IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WILLIAM VOSS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No.
	)	
DAVID VOBORA	)	
	)	
Defendant.	)	

COMPLAINT

1. David Vobora perpetrated an extraordinary fraud upon the National Football League, the American public and, most important, this Court. Based upon the assertion that he ingested a banned steroid from using deer antler spray, an assertion that is demonstrably false, Vobora prevailed upon this Court to enter a $5,400,588.24 default judgment against the distributor of the spray. Vobora now seeks to enforce that judgment against the former owners of the distributor, including Bill Voss, the plaintiff herein. While it may be too late to repair the commercial ramifications of Vobora's fraud, this Court can and should act to prevent further harm to innocent individuals. Plaintiff respectfully asks that the Court set aside the default judgment pursuant to Rule 60(d).

The Parties, Jurisdiction and Venue

2. Plaintiff William (Bill) Voss is a resident of Florida.

3. Defendant David Vobora is, upon information and belief, a resident of Texas.

4. This Court has jurisdiction over the subject matter of this controversy because the parties are of diverse citizenship and the amount in controversy exceeds $75,000, exclusive of interest and costs. 28 U.S.C. §1332 (a)(1). In addition, this Court has ancillary jurisdiction because it entered the default judgment at issue.

5. Venue is proper in this Court because Vobora is a resident of this judicial district and this Court entered the default judgment at issue.

Vobora's Claims and the Default Judgment

6. Vobora is a former NFL football player. He filed his original lawsuit on May 4, 2010 against "S.W.A.T.S., a business entity form unknown." *Vobora v. S.W.A.T.S., etc.*, No. 4:10-CV-810 RWS (E.D.Mo. 2010)(the "Original Action").

7. In his Original Action, Vobora alleged that:

(a) "Prior to June 11, 2009, it was recommended" that Vobora try deer antler velvet distributed by SWATS;

(b) A urine sample Vobora provided on June 11, 2009 tested positive for a metabolite of methyltestosterone, a banned steroid substance; and

(c) "In or about August 2009, plaintiff David Vobora, through his representatives, sent the bottle of SWATS 'Ultimate Sports Spray' that he was using at the time of his drug test, lot number 1715" for testing and that it tested positive for methyltestosterone contamination.

8. Vobora obtained a default judgment against SWATS and, following a 70 page hearing at which Vobora and his agent Marc Lillibridge testified, the Court entered its June 27, 2011 default judgment in the amount of $5,400,588.24.

Factual and Scientific Developments Since the Default Judgment

9. Vobora's curiously vague allegation that "Prior to June 11, 2009, it was recommended" that he try the SWATS spray was no accident. Because SWATS was a new venture at the time of the Original Action, and neither the company nor its owners had the means to defend Vobora's claims, Vobora was never called to task regarding how he obtained the SWATS spray, how he used it and how he and his agent "preserved" it for testing.

10. Vobora did not buy the SWATS spray from SWATS or any of its owners. Vobora was playing for the St. Louis Rams when another player, Gary Stills, suggested that he try the product.

11. Upon information and belief, Stills provided Vobora with an opened bottle of SWATS spray which, when new, contained one ounce of the spray. In other words, Stills used the same spray from the same bottle given to Vobora, but Stills *never* tested positive for methyltestosterone or any other banned substance.

12. To understand the inconsistencies and fallacies contained in Vobora's story, the Court must first understand certain properties of methyltestosterone:

(a) Methyltestosterone is a manufactured, synthetic compound; that is, it is not found in nature;

(b) Methyltestosterone is an anabolic steroid and, in fact, was one of the first oral steroids produced beginning in the 1930s;

(c) Despite its severe side effects (estrogen growth, liver disease, hair loss, among others), professional athletes and body builders still use it to increase the length and intensity of weight training and performance because it is quick-acting with nearly immediate aggression effects;

(d) Methyltestosterone is not produced in a liquid form; rather, it is manufactured as a powder or crystal and ingested by tablet or capsules. Hazard Substances Data Bank (National Institute of Health) 17- Methyltestosterone;

(e) Methyltestosterone is virtually insoluble in water and, more important, poorly soluble in SWATS spray. *See* Applied Consumer Services, Inc. *Chemical Analysis for Methyltestosterone,* Report # 27584, attached as Exhibit A ("ACS Report"); Hazard Substances Data Bank (National Institute of Health) 17- Methyltestosterone;

(f) Methyltestosterone is soluble in alcohol, methanol and other organic solvents, none of which are found in SWATS spray. *See,* National Institute of Health,

(f) Methyltestosterone is a controlled substance regulated by the Food and Drug Administration under Section 505 of the Federal Food, Drug and Cosmetic Act;

(g) Methyltestosterone is not licensed to any manufacturer of deer antler velvet or SWATS spray. *See,* Methyltestosterone can only be obtained by prescription or, of course, illegally.

13. In April 2013, the World Anti-Doping Agency removed deer antler velvet from its list of banned substances. That year, golfer Vijay Singh, one of professional sports' most high profile proponents of deer antler velvet, was cleared of any wrongdoing following his admitted use of the supplement. With the exception of the single sample tested at the direction of Vobora's agent, no other sample of SWATS spray nor any other deer antler velvet product has ever tested positive for methyltestosterone.

14. In fact, in September 2010, NMS Labs tested a bottle of SWATS spray from the same Lot 1715 identified by Vobora in his Original Complaint. NMS did not detect *any*

steroids in the SWATS spray, methyltestosterone or otherwise. NMS's confidential report and its licensures as of October 2016 are attached as Exhibit B.

15. In 2016, plaintiff provided Applied Consumer Services, Inc. ("ACS") with a sealed bottle of SWATS spray. ACS is licensed by the DEA for drugs of abuse and is a registered FDA (UNS# 790112734) laboratory for foods, drugs, and cosmetics.

15. In its September 16, 2016 ACS Report (Exhibit A), ACS concluded that the SWATS spray did not contain methyltestosterone.

16. More important, Plaintiff requested that ACS attempt to contaminate the SWATS spray with methyltestosterone. ACS attempted to contaminate the SWATS spray by adding *pure chemical methyltestosterone* in the equivalent of a 10 mg tablet, the minimum commercially available dosage, which produced a liquid with numerous suspended particles. *Id.*

17. ACS questioned whether it would even be possible to combine SWATS spray with *commercially available* methyltestosterone, as that would "turn the liquid into a very heavy suspension…[that] would clog the tip of the spray bottle…making it practically impossible to use the spray bottle." *Id.*

18. Plaintiff estimates that hundreds, if not thousands of athletes have used some form of SWATS or other deer antler product.

19. In summary, in the five years following this Court's Judgment:

(a) No sample of SWATS spray or any other deer antler velvet product has tested positive for methyltestosterone other than the sample sent for testing by Vobora's agent; and

(b) No person using SWATS spray or any other deer antler velvet product has tested positive for methyltestosterone other than Vobora.

Plaintiff's Involvement With SWATS and
Vobora's Efforts To Collect the Judgment Against Plaintiff

20. Plaintiff was an original investor in Anti-Steroid Program, LLC d/b/a SWATS, a Florida limited liability company. Plaintiff was not involved in the day-to-day operations of SWATS.

21. In 2011, before the Court entered its Judgment, the other members of SWATS transferred the SWATS business to another company, SWATS Edge Performance Chips, LLC ("SEPC") without Plaintiff's knowledge or consent.

22. On June 14, 2011, before the Court entered its Judgment, Plaintiff sued his former SWATS partners in Florida, claiming that they had wrongfully transferred the SWATS business operations to SEPC.

23. On June 17, 2011, the Court entered its Default Judgment.

24. Subsequent to the Court's Judgment, Voss settled his Florida action in return for a 20%, *non-voting* interest in SEPC.

25. In September 2013, Vobora filed a Complaint in the Circuit Court of Jefferson County, Alabama, alleging that Voss participated in a scheme to avoid the Judgment by transferring the SWATS trademark to SEPC in 2012, even though Plaintiff had no ability to vote his minority interest in SEPC.

26. In the Alabama action, Vobora seeks to pierce the SEPC corporate veil to impose personal liability against Plaintiff (and the other SEPC members) for the Judgment against SWATS, alleging a complex conspiracy to defraud Vobora.

27. Vobora alleges that Voss and other SEPC members established SEPC with the intent to profit at the expense of Vobora's collection of the Judgment. In truth and in fact,

during the course of his seven year association with SWATS, Plaintiff invested $109,000 and received distributions of only $51,000.

28. Plaintiff does not have the means to pay counsel in the Alabama case and has been proceeding pro se in that action. If Vobora is successful in pursuing his Alabama action to enforce his fraudulent Judgment against Plaintiff, the financial ramifications to Plaintiff and his family will be catastrophic.

29. Vobora's Judgment should not, in equity and good conscience, be enforced because it is contrary to scientific reality and appears borne of a fraudulent conspiracy to cover up Vobora's intentional use of banned steroid substance.

30. Plaintiff has valid legal and factual defenses to Vobora's claim that he tested positive for methyltestosterone through his use of the SWATS spray. Vobora's fraud, as well as Plaintiff's inability to influence the business operations of SWATS during the Original Action and thereafter upon the formation of SEPC, prevented Plaintiff from presenting those defenses. In addition, Vobora did not attempt to enforce his judgment against Plaintiff individually until filing his Alabama lawsuit in September 2013, and that action remains pending.

31. Plaintiff has no adequate remedy at law.

WHEREFORE, pursuant to Rule 60(d)(1), Plaintiff requests that the Court set aside its June 27, 2011 default judgment as void and of no further force and effect, award Plaintiff his costs and fees and such other relief as the Court deems proper.

STONE, LEYTON & GERSHMAN,
A PROFESSIONAL CORPORATION

/s/ Paul J. Puricelli

Paul J. Puricelli
7733 Forsyth Blvd., Suite 500
St. Louis, Missouri 63105
Phone: (314) 721-7011
Fax: (314) 721-8660
pjp@stoneleyton.com

Attorneys for Plaintiff