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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
**COUNTY OF ORANGE**

ERIC SAVOY, an individual, on his own behalf and on behalf of all others similarly situated,

Plaintiffs,

v.

COLLECTOR’S UNIVERSE, INC., dba PROFESSIONAL SPORTS AUTHENTICATOR, a Delaware corporation; PWCC Marketplace, LLC, an Oregon corporation; RICK PROBSTEIN, an individual, dba PROBSTEIN123, and DOES 1 through 20, inclusive,

Defendants.

**CASE NO. 30-2020-01130892-CU-RI-CXC**

**CLASS ACTION COMPLAINT FOR:**

- 1. VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200**
- 2. VIOLATION OF BUSINESS & PROFESSIONS CODE § 17500**
- 3. VIOLATION OF CALIFORNIA CIVIL CODE § 1750**
- 4. BREACH OF EXPRESS WARRANTY**
- 5. VIOLATION OF CONSUMER FRAUD LAWS**
- 6. NEGLIGENT MISREPRESENTATION**
- 7. FRAUD**
- 8. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT, 18 U.S.C. § 1962(c)-(d) (“RICO”)**

**DEMAND FOR JURY TRIAL**

Assigned: Judge William Cluster  
Dept: CX104

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1 Plaintiff Eric Savoy (hereinafter referred to as “Plaintiff”), hereby submits his Class  
2 Action Complaint against Defendants Collector’s Universe, Inc., dba Professional Sports  
3 Authenticator (“PSA”), a Delaware corporation, PWCC Marketplace, LLC (“PWCC”), an  
4 Oregon corporation, Rick Probst, an individual, dba Probst123 (“Probst”), and Does 1-  
5 20 (hereinafter collectively referred to as “Defendants”) on behalf of himself and the class of all  
6 others similarly situated as follows:

7 **INTRODUCTION**

8 1. “Baseball-card collecting really ought to be extinct. It’s an analog hobby in a  
9 digital world, an expression of fandom in a sport whose attendance is in slow decline and whose  
10 cultural relevance is in free fall.”<sup>1</sup> Instead, the baseball trading card industry annually generates  
11 millions of dollars in sales.

12 2. In fact, over the past decade, as the Standard & Poor’s 500-stock index has roared  
13 back from the 2008 crash, an index of the top 500 baseball cards has done even better — beating  
14 it by more than double as of March 2018.<sup>2</sup>

15 3. Though trading card collecting is often thought of as a hobby, prized, pristine cards  
16 have significant value to collectors.

17 4. For example, the most highly valued baseball card is known as the T206 Honus  
18 Wagner card. In 2016, one of those cards sold at auction for over \$3 million.<sup>3</sup>

19 5. Although the Honus Wagner card is perhaps the most well-known and extreme  
20 example of the value that trading cards can garner at auction, there are a plethora of cards that  
21 have changed hands for tens, hundred, and thousands of dollars.

22 6. A critical factor in the valuation of each trading card is its physical condition.  
23 Pristine cards are worth far more than those that are faded, stained, have bent or frayed edges, or  
24 are otherwise damaged.

25 <sup>1</sup> <https://www.theatlantic.com/magazine/archive/2019/11/how-baseball-cards-got-weird/598345/>  
26 (last viewed February 6, 2020)

27 <sup>2</sup> <https://www.nytimes.com/2018/03/23/your-money/trading-cards-investment.html> (Last  
viewed February 6, 2020)

28 <sup>3</sup> <https://finance.yahoo.com/news/honus-wagner-baseball-card-sells-for-new-record-3-2-million-050323471.html> (Last viewed February 6, 2020)

1 7. Recently baseball card collectors determined that PSA had in fact graded a  
2 substantial number of altered cards on its 1-10 scale and many of those cards were sold by PWCC  
3 for substantial sums to unwitting consumers.

4 8. This complaint seeks recourse for those consumers who were defrauded into  
5 purchasing cards at substantially inflated prices and into paying PSA fees to grade cards on the  
6 false promise that PSA's grading system would differentiate authentic originals from altered  
7 frauds.

8 **A. PSA Knowingly Graded Altered Cards**

9 9. Defendant Collector's Universe, Inc. operates a trading card grading service under  
10 the name Professional Sports Authenticator.

11 10. In broad strokes, PSA's service is supposed to operate as follows: A card owner  
12 sends a card to PSA for rating. PSA determines if the card is authentic and unaltered. If it  
13 determines the card is authentic and unaltered, it grades the card on a 1-10 scale based on the  
14 physical condition of the card. If PSA determines the card is altered, it will not grade the card on  
15 its 1-10 scale.

16 11. The PSA grade directly impacts the market value of the card.

17 12. A step up of one or two grades can increase a card's value by a factor of ten or  
18 more depending on the card.

19 13. Contrary to its guarantees to consumers, PSA in fact graded a substantial number  
20 of altered cards on its 1-10 scale.

21 14. For various reasons described in more detail below, Plaintiff believes that PSA  
22 knew that these cards were altered when it graded them.

23 15. The altered cards were then sold with their newly inflated ratings. As of July 18,  
24 2019, it was reported that collectors had identified \$1.4 million in sales of altered cards.<sup>4</sup>

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27 \_\_\_\_\_  
28 <sup>4</sup> <https://www.washingtonpost.com/sports/2019/07/18/baseball-card-collectors-suspected-rampant-fraud-their-hobby-now-fbi-is-investigating/> (Last viewed February 6, 2020)

1           16.     The revelation that PSA graded altered cards which were then sold to unsuspecting  
2 buyers prompted the FBI to open an investigation.<sup>5</sup>

3           17.     In addition to grading altered cards, PSA’s fee schedule also incentivizes it to over-  
4 grade cards for consumers who are willing to pay more to have their cards graded.

5           18.     PSA charges based on the perceived market value of cards and requires consumers  
6 to self-appraise the value of their cards before submission.

7           19.     On information and belief, consumers receive higher grades when they appraise  
8 their cards at higher values and remit higher initial fees.

9           20.     On information and belief, PSA knowingly preferentially graded cards at higher  
10 grading levels – including altered cards – for preferred customers who submitted a substantial  
11 number of cards at high appraisal values in order to obtain the substantial fees that accompanied  
12 those submissions.

13                   **B. PWCC Knowingly Sold Altered Cards, Promoted Shill Bidding on its Sales, and**  
14                   **Created Fraudulent “Eye Appeal” Designations**

15           21.     Defendant PWCC Marketplace, LLC is an auction house that sells trading cards  
16 on behalf of consignors.

17           22.     Many of the sales of altered cards identified by collectors were facilitated by  
18 PWCC.

19           23.     On information and belief, PWCC knew that it was selling altered, graded cards  
20 that purported to be unaltered.

21           24.     In fact, collectors identified instances in which PWCC sold PSA rated cards which  
22 were then altered, submitted to PSA, graded at a higher level, and sold through PWCC by the  
23 original buyer.

24           25.     On information and belief, in addition to selling altered cards that were purchased  
25 and altered by others, PWCC and/or its principals facilitated the scheme by buying cards that  
26 were altered and submitted them to PSA for grading and then later selling them through PWCC.

27  
28 \_\_\_\_\_  
<sup>5</sup> *Id.*

1           26.     Additionally, on information and belief, PWCC allowed and advised sellers to  
2 inflate the sales prices of their cards by engaging in shill bidding to increase the price of cards  
3 that were sold through PWCC.

4           27.     PWCC also instituted a system called “Eye Appeal” to differentiate between cards  
5 with identical grades. On information and belief, PWCC used the Eye Appeal ratings to increase  
6 sales on cards in which its principal had a direct financial interest.

7           **C. Probstein Knowingly Sold Altered Cards**

8           28.     Probstein, like PWCC, operates as an auction house selling consigned cards.

9           29.     On information and belief, Probstein is the number one seller of cards on ebay by  
10 volume.

11          30.     Many of the sales of altered cards identified by collectors were facilitated by  
12 Probstein.

13          31.     On information and belief, Probstein knew that he was selling altered, graded cards  
14 that purported to be unaltered.

15          32.     This class action is brought by Plaintiff on behalf of himself and all other  
16 individuals who used PSA’s services to rate cards, who bought altered cards that were nonetheless  
17 rated by PSA on its 1-10 scale, and who currently hold altered PSA rated cards including, but not  
18 limited to, those purchased through PWCC.

19          33.     PSA guarantees consumers that it will not grade altered cards, and that if they  
20 purchase an altered PSA card, they will be made whole for the lost value of the card.

21          34.     PWCC guarantees that it will refund sales for undisclosed altered cards.

22          35.     PSA and PWCC simply did not live up to either of those guarantees.

23          36.     Rather, they defrauded consumers by grading cards that were altered and selling  
24 those cards causing unsuspecting consumers to purchase those cards at significantly inflated  
25 prices.

26          37.     PSA also defrauded consumers by, on information and belief, allowing consumers  
27 to receive higher grades for their cards based on their indicated willingness to pay higher fees or  
28 based on its lucrative business relationship with the party submitting the cards.

1 38. Further, when the fraud was uncovered, consumers holding PSA graded cards  
2 experienced losses in the value of their cards based on lost faith in the PSA grades.

3 39. Plaintiff seeks to recover damages for Defendants' unscrupulous behavior on  
4 behalf of himself and other impacted consumers.

5 **JURISDICTION AND VENUE**

6 40. This Court has jurisdiction over this action and venue is proper because Defendant  
7 PSA maintains its headquarters in Orange County and a significant portion of the actions that  
8 gave rise to this suit occurred in this County.

9 41. PWCC is subject to the jurisdiction of this Court because it directed the tortious  
10 acts complained of in this Complaint to California.

11 **PARTIES**

12 42. Plaintiff Eric Savoy is over the age of eighteen and a resident of El Cajon,  
13 California.

14 43. Plaintiff was a victim of the Defendants' scheme. During the relevant time period,  
15 Plaintiff has submitted his own cards to PSA for grading and purchased PSA graded cards. During  
16 the relevant time period, Plaintiff believes that he purchased, at a premium price, at least one PSA  
17 graded card that was given a grade on the 1-10 scale despite in fact having been altered and that  
18 he purchased at least one altered card from PWCC and Probst. By creating doubt in the  
19 authenticity and value of rated cards, Defendants have caused all of Plaintiff's cards to decrease  
20 in value.

21 44. Defendant Collector's Universe, Inc., dba Professional Sports Authenticator is a  
22 Delaware corporation having its principal place of business at 1610 E. St Andrew Place, Santa  
23 Ana, CA 92705.

24 45. PSA conducts substantial business in California, including maintaining its  
25 principal place of business within the state.

26 46. Defendant PWCC Marketplace, LLC is an Oregon corporation having its principal  
27 place of business at 7560 SW Durham Road, Tigard, OR 97224.

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1 47. PWCC conducts substantial business in California and directed its advertisements  
2 for altered cards to California and on information and belief sold altered cards to Class Members  
3 within California.

4 48. Rick Probststein is an individual who, on information and belief, resides in New  
5 Jersey.

6 49. Probststein conducts substantial business in California and directed his  
7 advertisements for altered cards to California and on information and belief sold altered cards to  
8 Class Members within California.

9 50. Plaintiff does not know the true names or capacities, whether individual, partner  
10 or corporate, of the Defendants sued herein as DOES 1 through 20, inclusive, and for that reason,  
11 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this  
12 complaint when the true names and capacities are known. Plaintiff is informed and believes and  
13 based thereon alleges that each of said fictitious Defendants were responsible in some way for the  
14 matters alleged herein and proximately caused Plaintiff and members of the general public and  
15 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

16 **FACTUAL ALLEGATIONS**

17 51. Plaintiff incorporates all preceding paragraphs as though fully set forth herein.

18 **A. History of The Baseball Card Market**

19 52. Before the 1970's, varying prices for individual baseball cards were virtually  
20 unheard of.<sup>6</sup> It was only in the '70s, as Baby Boomers sought out favorite cards from their youth,  
21 that certain stars began to soar in value.<sup>7</sup> By the '80s, blue-chip cards were outperforming the  
22 S&P 500 and collecting had transformed from a sleepy novelty into a billion-dollar industry.<sup>8</sup>

23 53. Then the bottom fell out. In their eagerness to put new product in front of Boomers  
24 and their kids, manufacturers had flooded the market with cardboard.<sup>9</sup> One industry observer told

25 <sup>6</sup> [https://www.theatlantic.com/magazine/archive/2019/11/how-baseball-cards-got-](https://www.theatlantic.com/magazine/archive/2019/11/how-baseball-cards-got-weird/598345/?utm_source=atl&utm_medium=email&utm_campaign=share)  
26 [weird/598345/?utm\\_source=atl&utm\\_medium=email&utm\\_campaign=share](https://www.theatlantic.com/magazine/archive/2019/11/how-baseball-cards-got-weird/598345/?utm_source=atl&utm_medium=email&utm_campaign=share) (Last viewed  
February 6, 2020)

27 <sup>7</sup> *Id.*

28 <sup>8</sup> *Id.*

<sup>9</sup> *Id.*



1 the Journal that oversupply—too many competing sets; large print runs—had “choked the goose  
2 that laid the golden eggs.”<sup>10</sup>

3 54. Late in the boom years, however, a solution to the subjectivity of condition  
4 appeared: third-party grading firms.<sup>11</sup> The first was Professional Sports Authenticator, or PSA,  
5 which launched in 1991. By 1998, PSA was grading 1 million cards a year and had inspired  
6 numerous competitors.<sup>12</sup>

7 55. With standardized assessments of condition in place, cards could be traded on  
8 auction sites such as eBay without fear of fakes or frauds.<sup>13</sup> More importantly, PSA gave the  
9 market detailed information about supply.<sup>14</sup> Each time it grades a card, the company logs the  
10 grade in a publicly accessible database, which has had a profound effect on pricing.<sup>15</sup> For  
11 example, of the approximately 4,000 Pete Rose rookie cards from 1963 that PSA had evaluated  
12 as of early August 2019, only one scored PSA’s top grade, Gem Mint 10.<sup>16</sup> That card sold for  
13 \$717,000 in 2016. The 30 that scored Mint 9, still less than 1 percent of those Roses, can be had  
14 for about \$35,000 each.<sup>17</sup>

### 15 **B. PSA’s Card Grading Business**

16 56. When a consumer seeks to have a card graded by PSA, they must first evaluate the  
17 projected value of their card after it is rated.<sup>18</sup>

18 57. This self-declared value impacts the cost of submission to PSA. Cards with  
19 maximum declared values of \$499 and under cost \$20 to rate, while at the other extreme, cards  
20 with declared values in excess of \$100,000 incur a \$5,000 rating charge.<sup>19</sup>

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23 <sup>10</sup> *Id.*

24 <sup>11</sup> *Id.*

24 <sup>12</sup> *Id.*

25 <sup>13</sup> *Id.*

25 <sup>14</sup> *Id.*

26 <sup>15</sup> *Id.*

26 <sup>16</sup> *Id.*

27 <sup>17</sup> *Id.*

28 <sup>18</sup> <https://www.psacard.com/resources/faq#104> (Last viewed February 6, 2020)

28 <sup>19</sup> <https://www.psacard.com/pricing/#cards> (Last viewed February 6, 2020)

1 58. PSA indicates that once it receives cards for grading, “a series of PSA graders  
2 review [the] cards for authenticity” and “[i]f genuine, PSA looks for evidence of doctoring such  
3 as re-coloring or trimming.” Then, “[i]f the cards pass these two steps, PSA grades the condition  
4 of each card on a scale of 1-10, with 10 being best.”<sup>20</sup>

5 59. “After grading, PSA holders each card in its own tamper-evident case. A label  
6 within the case displays the card’s pertinent information and unique certification number.”<sup>21</sup>

7 60. PSA maintain a comprehensive database of all cards that it has graded<sup>22</sup> as well as  
8 all its rated cards that have been sold.<sup>23</sup>

### 9 **C. PSA’s Pitch and Guarantee’s to Consumers**

10 61. PSA touts its services as increasing the value of cards, indicating that “PSA-  
11 certified trading cards often sell for premium prices due to the strength and credibility of the PSA  
12 brand.”<sup>24</sup>

13 62. PSA offers multiple assurances to consumers. “PSA guarantees that all cards  
14 submitted to it shall be graded in accordance with PSA grading standards and under the  
15 procedures of PSA.”<sup>25</sup>

16 63. PSA’s grading standards in turn provide that “PSA will not grade cards that bear  
17 evidence of trimming, re-coloring, restoration, or any other forms of tampering, or are of  
18 questionable authenticity.”<sup>26</sup>

19 64. These standards also provide a list of reasons why a card may be returned as  
20 ungradable including evidence of trimming, restoration, recoloration, and cleaning.<sup>27</sup>

21  
22 \_\_\_\_\_  
23 <sup>20</sup> <https://www.psacard.com/services/tradingcardgrading> (Last viewed February 6, 2020).  
24 Although PSA does have grades outside the 1-10 scale including one for authentic but altered  
25 cards, the use of the term “grade,” “graded,” and/or “rating” in this Complaint refers to  
26 receiving a grade on the 1-10 scale.

27 <sup>21</sup> *Id.*

28 <sup>22</sup> <https://www.psacard.com/pop/> (Last viewed February 6, 2020)

<sup>23</sup> <https://www.psacard.com/auctionprices/> (Last viewed February 6, 2020)

<sup>24</sup> <https://www.psacard.com/services/tradingcardgrading> (Last viewed February 6, 2020)

<sup>25</sup> <https://www.psacard.com/resources/faq#109> (Last viewed February 6, 2020)

<sup>26</sup> <https://www.psacard.com/resources/gradingstandards#cards> (Last viewed February 6, 2020)

<sup>27</sup> *Id.*

1           65.     Altered cards are worth a fraction of the value of unaltered cards in part because it  
2 is the authenticity of the cards that is prized.

3           66.     Finally, PSA offers a “Financial Guarantee of Grade & Authenticity.”

4           67.     This guarantee “ensures the accuracy of the grade assigned to any PSA-graded  
5 card” by providing that “PSA guarantees that all cards submitted to it shall be graded in  
6 accordance with PSA grading standards and under the procedures of PSA.”<sup>28</sup>

7           68.     PSA guarantees that

8           If PSA, in fact, concludes the card in question no longer merits the PSA grade  
9 assigned or fails PSA’s authenticity standards, PSA will either:

- 10           1. Buy the card from the submitter at the current market value if the card can no  
11 longer receive a numerical grade under PSA’s standards or,  
12           2. Refund the difference in value between the original PSA grade and the current  
13 PSA grade if the grade is lowered. In this case, the card will also be returned  
14 to the customer along with the refund for the difference in value.

15           69.     Plaintiff and other consumers relied on these statements and guarantees in using  
16 PSA’s services and in buying PSA rated cards.

17           **D. PSA Knowingly Graded Altered Cards**

18           70.     Last year, collectors began posting online regarding their belief that something  
19 was awry.

20           71.     They had determined that cards were being altered and still receiving grades from  
21 PSA. In fact, they found instances of PSA rated cards that had been purchased at auction, broken  
22 out of their “tamper proof” case, altered, and resubmitted.

23           72.     Those cards received higher grades on resubmission and were then sold at auction  
24 again.

25           73.     One example of this scheme that was identified is a 1952 Bowman Stan Musial  
26 card. In 2017, it was sold at auction for \$2,800, its price deflated by a stray black mark on its  
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28 <sup>28</sup> <https://www.psacard.com/About/FinancialGuarantee/> (Last viewed February 6, 2020)

1 white frame. Seven months later, the same card sold for \$28,100 after it had been altered to  
2 remove the black mark.<sup>29</sup>

3 74. Another example is a 1952 Mickey Mantle card which sold for almost 60,000 after  
4 it received a 4.5 grade.

5 75. Yet another example is a T206 Billy Maloney card which dates back to 1909 to  
6 1911. It was initially sold on August 19, 2017 for \$81 bearing a grade of 4.5. On information  
7 and belief, it was altered and submitted to PSA who graded it at a 7. It was then sold at auction  
8 on February 5, 2018 for \$1,000.

9 76. Collectors have uncovered scores of examples of altered cards that were graded  
10 by PSA.

11 77. PSA knew or should have known that it was grading altered cards.

12 78. First of all, experts in the field including those used by PSA to grade cards are able  
13 to identify indicia of alterations such as removal of stains and smoothing out of creases.

14 79. Second, when a card is trimmed, it no longer fits perfectly into a PSA case.  
15 Trimmed cards can often be identified by a gap between the card and the edge of the case and  
16 they may even move within the case.

17 80. Third, as noted, PSA maintains a record of all the cards that it rates including  
18 pictures of those cards as well as a record of purchasers of PSA rated cards.

19 81. Thus, PSA should have been able to determine by visual inspection which cards  
20 were altered, and even if that had failed, it could have cross-referenced cards that were being  
21 submitted for rating with its previously rated cards and with purchasers of its cards and determined  
22 that cards were being altered and resubmitted.

23 82. Even though there may be multiple copies of various cards in circulation, cards  
24 (particularly older cards) have distinctive characteristics such as how the image on the card is  
25 centered in the frame, stray print marks, the pattern of the fibers on the cardboard and dirt or  
26 debris caused by aging, that should allow close observers to differentiate between like copies.

27 \_\_\_\_\_  
28 <sup>29</sup> <https://www.washingtonpost.com/sports/2019/07/18/baseball-card-collectors-suspected-rampant-fraud-their-hobby-now-fbi-is-investigating/> (Last viewed February 6, 2020)

1           83.     Indeed, collectors were able to use PSA’s records to uncover the scheme, yet PSA  
2 contends that it continued to grade altered cards without noticing from its own records that it had  
3 previously graded those cards at a lower grade.

4           **E. PSA Used a Problematic Self Appraisal System and Gave Preferential Treatment**  
5           **to High Volume, High Value Customers**

6           84.     As noted above, PSA requires consumers who submit cards to them to self-  
7 evaluate the potential value of the card after it is graded. PSA then charges consumers for grading  
8 based on the perceived value (although in some instances PSA may require the submitter to remit  
9 additional funds because the card is deemed to be worth more than the self-appraisal value.)

10          85.     PSA maintains that it grades cards on an objective basis with a “small (yet  
11 sometimes significant) subjective element.” However, this subjective element is meant to allow  
12 graders some leeway “based on the strength or weakness of the eye appeal, to make a judgment  
13 call on the grade of a particular card” and to “make a call on a card that falls on the line between  
14 two grades.”<sup>30</sup>

15          86.     On information and belief, rather than grading cards purely objectively, PSA is  
16 more likely to give a card a higher grade if the consumer submits it a higher declared value (and  
17 pays a higher fee).

18          87.     In other words, on information and belief, each submission can come with an  
19 upfront bribe. By declaring a card at a high value and paying a large fee, consumers can influence  
20 the grade they will receive.

21          88.     Likewise, on information and belief PSA gave preferential treatment to customers  
22 who submitted substantial numbers of cards and paid significant appraisal fees to them. Such  
23 preferential treatment included, on information and belief, graded altered cards on their behalf  
24 and grading cards at higher values than they would have otherwise garnered.

25           **F. PWCC’s Pitch and Guarantees to Customers**

26          89.     PWCC represents that “[s]ince 1998, [it] has provided buyers and sellers of  
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28 <sup>30</sup> <https://www.psacard.com/resources/gradingstandards#cards> (Last viewed February 6, 2020)

1 investment-caliber trading cards with an efficient, honest, and predictable marketplace” and that  
2 it “offers buyers and sellers a superior marketplace, principled in reduced transaction costs, faster  
3 turn- times, increased liquidity, and greater transparency.” It notes that cards are an investment,  
4 and indicates that “[t]rust” is the “bedrock of the PWCC marketplace.”<sup>31,32</sup>

5 90. PWCC further represents that it “handle[s] every trade with the highest level of  
6 integrity and care.”<sup>33</sup>

7 91. PWCC advises buyers that “[s]afeguarding the integrity of bidding on our auctions  
8 is our highest priority, as is the assurance that every item we broker is accurately described and  
9 authentic.”<sup>34</sup>

10 92. PWCC mandates that “[a]ltered assets cannot be sold on the PWCC Marketplaces  
11 unless this detail is disclosed during the sale.”<sup>35</sup>

12 93. PWCC guarantees that it will “remove altered assets from our active marketplace  
13 and, when altered assets are graded, to assist the Third-Party Authenticator in removal of altered  
14 assets from circulation and to protect investors.”<sup>36</sup>

15 94. PWCC further guarantees that “[a]ny professionally-graded card which is  
16 determined to be altered while in possession of PWCC will not be sold” and that “[s]hould a  
17 professionally-graded card previously sold by PWCC be determined to be altered, that sale  
18 becomes null and void and the buyer is entitled to a full refund of the purchase price. This  
19 guarantee applies to sales dating back to January 1, 2015, which marks the start of PWCC’s  
20 complete sales record database.”<sup>37</sup>

21 95. On information and belief, PWCC has not abided by these representation and  
22 guarantees. Instead, as detailed below, it knowingly sold altered cards without indicating that

23 \_\_\_\_\_  
24 <sup>31</sup> <https://www.pwccmarketplace.com/about-the-marketplace> (Last viewed February 6, 2020)

25 <sup>32</sup> Although PWCC refers to itself as a marketplace, it conducts a substantial portion of its sales  
26 through eBay. See [https://www.ebay.com/str/PWCC-Marketplace?\\_trksid=p2047675.12563](https://www.ebay.com/str/PWCC-Marketplace?_trksid=p2047675.12563)  
(Last viewed February 6, 2020)

27 <sup>33</sup> <https://www.pwccmarketplace.com/about-pwcc> (Last viewed February 6, 2020)

28 <sup>34</sup> <https://www.pwccmarketplace.com/pwcc-for-buyers> (Last viewed February 6, 2020)

<sup>35</sup> *Id.*

<sup>36</sup> <https://www.pwccmarketplace.com/marketplace-tenets> (Last viewed February 6, 2020)

<sup>37</sup> *Id.*

1 they were altered and refused to issue refunds of the purchase prices for those altered cards.

2 **G. PWCC Knowingly Sold Altered Cards**

3 96. Collectors have identified dozens of altered cards sold by PWCC.<sup>38</sup>

4 97. For example, the altered 1952 Mickey Mantle, 1909-1911 Billy Maloney cards  
5 described above were both purchased on PWCC, altered, regraded by PSA, and then sold by  
6 PWCC with the new altered rating.

7 98. Likewise, the 1952 Stan Musial card described above was sold on PWCC after it  
8 had been altered.

9 99. On information and belief, PWCC not only engaged in the sale of altered cards,  
10 but PWCC or its principals also purchased cards that were later altered and sold by PWCC.

11 100. PWCC knew that these cards were altered and it knew that it was selling altered  
12 cards because, as described above, experts in the trading card field should be able to identify  
13 alterations and PWCC was itself involved in the alteration scheme.

14 **H. PWCC Used Eye Appeal Designations to Enrich Itself or its Principals**

15 101. PWCC indicates on its website that “[t]here exists a range of visual quality within  
16 all technical grades rendered by 3rd party graders” and each “acceptable technical range carries  
17 variance of visual quality, resulting in some cards possessing premium eye appeal.”<sup>39</sup>

18 102. Based on this range in visual appeal between equally graded cards, PWCC has  
19 created its own system of designating cards based on their purported “Eye Appeal.” In other  
20 words, PWCC has placed its own grades on top of the grades of the third party graders such as  
21 PSA.<sup>40</sup>

22 103. On information and belief, PWCC used its “Eye Appeal” system to  
23 disproportionately grade cards in which PWCC and/or its principals held a financial interest as  
24 having strong Eye Appeal, thereby increasing their value for sale.

25 104. PWCC then sold these cards to unwitting consumers for inflated values.

26  
27 <sup>38</sup> <https://www.blowoutforums.com/showthread.php?t=1290614> (Last viewed February 6, 2020)

28 <sup>39</sup> <https://www.pwccmarketplace.com/eye-appeal> (Last viewed February 6, 2020)

<sup>40</sup> *Id.*

1           **I. PWCC Allowed and Encouraged Shill Bidding on its Sales**

2           105. As described above, shill bidding is a process by which auction prices are driven  
3 up through fraudulent bidding by the seller or those working in conjunction with the seller.

4           106. On information and belief, PWCC allows and encourages its sellers to shill bid on  
5 their cards that are being sold by PWCC.

6           107. By encouraging and allowing this shill bidding, PWCC has driven up the prices  
7 on its sales, thereby increasing its own profits to the detriment of consumers who are paying  
8 artificially inflated prices.

9           **J. Probstein Knowingly Sold Altered Cards**

10          108. Collectors have identified many altered cards sold by Probstein.<sup>41,42</sup>

11          109. For example, collectors have identified a Sidney Crosby autographed rookie card  
12 that was altered by the substitution of a fake patch and sold by Probstein.

13          110. Probstein knew that he was selling altered cards because, as described above,  
14 experts in the trading card field should be able to identify alterations.

15           **K. The Fallout from the Scheme**

16          111. Once the card alteration scheme was uncovered last year, collectors began to  
17 identify further examples of altered cards that had been graded by PSA and sold to unsuspecting  
18 consumers through PWCC and other means.

19          112. Consumers further identified PWCC's suspected shill bidding practices.

20          113. Consumers were impacted to their detriment in a number of ways.

21          114. First, those who had purchased altered cards learned that they had been defrauded  
22 and the card values plummeted.

23          115. On information and belief, PSA has failed to honor its guarantee to pay the  
24 difference between the value of the graded cards and what they are worth as recognized altered cards.

25          116. On information and belief, PWCC has failed to honor its guarantee to refund  
26 purchasers of altered cards.

27 \_\_\_\_\_  
28 <sup>41</sup> <https://www.blowoutforums.com/showthread.php?t=1312335> (Last visited February 7, 2020)

<sup>42</sup> <https://www.blowoutforums.com/showthread.php?t=1300356> (Last visited February 7, 2020)



1 117. Second, those who were holding unaltered PSA graded cards experienced  
2 declining trust in the rating from potential purchasers and a commensurate drop in value of their  
3 cards.

4 118. Third, those who had paid PSA to rate their cards were damaged because they were  
5 paying for a service that was not what it purported to be and were receiving lower grades for their  
6 cards than others who submitted altered cards or over-valued their cards in self-appraisal and  
7 received higher grades.

8 119. Moreover, throughout the scheme, collectors with legitimate PSA graded cards  
9 were damaged by the presence of highly rated altered cards which distorted the market to make  
10 it more difficult to obtain value for lower graded unaltered cards.

11 **Tolling Of The Statute Of Limitations**

12 **Discovery Rule Tolling**

13 120. Plaintiff had no way of knowing about Defendants' deception with respect to the  
14 grading and sale of altered cards. Plaintiff only learned of the scheme when it was publicly  
15 exposed. Plainly, Defendants were intent on hiding their behavior from consumers like Plaintiff.

16 121. Within the time period of any applicable statutes of limitation, Plaintiff could not  
17 have discovered through the exercise of reasonable diligence that Defendants were concealing the  
18 conduct complained of herein.

19 122. Plaintiff did not discover, and did not know of facts that would have caused a  
20 reasonable person to suspect the scheme complained of herein nor would a reasonable and diligent  
21 investigation have disclosed that Defendants were engaged in a practice of grading and selling  
22 altered cards in direct contradiction to the representations that Defendants made to induce  
23 consumers to use their services.

24 123. For these reasons, all applicable statutes of limitation were tolled by operation of  
25 the discovery rule prior to the public discovery of the scheme.

26 ///

27 ///

28 ///

1 **Fraudulent Concealment Tolling**

2 124. All applicable statutes of limitation have also been tolled by Defendants’ knowing  
3 and active fraudulent concealment and denial of the facts alleged herein throughout the time  
4 period relevant to this action.

5 125. Instead of disclosing the scheme Defendant PSA falsely represented that it did not  
6 grade altered cards and Defendant PWCC falsely represented that it would not sell altered cards.

7 **Estoppel**

8 126. Defendants were under a continuous duty to disclose to Plaintiff the truth regarding  
9 the grading and sale of altered cards.

10 127. Defendants knowingly, affirmatively, and actively concealed the true nature of  
11 their practice with altered cards.

12 128. Based on the foregoing, Defendants are estopped from relying on any statutes of  
13 limitations in defense of this action.

14 **CLASS ACTION ALLEGATIONS**

15 129. Plaintiff brings this suit as a class action pursuant to California Code of Civil  
16 Procedure § 382 on behalf of himself and all others similarly situated who have been subject to  
17 illegal conduct perpetrated by Defendants.

18 130. Plaintiff seeks certification of the following class:

19 All natural persons residing in the United States or its territories, excluding the  
20 Court and staff, who submitted cards for rating to PSA, purchased PSA rated cards,  
21 or owned PSA rated cards during the time period when PSA was rating altered cards  
and up to entry of judgment in this case.

22 131. Additionally, Plaintiff seeks certification of the following subclass

23 All members of the class who resided in California at any point during the operation  
of the card altering scheme complained of.

24 132. Excluded from the Class are Defendants, and any person, firm, trust, corporation,  
25 or other entity related to or affiliated with the Defendant, including, without limitation, persons  
26 who are officers, directors, employees, associates or partners of Defendants.

27 133. The members of the Class are believed to so numerous that joinder of all members  
28 of each Class is impracticable. While the exact number and identities of the Class members are

1 unknown at this time, that information can be obtained from Defendant's records and through  
2 discovery.

3 134. Common questions of law and fact exist as to all members of the Class.

4 135. These common legal and factual questions predominate over any questions  
5 affecting only individual members of the class. These common legal and factual questions, which  
6 do not vary from class member to class member, and which may be determined without reference  
7 to the individual circumstances of any class member, include, but are not limited to, the following:

- 8 a. Whether Defendant PSA graded altered cards;
- 9 b. Whether Defendant PSA knew or should have known that it graded altered  
10 cards;
- 11 c. Whether PWCC sold altered cards;
- 12 d. Whether PWCC purchased cards for alteration and sale;
- 13 e. Whether PWCC allowed and/or encouraged shill bidding on its sales;
- 14 f. Whether PWCC used its Eye Appeal system to enrich itself or its principals;
- 15 g. Whether Plaintiff and the Class have been injured by Defendants' conduct; and
- 16 h. Whether Defendants' conduct was willful.

17 136. The claims of the named Plaintiff are typical of the claims of the members of the  
18 Class. Plaintiff and the members of the Class sustained losses, injuries and damages arising from  
19 Defendants' common policies, practices, procedures, protocols, routines, and rules which were  
20 applied to members of the Putative Class as well as Plaintiff. Plaintiff seeks recovery for the same  
21 type of losses, injuries, and damages as were suffered by the members of the Putative Class.

22 137. Plaintiff is an adequate representative of the Putative Class because he is a member  
23 of the class, and his interests do not conflict with the interests of the members he seeks to  
24 represent. Plaintiff has retained competent counsel, experienced in the prosecution of complex  
25 class actions, and together Plaintiff and his counsel intends to prosecute this action vigorously for  
26 the benefit of the classes. The interests of the Putative Class will fairly and adequately be protected  
27 by Plaintiff and his attorneys.

28 ///

1           138. A class action is superior to other available methods for the fair and efficient  
2 adjudication of this litigation since individual litigation of the claims of all Putative Class  
3 Members is impracticable. It would be unduly burdensome to the courts if these matters were to  
4 proceed on an individual basis, because this would potentially result in hundreds of individuals,  
5 repetitive lawsuits. Further, individual litigation presents the potential for inconsistent or  
6 contradictory judgments, and the prospect of a “race to the courthouse,” and an inequitable  
7 allocation of recovery among those with equally meritorious claims. By contrast, the class action  
8 device presents far fewer management difficulties, and provides the benefit of a single  
9 adjudication, economics of scale, and comprehensive supervision by a single court.

10           139. The various claims asserted in this action are additionally or alternatively  
11 certifiable under the provisions of the California Code of Civil Procedure § 382 because:

- 12           a. The prosecution of separate actions by hundreds of individual Class  
13 Members would create a risk of varying adjudications with respect to  
14 individual class members, thus establishing incompatible standards of  
15 conduct for Defendants, and
- 16           b. The prosecution of separate actions by individual Class Members would  
17 also create the risk of adjudications with respect to them that, as a practical  
18 matter, would be dispositive of the interest of the other Class Members  
19 who are not a party to such adjudications and would substantially impair  
20 or impede the ability of such non-party Class Members to protect their  
21 interests.

#### 22           **FIRST CAUSE OF ACTION**

#### 23           **FALSE AND MISLEADING ADVERTISING IN VIOLATION OF BUSINESS & 24           PROFESSIONS CODE § 17200, *et seq.***

25           **(By Plaintiff and the California Subclass against Defendants PSA  
26           and PWCC and Does 1-20)**

27           140. Plaintiff repeats and re-alleges the contents of all preceding paragraphs as if fully  
28 set forth at length.

          141. This cause of action is brought pursuant to *Business and Professions Code* §

1 17200, *et seq.*

2 142. In advertising their services, Defendants made false and misleading statements.  
3 Specifically, as set forth above, Defendant PSA represents that it does not grade altered cards  
4 when in fact it did grade altered cards. PSA guaranteed that it would reimburse the difference  
5 between cards that were misgraded.

6 143. Defendant PWCC represents that it does not sell undisclosed altered cards when it  
7 in fact did sell undisclosed altered cards. PWCC guarantees that it will refund purchasers of  
8 undisclosed altered cards.

9 144. On information and belief, neither PSA nor PWCC have stood by their guarantees.

10 145. Defendants were aware that the claims they made about their services were false,  
11 misleading and unsubstantiated.

12 146. As alleged in the preceding paragraphs, the misrepresentations and omissions by  
13 Defendants of the material facts detailed above constitute an unfair and fraudulent business  
14 practice within the meaning of California *Business & Professions Code* § 17200.

15 147. In addition, Defendants' use of various forms of advertising media to advertise,  
16 call attention to or give publicity to the sale of goods or merchandise which are not as represented  
17 in any manner constitute unfair competition, unfair, deceptive, untrue or misleading advertising,  
18 and an unlawful business practice within the meaning of California *Business & Professions Code*  
19 § 17200, which advertisements have deceived and are likely to deceive the consuming public, in  
20 violation of California *Business & Professions Code* § 17500.

21 148. There were reasonably available alternatives to further Defendants' legitimate  
22 business interests, other than the conduct described herein.

23 149. All of the conduct alleged herein occurs and continues to occur in Defendants'  
24 business. Defendants' wrongful conduct is part of a pattern or generalized course of conduct  
25 repeated on hundreds of occasions daily.

26 150. Pursuant to California *Business & Professions Code* §§ 17203 and 17535, Plaintiff  
27 and the members of the Classes seek an order of this Court enjoining Defendants from continuing  
28 to engage, use, or employ their practice of advertising that their service does not grade altered

1 cards. Likewise, Plaintiff and the members of the Classes seek an order requiring Defendants to  
2 disclose such misrepresentations, and additionally request an order awarding Plaintiff restitution  
3 of the money wrongfully acquired by Defendants by means of responsibility attached to  
4 Defendants' failure to disclose the existence and significance of said misrepresentations.

5 **SECOND CAUSE OF ACTION**

6 **FALSE AND MISLEADING ADVERTISING IN VIOLATION OF BUSINESS &**  
7 **PROFESSIONS CODE § 17500, *et seq.***

8 **(By Plaintiff and the California Subclass against Defendants PSA and PWCC**  
9 **and Does 1-20)**

10 151. Plaintiff repeats and re-alleges the contents of all preceding paragraphs as if fully  
11 set forth at length.

12 152. This cause of action is brought pursuant to *California Business and Professions*  
13 *Code* § 17500, *et seq.* (known as California's False Advertising Law or "FAL").

14 153. The FAL prohibits the dissemination of any advertisement which is untrue or  
15 misleading, and which is known, or which by exercise of reasonable care should be known, to be  
16 untrue or misleading. Cal. Bus. & Prof. Code §17500.

17 154. In advertising their services, Defendants made false and misleading statements.  
18 Specifically, as set forth above, Defendant PSA represents that it does not grade altered cards  
19 when in fact it did grade altered cards. PSA guaranteed that it would reimburse the difference  
20 between cards that were misgraded.

21 155. Defendant PWCC represents that it does not sell undisclosed altered cards when it  
22 in fact did sell undisclosed altered cards. PWCC guarantees that it will refund purchasers of  
23 undisclosed altered cards.

24 156. On information and belief, neither PSA nor PWCC have stood by their guarantees.

25 157. Defendants were aware that the claims they made about their services were false,  
26 misleading and unsubstantiated.

27 158. As alleged in the preceding paragraphs, the misrepresentations by Defendants of  
28 the material facts detailed above constitute an unfair and fraudulent business practice within the  
meaning of *California Business & Professions Code* § 17500.

1           159. In addition, Defendants’ use of various forms of advertising media to advertise,  
2 call attention to or give publicity to the sale of goods or merchandise which are not as represented  
3 in any manner constitutes unfair competition, unfair, deceptive, untrue or misleading advertising,  
4 and an unlawful business practice within the meaning of California *Business & Professions Code*  
5 §§ 17531 and 17200, which advertisements have deceived and are likely to deceive the consuming  
6 public, in violation of California *Business & Professions Code* § 17500.

7           160. Pursuant to California *Business & Professions Code* §§ 17203 and 17535, Plaintiff  
8 and the members of the Classes seek an order of this Court enjoining Defendants from continuing  
9 to engage, use, or employ their practice of advertising that they do not grade altered cards and  
10 will guarantee their grade. Likewise, Plaintiff and the members of the Classes seek an order  
11 requiring Defendants to disclose such misrepresentations, and additionally request an order  
12 awarding Plaintiff restitution of the money wrongfully acquired by Defendants by means of  
13 responsibility attached to Defendants’ failure to disclose the existence and significance of said  
14 misrepresentations.

**THIRD CAUSE OF ACTION**

**VIOLATION OF CALIFORNIA CIVIL CODE § 1750, *et seq.*  
(By Plaintiff and the California Subclass against Defendants and Does 1-20)**

15  
16  
17           161. Plaintiff repeats and re-alleges the contents of all preceding paragraphs as if fully  
18 set forth at length.

19           162. This cause of action is brought pursuant to California *Civil Code* § 1750, *et seq.*,  
20 the Consumers Legal Remedies Act.

21           163. Plaintiff, as well as each member of the California Subclass, constitutes a  
22 “consumer” within the meaning of California *Civil Code* § 1761(d).

23           164. Defendant PSA’s grading of cards for a fee and PWCC’s sale of cards constitute  
24 “transactions” within the meaning of California *Civil Code* § 1761(e).

25           165. The grading services and cards purchased by Plaintiff and the Consumer Class  
26 constitute “goods” and “services” under California *Civil Code* § 1761(a) and (b).

27           166. The policies, acts, and practices heretofore described were intended to result in the  
28 sale of services to the consuming public and violated and continue to violate Section 1770(a)(7)

1 of the Act, which prohibits, “[r]epresenting that goods or services are of a particular standard,  
2 quality, grade, or that goods are of a particular style or model, if they are of another,” and Section  
3 1770(a)(14), which prohibits, “[r]epresenting that a transaction confers or involves rights,  
4 remedies, or obligations that it does not have or involve, or that are prohibited by law.”

5 167. Defendants fraudulently deceived Plaintiff and the Class by representing that they  
6 were only grading and selling unaltered cards and that they would guaranty the grades of their  
7 cards and their unaltered nature. In doing so, Defendants intentionally misrepresented and  
8 concealed material facts from Plaintiff and the Class. Said misrepresentations and concealment  
9 were done with the intention of deceiving Plaintiff and the Class and depriving them of their legal  
10 rights and money.

11 168. Defendants’ actions as described hereinabove were done with conscious disregard  
12 of Plaintiff’s rights and Defendants were wanton and malicious in their concealment of the same.

13 169. Pursuant to § 1780(a) of the Act, Plaintiff seeks injunctive relief in the form of an  
14 order enjoining the above-described wrongful acts and practices of Defendants including, but not  
15 limited to, an order enjoining Defendants from distributing such false advertising and  
16 misrepresentations. Plaintiff shall be irreparably harmed if such an order is not granted.

17 170. Pursuant to Civil Code §1782, Plaintiff will give Defendants notice by letter, by  
18 certified mail, of the particular violations of Civil Code § 1770. The Notice will request that  
19 Defendants rectify the problems associated with the actions alleged in this Complaint, and give  
20 notice to all affected consumers of its intent to so act.

21 171. Plaintiff reserves the right to amend this Complaint to include a request for  
22 damages under the CLRA after complying with California *Civil Code* 1782(a) within thirty (30)  
23 days after the exhaustion of filing requirements.

24 172. If Defendants have failed to provide appropriate relief for their violations of the  
25 CLRA within 30 days of their receipt of the CLRA Demand Notice, pursuant to Sections 1780  
26 and 1782(b) of the CLRA, Plaintiff will be entitled to recover actual damages, punitive damages,  
27 attorneys’ fees and costs, and any other relief the Court deems proper.

28 ///



1 **FOURTH CAUSE OF ACTION**

2 **BREACH OF EXPRESS WARRANTY**

3 **(By Plaintiff, on behalf of himself and the Class Against Defendants PSA and PWCC**  
4 **and Does 1-20)**

5 173. Plaintiff repeats and re-alleges the contents of all preceding paragraphs as if fully  
6 set forth at length.

7 174. Plaintiff brings this Count individually under the laws of California and on behalf  
8 of the Class as a whole (in states having similar laws regarding express warranties).

9 175. Defendant PSA represented that it did not grade altered cards and that they would  
10 reimburse holders of graded cards if their cards were determined to have an inaccurate grade.

11 176. Defendant PWCC represented that it did not sell altered cards without disclosing  
12 their altered status and that it would

13 177. Defendants' representations are made to Plaintiff and the other members of the  
14 Classes at the point of purchase and are part of the description of their services. Those promises  
15 constituted express warranties and became part of the basis of the bargain, between Defendants  
16 on the one hand, and Plaintiff and the Class on the other.

17 178. In addition, or in the alternative, Defendants made each of their above-described  
18 representations to induce Plaintiff and the Class to rely on such representations, and they each did  
19 so rely on Defendants' representations as a material factor in their decisions to purchase PSA's  
20 services and purchase cards that were PSA rated. Plaintiff and other members of the Class would  
21 not have purchased these cards and services but for these representations and warranties.

22 179. Defendants' services did not, in fact, meet the representations Defendants made  
23 about them, as described herein, because they were defective.

24 180. Defendants have refused to acknowledge and reimburse the Class Members.

25 181. Defendants thereby breached their express warranties.

26 182. At all times relevant to this action, Defendants made false representations in  
27 breach of the express warranties and in violation of state express warranty laws, including:  
28

- 1 a. Alaska St. §45.02.313;
- 2 b. Ariz. Rev. Stat. Ann. §47-2313;
- 3 c. Ark. Code Ann. §4-2-313;
- 4 d. Cal. Com. Code §2313;
- 5 e. Colo. Rev. Stat. §4-2-313;
- 6 f. Conn. Gen. Stat. Ann. §42a-2-313;
- 7 g. D.C. Code §28:2-313;
- 8 h. Fla. Stat. §672.313;
- 9 i. Haw. Rev. Stat. §490:2-313;
- 10 j. 810 Ill. Comp. Stat. 5/2-313;
- 11 k. Ind. Code §26-1-2-313;
- 12 l. Kan. Stat. Ann. §84-2-313;
- 13 m. La. Civ. Code. Ann. art. 2520;
- 14 n. Maine Rev. Stat. Ann. 11 §2-313;
- 15 o. Mass. Gen. Laws Ann. 106 §2-313;
- 16 p. Minn. Stat. Ann. §336.2-313;
- 17 q. Miss. Code Ann. §75-2-313;
- 18 r. Mo. Rev. Stat. §400.2-313;
- 19 s. Mont. Code Ann. §30-2-313;
- 20 t. Neb. Rev. Stat. §2-313;
- 21 u. Nev. Rev. Stat. §104.2313;
- 22 v. N.H. Rev. Stat. Ann. §382-A:2-313;
- 23 w. N.J. Stat. Ann. §12A:2-313;
- 24 x. N.M. Stat. Ann. §55-2-313;
- 25 y. N.Y. U.C.C. Law §2-313;
- 26 z. N.C. Gen. Stat. Ann. §25-2-313;
- 27 aa. Okla. Stat. Ann. tit. 12A, §2-313;
- 28

- 1 bb. Or. Rev. Stat. §72.3130;
- 2 cc. Pa. Stat. Ann. tit. 13, §2313;
- 3 dd. R.I. Gen. Laws §6A-2-313;
- 4 ee. S.C. Code Ann. §36-2-313;
- 5 ff. S.D. Codified Laws. §57A-2-313;
- 6 gg. Tenn. Code Ann. §47-2-313;
- 7 hh. Tex. Bus. & Com. Code Ann. §2.313;
- 8 ii. Utah Code Ann. §70A-2-313;
- 9 jj. Vt. Stat. Ann. tit. 9A§2-313;
- 10 kk. Wash. Rev. Code §62A.2-313;
- 11 ll. W. Va. Code §46-2-313;
- 12 mm. Wyo. Stat. Ann. §34.1-2-313;

13 183. The above statutes do not require privity of contract in order to recover for breach  
14 of express warranty.

15 184. Plaintiff has complied with the warranty terms. Plaintiff will make a demand upon  
16 Defendants PSA and PWCC to perform under the warranty terms, and maintain this action only  
17 if Defendants fails to comply with those terms.

18 185. As a direct and proximate result of the breach of express warranties, Plaintiffs have  
19 suffered damages, injury in fact, and ascertainable loss in an amount to be determined at trial,  
20 including repair and replacement costs and damages to other property.

21 186. Wherefore, Plaintiff and the Classes demand judgment against Defendants for  
22 compensatory damages, plus interest, costs, and such additional relief as the Court may deem  
23 appropriate or to which Plaintiff and the Classes may be entitled.

24 **FIFTH CAUSE OF ACTION**  
25 **VIOLATIONS OF CONSUMER FRAUD LAWS**

26 **(By Plaintiff, on behalf of himself and the Class Against Defendants and Does 1-20)**

27 187. Plaintiff repeats and re-alleges the contents of all preceding paragraphs as if fully  
28 set forth at length.

1           188. Plaintiff brings this Count individually under the laws of California and on behalf  
2 of all other members of the Class in states having similar laws regarding consumer fraud and  
3 deceptive trade practices.

4           189. Plaintiff and each of the other members of the Class are consumers, purchasers, or  
5 other persons entitled to the protection of the consumer protection laws of the state in which they  
6 purchased PSA's services or PSA rated cards.

7           190. The consumer protection laws of the State in which Plaintiff and the other  
8 members of the Class purchased Defendant's services or PSA rated cards declare that unfair or  
9 deceptive acts or practices, in the conduct of trade or commerce, are unlawful.

10           191. Forty states and the District of Columbia have enacted statutes designed to protect  
11 consumers against unfair, deceptive, fraudulent, and unconscionable trade and business practices  
12 and false advertising and that allow consumers to bring private and/or class actions. These  
13 statutes are found at:

- 14           a. Alabama Deceptive Trade Practices Act, Ala. Code §8-19-1 *et seq.*;
- 15           b. Alaska Unfair Trade Practices and Consumer Protection Act, Alaska Code  
16           §45.50.471 *et seq.*;
- 17           c. Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §4-88-101 *et seq.*;
- 18           d. California Consumer Legal Remedies Act, Cal. Civ. Code §1750 *et seq.*, and  
19           California's Unfair Competition Law, Cal. Bus. & Prof. Code §17200 *et seq.*;
- 20           e. Colorado Consumer Protection Act, Colo. Rev. Stat. §6-1-101 *et seq.*;
- 21           f. Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. §42-110a *et seq.*;
- 22           g. Delaware Deceptive Trade Practices Act, Del. Code tit. 6§2511 *et seq.*;
- 23           h. District of Columbia Consumer Protection Procedures Act, D.C. Code §28 3901 *et*  
24           *seq.*;
- 25           i. Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. §501.201 *et seq.*;
- 26           j. Georgia Fair Business Practices Act, Ga. Code Ann. §10-1-390 *et seq.*;
- 27           k. California Unfair and Deceptive Practices Act, California Revised Statues §480-1 *et*  
28

1            *seq.*, and California Uniform Deceptive Trade Practices Act, Haw. Rev. Stat. §481A-  
2            1 *et seq.*;

- 3            l. Idaho Consumer Protection Act, Idaho Code Ann. §48-601 *et seq.*;
- 4            m. Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat.  
5            Ann. 505/1 *et seq.*;
- 6            n. Kansas Consumer Protection Act, Kan. Stat. Ann §50 626 *et seq.*;
- 7            o. Kentucky Consumer Protection Act, Ky. Rev. Stat. Ann. §367.110 *et seq.*, and the  
8            Kentucky Unfair Trade Practices Act, Ky. Rev. Stat. Ann §365.020 *et seq.*;
- 9            p. Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. Ann.  
10            §51:1401 *et seq.*;
- 11            q. Maine Unfair Trade Practices Act, Me. Rev. Stat. tit. 5 §205A *et seq.*, and Maine  
12            Uniform Deceptive Trade Practices Act, Me. Rev. Stat. Ann. tit. 10, §1211 *et seq.*,
- 13            r. Massachusetts Unfair and Deceptive Practices Act, Mass. Gen. Laws ch. 93A;
- 14            s. Michigan Consumer Protection Act, Mich. Comp. Laws §445.901 *et seq.*;
- 15            t. Minnesota Prevention of Consumer Fraud Act, Minn. Stat. Ann. §325F.68 *et seq.*, and  
16            Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. §325D.43 *et seq.*;
- 17            u. Mississippi Consumer Protection Act, Miss. Code Ann. §§75-24-1 *et seq.*;
- 18            v. Missouri Merchandising Practices Act, Mo. Rev. Stat. §407.010 *et seq.*;
- 19            w. Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code Ann.  
20            §30-14-101 *et seq.*;
- 21            x. Nebraska Consumer Protection Act, Neb. Rev. Stat. §59-1601 *et seq.*, and the  
22            Nebraska Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. §87-301 *et seq.*;
- 23            y. Nevada Trade Regulation and Practices Act, Nev. Rev. Stat. §598.0903 *et seq.*;
- 24            z. New Hampshire Consumer Protection Act, N.H. Rev. Stat. §358-A:1 *et seq.*;
- 25            aa. New Jersey Consumer Fraud Act, N.J. Stat. Ann. §56:8 1 *et seq.*;
- 26            bb. New Mexico Unfair Practices Act, N.M. Stat. Ann. §57 12 1 *et seq.*;
- 27            cc. New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law §349 *et seq.*;
- 28

- 1 dd. North Dakota Consumer Fraud Act, N.D. Cent. Code §51 15 01 *et seq.*;
- 2 ee. Ohio Consumer Sales Practices Act, Ohio Rev. Code Ann. §1345.02 and 1345.03;
- 3 Ohio Admin. Code §109:4-3-02, 109:4-3-03, and 109:4-3-10;
- 4 ff. Oklahoma Consumer Protection Act, Okla. Stat. tit. 15 §751 *et seq.*;
- 5 gg. Oregon Unfair Trade Practices Act, Ore. Rev. Stat §646.608(e) & (g);
- 6 hh. Rhode Island Unfair Trade Practices And Consumer Protection Act, R.I. Gen. Laws
- 7 §6-13.1-1 *et seq.*;
- 8 ii. South Carolina Unfair Trade Practices Act, S.C. Code Ann. §39-5-10 *et seq.*;
- 9 jj. South Dakota’s Deceptive Trade Practices and Consumer Protection Law, S.D.
- 10 Codified Laws §§37 24 1 *et seq.*;
- 11 kk. Tennessee Consumer Protection Act, Tenn. Code Ann. §47-18-101 *et seq.*;
- 12 ll. Texas Deceptive Trade Practices Act Tex. Bus. & Com §17.46 *et seq.*;
- 13 mm. Vermont Consumer Fraud Act, Vt. Stat. Ann. tit. 9, §2451 *et seq.*;
- 14 nn. Washington Consumer Fraud Act, Wash. Rev. Code §19.86.010 *et seq.*;
- 15 oo. West Virginia Consumer Credit and Protection Act, West Virginia Code §46A-6-101
- 16 *et seq.*; and
- 17 pp. Wisconsin Deceptive Trade Practices Act, Wis. Stat. §100.18 *et seq.*

18 192. PSA and PWCC provide services and sell goods within as to which these  
19 consumer protection laws apply.

20 193. In the conduct of trade or commerce regarding its services, Defendants engaged in  
21 one or more unfair or deceptive acts or practices including, but not limited to, uniformly  
22 representing to Plaintiff and each member of the Classes that PSA only graded unaltered cards  
23 and PWCC did not sell altered cards without disclosing same.

24 194. Defendants’ representations and omissions were false, untrue, misleading,  
25 deceptive, and/or likely to deceive.

26 195. Defendants knew, or should have known, that their representations and omissions  
27 were false, untrue, misleading, deceptive, and/or likely to deceive.

28 ///

1 196. Defendants used or employed such deceptive and unlawful acts or practices with  
2 the intent that Plaintiff and members of the Classes rely thereon.

3 197. Plaintiff and the other members of the Classes did so rely.

4 198. Plaintiff and the other members of the Classes purchased cards rated by Defendant  
5 PSA or paid PSA for rating services which misrepresented the characteristics and nature of the  
6 rating service and the guarantee that cards were properly rated.

7 199. Plaintiff and the other members of the Classes would not have purchased cards  
8 rated by PSA or paid PSA for rating services but for Defendant's deceptive and unlawful acts.

9 200. Class Members purchased PWCC cards that were altered without disclosing same  
10 and would not have made those purchases but for PWCC's deceptive and unlawful acts.

11 201. As a result of Defendants' conduct, Plaintiff and the other members of the Classes  
12 sustained damages in amounts to be proven at trial.

13 202. Defendants' conduct showed complete indifference to, or conscious disregard for,  
14 the rights and safety of others such that an award of punitive and/or statutory damages is  
15 appropriate under the consumer protection laws of those states that permit such damages to be  
16 sought and recovered.

17 203. Plaintiffs and the other Class Members could not have uncovered the fraud through  
18 the exercise of reasonable diligence and only learned of the fraud when it was uncovered in 2019.

19 **SIXTH CAUSE OF ACTION**

20 **NEGLIGENT MISREPRESENTATION**

21 **(By Plaintiff, on Behalf of Himself and the Class against Defendants and**

22 **Does 1-20)**

23 204. Plaintiff repeats and re-alleges the contents of all preceding paragraphs as if fully  
24 set forth at length.

25 205. In making representations of fact to Plaintiff and the Class about its services,  
26 Defendants failed to fulfill its duty to disclose the material facts alleged above. Such failure to  
27 disclose on the part of Defendants amounts to negligent misrepresentation.

28 206. Plaintiff and the other members of the Class reasonably relied upon such

1 representations and omissions to their detriment.

2 207. Plaintiff and the other members of the Class, as a direct and proximate cause of  
3 Defendants' negligent misrepresentations, reasonably relied upon such misrepresentations to their  
4 detriment. By reason thereof, Plaintiff and the other Class members have suffered damages in an  
5 amount to be proven at trial.

6 **SEVENTH CAUSE OF ACTION**

7 **FRAUD**

8 **(By Plaintiff, on Behalf of Himself and the Class against Defendants and**  
9 **Does 1-20)**

10 208. Plaintiff repeats and re-alleges the contents of all preceding paragraphs as if fully  
11 set forth at length.

12 209. Defendants have continuously engaged in numerous acts and omissions that  
13 constitute fraudulent concealment.

14 210. Defendants concealed the fact that PSA was grading altered cards and  
15 continuously affirmatively misrepresented that it would only grade unaltered cards and that  
16 PWCC was selling altered cards without disclosing same.

17 211. On information and belief, Defendants knew these representations were false when  
18 made.

19 212. Defendants had a duty to disclose to their customers the truth about their practices  
20 with respect to altered cards.

21 213. Class Members relied on these misrepresentations to their detriment because they  
22 continued to submit cards for grading and paid fees for those submissions and unwittingly  
23 purchased altered cards.

24 214. The misrepresentations were material because, had they been known to the Class  
25 Members, they would have stopped using PSA's services and would not have purchased altered  
26 cards.

27 215. As a result of their reliance, Plaintiff and the other Class Members have been  
28 injured in an amount to be proven at trial.





1 unlawful scheme undertaken by Defendants. Plaintiff and the Class Members hold a significant  
2 number of PSA graded cards. Because of Defendants actions, they paid to have their cards rated  
3 by PSA to confirm their authenticity and unaltered status and paid PWCC and Probstein to  
4 purchase cards even though some of those cards were fraudulently altered. When the scheme was  
5 revealed, the value of their PSA rated cards dropped. In this regard, part of the service Plaintiff  
6 and the Class Members were purchasing from PSA was the ability to distinguish their PSA graded  
7 cards from ungraded cards, including the ability to represent that the cards were unaltered.  
8 Because of the scheme, Plaintiff and the Class Members can no longer rely on the PSA grading  
9 to establish the unaltered nature of their cards.

### 10 **The RICO Enterprise**

11 223. Defendants, along with other individuals and entities, including Defendant's  
12 principals and unknown third parties involved in the grading and sale of cards, operated an  
13 association-in-fact enterprise, which was formed for the purpose of grading and selling altered  
14 trading cards throughout the United States, and through which they conducted a pattern of  
15 racketeering activity under 18 U.S.C. § 1961(4).

16 224. In the alternative, each of Defendants PSA, PWCC, and Probstein<sup>123</sup> constitutes  
17 a single legal entity "enterprise" within the meaning of 18 U.S.C. § 1961(4), through which the  
18 Defendants conducted their pattern of racketeering activity in the United States described herein.

19 225. At all relevant times, the enterprise described above constituted a single  
20 "enterprise" or multiple enterprises within the meaning of 18 U.S.C. § 1961(4), as legal entities,  
21 as well as individuals and legal entities associated-in-fact for the common purpose of engaging in  
22 Defendants' profit-making scheme.

### 23 **The Enterprise Sought to Increase Defendants' Profits and Revenues**

24 226. It is unknown when the RICO enterprise began operating, but it continued in  
25 operation until at least the summer of 2019, when collectors publicly identified that PSA, PWCC,  
26 and Probstein had graded and sold altered cards in large numbers.

27 227. At all relevant times, the enterprise: (1) had an existence separate and distinct from  
28 each Defendant; (2) was separate and distinct from the pattern of racketeering in which the

1 Defendants engaged; and (3) was an ongoing and continuing organization consisting of legal  
2 entities, including the Defendants and other entities and individuals associated for the common  
3 purpose of grading and selling altered baseball cards to consumers and deriving profits and  
4 revenues from those activities. Each member of the enterprise shared in profits derived from  
5 increased revenues generated by the scheme.

6 228. The enterprise functioned by representing that fraudulently altered trading cards  
7 were not altered and were in fact highly desirable cards in excellent condition and by selling those  
8 cards to the consuming public. Many of the cards graded and sold by Defendants are legitimate,  
9 including cards that have not been altered. However, the Defendants and their co-conspirators,  
10 through their illegal enterprise, engaged in a pattern of racketeering activity, which involved a  
11 fraudulent scheme to increase revenue for the Defendants and the other entities and individuals  
12 associated-in-fact with the enterprise's activities through the illegal scheme to grade and sell the  
13 altered cards.

14 229. The enterprise engaged in, and its activities affected interstate and foreign  
15 commerce, because it involved commercial activities across state boundaries, such as the  
16 marketing, promotion, advertisement and grading and sale of the altered cards throughout the  
17 country, and the receipt of monies from the grading and sale of the same.

18 230. On information and belief, within the enterprise, there was a common  
19 communication network by which co-conspirators shared information on a regular basis. On  
20 information and belief, the enterprise used this common communication network for the purpose  
21 of selling the altered cards to the general public nationwide.

22 231. Each participant in the enterprise had a systematic linkage to each other through  
23 corporate ties, contractual relationships, financial ties, and continuing coordination of activities.  
24 Through the enterprise, the Defendants functioned as a continuing unit with the purpose of  
25 furthering the illegal scheme and their common purposes of increasing their revenues and market  
26 share, and minimizing losses.

27 232. The Defendants participated in the operation and management of the enterprise by  
28 directing its affairs, as described herein. While the Defendants participated in, and are members

1 of, the enterprise, they have a separate existence from the enterprise, including distinct legal  
2 statuses, different offices and roles, bank accounts, officers, directors, employees, individual  
3 personhood, reporting requirements, and financial statements.

4 233. PSA participated in, operated, and/or directed the enterprise. PSA graded the  
5 altered cards and concealed the truth about the cards while collecting revenues and profits from  
6 the same.

7 234. PWCC participated in, operated, and/or directed the enterprise. PWCC sold  
8 altered cards (as well as purchased cards to be altered) and concealed the truth about the cards  
9 while collecting revenues and profits from the same.

10 235. Probststein participated in, operated, and/or directed the enterprise. Probststein sold  
11 altered cards (as well as purchased cards to be altered) and concealed the truth about the cards  
12 while collecting revenues and profits from the same.

13 236. Without the Defendants' willing participation, the enterprise's scheme and  
14 common course of conduct the scheme would not have been successful.

15 237. On information and belief, the Defendants directed and controlled the ongoing  
16 organization necessary to implement the scheme through communications of which Plaintiff  
17 cannot fully know at present, because such information lies in the Defendants' and others' hands.

18 **Predicate Acts – Mail and Wire Fraud**

19 238. To carry out, or attempt to carry out the scheme, the Defendants, each of whom is  
20 a person associated-in-fact with the enterprise, did knowingly conduct or participate, directly or  
21 indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity  
22 within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c), and which employed the use  
23 of the wire facilities, in violation of 18 U.S.C. §§ 1341 (mail fraud) and 1343 (wire fraud).

24 239. Specifically, the Defendants have committed, conspired to commit, and/or aided  
25 and abetted in the commission of, at least two predicate acts of racketeering activity (*i.e.*,  
26 violations of 18 U.S.C. §§ 1341 and 1343), within the past ten years. The multiple acts of  
27 racketeering activity which the Defendants committed, or aided or abetted in the commission of,  
28 were related to each other, posed a threat of continued racketeering activity, and therefore

1 constitute a “pattern of racketeering activity.”

2           240. The Defendants used, directed the use of, and/or caused to be used, numerous  
3 interstate wire communications, including internet advertisements, in service of their scheme  
4 through misrepresentations, concealments and material omissions.

5           241. The Defendants used, directed the use of, and/or caused to be used the Postal  
6 Service in service of their scheme by using the Postal Service to send and receive altered cards.

7           242. In devising and executing the illegal scheme, the Defendants devised and  
8 intentionally carried out a scheme and/or artifice to defraud consumers or to obtain money from  
9 consumers by means of materially false or fraudulent pretenses, representations, promises, or  
10 omissions of material facts. For the purpose of executing the illegal scheme, the Defendants  
11 committed these racketeering acts intentionally and knowingly with the specific intent to advance  
12 the illegal scheme.

13           243. Many of the precise dates of the fraudulent uses of the interstate wire facilities and  
14 Postal Service cannot be alleged without access to the Defendants’ books and records. However,  
15 Plaintiffs has described the types of acts of mail and wire fraud that occurred. On information  
16 and belief, Defendants routinely used wire facilities and the Postal Services in furtherance of the  
17 scheme.

18           244. The Defendants have undertaken the practices described herein as part of a  
19 common scheme and conspiracy in violation of 18 U.S.C. § 1962(d). On information and belief,  
20 various other persons, firms and corporations, including third-party entities and individuals not  
21 named as Defendants in this Complaint, have participated as co-conspirators with the Defendants  
22 in these offenses and have performed acts in furtherance of the conspiracy to increase or maintain  
23 revenues, increase market share, and/or minimize losses for the Defendants and their unnamed  
24 co-conspirators throughout the illegal scheme and common course of conduct.

25           245. The Defendants aided and abetted others in the violations of the above laws,  
26 thereby rendering them indictable as principals in the 18 U.S.C. §§ 1341 and 1343 offenses.

27           246. On information and belief, the Defendants and each member of the conspiracy,  
28 with knowledge and intent, have agreed to the overall objectives of the conspiracy and

1 participated in the common course of conduct to commit acts of fraud and indecency in grading  
2 and selling the altered cards.

3 247. For the conspiracy to succeed, each of the Defendants and their coconspirators had  
4 to agree to implement and use the similar devices and fraudulent tactics against their intended  
5 targets.

6 248. The Defendants knew and intended that consumers would rely on the material  
7 misrepresentations and omissions made by them about their services regarding altered cards. As  
8 fully alleged herein, Plaintiff and the Class Members relied upon Defendants' representations and  
9 omissions that were made or caused by them in using Defendants' services.

10 249. As described herein, the Defendants engaged in a pattern of related and continuous  
11 predicate acts for years. The predicate acts also had the same or similar results, participants,  
12 victims, and methods of commission. The predicate acts were related and not isolated events.

13 250. The predicate acts all had the purpose of generating significant revenue and profits  
14 for the Defendants.

### 15 **Injury**

16 251. By reason of, and as a result of the conduct of the Defendants, and in particular,  
17 their pattern of racketeering activity, Plaintiff and Class Members have been injured in their  
18 business and/or property in multiple ways. This includes, without limitation, lost value of their  
19 PSA rated cards due to the decrease consumer confidence in PSA ratings as well as lost value in  
20 specific cards which turned out to be altered and experienced significant decreases in value. The  
21 financial loss suffered by Plaintiff and the Class Members as a result of the unlawful enterprise is  
22 concrete and measurable because Plaintiff and the Class Members spent substantial sums in  
23 payments to PSA and have also experienced tangible loss in value to the PSA rated cards that  
24 they have in their possession.

### 25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff, on behalf of himself, and on behalf of the members of the Class,  
27 prays for judgment against Defendants as follows:

28 A. Certification of this class action on behalf of the Class;

- 1 B. Designation of Plaintiff as the class representative;  
2 C. A declaration that Defendants' practices violate the various laws under which  
3 claims are brought.  
4 D. An injunction requiring Defendants to cease violating the law.  
5 E. An award of actual, statutory, and punitive damages and penalties;  
6 F. Prejudgment and post judgment interest on all sums awarded;  
7 G. An award of attorneys' fees and costs, as allowed by law;  
8 H. Costs of suit; and,  
9 I. Such other and further relief as is equitable, just, and proper.<sup>43</sup>

10 DATED: February 10, 2020

**BRADLEY/GROMBACHER, LLP**  
**LAW OFFICES OF SAHAG MAJARIAN**

11  
12  
13 By: 

Marcus J. Bradley, Esq.  
Kiley L. Grombacher, Esq.  
Robert N. Fisher, Esq.  
Sahag Majarian II, Esq.

*Attorneys for Plaintiff and the Putative Class*

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17  
18 **JURY DEMAND**

19 Plaintiff demands a trial by jury on all issues so triable as a matter of right.

20  
21 DATED: February 10, 2020

**BRADLEY/GROMBACHER, LLP**  
**LAW OFFICES OF SAHAG MAJARIAN**

22  
23 By: 

Marcus J. Bradley, Esq.  
Kiley L. Grombacher, Esq.  
Robert N. Fisher, Esq.  
Sahag Majarian II, Esq.

*Attorneys for Plaintiff and the Putative Class*

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27  
28 <sup>43</sup> At this time, Plaintiff does not seek any relief including damages, penalties, and attorneys' fees under the CLRA. Such relief will be sought later by amendment of this Complaint.