December 10, 2024

1 This bifurcated matter came before this Court for a court trial before the Honorable Lee L.
2 Gabriel in Department C-32 of the Superior Court of California, County of Orange. Phase One
3 concerning liability started on August 5, 2024. Phase One lasted for 24 trial days with the close of
4 evidence occurring on September 26, 2024. Phase Two concerning punitive damages came before this
5 Court on December 10-11, 2024.

6 Brandon Q. Tran of Dhillon Law Group represented Plaintiffs Thanh Duc Nguyen, Hai Thi
7 Nguyen, Tan Huu Tran, Trieu Minh Vo, Ngoc Kim Nguyen, Lan Thi Do, Trung Dien Doan, Hang
8 Nguyen, and Thanh Van Bui (collectively, "Plaintiffs").

9 Lan Q. Nguyen and Edward S. Beneville of Lan Quoc Nguyen & Associates represented
10 Defendants Hai Tuan Tran aka James Tran ("Hai Tran"), Linh Hoang Nguyen, Suong Ngoc Ho, Thanh
11 Ngoc Truong, Minh Thanh Tran aka Michael Tran ("Michael Tran"), Chut Van Le, Nhan The Hoa,
12 Hau Trung Le, and Nghiep Tan Tran, and nominal defendant Dai Dao Tam Ky Pho Do Toa Thanh Tay
13 Ninh (the "Corporation").

14 Before setting forth the legal and factual basis for the Court's decision is this Statement of
15 Decision, the Court reminds counsel of the following principles. Ultimate facts are what is required.
16 A proper Code of Civil Procedure statement of decision need only set forth "ultimate facts" on the
17 principal controverted issue specified in the party's request. Detailed statements of evidentiary facts
18 are not required. The Court need not discuss each question listed in a party's request. (*Duarte Nursery,*
19 *Inc v. California Grape Rootstock Improvement Comm'n* (2015) 239 Cal.App.4th 1000, 1012 [statement
20 need only dispose of all the basic issues and fairly disclose court's determination of ultimate facts and
21 material issues].)

22 "The main purpose of an objection to a proposed statement of decision is not to reargue the
23 merits, but to bring to the court's attention inconsistencies between the court's ruling and the document
24 that is supposed to embody and explain that ruling." (*Heaps v. Heaps* (2004) 124 Cal.App.4th 286,
25 292.)

26 The purpose of objections under the CCP § 634 is to bring to the attention of the trial judge any
27 omissions or ambiguities in the statement of decision. The trial court is not required to provide specific
28 answers so long as the findings in the statement of decision fairly disclose the court's determination of

1 all material issues. (*People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159 Cal.App.3d 509,
2 525.) A trial court is not obligated to make findings regarding “detailed evidentiary facts or to make
3 minute findings as to individual items of evidence.” (*Nunes Turfgrass, Inc. v. Vaughan–Jacklin Seed*
4 *Co.* (1988) 200 Cal.App.3d 1518, 1525.) The statute applies only when there is an omission or
5 ambiguity in the trial court's decision, not when the party attacks the legal premises or claims the trial
6 court's findings are irrelevant or unsupported by evidence. (*Yield Dynamics, Inc. v. TEA Systems*
7 *Corp.* (2007) 154 Cal.App.4th 547, 558.)

8 The trial court is the sole judge of credibility and weight of the evidence. “It is well settled that
9 the trier of fact may accept part of the testimony of a witness and reject another part even though the
10 latter contradicts the part accepted. [Citations omitted]” (*Stevens v. Parke, Davis & Co.* (1973) 9 Cal.3d
11 51, 67, emphasis added.) “The trial judge may believe or disbelieve uncontradicted witnesses if there
12 is any rational ground for doing so. The fact finder's determination of the veracity of a witness is final.”
13 (*People v. Johnson & Johnson* (2022) 77 Cal.App.5th 295, 335 citing *Schmidt v. Superior Court* (2020)
14 44 Cal.App.5th 570, 582.) Credibility of the experts and their conclusions were matters for trier of fact.
15 (*In re Marriage of Winternitz* (2015) 235 Cal.App.4th 644, 653 citing *People v. Mercer* (1999) 70
16 Cal.App.4th 463, 466.)

17 The testimony of a single credible witness, an expert or even a party to the action—may
18 constitute substantial evidence. (Evid. Code, §411.)

19 For the reasons set forth below, Plaintiffs Thanh Duc Nguyen, Hai Thi Nguyen, Tan Huu Tran,
20 Ngoc Kim Nguyen, Lan Thi Do, and Hang Nguyen are entitled to judgment against Defendants Hai
21 Tran, Thanh Ngoc Truong, and Michael Tran on their derivative claims for: (1) breach of fiduciary
22 duty, (2) constructive fraud, (3) waste of corporate assets, and (4) accounting. In addition, and as
23 explained below, Plaintiff Thanh Van Bui is entitled to judgment on his defamation per se cause of
24 action against Defendants Hai Tran, Thanh Ngoc Truong, Michael Tran, Nhan The Hoa, and Chut Van
25 Le.

26 As to the breach of fiduciary duty, constructive fraud, and waste of corporate assets causes of
27 action, the Court dismisses those claims against Defendants Linh Hoang Nguyen, Chut Van Le, Nhan
28 The Hoa, Hau Trung Le, and Nghiep Tan Tran. The Court finds that a breach of fiduciary duty,

1 constructive fraud and waste of corporate assets are torts. An officer or director cannot be held
2 vicariously liable for the corporation's torts in which he or she did not participate. (*Frances T. v.*
3 *Village Green Owners Assn.* (1986) 42 Cal.3d 490, 503-04.) The law requires the officer or director to
4 authorize the action, direct the action or in some meaningful sense, actively participate in the wrongful
5 conduct. The evidence does not establish that Defendants Linh Hoang Nguyen, Chut Van Le, Nhan
6 The Hoa, Hau Trung Le, and Nghiep Tan Tran's conduct met this standard and therefore, the Court
7 finds that a dismissal is appropriate as to those claims.

8 **PLAINTIFFS' DERIVATIVE CLAIMS**

9 **I. PLAINTIFFS HAVE STANDING TO BRING THE DERIVATIVE CLAIM IN THIS**
10 **CASE**

11 Based on testimonial evidence, the Court finds that Plaintiffs Thanh Duc Nguyen, Hai Thi
12 Nguyen, Tan Huu Tran, Ngoc Kim Nguyen, Lan Thi Do, and Hang Nguyen have standing to bring their
13 derivative claims. The Court further finds that Plaintiffs have met the requirements of California
14 Corporations Code § 5710(b).

15 Suit to enforce liability may be brought by a member's derivative suit against any or all liable
16 directors. (Corp. Code § 5710(b).) Plaintiffs Thanh Duc Nguyen, Hai Thi Nguyen, Tan Huu Tran,
17 Ngoc Kim Nguyen, Lan Thi Do, and Hang Nguyen testified that they are long time members of the
18 Corporation. These plaintiffs testified that they joined the Corporation as members prior to 2010 and
19 have consistently donated their time and money to the Corporation.

20 Additionally, Plaintiffs Thanh Duc Nguyen, Hai Thi Nguyen, and Tan Huu Tran previously filed
21 a Petition for Writ of Mandate to Compel Inspection and Copying of Books, Records, and Documents
22 of the Corporation with the Orange County Superior Court. The matter was assigned Case Number 30-
23 2021-01240081-CU-WM-CJC. On August 25, 2022, the court granted the Petition and issued the Writ
24 of Mandate. (*See*, ROA # 54 in Case No. 30-2021-01240081-CU-WM-CJC). In issuing the Writ of
25 Mandate, the court found that Thanh Duc Nguyen, Hai Thi Nguyen, and Tan Huu Tran were members
26 and had a right to inspect the Corporation's corporate records. The Court finds that this is the law of
27 the case.

28 Defendants did not present any credible evidence that Plaintiffs Thanh Duc Nguyen, Hai Thi

1 Nguyen, Tan Huu Tran, Ngoc Kim Nguyen, Lan Thi Do, and Hang Nguyen are not members of the
2 Corporation.

3 Therefore, the Court finds that Plaintiffs Thanh Duc Nguyen, Hai Thi Nguyen, Tan Huu Tran,
4 Ngoc Kim Nguyen, Lan Thi Do, and Hang Nguyen are members of the Corporation and can bring these
5 derivative claims.

6 For purposes of standing, Corp. Code § 5710(b) sets forth the procedural requirements.
7 Plaintiffs have alleged these two requirements in the operative complaint and thus, have fulfilled §
8 5710(b)'s pleading requirement. (*See*, First Amended Complaint, ¶¶ 77-84.) As to the need to serve
9 the Corporation with a true copy of the Complaint which Plaintiffs proposed to file, the parties stipulated
10 to this requirement in their Joint List of Stipulated Facts.

11 **II. BREACH OF FIDUCIARY DUTY CAUSE OF ACTION**

12 The Court finds that judgment should be entered for Plaintiffs Thanh Duc Nguyen, Hai Thi
13 Nguyen, Tan Huu Tran, Ngoc Kim Nguyen, Lan Thi Do, and Hang Nguyen and against Defendants Hai
14 Tran, Thanh Ngoc Truong, and Michael Tran (the "Core Board Defendants").

15 CACI 4101 sets forth the elements for breach of fiduciary duty with respect to the failure to use
16 reasonable care. There is overwhelming evidence that the Core Board Defendants breached their
17 fiduciary duties in this case.

18 **A. The Core Board Defendants Are Fiduciaries To The Corporation And Its** 19 **Members**

20 The Court finds that the Corporation was managed and operated by the Core Board Defendants.
21 The Core Board Defendants testified that they are directors and officers for the Corporation. This Core
22 Board Defendants started their management and control of the Corporation in 2010 with the election of
23 Defendant Hai Tran as chairman of the board of directors. Defendant Hai Tran then selected Michael
24 Tran and Thanh Ngoc Truong to be part of the board. This core board remains today, as it did for a
25 period of 14 years.

26 The Core Board Defendants each owed a fiduciary duty to the Corporation and its members as
27 directors and officers. (*See, Raven's Cove Townhomes, Inc. v. Knuppe Development Co.* (1981) 114
28 Cal. App. 3d 783, 799 [holding "it is well settled that directors of nonprofit corporations are

1 fiduciaries.”].) Section 4.12 of the Bylaws (Trial Exhibit 2) and Corp. Code § 5231 both confirm that
2 the Core Board Defendants, as directors, owe a fiduciary duty to the Corporation.

3 The Court finds that Plaintiffs have established the first element for breach of fiduciary duty.

4 **B. The Core Board Defendants Acted On Behalf Of Corporation In Managing The**
5 **Corporation’s Affairs**

6 The Core Board Defendants, as members of the board of directors, were entrusted to manage
7 the Corporation’s affairs, including the management of the Corporation’s funds, in good faith. (Bylaws,
8 Ex. 2, §§ 4.01, 4.12, 5.07, 5.08, 9.02, 9.05, and 10.01.) The evidence established that the Core Board
9 Defendants had a role in managing the Corporation’s finances. (8/21/24 Trial Transcript (“TT”),
10 661:11-664:16 and Trial Exhibit 2.)

11 The Court finds that the Core Board Defendants were entrusted to manage the Corporation’s
12 affairs and to safeguard the Corporation’s funds in good faith. Plaintiffs donated money to the
13 Corporation either directly or through the sale of vegetarian food. That money, even where it was
14 minimal, meant something to the Plaintiffs and they should expect that their donations would be
15 accurately accounted and properly maintained.

16 These fiduciary duties require the Core Board Defendant to “affirmatively protect and defend
17 those interests entrusted to them.” (*Bancroft-Whitney Co. v. Glen* (1966) 64 Cal.2d 327, 345 (officer or
18 director must affirmatively protect the corporation’s interest and must refrain from doing “anything that
19 would work injury to the corporation...”).) Thus, a “director may not close his eyes to what is going on
20 about him in the conduct of business of the corporation and have it said that he is exercising business
21 judgment.” (*Burt*, 237 Cal.App.2d at 852-853.)

22 Casey Summar, Plaintiffs’ expert in the standard of care for directors of nonprofits, testified that
23 reasonable care required director to be informed of all the affairs of the nonprofit even though one
24 director might be the primarily lead. For example, a treasurer might be appointed to handle the
25 nonprofit’s finances but the other directors must still supervise and be informed of the nonprofit’s
26 financial affairs to meet the standard of care. (9/4/24 TT, 1320:2-16.)

27 Liability for the breach extends to all the other defendants as they were directors who were
28 “aware of or ratified [another’s] breach of his fiduciary duties...” (*Bancroft-Whitney Co.*, 64 Cal.2d at

1 353.) Further, pursuant to Corp. Code § 5237, directors of a corporation who approve these acts are
2 jointly and severally liable to the corporation.

3 The Court finds that Plaintiffs have established the second element for breach of fiduciary duty.

4 **C. The Core Board Defendants Acted Below The Standard Of Care By**
5 **Misappropriating Corporate Funds And Failing to Account for All Of The**
6 **Corporation's Funds**

7 The Court finds that there was an abject failure by the Core Board Defendants to even give
8 marginal deference to the Corporation's Bylaws. The Core Board Defendants ruled answerable only
9 to itself, rather than to the Corporation and its members. There were no guardrails in place and the
10 guardrails that were in place were ignored.

11 Simply put, the Corporation's financial books and records presented at trial are a mess. It is
12 almost impossible to make sense of the accounting, a task that was made harder by the Core Board
13 Defendants' real-time shifting defense in anticipation of what they heard in the trial itself.

14 The Core Board Defendants' excuses for their inability to keep complete and accurate records
15 are not credible. There were open bank accounts in the Corporation's name prior to 2010. The Core
16 Board Defendants' inability to open additional bank accounts for the Corporation because they were
17 "busy" does not sway this Court. There were two bank accounts in the Corporation's name and more
18 could have been opened to safeguard the Corporation's funds.

19 The Court heard testimony regarding the Core Board Defendants trying to safeguard the
20 Corporation's funds by stating that they reached the limit for FDIC insurance protection and therefore,
21 they needed to move the funds elsewhere. The Core Board Defendants claim that this was the reason
22 why Defendant Thanh Ngoc Truong was authorized to deposit corporate funds into his personal Chase
23 Bank account.

24 The Court does not find this excuse credible. The Corporation's financial records indicate that
25 at various points, the Corporation had over \$200,000.00 in its bank account and the Core Board
26 Defendants did not open any new bank accounts for the funds to be transferred. For example, Trial
27 Exhibit 41 shows that the Bank of America account had well over \$200,000.00 for the entire year and
28 yet the Core Board Defendants did not open a new bank account.

1 Instead, the Core Board Defendants authorized the storage of large amounts of unaccounted
2 cash in Defendant Thanh Ngoc Truong's residence. The Core Board Defendants do not present any
3 credible evidence to explain how this practice safeguards the Corporation's funds. The Court finds
4 that Defendant Thanh Ngoc Truong's testimony that he could not go to the bank on a regular basis to
5 deposit the cash, and that is why he kept large sums at his residence, not credible.

6 More egregiously, the Core Board Defendants commingled the Corporation's funds with
7 Defendant Thanh Ngoc Truong's personal funds in his personal Chase Bank account. The Court finds
8 that is a dereliction of duty to the Corporation. The Court further finds that the failure to open further
9 corporate bank accounts is a dereliction of duty that allowed for the commingling of the Corporation
10 funds with personal bank account.

11 To say that he was too busy and unable to deposit the Corporation's funds in a corporate account
12 does not make sense to this Court. To say that the goal is to protect and safeguard the funds and then
13 to allow the funds to accrue in a commingled account, to be stored as cash, unaccounted for, in
14 Defendant Thanh Ngoc Truong's home is just not credible that the Core Board Defendants were trying
15 to safeguard the funds. For the other Core Board Defendants to allow, authorize, and condone this
16 practice fell far below the standard of care for directors.

17 In their defense, the Core Board Defendants wants to put the burden on the Plaintiffs to unwind
18 and trace the funds that were entrusted to the Core Board Defendants to safeguard. This is misplaced
19 because it is the Core Board Defendant's duty to make sure that those funds are accounted for and
20 safeguarded.

21 The Court attempted to determine the actual cash that the Corporation received. The Court
22 cannot make that determination. As discussed below, the Core Board Defendants never produced any
23 records of the actual cash received by the Corporation prior to the funds being handed to Defendant
24 Thanh Ngoc Truong. The Court cannot depend upon the Corporation's books and records, and
25 specifically the monthly and/or the corrected monthly statements. Based on the evidence, the Court
26 believes that the books and records were made and manufactured in anticipation of litigation. That is,
27 the Core Board Defendants created the documents in anticipation of a defense in this action rather than
28 a true accounting of the Corporation's finances.

1 The Core Board Defendants' attempt to excuse their behavior by allocating the duty to
2 safeguard the Corporation's funds to others cannot lie. For example, Defendant Michael Tran is the
3 Corporation's treasurer, but his lack of knowledge as to the Corporation's financial dealings left a lot
4 to be desired. Defendant Michael Tran did not seem to know about the bank accounts holding the
5 Corporation's funds, in whose name the funds were being held, but at the end of his testimony, he
6 testified that these practices were acceptable because the Core Board Defendants approved it.
7 Defendants Hai Tran and Michael Tran's excuse that they left the tasks to other departments is not
8 acceptable when they are ultimately responsible for safeguarding the funds based on their position as
9 directors and officers of the Corporation. The Court did not find Defendant Michael Tran's testimony
10 to be credible.

11 Defendant Thanh Ngoc Truong's testimony was self-serving and offered a weak explanation
12 for his actions. Defendant Thanh Ngoc Truong's accounting was not even close to being competent
13 and it allowed for what occurred in this case. Importantly, it allowed for what the Bylaws tried to
14 prevent. The Court did not find Defendant Thanh Ngoc Truong's testimony credible.

15 As a result of the Core Board Directors' conduct and dereliction of duty, the Corporation has
16 been harmed to the to the value of \$916,117.46 through misappropriation, inaccurate or no accounting,
17 as set forth below.

18 **1. Defendant Thanh Ngoc Truong misappropriated \$144,000.00 on the**
19 **purported cemetery transaction**

20 Defendant Thanh Ngoc Truong testified that on August 5, 2017, he purchased cemetery plots at
21 the Westminster Memorial Park on behalf of the Corporation. The transaction totaled \$144,000.00 and
22 was paid by check and cash from the Cash on Hand Account (the cash being held at Defendant Thanh
23 Ngoc Truong's residence). Trial Exhibit 39 are the purported checks made to buy the cemetery plots.
24 (8/14/24, 517:12-518:13.) This transaction was not originally approved at a formal meeting of the board
25 of directors. (8/14/24 TT, 518:25-9.) Defendant Michael Tran testified that at some point, the Core
26 Board Defendants approved this transaction. (8/26/24 TT, 924:19-21.)

27 The Court finds that Defendant Truong used this cover story so that he could misappropriate
28 \$144,000.00 from the Corporation. The evidence shows that both checks were not made payable to

1 Westminster Memorial Park but instead to two unknown individuals, “Mai-Khanh Pham” and “Thuy
2 Pham Le.” (See, Trial Exhibit 39.) Defendant Hau Trung Le further testified that the checks were
3 payments to Defendant Truong. (8/26 TT, 876:23-877:5.)

4 In their defense, the Core Board Defendants never presented any evidence to prove that these
5 payments were for the purchase of cemetery plots. Defendant Truong never explained who “Mai-Khanh
6 Pham” and “Thuy Pham Le” were, and why the checks were made payable to them, as opposed to
7 Westminster Memorial Park. The Core Board Defendants never produced any contract, receipt or
8 invoice from Westminster Memorial Park confirming this transaction. The Core Board Defendants did
9 not produce any records of the cemetery plots being acquired or sold. There is testimony that
10 unaccounted cash may have been paid to the Corporation for the plots but there are no records
11 confirming these transactions. The Core Board Defendants never called any witness from Westminster
12 Memorial Park to confirm this transaction. As explained in greater detail below in the section
13 concerning the accounting cause of action, the Core Board Defendants failed to meet their burden to
14 account for this transaction and to establish that the \$144,000.00 was either paid to the Corporation or
15 used in a proper manner as authorized by the Corporation. As a result, the Court finds that the
16 Corporation was harmed in the amount of \$144,000.00 and that the sum became certain on August 5,
17 2017. The Court concludes that the Core Board Defendants acted far below the standard of care for
18 directors of a nonprofit and are jointly and severally liable for \$144,000.00.

19 **2. The Core Board Defendants improperly used corporate funds to pay for**
20 **their attorney’s fees and costs in this action**

21 The Core Board Defendants improperly advanced corporate funds to defend themselves in this
22 litigation. The Court finds that this is the problem throughout this case – the Core Board Defendants
23 acting with impunity and doing whatever they want with the Corporation’s money and not thinking that
24 they are accountable to the Corporation or its members.

25 Section 12.01(f) of the Bylaws provides that the Corporation “will never advance expenses to a
26 person before final disposition of a proceeding if the person is a named defendant or respondent in a
27 proceeding brought by the Corporation or one or more members if the person is alleged to have
28 improperly received a personal benefit or committed other willful or intentional misconduct.” (Bylaw,

1 Trial Exhibit 2, § 12.01(f).) Defendant Hai Tran testified that in this action, the plaintiffs were alleging
2 willful and intentional misconduct in the form of theft and breach of fiduciary duty against the
3 defendants. (8/19/24 TT, 635:4-636:11.) Under the Bylaws, the Core Board Defendants should not
4 have used the Corporation's funds to pay for their attorney's fees and costs in this matter.

5 Even if the Corporation could advance defense costs for the Core Board Defendants, the Bylaws
6 require them to first follow the procedures set forth in § 12.03 before the Corporation may advance any
7 fees and expenses. Under questioning from the Court, Defendant Hai Tran confirmed that the Core
8 Board Defendants did not follow any of the procedures set forth in § 12.03(a) and (b) before using the
9 Corporation's funds to pay for their legal fees and costs incurred in this action. (8/19/24 TT, 637:13-
10 638:8; 638:18-639:7.)

11 Instead of following the procedures set forth in § 12.03(a), Defendant Hai Tran testified that he
12 and the other Core Board Defendants themselves all voted to approve the use of corporate funds to pay
13 their legal fees and costs in this matter. (8/19/24 TT, 631:2-24.)

14 Finally, Ms. Summar testified that the Core Board Defendants advancing defense costs for
15 themselves, without adhering to the Bylaws, fell below the standard of care for directors of nonprofits.
16 (9/4 TT, 1331:2-19.)

17 Defendant Michael Tran testified that as of July 29, 2024, the Core Board Defendants paid
18 \$160,900.00 to the Law Offices of Lan Quoc Nguyen for the defense of this matter from the corporate
19 accounts. (Ex. 266 and 267.) After that date, the Core Board Defendants paid approximately
20 \$35,000.00 in fees and \$9,000.00 in costs as of August 2024. (9/12/24 TT, 1714:22-1715:12.) That
21 would bring the total sum of defense costs that were paid by the Corporation to \$204,900.00. Thereafter,
22 Defendant Michael Tran testified the Core Board Defendants intended to have the Corporation advance
23 more funds for their attorney's fees and costs. (*Id.* at 1715:13-18.)

24 The Core Board Defendants failed to present any evidence to justify their actions in having the
25 Corporation advance funds for their attorney's fees and costs in this action. The Court does not find the
26 Core Board Defendants' excuse "that they are people with little English or accounting skills who got
27 roped into the positions by virtue of the fact that the pool of eligible directors was small" as credible. It
28 is precisely because the pool of eligible directors was small that the Core Board Defendants took

1 advantage to misappropriate the Corporation's funds. And worse, the Core Board Defendants made the
2 pool of eligible directors even smaller by refusing to elect the requisite number of directors.

3 As a result, the Court finds that the Core Board Defendants failed to follow Section 12.03 of the
4 Bylaws and acted far below the standard of care of a director for a nonprofit by advancing corporation
5 funds in violation of the Bylaws. As a result, the Corporation was harmed in the amount of \$204,900.00.
6 The Court concludes that the Core Board Defendants are jointly and severally liable for \$204,900.00.

7 **3. The Core Board Defendants cannot account for \$151,094.82 in double**
8 **deductions**

9 At trial, the evidence established that Defendant Thanh Ngoc Truong double deducted numerous
10 expenses from the Cash on Hand Account that were actually paid from the Bank of America account.
11 (8/12/24 TT, 410:13-424:25, 513:21-516:15, and Trial Exhibits 20, 38, 39, 40, 41, 44, 69, and 70.) As
12 a result, Defendant Thanh Ngoc Truong double deducted numerous expenses. As a result of these
13 double deductions, the funds were missing from the Corporation's financial records and unaccounted.
14 (8/12/24 TT, 413:5-17 and 424:2-16.) Defendant Thanh Ngoc Truong's testimony and the financial
15 records he prepared establish that the sum of the double deductions totaled \$120,094.82.

16 In addition, when the Core Board Defendants called Defendant Thanh Ngoc Truong in their
17 case, it was uncovered that there was another entry that he double deducted. In Trial Exhibit 73, page
18 233 (73-233), Defendant Truong wired \$31,000 from the Bank of America account to an escrow account
19 for the purchase of the real estate property next door. Nevertheless, in his monthly report, he deducted
20 this same amount from the Cash On Hand Account in February 2020. (See, Trial Exhibit 70-2.)
21 Consequently, the total sum of funds misappropriated or otherwise unaccounted was \$151,094.82.

22 The Core Board Defendants do not dispute that these erroneous double deductions occurred.
23 Defendant Thanh Ngoc Truong admitted that the financial records he prepared had numerous double
24 deduction errors. (8/12/24 TT, 413:5-25.) Defendant Thanh Ngoc Truong further testified that this sum
25 was stolen from the Corporation. (*Id.* at 423:9-17.) Defendant Thanh Ngoc Truong testified that the
26 Core Board Defendants never added these sums back into the accounting records to properly account
27 for the missing sums. (*Id.* at 424:2-16.) The evidence establishes that after the end of the year, the Core
28 Board Defendants reviewed Defendant Thanh Ngoc Truong's records to reconcile the accounts and

1 prepare the annual statements. The evidence shows that the Core Board Defendants were aware of the
2 erroneous double deductions. However, Defendant Thanh Ngoc Truong testified that none of the Core
3 Board Defendants ever: (1) questioned or objected to these double deduction transactions, or (2) asked
4 him to check these entries for accuracy. (*Id.* at 424:15-25.)

5 The Core Board Defendants failed to present any evidence to account for the sum that was
6 double deducted. This sum should have been returned to the Corporation by June 1, 2020, once the real
7 property next door was bought and all the funds in the Chase Bank account and Cash On Hand account
8 were transferred to the Corporation's Bank of America account. Thus, the Court finds that the
9 Corporation was harmed in the amount of \$151,094.82 and the sum became certain as of June 1, 2020.
10 The Court finds that the Core Board Defendants acted below the standard of care for directors of a
11 nonprofit and are jointly and severally liable for \$151,094.82.

12 **4. Defendant Thanh Ngoc Truong improperly used corporate funds from his**
13 **Chase Bank savings account**

14 The Core Board Defendants' testified that the Corporation's funds were deposited into
15 Defendant Thanh Ngoc Truong's personal Chase Bank savings account. (8/12/24 TT, 383:19-22.) The
16 other Core Board Defendants knew and authorized this practice. (8/5/24 TT, 64:21-65:11; 8/19/24 TT,
17 592:6-17; and 8/26/24 TT, 917:8-11.)

18 From his deposition testimony, which was introduced at trial, Defendant Thanh Ngoc Truong
19 testified that all the funds in his Chase Saving Account belonged to the Corporation. (8/12 TT, 398:12-
20 399:1; 8/14 TT, 482:5-488:6). As Defendant Thanh Ngoc Truong further testified, to determine the
21 amount he held in the Cash On Hand Account, he would simply deduct the balance in his Chase saving
22 account from the total sum to know the balance of cash held at his residence. (8/12/24 TT, 402:5-26.)
23 For this methodology work, the entire sum of the Chase Bank savings account had to belong to the
24 Corporation.

25 Outside of Defendant Thanh Ngoc Truong, other evidence at trial confirmed that all the funds
26 in the Chase Bank savings account belonged to the Corporation. *First*, the annual reports that the Core
27 Board Defendants prepared all state that the entirety of the funds in the Chase Bank savings account
28 belonged to the Corporation. (Trial Exhibit 20, 38, 42, and 44.) For the total sum of the Corporation's

1 funds to be accurate in these reports, all the funds in the various accounts had to belong to the
2 Corporation. *Second*, Defendant Hai Tran testified that in the annual reports, such as Exhibit 38, the
3 column titled “Chase Statement Balance” provides the balance of the Corporation’s money in Defendant
4 Truong’s Chase Bank savings account. (8/5/24 TT, 91:5-9.) Defendant Hai Tran further testified that
5 the amounts set forth in the reports accurately stated the amount of the Corporation’s funds being held
6 in Defendant Truong’s Chase Bank savings account. (8/19 TT, 576:1-25.) *Third*, Defendant Hai Tran
7 testified that the money held in Defendant Thanh Ngoc Truong’s personal Chase Bank account was the
8 Corporation’s money. (8/5/24 TT, 80:23-81:4.) *Fourth*, Defendant Michael Tran, who is the treasurer,
9 testified that he believed the Chase Bank account was in the name of the Corporation. (8/26/24 TT,
10 900:15-19.) *Finally*, the Corporation’s tax preparer, Trang Nguyen, testified that all the money
11 deposited into the Chase saving account was the Corporation’s money. (9/19/24 TT, 1961:6-15.)

12 Because all the funds in the Chase Bank savings account belonged to the Corporation, Defendant
13 Truong (and his wife’s) use of those funds for personal expenses was improper and resulted in the
14 misappropriation of corporate funds. From Defendant Thanh Ngoc Truong’s trial testimony, a total of
15 \$224,607.73 of corporate funds were removed and used for personal expenses. (8/14/24 TT, 488:7-
16 513:17.) These personal transactions included the transfer of \$50,000 for the purchase of a Lexus
17 vehicle (*Id.* at 489:2-20) and \$100,000.00 Defendant Thanh Ngoc Truong’s wife withdrew on
18 September 25, 2019 (*Id.* at 501:2-502:12). Defendant Thanh Ngoc Truong testified that the funds
19 withdrawn from the Chase Bank savings account were used for his personal expenses, and not for the
20 Corporation. (*Id.* at 495:26-496:15.)

21 Defendant Thanh Ngoc Truong contends that, contrary to his annual reports and his deposition
22 testimony, that he deposited personal funds into the Chase Bank savings account. However, the Core
23 Board Defendants failed to produce any credible evidence to support this claim. The Core Board
24 Defendants never presented any evidence as to the exact amount of personal funds that were held in the
25 Chase Bank savings account and which deposits into the Chase Bank savings account were personal
26 funds. When asked by this Court as to how much he earned each year, Defendant Thanh Ngoc Truong
27 testified that it was approximately \$66,000.00. Yet, the evidence demonstrates that large sums of cash
28 were being withdrawn from the Chase Bank account. Thus, Defendant Thanh Ngoc Truong’s testimony

1 was not credible.

2 Further, the Core Board Defendants never presented any credible evidence as to the amount of
3 funds collected on behalf of the Corporation from the sale of vegetarian food or donations. The Core
4 Board Defendants also never introduced any financial records for the Corporation prior to 2017 in either
5 this litigation or the Petition for Writ of Mandate action. (9/9/24 TT, 1488:23-1490:2.) The Court
6 attempted to determine how much the Corporation collected prior to the funds being given to Defendant
7 Thanh Ngoc Truong for processing. The Court was unable to do so because the records are a mess and
8 completely unreliable.

9 The Core Board Defendants failed to present any evidence to account for the funds Defendant
10 Thanh Ngoc Truong used from the Chase Bank savings account for his personal transactions. The
11 evidence shows that none of the other Core Board Defendants ever asked or questioned Defendant
12 Thanh Ngoc Truong regarding these transactions. (8/14/24 TT, 508:10-14.) Thus, the Court finds that
13 the Corporation was harmed in the amount of \$224,607.73 and the sum became certain as of June 1,
14 2020, when the real property next door was bought and all the funds in the Chase Bank account and
15 Cash On Hand account were transferred to the Corporation's Bank of America account. The Court
16 finds that the Core Board Defendants acted far below the standard of care for directors of a nonprofit
17 and are jointly and severally liable for \$224,607.73.

18 **5. Defendant Thanh Ngoc Truong failed to return all the funds from his**
19 **Chase Bank savings account after purchasing the property next door**

20 Along the same lines, once the Corporation purchased the real property next door in March 2020,
21 Defendant Thanh Ngoc Truong testified that transferred all of the Corporation's funds from his Chase
22 Bank savings account to the Bank of America account. (Trial Exhibit 20.)

23 However, the evidence showed that Defendant Thanh Ngoc Truong did not transfer all the funds
24 in the Chase Bank savings account to the Corporation. Defendant Thanh Ngoc Truong testified that the
25 entire balance of \$78,305.56 in the Chase Bank savings account, as of May 26, 2020, was the
26 Corporation's funds. (8/14 TT, 510:11-511:14; 8/19/24, 577:6-16; and Trial Exhibit 20.) However,
27 Trial Exhibit 144-311 shows that there was still a balance of \$33,876.47 in the Chase Bank savings
28 account that Defendant Truong never transferred to the Corporation in June 2020.

1 Defendant Thanh Ngoc Truong claimed that the sum represented his personal funds after he
2 closed his account with Cathay Bank. (8/14/24 TT, 512:24-513:17.) However, as discussed above, the
3 Core Board Defendants did not present any credible evidence that the \$33,876.47 balance remaining in
4 the Chase Bank savings account was Defendant Thanh Ngoc Truong's personal funds. Defendant
5 Thanh Ngoc Truong's testimony that this was his personal funds from Cathay Bank was not credible.
6 As a result, the Court finds that the Core Board Defendants misappropriated or unaccounted the sum.
7 The Court finds that the Corporation was harmed in the amount of \$33,876.47 and the sum became
8 certain as of June 1, 2020, when the real property next door was bought and all the funds in the Chase
9 Bank account and Cash On Hand account were transferred to the Corporation's Bank of America
10 account. The Court concludes that the Core Board Defendants acted below the standard of care for
11 directors of a nonprofit and are jointly and severally liable for \$33,876.47.

12 **6. The Core Board Defendants cannot account for the missing funds**
13 **identified in the Corporation's 2021 tax return**

14 For the purposes of preparing the Corporation's 2021 tax returns, Trang Nguyen, the
15 corporation's tax prepared, created financial statements. (Trial Exhibit 32.) The balance sheet indicates
16 that, as of December 31, 2021, the Corporation had \$36,750.00 in Defendant Thanh Ngoc Truong's
17 Chase Bank checking account (#8909) as of December 31, 2021. However, Defendant Thanh Ngoc
18 Truong's Chase Bank checking account only had a balance of \$14,720.30 as of December 31, 2021.
19 The evidence shows that the Core Board Directors reviewed and worked with Ms. Nguyen in preparing
20 the 2021 financial statements and tax returns. The Core Board Directors could not explain this
21 discrepancy in the records. As a result, the \$36,750.00 sum is unaccounted.

22 In their defense, the Core Board Defendants called Trang Nguyen, to testify that she inaccurately
23 stated that the \$36,750.00 was in the Chase checking account, when it was actually cash in the Cash On
24 Hand account. (Trial Exhibit 341 and 9/19/24 TT, 1941:13-1942:16.) However, Ms. Nguyen's
25 testimony is contrary to Defendant Hai Tran's testimony that after the purchase of the real property in
26 March 2020, there was no longer a Cash On Hand account. (8/19/24 TT, 621:15-25.) Regardless, this
27 does not resolve the issue because if Defendant Thanh Ngoc Truong had \$36,750.00 in his Cash On
28 Hand account (or in his Chase Bank account), then where is the accounting for those funds and when

1 was the funds returned to the Corporation?

2 The Core Board Defendants did not present any evidence to explain why corporate funds were
3 still in the Cash on Hand Account or Defendant Thanh Ngoc Truong's Chase Bank account in 2021
4 when the Core Board Defendants informed their members that Defendant Thanh Ngoc Truong was no
5 longer holding any corporate funds. (8/19/24 TT, 619:20-622:8.) Outside of the tax return and financial
6 statement, the Core Board Defendants did not have any records that accounted for these funds. The
7 Core Board Defendants failed to present any evidence that these funds were returned to the Corporation.
8 Defendant Thanh Ngoc Truong testified that the other Core Board Defendants never questioned him
9 regarding the discrepancy between the tax return and his bank statements. (8/14/24 TT, 443:23-444:2.)
10 As a result, the Court finds that \$36,750.00 was misappropriated or unaccounted and the harm became
11 certain on December 31, 2021. The Court concludes that the Core Board Defendants acted far below
12 the standard of care for directors of a nonprofit and are jointly and severally liable for \$36,750.00.

13 **7. Defendant Thanh Ngoc Truong deposited \$120,888.44 into his personal**
14 **Chase Bank checking account after June 1, 2020**

15 Defendant Hai Tran testified that after the purchase of the real property next door in March 2020,
16 all of the Corporation's funds were deposited into either the Hanmi Bank account or the Bank of
17 America account. There was no longer any money being held as cash on hand or in Defendant Truong's
18 Chase Bank account because all the funds were used to purchase the real property. Significantly,
19 Defendant Hai Tran testified that: (i) Defendant Michael Tran took over handling all of the
20 Corporation's financial transactions, (ii) Defendant Thanh Ngoc Truong informed the members that he
21 was no longer involved with money issues, and (iii) that the board of directors informed their members
22 that no corporate funds were being deposited into Defendant Thanh Ngoc Truong's personal Chase
23 Bank account. (8/19/24 TT, 619:24-622:8, 624:8-17 and 625:5-12.)

24 Defendant Thanh Ngoc Truong testified that after March 2020, he was only holding on to some
25 funds left from the purchase and all of the Corporation's funds were deposited into its Bank of America
26 account. (8/12/24 TT, 362:10-26 and 425:11-18.) Defendant Thanh Ngoc Truong further testified that
27 after June 2020, he did not deposit any of the Corporation's funds into his personal Chase Bank account.
28 (8/14/24 TT, 444:17-21.) Defendant Nghiep Tan Tran also testified that the Core Board Defendants

1 announced to the Corporation's members that the Chase Bank account was closed in 2020. (8/22/24
2 TT, 774:3-17.)

3 The Core Board Defendants' testimony, and their representations to the Corporation's members
4 regarding its finances, were inaccurate. Plaintiffs presented evidence that after June 2020, Defendant
5 Thanh Ngoc Truong continued to deposit the Corporation's funds in his personal Chase Bank account.
6 The evidence established that Defendant Thanh Ngoc Truong deposited over \$120,888.44 into his Chase
7 Bank account. (Trial Exhibit 144 and 8/14/24 TT, 447:5-481:15.)

8 Defendant Thanh Ngoc Truong testified that he never told the Corporation's members that he
9 was still depositing corporate funds into his personal Chase Bank account after June 2020. (8/14/24
10 TT, 481:25-482:3.) The other Core Board Defendants were aware of this practice. Even though he was
11 still depositing funds into his personal bank account, which was contrary to their representations to their
12 members, none of the other Core Board Defendants objected to this practice. (8/14/24 TT, 481:21-24.)

13 At this point in the trial, the Core Board Defendants changed their defense and called Defendant
14 Thanh Ngoc Truong to testify that he did continue managing the Corporation's funds after June 2020
15 and that he deposited corporate funds into his Chase Bank accounts after that time period. (9/23 TT,
16 2090:15-2091:10.) Defendant Thanh Ngoc Truong testified that some of the deposits into his personal
17 Chase Bank account were personal funds. However, Defendant Thanh Ngoc Truong did not present
18 any credible evidence supporting his claim that some of the deposits were of his personal funds.

19 The Core Board Defendants did not present any credible evidence for the Court to determine
20 which deposits into Defendant Thanh Ngoc Truong's checking account were his personal funds.
21 Further, the Core Board Defendants could not account for how much cash Defendant Thanh Ngoc
22 Truong was holding, and thereafter deposited into his Chase Bank account, because Defendant Thanh
23 Ngoc Truong testified that he never counted the cash he brought home and held in his Cash on Hand
24 Account. As a result, Defendant Thanh Ngoc Truong never knew how much of the Corporation's
25 money was in his Chase Bank accounts. (9/23/24 TT, 2085:20-2086:23.) In addition, Defendant Thanh
26 Ngoc Truong's testimony was not credible because the Core Board Defendants never presented any
27 evidence as to the amount of funds generated by the Corporation through the sale of vegetarian food
28 and through donations.

1 As a result, the Court finds that \$120,888.44 was misappropriated or unaccounted. Therefore,
2 the Court concludes that the Core Board Defendants acted far below the standard of care for a director
3 for a nonprofit and are jointly and severally liable for \$120,888.44.

4 **D. The Core Board Defendants Acted Far Below The Standard Of Reasonable Care**
5 **By Removing All Internal Control Over the Corporation's Finances and Failing**
6 **To Keep Complete And Accurate Records**

7 The evidence showed that the misappropriation of the Corporation's funds, and the Core Board
8 Defendants' inability to account for all of the Corporation's funds, was a direct result of the Core Board
9 Defendants' failure to follow the internal controls set forth in the Bylaws. Ms. Summar confirmed that
10 the Bylaws set forth various internal controls to protect its assets. (9/4/24 TT, 1314:22- and Trial Exhibit
11 2). Both Defendant Hai Tran and Ms. Summar testified that the Bylaws require all of the Corporation's
12 funds to be deposited with a financial institution under the Corporation's name. (8/19/24 TT, 590:25-
13 591:2; 9/4/24 TT, 1314:22-1315:11; and Trial Exhibit 2, § 9.02.) Defendants Hai Tran and Michael
14 Tran testified that the Board of Directors failed to follow this requirement by authorizing Defendant
15 Thanh Ngoc Truong to hold the Corporation's funds as cash at his residence, *i.e.*, the Cash On Hand
16 Account, and in his personal Chase Bank accounts. (8/5/24 TT, 75:18-76:5 and 78:4-6; 8/19/24 TT,
17 595:13-17; and 8/26/24 TT, 901:24-902:1.)

18 Further, even though transactions that exceeded \$1,000 required the approval of the board, there
19 were instances where a small group of the Defendants would approve a transaction in an informal
20 meeting – such as the \$144,000 transaction for cemetery plots. (Trial Exhibit 2, § 9.01; 8/14/24 TT,
21 518:25-9.)

22 Another example of the failure to follow internal controls that directly led to the misuse of the
23 Corporation's funds was the failure to follow the requirements for the Corporation to advance fees and
24 costs incurred in a legal proceeding. As discussed above, under questioning from the Court, Defendant
25 Hai Tran confirmed that Defendants did not follow any of the procedures set forth in § 12.03(a) and (b)
26 before having the Corporation advance corporate funds for their legal costs. (8/19/24 TT, 637:13-638:8;
27 638:18-639:7.) Defendant Hai Tran further testified that he and the other Defendants themselves all
28 voted to approve the use of corporate funds to pay their legal fees and costs in this matter. (8/19/24 TT,

1 631:2-24.)

2 Under the Bylaw, the Core Board Defendants were required to keep correct and complete books
3 and records of the Corporation's finances. (Trial Exhibit 2, § 5.07, 5.08, 10.01.) The evidence shows
4 that the Core Board Defendants failed to follow this requirement.

5 At trial, the Core Board Defendants failed to produce any records showing how much the
6 Corporation generated from the sale of vegetarian food and donations. Specifically, the Core Board
7 Defendants never saw the logbooks created and maintained by Defendants Hau Trung Le and Nghiep
8 Tan Tran that documented how much money was generated from the sale of vegetarian food and then
9 given to Defendant Thanh Ngoc Truong. (8/5/24 TT, 60:7-17; 61:3-5; and 83:1-12.) Based on the
10 evidence, the Court concludes that the financial records introduced at trial were prepared by the Core
11 Board Defendants in anticipation of litigation as a means of presenting a defense, and not for the purpose
12 of providing an accurate and true accounting of the Corporation's finances.

13 Another aspect of the Core Board Defendants' failure to maintain correct and complete records
14 is their failure to file tax returns on behalf of the Corporation for years, even though the records from
15 2017 to 2020 showed that the Corporation was generating hundreds of thousands of dollars in income
16 during that period. Under questioning from the Court on two separate occasions, Defendant Michael
17 Tran could not explain what changed in 2020 that caused the Core Board Defendants to file the
18 Corporation's taxes for the first time in its history. (9/25/24 TT, 2121:14-2124:16.)

19 As a result of the Core Board Defendants' complete failure to follow the guidelines set forth in
20 the Bylaws, the Core Board Defendants could not credibly account for all the corporate funds that were
21 entrusted to them.

22 Ms. Summar testified that the Core Board Defendants' failure to manage and safeguard the
23 Corporation's corporate funds fell below the standard of care for directors of a nonprofit. As she
24 testified, the funds the Core Board Defendants maintained are public, charitable funds and must be
25 protected. (9/4/24 TT, 1313:14-19.) As a result, in managing the funds, directors must make sure the
26 funds are not only safe but generating some income. (*Id.* at 1314:2-17.) When the directors realized
27 that Defendant Thanh Ngoc Truong was holding corporate funds at his residence, they should have
28 taken steps to have the money deposited in a bank account that would allow the funds to generate some

1 return on investment. (*Id.* at 1317:8-1318:13.) The Core Board Defendants never did this. The Core
2 Board Defendants further acted below the standard of care by allowing Defendant Thanh Ngoc Truong
3 to deposit corporate funds in his Chase Bank account. (*Id.* at 1322:1-4.) Ms. Summar opined that such
4 an act represented misappropriation of corporate funds because it took the funds out of the Corporation's
5 control and further allowed it to be controlled by Defendant Thanh Ngoc Truong's wife, who is not a
6 director for the Corporation. (*Id.* at 1320:17-1321:18.)

7 Ms. Summar further testified that the Core Board Defendants' conduct in abdicating all the
8 duties of maintaining the corporate funds to Defendant Thanh Ngoc Truong fell below the standard of
9 care for a director. (*Id.* at 1320:2-16.) Even Defendants Hai Tran and Michael Tran, who were supposed
10 to oversee Defendant Thanh Ngoc Truong, were not completely aware of the funds he was holding at
11 his residence and in his Chase Bank account and did not look at his bank statements. (8/5/24 TT, 63:17-
12 24; 8/26/24 TT, 867:20-23 and 899:6-900:19; 8/22/24 TT, 852:18-853:10.)

13 **E. The Core Board Defendants Acted Below The Standard of Care Failing To Follow**
14 **The Election Requirements Set Forth In The Bylaws**

15 Regarding the elections, there was a complete failure to comply with the Corporation's Bylaws.
16 The Bylaws speak directly to the election process and the Core Board Defendants failed to follow the
17 Bylaws because they thought they could. Even when informed of the requirements of the Bylaws by
18 Defendant Nhan The Hoa, the Core Board Defendants ignored his recommendations and the Bylaws.
19 (8/7/24 TT, 151:15-155:2 and 171:19-177:1.)

20 The Core Board Defendants' defense that a lack of understanding English or the inability to read
21 the Bylaws should excuse this behavior is not credible and cannot lie. The evidence established that the
22 Core Board Defendants purposely maintained control of the Corporation and limited the number of
23 people who had input into the Corporation's actions by violating the Bylaw's election procedures.
24 Defendant Hai Tran testified that for every election since 2010, the election was always for one person
25 – Defendant Hai Tran as chairman of the board of directors. Defendant Hai Tran further testified that
26 after that he was elected as chairman, he would select who he wanted to join him on the board of
27 directors. (8/5/24 TT, 115:25-116:3 and 120:12-121:2.) Even in 2022, after this lawsuit was filed, this
28 same process was used to elect Defendant Hai Tran as chairman. (*Id.*) Defendant Hai Tran further

1 testified that nonmembers of the Corporation were allowed to vote in the elections, including in the
2 most recent election in 2022. (8/5/24 TT, 128:10-129:22; 8/19/24 TT, 582:9-583:14.) It was this lack
3 of following the Bylaws that created this breach of fiduciary duty and resulted in the dilution of the
4 members' votes. The evidence shows that the Core Board Defendants followed this practice to ensure
5 the status quo and that it would be business as usual.

6 As Ms. Summar testified, these voting practices minimized the Corporation's members' input
7 and control of the board of directors and usurped the members' authority. (9/4/24 TT, 1298:1-1299:3.)
8 Only voting for the chairman position and not having elections for the remaining board members
9 reduced the members' input and control over the board. (*Id.* at 1296:6-18.) Allowing nonmembers to
10 vote diluted the voting members' rights and brings into question what act of the board was valid. (*Id.*
11 at 1283:6-1284:4.) Ms. Summar testified that in her experience in advising thousands of nonprofit
12 corporations, she has never seen such egregious violations of the Bylaws. (*Id.* at 1297:8-16.)
13 Ultimately, Ms. Summar testified that the Core Board Defendants' conduct in failing to follow the
14 election procedures set forth in the Bylaws fell below the standard of care for directors of a nonprofit.
15 (*Id.* at 1312:7-23.)

16 The Core Board Defendants presented no credible defense to this issue. They provide no
17 evidence to refute Ms. Summar's credible and persuasive testimony. Instead, Core Board Defendants
18 claimed that they had to disregard the Bylaws because not enough members wanted to run for the
19 director positions. However, the Court notes that there was no problem for volunteers with Defendants
20 Michael Tran and Thanh Ngoc Truong. The Court has no records, such as minutes, of the Core Board
21 Defendants or anyone actually asking for volunteers to run for the director positions.

22 Defendant Hai Tran also claimed that he told the election board running the elections to not
23 allow members to vote but they disregarded his instructions. (8/5/24 TT, 124:18-22.) However, as Ms.
24 Summar testified, if the Corporation wanted to follow different election procedures, then it should have
25 amended the Bylaws as opposed to simply disregarding them. (*Id.* at 1282:16-1283:3; 1292:26-
26 1293:15.) Further, as Ms. Summar testified, the board of directors was responsible for the election
27 committee. And if the committee failed to follow the Bylaws, the board of directors must step in and
28 direct them to hold elections in accordance with the Bylaws. Failing to do so is below the standard of

1 care for these directors. (*Id.* at 1293:16-1294:15.)

2 The Court finds that Plaintiffs have established the third element for breach of fiduciary duty.

3 **F. The Corporation And Its Members Were Harmed**

4 The evidence showed that due to the Core Board Defendants' conduct, the Corporation and its
5 members have been harmed. Due to the Core Board Defendants' conduct, the Corporation was harmed
6 to the value of \$916,117.46 through misappropriation, inaccurate or no accounting. This sum consists
7 of \$144,000.00 that Defendant Thanh Ngoc Truong misappropriated through the cemetery transaction,
8 \$204,900 in advanced defenses costs, \$151,094.82 for the double deductions, \$224,607.73 taken from
9 the Chase Bank savings account, \$33,876.47 remaining in the savings account after the purchase of the
10 property, \$36,750.00 from the Chase checking account that was reported to in the Corporation's 2021
11 financial statement, and \$120,888.44 that Defendant Thanh Ngoc Truong transferred to into his Chase
12 checking account after the Core Board Defendants represented that Defendant Thanh Ngoc Truong was
13 no longer involved in maintaining the Corporation's funds.

14 Further, due to the Core Board Defendants' conduct, the election of the board of directors did
15 not comply with the Bylaws. As a result, this harmed the members as it limited their control and input
16 over the board of directors and the Corporation. (8/28/24 TT, 1085:17-20.)

17 The Court finds that Plaintiffs have established the fourth element for breach of fiduciary duty.

18 **G. The Core Board Defendants' Conduct Was A Substantial Factor In Causing Harm**

19 The Core Board Defendants' conduct was a substantial factor in causing harm to the Corporation
20 and its members. From the evidence, the Court finds that the Core Board Defendants colluded in
21 creating false books for the Corporation. The evidence demonstrated that the Core Board Defendants'
22 failure to comply with the Bylaws resulted in the misappropriation of funds, the improper use of
23 corporate funds for the Core Board Defendants' defense, and the inaccurate or lack of accounting for
24 all the Corporation's money that were entrusted to them.

25 The Core Board Defendants' ability to maintain control over the Corporation and its finances
26 was due to not having proper elections for board members. As a result, the Corporation's members
27 did not have input and control over the board. As noted above, it is precisely because the pool of eligible
28 directors was small that the Core Board Defendants took advantage to misappropriate the Corporation's

1 that the entries were inaccurate. As mentioned above, based on the evidence, the Court concludes that
2 the records introduced at trial were prepared in anticipation of litigation as a means of presenting a
3 defense, and not for the purpose of providing an accurate accounting. (Trial Exhibits 20, 38, 39, 41, 42,
4 43, 44, 69, and 70.) The evidence further established that contrary to the representations, and
5 information provided in Trial Exhibit 20 that no corporate funds were in the Cash On Hand Account or
6 the Chase Bank account, Defendant Thanh Ngoc Truong continued depositing corporate funds in both
7 accounts. The fifth and sixth elements are the same as CACI 4101, and thus, it has already been
8 established as provided above. The Court finds that because of the Core Board Defendants' conduct,
9 the Corporation and its members have been harmed to the value of \$916,117.46 through
10 misappropriation, inaccurate or no accounting. The Court also finds that the Core Board Defendants'
11 conduct was a substantial cause of the harm.

12 Having met their burden, the Court concludes that judgment should be entered for Plaintiffs
13 Thanh Duc Nguyen, Hai Thi Nguyen, Tan Huu Tran, Ngoc Kim Nguyen, Lan Thi Do, and Hang Nguyen
14 on their constructive fraud cause of action and against Defendants Hai Tran, Thanh Ngoc Truong and
15 Michael Tran, jointly and severally, in the amount of \$916,117.46.

16 **IV. ACCOUNTING CAUSE OF ACTION**

17 An action for an accounting has two elements: (1) "that a relationship exists between the plaintiff
18 and defendant that requires an accounting" and (2) "that some balance is due the plaintiff that can only
19 be ascertained by an accounting." (*Teselle v. McLoughlin* (2009) 173 Cal.App.4th 156, 179.) The Court
20 finds that the evidence establishes both elements. As directors and officers, the Core Board Defendants
21 are fiduciaries to the Corporation and its members. Because of their roles in overseeing and maintaining
22 the Corporation's funds, the Core Board Defendants have an obligation to account for all the corporate
23 funds that they were entrusted to maintain. This obligation is further confirmed in the Bylaws. The
24 only means of determining the amount due to the Corporation is through an accounting from the Core
25 Board Defendants as they were the ones who controlled and maintained the Corporation's funds and
26 thus, the ability to prepare accurate and complete records of the Corporation's finances.

27 In addition, California law places the burden to render an accounting on the fiduciary and for
28 the fiduciary to prove that he or she has paid it to the principal or disposed of it in accordance with his

1 authority. These basic principles were set forth in *Kennard v. Glick* (1960) 183 Cal.App.2d 246:

2 “An agent who fails to keep an account raises thereby a suspicion of infidelity or neglect,
3 creates a presumption against himself, and brings upon himself the burden of accounting
4 to the utmost for all that has come into his hands; and in such case every doubt will be
5 resolved against the agent, and in favor of the principal; and if he renders an untrue account,
6 giving a false balance, he becomes at once liable to his principal.” (3 C.J.S., § 171, p. 61.)

7 “The agent's duty ordinarily includes not only the duty of stating to his principal the amount
8 that is due, but also a duty of keeping an accurate record of the persons involved, of the
9 dates and amounts of things received, and of payments made.” (Rest., Second, Agency, §
10 382, p. 185.)

11 “If the principal proves or the agent admits that the agent has come into possession of
12 money or other thing for the principal, the agent has the burden of proving that he has paid
13 it to the principal or disposed of it in accordance with his authority.” (*Ibid.*, pp. 186-187.)

14 “In an action for an accounting, the agent has the burden of proving that he paid to the
15 principal or otherwise properly disposed of the money or other thing which he is proved to
16 have received for the principal.” (*Ibid.*, § 399, p. 233; also see *Gilmore v. Gilmore*, 137 La.
17 162 [68 So. 395, 398]; *Lawson v. Burgee*, 131 Md. 436 [103 A. 516, 518]; 2 Am.Jur., §
18 286, p. 226; 2 Cal.Jur.2d, § 117, p. 795.)

19 (*Kennard*, 183 Cal.App.2d at 250-52; *San Pedro Lumber Co. v. Reynolds* (1898) 121 Cal. 74, 88-89;
20 *Frankfort Marine Accident & Plate Ins. Co. v. California Artistic Metal & Wire Co.* (1915) 28
21 Cal.App.74, 86; *In re Niles*, 106 F.3d 1456, 1461-62, fn. 4 (9th Cir. 1997).) Consequently, once
22 Plaintiffs demonstrate that funds were entrusted to the Core Board Defendants, the Core Board
23 Defendants are under an obligation to account for every dollar. If Core Board Defendants fail to account
24 for all the funds, then Defendants are immediately charged with it. (*San Pedro Lumber Co.*, 121 Cal.
25 at 89; *Kennard*, 183 Cal.App.2d at 253.)

26 Here, the Core Board Defendants are fiduciaries to the Corporation and its members for the
27 funds entrusted to them. In addition, the Bylaws required the Core Board Defendants to manage the
28 affairs of Thanh That, deposit all of Thanh That's funds in financial institutions, and “keep correct and
complete books and records of accounts.” (Bylaws, Trial Exhibit 2, § 4.01, § 9.02 and § 10.01.)
Defendant Hai Tran confirmed that Defendant Michael Tran, as the Treasurer, had the duties set forth
in § 5.07 of the Bylaws, which includes having “charge and custody of and – be responsible for – all
the corporation's funds...” and “maintain the corporation's financial books and records.” (*Id.* at § 5.07
and 8/5/24 Trial Transcript (“TT”), 121:15-21.)

As fiduciaries entrusted to maintain and safeguard the Corporation's funds, it is the Core Board

1 Defendants' burden to accurately account for all the Corporation's funds. The Core Board Defendants
2 failed to present any credible evidence to carry this burden. The Core Board Defendants did not
3 presented any credible evidence: (1) that the \$144,000.00 payment went to Westminster Memorial Park
4 for the purchase of cemetery plots; (2) that they were authorized to use corporate funds to defend
5 themselves in this action; (3) that Defendant Thanh Ngoc Truong deposited personal funds in his Chase
6 savings account and the amounts of such personal funds such that the transfers from the account were
7 of his personal funds; (4) that the expenses that were double deducted were returned to the Corporation;
8 (5) that the funds remaining in the Chase savings account after the purchase of the property was
9 Defendant Thanh Ngoc Truong's personal funds; (6) that the funds identified in the 2021 tax returns
10 was returned to the Corporation; or (7) that the funds deposited in Defendant Thanh Ngoc Truong's
11 Chase account after June 2020 were returned to the Corporation.

12 In addition, the Core Board Defendants did not produce the complete records so that an accurate
13 accounting can be conducted. As discussed above, the Court cannot depend on the financial records
14 produced at trial because this Court believes that they were made in anticipation of litigation, not kept
15 in the regular course of business, and were made in anticipation of a defense, rather than a true
16 accounting of the Corporation's funds.

17 Importantly, the Core Board Defendants never produce any records detailing how much money
18 the Corporation generated from the sale of vegetarian food and donations or how much money was
19 given to Defendant Thanh Ngoc Truong. Specifically, the evidence showed that Defendants Hau Trung
20 Le and Nghiep Tan Tran created and maintained logbooks that documented how much money was
21 generated from the sale of vegetarian food and then given to Defendant Thanh Ngoc Truong. Those
22 logbooks were never produced, either in discovery or trial, so that the Court could determine how much
23 money was even received from the sale of vegetarian food before it was given to Defendant Thanh Ngoc
24 Truong for processing. (8/5 TT, 60:7-17; 61:3-5; and 83:1-12.) The Core Board Defendants further
25 failed to produce any financial records prior to 2017. As a result, the Court was left with a limited view
26 of the Corporation's finances. Given the Core Board Defendants' failure to account for the
27 Corporation's financial transactions, the Court finds that the Core Board Defendants are liable to the
28 Corporation for the entire sum that Plaintiffs identified as misappropriated or unaccounted. Therefore,

1 the Court finds that judgment is appropriate for Plaintiffs Thanh Duc Nguyen, Hai Thi Nguyen, Tan
2 Huu Tran, Ngoc Kim Nguyen, Lan Thi Do, and Hang Nguyen on their constructive fraud cause of action
3 and against Defendants Hai Tran, Thanh Ngoc Truong and Michael Tran, jointly and severally, in the
4 amount of \$916,117.46.

5 After Phase One of the trial concerning liability was submitted and the Court had issued its
6 ruling on October 31, 2024, the Core Board Defendants requested the Court to appoint a forensic
7 accountant to review the Corporation's record to provide an accounting. After considering both sides'
8 arguments, the Court declines the Core Board Defendants' request for the appointment of the forensic
9 accountant. Plaintiffs raise a good point, which is that the Plaintiffs should have finality in this case.
10 Even though the parties represented that the trial would be approximately 16 trial days, Phase One of
11 the trial took 24 days. The additional trial days were directly due to the Core Board Defendants' failure
12 to prepare their defense and their shifting defenses as they heard the evidence. In addition, Phase One
13 concerning liability was submitted, and the Core Board Defendants never made this request in their
14 answer or at any time prior to the close of evidence. Therefore, the Court declines to reopen the matter
15 for additional evidence.

16 The Court further grants Plaintiff's request on its request for the removal of the above Core
17 Board Defendants. The Court removes the Core Board Directors of the directors of the Corporation and
18 bars the Core Board Defendants from reelection to the Corporation board of directors for the next 8
19 years or two election cycles. The Core Board Defendants failed miserably to perform their duties in
20 good faith and failed to act in the best interest of the Corporation. The Core Board Defendants ignored
21 the minimal guardrails that were in place. Simple put, the Core Board Defendants and failed to act
22 prudently and responsibly to the Corporation and it's member and breached their fiduciary duties.

23
24 **PLAINTIFF THANH VAN BUI'S DEFAMATION *PER SE* CAUSE OF ACTION**

25 The Court finds that Plaintiff Thanh Van Bui has established his claim for defamation *per se*
26 against Defendants Hai Tran, Thanh Ngoc Truong, Michael Tran, Nhan The Hoa and Chut Van Le. As
27 a result, judgment is appropriate and the Court awards Plaintiff Thanh Van Bui the amount of
28 \$226,200.00 against Defendants Hai Tran, Thanh Ngoc Truong, Michael Tran, Nhan The Hoa and Chut

1 Van Le, jointly and severally. The Court further finds that Plaintiff Thanh Van Bui has proven by clear
2 and convincing evidence that these defendants acted with malice and oppression pursuant to Civil Code
3 § 3294 and knew the statements were false or had serious doubts about the truth of the statements.
4 Therefore, punitive damages are warranted against these defendants.

5 CACI 1702 sets forth the elements needed to establish a claim for defamation *per se* for private
6 persons regarding a public matter. Plaintiff Thanh Van Bui has established with credible evidence each
7 element.

8 **I. DEFENDANTS MADE NUMEROUS STATEMENT TO THE CAO DAI RELIGION**
9 **COMMUNITY OTHER THAN PLAINTIFF THANH VAN BUI**

10 The evidence shows that all the parties in this matter are followers of the Cao Dai religion. All
11 the defamatory statements were made to the public and specifically to the Corporation's members and
12 the Cao Dai religion community in general. In Trial Exhibit 151, the board of directors, *i.e.*, the Core
13 Board Defendants and Defendant Chut Van Le, claimed that Plaintiff Thanh Van Bui is an elected
14 official for the Communist Governing Council called Hoi Dong Chuong Quan ("HDCQ"), was posted
15 on the Corporation's Temple grounds for all Cao Dai followers to view and was seen by people other
16 than Plaintiff Thanh Van Bui. (Trial Exhibit 151, 8/28/24 TT, 974:16-975:5 and 8/29/24 TT, 1113:8-
17 16.) Plaintiffs and Defendant Chut Van Le testified that on September 12, 2021, the Core Board
18 Defendants held a general meeting on temple grounds wherein Defendant Chut Van Le again stated that
19 Plaintiff Thanh Van Bui is an elected official of the HDCQ. (8/28/24 TT, 979:16-980:2.) All the
20 Defendants were present at the meeting and stood behind these statements. (8/28/24 TT, 1047:13-
21 1048:24).

22 For his interview, Defendant Nhan The Hoa testified that he knew Ky Ngo, the interviewer, was
23 a YouTuber and the interview would be uploaded to YouTube for everyone to view. (8/7/24 TT, 187:5-
24 188:2.) The evidence further established that Defendants Hai Tran and Chut Van Le provided
25 Defendant Nhan The Hoa with the information for him to provide during the interview and that
26 Defendant Hai Tran asked Defendant Nhan The Hoa to provide the interview. (8/7/24 TT, 209:23-
27 210:2.)

28 Defendant Michael Tran testified that the Core Board Defendants organized the June 5, 2022

1 press conference. (9/25/24 TT, 2158:23-26.) Defendant Michael Tran further testified that everyone
2 related to the Corporation attended the June 5, 2022 press conference in which a picture of Plaintiff
3 Thanh Van Bui was displayed with the statement that he is dignitary with HDCQ. (Trial Exhibit 241-
4 1 and 9/25/24 TT, 2158:23-2159:15.) The evidence showed that the press conference, and all the pre-
5 and post-conference interviews, were posted on YouTube for the public to view. (8/29/24 TT, 1143:17-
6 1144:8.)

7 The Plaintiffs' testimony established that both the interview with Defendant Nhan The Hoa and
8 the June 5, 2022, press conference were viewed by numerous followers of the Cao Dai religion, as well
9 as their friends and family members.

10 Defendants did not present any credible evidence that Plaintiff Thanh Van Bui did not meet the
11 first element. Defendant Chut Van Le's testimony was not credible. The Court finds that Defendant
12 Chut Van Le was less than honest with the Court and his testimony holds no value. Defendant Chut
13 Van Le displayed selective recollection of events throughout this case. When it helped the defense,
14 Defendant Chut Van Le had the ability to recollect; but when faced with tough cross-examination, he
15 was at a lost to recollect. Despite his inability to recall events on the stand, Defendant Chut Van Le was
16 able to coach Defendant Michael Tran when he was on the stand, so much so that the Court had to
17 exclude the disruptive Defendant Chut Van Le from the courtroom.

18 The evidence establishes that Defendants Hai Tran, Michael Tran, Thanh Ngoc Truong, Chut
19 Van Le, and Nhan The Hoa made the above statements or adopted and ratified these statements. The
20 evidence further showed that Defendants Hai Tran and Chut Van Le provided Defendant Nhan The Hoa
21 with the information for him to publish during the interview. The Court finds that these statements were
22 made to the Corporation's members and Cao Dai religion followers. Therefore, the Court finds that
23 Plaintiff Thanh Van Bui has met the first element for defamation *per se*.

24
25 **II. THE OTHER MEMBERS AND OTHER FOLLOWERS OF THE CAO DAI RELIGION**
26 **REASONABLY UNDERSTOOD THAT THE STATEMENTS WERE ABOUT**
27 **PLAINTIFF THANH VAN BUI**

28 The evidence confirms that the statements at issue specifically identified Plaintiff Thanh Van

1 Bui either by name or his title as a music director. Additionally, the fact that the defamatory statements
2 was repeated in different contexts, while still maintaining the same message (*i.e.*, that Plaintiff Thanh
3 Van Bui is a communist elected official and was sent to steal the Corporation), allowed for members of
4 the Corporation and other followers of the Cao Dai religion to reasonably understand who they were
5 talking about Plaintiff Thanh Van Bui.

6 Trial Exhibit 151 identified Plaintiff Thanh Van Bui by name in claiming that he is an elected
7 official of the HDCQ. (Trial Exhibit 151.)

8 At the general meeting on September 12, 2021, Defendant Chut Van Le confirmed Trial Exhibit
9 151 that Plaintiff Thanh Van Bui was an elected official for the HDCQ. At the meeting, Defendant
10 Chut Van Le testified that he identified Plaintiff Thanh Van Bui by name and by his title, music director,
11 and that Plaintiff Thanh Van Bui is an elected official with the HDCQ. Defendant Chut Van Le further
12 testified that the Communist Party formed the HDCQ and because of this, the Corporation does not
13 accept official from the HDCQ. (8/28/24 TT, 979:10-981:23 and 1048:8-24.) Plaintiffs' testimony
14 provides that the only music director at the Corporation was Plaintiff Thanh Van Bui. (8/28/24 TT,
15 1055:15-21.)

16 Thereafter, within a few weeks of the September 12, 2021, general meeting, Defendant Nhan
17 The Hoa gave his interview to Ky Ngo. In his interview, Defendant Nhan The Hoa stated that the music
18 director, *i.e.*, Plaintiff Thanh Van Bui was a communist agent and were sent by the HDCQ to steal the
19 Corporation. (Trial Exhibits 177.)

20 Further, Defendant Michael Tran confirmed that the June 5, 2022 press conference was to talk
21 about plaintiffs, who had sued the defendants. (9/25/24 TT, 2159:18-22.) At that conference, the
22 defendants presented a photo of Plaintiff Thanh Van Bui and identified him as an elected official with
23 the claimed that Plaintiff Thanh Van Bui violated U.S. law and was sent to steal the Corporation for the
24 communist. (Trial Exhibit 241-1, 8/28/24 TT, 1059:17-1061:18, and 8/29/24 TT, 1143:10-16.)

25 Finally, Plaintiff Thanh Van Bui testified that after the publication of the Defendant Nhan The
26 Hoa's interview and the June 5, 2022, numerous friends and family members knew that the statements
27 concerned Plaintiff Van Bui. (9/5/24 TT, 1427:17-1432:5.)

28 Defendants did not present any credible evidence that Plaintiff Thanh Van Bui did not meet the

1 second element.

2 The Court finds that Plaintiff Thanh Van Bui has met the second element for defamation *per se*.

3
4 **III. THE MEMBERS AND OTHER FOLLOWERS OF THE CAO DAI RELIGION**
5 **REASONABLY UNDERSTOOD THE STATEMENTS TO MEAN THAT PLAINTIFF**
6 **THANH VAN BUI WAS A COMMUNIST AND THAT HE WAS SENT BY THE**
7 **COMMUNIST PARTY TO INFILTRATE AND STEAL THE CORPORATION**

8 The members of the Corporation and other Cao Dai followers reasonably understood that
9 defendants' statements were meant to accuse Plaintiff Thanh Van Bui to being an elected official with
10 the Communist-controlled HDCQ and was sent by the Communist Party to infiltrate and steal the
11 Corporation. This is clear because defendants expressly made those points in their statements.

12 Trial Exhibit 151 identified Plaintiff Thanh Van Bui by name as an elected official with the
13 HDCQ and confirmed the Corporation's position that it never accepts such officials because the HDCQ
14 was formed by the Communist Party. (Trial Exhibit 151.)

15 At the general meeting on September 12, 2021, Defendant Chut Van Le again stated that Plaintiff
16 Thanh Van Bui was an elected official for the HDCQ. Defendant Chut Van Le identified Plaintiff
17 Thanh Van Bui by name and by his title, music director, and confirmed that the Communist Party
18 formed the HDCQ. (8/28/24 TT, 979:10-981:23 and 1048:8-24.)

19 In his interview, Defendant Nhan The Hoa identified Plaintiff Thanh Van Bui by his title as the
20 music director. The evidence establishes that there is only one music director at the Corporation.
21 (8/29/24 TT, 1120:7-14.) Defendant Nhan The Hoa went on to claim that the HDCQ and the Communist
22 Party sent Plaintiff Thanh Van Bui to infiltrate and steal the Corporation on their behalf. Defendant
23 Nhan The Hoa then urged every one of the Cao Dai faith to boycott Plaintiff Thanh Van Bui due to his
24 illegal and unlawful activities. (Trial Exhibit 177 and 8/7/24 TT, 214:3-7.)

25 This same message was repeated at the June 5, 2022, press conference. At the press conference,
26 defendants published a picture of Plaintiff Thanh Van Bui and stated that he is an official with the
27 HDCQ. (Trial Exhibit 241-1; 8/29/24 TT, 1139:15-25; and 9/9/24 TT, 1506:17-1507:5.) The evidence
28 further showed that defendants claimed that Plaintiff were part of the 1997 Church, which is also a

1 communist-controlled group, and that Plaintiff Thanh Van Bui was sent to steal the Corporation to
2 deliver it to the Communist Party.

3 The evidence established that in the Cao Dai religion community, calling someone a member of
4 the HDCQ or 1997 Church is synonymous with calling the person a communist. (8/21/24 TT, 689:25-
5 690:11; 8/28/24 TT, 975:16-22 and 1063:7-12; 8/29/24 TT, 1115:26-1116:13 and 1118:4-17; 9/9/24
6 TT, 1491:26-1492:10 and 1506:17-1507:5; 9/11/24 TT, 1571:10-18.) That calling a Vietnamese person
7 a communist was harmful. (8/21/24 TT, 688:9-12.) Further, the evidence shows that Defendants Hai
8 Tran and Chut Van Le were consistently discussing the HDCQ and its association with communism to
9 raise awareness on this topic with the Corporation's members and other Cao Dai followers. (9/11/24
10 TT, 1571:19-1573:3.)

11 The evidence established that the Corporation's members and other Cao Dai followers
12 understood that these publications meant that Plaintiff Thanh Van Bui was a communist. After these
13 publications, the evidence showed that Plaintiff Thanh Van Bui's friends, family members and former
14 students confronted him and disassociated themselves from him due to these claims. (9/5/24 TT,
15 1427:17-1432:5.)

16 Defendants did not present any credible evidence that Plaintiff Thanh Van Bui did not meet the
17 third element.

18 The Court finds that Plaintiff Thanh Van Bui has met the third element for defamation *per se*.

19
20 **IV. THESE STATEMENTS ABOUT PLAINTIFF THANH VAN BUI WERE FALSE**

21 The evidence confirms that Plaintiff Thanh Van Bui is not an elected official for the HDCQ, a
22 member of the 1997 Church, or a criminal sent by the Communist Party to infiltrate and steal the
23 Corporation. The Court finds the testimony of Plaintiff Thanh Van Bui emotional, sincere, and credible.
24 Plaintiff Thanh Van Bui testified that he is not an elected official of the HDCQ, that he has never worked
25 for the 1997 Church, he is not communist and he did not join the Corporation to steal it for the
26 Communist Party. (9/5/24 TT, 1423:10-26.)

27 In their testimony, defendants all confirmed that they either do not believe Plaintiff Thanh Van
28 Bui is a communist or a criminal. Defendants further testified that they do not have any evidence

1 supporting any of the claims made against Plaintiff Thanh Van Bui in the subject publications. In their
2 case in chief, Defendants did not present any credible evidence to support the finding that the
3 publications were truthful. Instead, these defendants relied upon inadmissible evidence that invited
4 speculation and innuendo on this Court's part, and this Court declines to engage in speculation and
5 innuendo.

6 The Court finds that Plaintiff Thanh Van Bui has met the fourth element for defamation *per se*.

7
8 **V. DEFENDANTS FAILED TO USE REASONABLE CARE TO DETERMINE THE**
9 **TRUTH OR FALSITY OF THE STATEMENTS**

10 The evidence establishes that Defendants failed to use reasonable care to determine the truth or
11 falsity of their statements. When asked if they have any evidence that Plaintiff Thanh Van Bui is a
12 communist or a criminal, Defendants confirmed they did not. Most indicated they did not even believe
13 Plaintiff Thanh Van Bui were communists or a criminal. Defendant Nhan The Hoa testified that he had
14 no personal knowledge of the claims he made during the interview. Instead, he obtained the information
15 from Defendants Hai Tran and Chut Van Le. (8/7/24 TT, 209:23-210:2.) Defendant Nhan The Hoa
16 further testified that at the time of the interview: (i) he did not know Plaintiff Thanh Van Bui, (ii) did
17 not know who was the music director, and (iii) had never met or spoken to Plaintiff Thanh Van Bui
18 prior to his interview. (8/7/24 TT, 189:3-190:1.) Thus, there was basically no attempt to vet these
19 accusations.

20 As for Defendants Hai Tran and Chut Van Le, they both testified that their statements concerning
21 Plaintiff Thanh Van Bui were based on an invitation document he signed as the music director.
22 Specifically, they claimed that the use of the title music director (the Vietnamese term "cai nhac") and
23 his signature makes him an elected official of the HDCQ. (9/18/24 TT, 1915:6-12.) The Court does
24 not find this claim credible. This argument belies the commendations that Plaintiff Thanh Van Bui
25 received that used that title for him. (Trial Exhibit 173.) Further, these defendants were aware of
26 Plaintiff Thanh Van Bui's title as a music director when he came to America and was introduced with
27 that title at his first meeting with most of the defendants. (9/4 TT, 1397:15-21.) Finally, Defendants
28 Hai Tran and Chut Van Le have no personal knowledge to conclude who is an elected official for the

1 HDCQ or a communist. Defendant Chut Van Le admits during his testimony that he is just the religious
2 leader and has no knowledge of whether people are communist or criminals. (8/28 TT, 986:7-988:9.)
3 Defendant Hai Tran did not become a follower of Cao Dai until 2002 when he was already residing in
4 the United States. (9/18 TT, 1911:5-13.) As a result, their testimony as to who is an elected official
5 and the meaning of the title is not credible. Again, from the evidence, the Court concludes that these
6 defenses were created in anticipation of litigation and the Court is not swayed by these arguments.

7 The Court finds that Plaintiff Thanh Van Bui has met the fifth element for defamation per se.
8

9 **VI. DEFENDANTS' PUBLICATION OF DEFAMATORY STATEMENTS HARMED**
10 **PLAINTIFF THANH VAN BUI**

11 With defamation per se, damages can be presumed. In addition, Plaintiff Thanh Van Bui
12 credibly testified as to the harm done to his family due to the publication of these defamatory
13 statements. The questions by his family, especially his brothers, as to why he became a communist
14 was especially painful to Plaintiff Thanh Van Bui. The evidence established that Plaintiff Thanh Van
15 Bui experienced extreme pain and heartache through the publications orchestrated by these defendants.
16 Plaintiff Thanh Van Bui credibly testified to the shame that he felt when confronted with these false
17 statements. The publication also harmed his reputation in the community which resulted in the loss of
18 friends and former students distancing themselves from him. This also led to the deterioration of his
19 mental health and Plaintiff Thanh Van Bui having to seek medical attention. (9/5/24 TT, 1427:17-
20 1432:23.) For Plaintiff Thanh Van Bui's damages, the Court awards \$226,200.00 against Defendants
21 Hai Tran, Michael Tran, Thanh Ngoc Truong, Chut Van Le and Nhan The Hoa, jointly and severally.
22

23 **VII. DEFENDANTS ACTED WITH MALICE AND OPPRESSION PURSUANT TO CIVIL**
24 **CODE § 3294 AND KNEW THE STATEMENTS WERE FALSE OR HAD SERIOUS**
25 **DOUBTS ABOUT THE TRUTH OF THE STATEMENTS**

26 The Court finds that Plaintiffs have proven by clear and convincing evidence that Defendants
27 Hai Tran, Michael Tran, Thanh Ngoc Truong, Chut Van Le and Nhan The Hoa acted with malice and
28 oppression pursuant to Civil Code § 3294. These Defendants acted with intent to cause injury. Their

1 conduct was despicable and was done with willful and knowing disregard of the consequences to
2 Plaintiff Thanh Van Bui's rights and safety. The evidence establishes that the Corporation is in Orange
3 County, California. Most of the parties in this case immigrated to the United States to escape from the
4 Community Party in Vietnam. In his interview, Defendant Nhan The Hoa explains the community's
5 hatred for the Communist Party. (Trial Exhibit 177.) The evidence establishes that in the Cao Dai
6 community, it was understood that calling someone an elected official with the HDCQ meant that the
7 person was a Communist Party member. The evidence shows that Defendants Hai Tran and Chut Van
8 Le were consistently discussing the HDCQ and its association with communism to raise awareness on
9 this topic with the Corporation's members and other Cao Dai followers. (9/11/24 TT, 1571:19-1573:3.)
10 Consequently, these Defendants were aware of the harm that would occur when a person is called a
11 communist or an elected official. Nevertheless, these Defendants made these charges against Plaintiff
12 Thanh Van Bui numerous times and further asked all Cao Dai followers to boycott Plaintiff Thanh Van
13 Bui. (Trial Exhibit 177.)

14 The Court finds that Defendants made these statements knowing they were false or having
15 serious doubts about the truth of their statements. These Defendants failed to present a modicum of
16 evidence that any of their statements were truth or a credible basis for them to believe their accusations
17 were true. As discussed above, when the Defendants were asked on the stand if they had any evidence
18 that Plaintiff Thanh Van Bui is a communist, Defendants testified they did not. Most indicated they did
19 not even believe Plaintiff Thanh Van Bui were communists. Defendant Nhan The Hoa testified that he
20 had no personal knowledge of the claims he made during the interview. Instead, he obtained the
21 information from Defendants Hai Tran and Chut Van Le. (8/7 TT, 209:23-210:2.) Defendant Nhan
22 The Hoa further testified that at the time of the interview: (i) he did not know Plaintiff Thanh Van Bui,
23 (ii) did not know who the music director was, and (iii) had never met or spoken to Plaintiff Thanh Van
24 Bui prior to his interview. (8/7 TT, 189:3-190:1.)

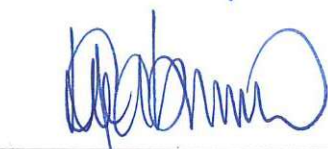
25 As mentioned above, the Court believes that Defendants' claims were created in anticipation of
26 litigation. Defendants Hai Tran and Chut Van Le's contention that the title music director confirms that
27 Plaintiff Thanh Van Bui is an elected official with the HDCQ is not credible, especially given the
28 commendations these Defendants presented to Plaintiff Thanh Van Bui that used that same title for him.

1 Finally, these Defendants present no credible evidence as to how they knew Plaintiff Thanh Van Bui
2 was an elected official with the HDCQ. Defendant Chut Van Le testified that he is just the religious
3 leader and has no knowledge of whether a person is a communist. (8/28/24 TT, 986:7-988:9.)
4 Defendant Hai Tran testified that he did not become a follower of Cao Dai until 2002 when he was
5 already residing in the United States. (9/18/24 TT, 1911:5-13.) As a result, he would have no personal
6 knowledge of how the Community Party was controlling the Cao Dai religion in Vietnam. Finally,
7 during the entire trial, the Court did not hear any evidence of Defendants verifying the truth of their
8 accusations against Plaintiff Thanh Van Bui. The Court finds that Defendants knew their statements
9 were false or had serious doubts about the truth of the statements.

10 Therefore, the Court finds that punitive damages are warranted against Defendants Hai Tran,
11 Michael Tran, Thanh Ngoc Truong, Chut Van Le and Nhan The Hoa.

12 Based on the evidence presented at the second phase of this trial, the Court awards punitive
13 damages for Plaintiff Thanh Van Bui and against: (i) Defendant Hai Tran in the amount of \$5,000.00,
14 (ii) Defendant Michael Tran in the amount of \$20,000.00, (iii) Defendant Thanh Ngoc Truong in the
15 amount of \$5,000.00, (iv) Chut Van Le in the amount of \$500.00, and (v) Defendant Nhan The Hoa in
16 the amount of \$2,500.00.

17
18 Dated: MAR 24 2025

19 
20 _____
21 Judge Lee L. Gabriel
22 Superior Court of the State of California, County of
23 Orange
24
25
26
27
28