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**FILED**  
Superior Court of California  
County of Los Angeles

**AUG 09 2019**

Sherri R. Carter, Executive Officer/Clerk  
By Steven Drew, Deputy

*Attorneys for Plaintiff and the Proposed Class*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
OF AND FOR THE COUNTY OF LOS ANGELES**

VICTOR M. WEBB, on behalf of himself and  
all others similarly situated,

Plaintiff,

v.

LYNN ALTMAN, DOUGLAS EDWARDS,  
MARILYN FISCHER, ROBERT HAXBY,  
MARSHA MILLER, YVETTE PAPPALARDO,  
CLARA SCHWARTZ, LISA SCHWARTZ,  
MARIAN TURNBULL, CIMA BAKER-  
LAWSON, CAROL WACKEEN, SARAH XU,  
UNIVERSITY CREDIT UNION, and DOES 1-  
50,

Defendants.

Case No.: **19STCV27832**

Judge Assigned:  
Complaint Filed:

**CLASS ACTION COMPLAINT FOR:**

1. NEGLIGENCE
2. BREACH OF FIDUCIARY DUTIES
3. GROSS NEGLIGENCE
4. BREACH OF DUTY TO SUPERVISE
5. SUCCESSOR LIABILITY

**DEMAND FOR JURY TRIAL**

**By Fax**

Victor M. Webb, Plaintiff herein, individually and on behalf of all similarly situated, by and through his counsel, brings this action against Defendants Lynn Altman, Douglas Edwards, Marilyn Fischer, Robert Haxby, Marsha Miller, Yvette Pappalardo, Clara Schwartz, Lisa Schwartz, Marian Turnbull, Cima Baker-Lawson, Carol Wackeen, Sarah Xu, University Credit Union, and Does 1-50. Plaintiff alleges upon personal knowledge as to themselves and through their counsel, and upon information and belief derived from, *inter alia*, a review of court documents and publicly available news sources, such as newspaper articles, as to all other matters, as follows:

08/09/2019

I

**INTRODUCTION**

1. This action is brought by Plaintiff Victor M. Webb, as an individual and on behalf of a class of similarly situated former members of CBS Employees Federal Credit Union ("CBS Employees" or "Credit Union") against the members of its board of directors (the "Board" or the "Individual Defendants"). This action arises from the Board's actions and inactions, namely, the failure of the Board of Directors and the Supervisory Committee of CBS Employees to exercise reasonable oversight of the Credit Union's management and allowing former Manager and CEO Edward Martin Rostohar ("Rostohar") to embezzle more than \$40 million from the Credit Union.

2. The lack of reasonably oversight and negligence of the Board allowed Rostohar to embezzle enough of the Credit Union's cash to wipe out the Credit Union to the detriment of Plaintiff and other members of the Credit Union because it deprived them of over \$40 million in value which would have resulted in anticipated benefits to the Credit Union members/owners such as lower rates on credit products such as car loans, mortgages and credit cards and higher-rate savings accounts.

3. Rostohar pled guilty on or about May 20, 2019, to credit union fraud in a 20-year embezzlement scheme in which he stole more than \$40 million from CBS Employees to fund his gambling and luxury lifestyle, destroying the Credit Union in the process, which was liquidated with just \$21 million in assets.

4. According to his plea agreement, Rostohar used his position as a manager at the credit union to make online payments from the credit union to himself or by forging the signature of another credit union employee on checks made payable to himself. Rostohar also admitted to submitting credit union checks to make personal credit card payments.

5. The blatant scheme was belatedly exposed in March 2019 when a credit union employee discovered a \$35,000 check payable to Rostohar. This discovery prompted the employee to conduct an audit which uncovered \$3.8 million in checks payable to Roshohar between the fourteen-month period of January 2018 and March 2019.

6. Had Defendants exercised reasonable oversight of CBS Employees management, Rostohar's embezzlement scheme would have been discovered before he was able to steal more than \$40 million from CBS Employees and cause the Credit Union to be liquidated.

7. As a result of the liquidation of CBS Employees, Members of CBS Employees are now members of University Credit Union of Los Angeles.

8. Accordingly, Plaintiff brings this action to redress CBS Employees Board of Directors and Supervisory Committee's failure to exercise reasonable oversight of the Credit Union's management and allowing Rostohar to steal \$40 million from CBS Employees.

## II

**PARTIES**

**PLAINTIFF**

9. Plaintiff Victor M. Webb is a California resident who resides in the County of Los Angeles. In or about 1970, Plaintiff Webb opened an account with CBS Employees. Plaintiff Webb was an employee of CBS for over 40 years and retired in 2014. His account with CBS Employees was still current at the time of his retirement. On or about March 29, 2019 Plaintiff Webb became aware that his account was transferred to University Credit Union. At the time his account was transferred, Plaintiff Webb had a positive balance in his CBS Employees savings account. As a result of Rostohar's embezzlement of more than \$40 million from CBS Employees, Plaintiff Webb was not able to benefit from lower fees or higher interest returns on his savings account because there was less excess revenue in the Credit Union.

## DIRECTOR DEFENDANTS

10. Individual Defendants Lynn Altman, Douglas Edwards, Marilyn Fischer, Robert Haxby, Marsha Miller, Yvette Pappalardo, Clara Schwartz, Lisa Schwartz, and Marian Turnbull served on the Board of Directors for CBS Employees at the time of its liquidation in March 2019 (the “Director Defendants”). By reason of Individual Defendants’ positions with CBS Employees as members of the Board of Directors, they are or were, at all times herein relevant, in a fiduciary relationship with Plaintiff and other CBS Employees members and owe them a duty of highest good faith, fair dealing, loyalty, as well as a duty to maximize member value.

1 11. Based on information and belief, Defendant Lynn Altman was a member of the Board of  
2 Directors for CBS Employees at the time of its liquidation in March 2019. . Lynn Altman resides in Los  
3 Angeles County.

4 12. Based on information and belief, Defendant Douglas Edwards was a member of the Board  
5 of Directors for CBS Employees at the time of its liquidation in March 2019. Douglas Edwards resides  
6 in Los Angeles County.

7 13. Based on information and belief, Defendant Marilyn Fischer was a member of the Board  
8 of Directors for CBS Employees at the time of its liquidation in March 2019. Marilyn Fischer resides in  
9 Riverside County.

10 14. Based on information and belief, Defendant Robert Haxby was a member of the Board of  
11 Directors for CBS Employees at the time of its liquidation in March 2019. Robert Haxby resides in Los  
12 Angeles County.

13 15. Based on information and belief, Defendant Marsha Miller was a member of the Board of  
14 Directors for CBS Employees at the time of its liquidation in March 2019. Marsha Miller resides in Los  
15 Angeles County.

16 16. Defendant Yvette Pappalardo was a member of the Board of Directors for CBS Employees  
17 at the time of its liquidation in March 2019. Yvette Pappalardo resides in Los Angeles County.

18 17. Defendant Clara Schwartz was a member of the Board of Directors for CBS Employees at  
19 the time of its liquidation in March 2019. Clara Schwartz resides in Los Angeles County.

20 18. Defendant Lisa Schwartz was a member of the Board of Directors for CBS Employees as  
21 at the time of its liquidation in March 2019. . Lisa Schwartz resides in Los Angeles County.

22 19. Defendant Marian Turnbull was a member of the Board of Directors for CBS Employees  
23 at the time of its liquidation in March 2019. Marian Turnbull resides in Los Angeles County.

24 20. The true names and capacities of Defendants sued in this Complaint as Does 1-50,  
25 inclusive, are currently unknown to Plaintiff who therefore sues such Defendants by such fictitious names.  
26 Each of the Defendants designated herein as a Doe is a former Director of CBS Employees and is legally  
27 responsible in some manner for the proximate loss of the Plaintiff and for the wrongful acts referred to  
28

1 herein. Plaintiff will amend this Complaint to reflect the true names and capacities of the Defendants  
2 designated herein as Does 1 through 50 when such identities become known.

3 21. At all times herein mentioned, Defendants Does 1 through 50 were agents of each of the  
4 other Defendants and were acting within the course and scope of said agency.

5 **SUPERVISORY COMMITTEE DEFENDANTS**

6 22. Individual Defendants Cima Baker-Lawson, Carol Wackeen, and Sarah Xu served as  
7 members of the CBS Employees Supervisory Committee at the time of its liquidation in March 2019 (the  
8 "Supervisory Committee Defendants").

9 23. Supervisory committees are meant to be the "watchdogs" of the credit union and serves an  
10 important function in credit unions like CBS Employees. Individual Defendant members of the CBS  
11 Employees Supervisory Committee, at all times relevant herein, are and were tasked with asking the tough  
12 questions and following up on findings with management to ensure that remediation takes place and ensure  
13 the Board of Directors is safeguarding assets. By reason of Individual Defendants' positions with CBS  
14 Employees as members of the Supervisory Committee, they are or were, at all times herein relevant, in a  
15 fiduciary relationship with Plaintiff and other CBS Employees members and owe them a duty of highest  
16 good faith, fair dealing, loyalty, as well as a duty to maximize member value.

17 24. Defendant Cima Baker-Lawson was a member of the Supervisory Committee for CBS  
18 Employees as of the time of its liquidation in March 2019. Cima Baker-Lawson resides in Los Angeles  
19 County.

20 25. Defendant Carol Wackeen was a member of the Supervisory Committee for CBS  
21 Employees as of the time of its liquidation in March 2019. Carol Wackeen resides in Los Angeles County.

22 26. Defendant Sarah Xu was a member of the Supervisory Committee for CBS Employees as  
23 of the time of its liquidation in March 2019. Sarah Xu resides in Los Angeles County.

24 27. The true names and capacities of Defendants sued in this Complaint as Does 26 through  
25 50, inclusive, are currently unknown to Plaintiff who therefore sues such Defendants by such fictitious  
26 names. Each of the Defendants designated herein as a Doe is a former Supervisory Committee Member  
27 of CBS Employees and is legally responsible in some manner for the proximate loss of the Plaintiff and  
28

1 for the wrongful acts referred to herein. Plaintiff will amend this Complaint to reflect the true names and  
2 capacities of the Defendants designated herein as Does 26 through 50 when such identities become known.

3 28. At all times herein mentioned, Defendants Does 26 through 50 were agents of each of the  
4 other Defendants and were acting within the course and scope of said agency.

5 **SUCCESSOR IN INTEREST DEFENDANT**

6 29. Defendant University Credit Union ("UCU") is a Federally Insured Credit Union with its  
7 main office located at 1500 S. Sepulveda Blvd. Los Angeles, CA 90025. Defendant UCU with approval  
8 from the National Credit Union Administration ("NCUA"), agreed to purchase and assume the assets and  
9 liabilities of CBS Employees. Effective March 29, 2019, CBS Employees member-owners became  
10 member-owners of UCU. Defendant UCU is the successor in interest to CBS Employees (the "Successor  
11 in Interest Defendant" or "Defendant UCU").

12 **III**

13 **JURISDICTION AND VENUE**

14 30. This Court has jurisdiction over the subject matter of this action pursuant to the California  
15 Constitution, Article VI, Section 10, because this case is an action not given by statute to other trial courts.

16 31. This Court has personal jurisdiction over each of the Defendants in this action because  
17 CBS Credit Union was headquartered in this State with its main office in Studio City, California and  
18 because the improper conduct alleged in this Complaint occurred in and/or was directed at citizens of this  
19 state. Additionally, this Court has jurisdiction over each of the Defendants because their wrongful conduct  
20 challenged in this Complaint was directed at, and intended to have its primary effect in, this State. Based  
21 on information and belief, each Defendant either resides in this jurisdiction or is a resident of California.

22 32. Venue is proper in this Court because the acts and omissions of Defendants occurred in  
23 this County and because the incident giving rise to this lawsuit also occurred in Los Angeles County.

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28 **IV**



1           38. Credit union members like CBS also enjoy higher rates on CDs and money markets.  
2 According to NCUA data released on December 28, 2018, the national average rate for five-year CDs  
3 offered by credit unions was 2.35% (on a \$10,000 deposit), compared to an average rate of 1.89% at banks.  
4 Money market rates at credit unions were also higher, with an average rate of 0.32% (on a \$2,500 deposit)  
5 versus the average bank rate of 0.23%. While these differences sound small, they do add up, giving credit  
6 unions a significant advantage over banks when competing for deposits.

7           39. "Credit unions like CBS are founded on the philosophy of helping people," says Stephen  
8 Lar, vice president of marketing and corporate development for Communication Federal Credit Union,  
9 located in Oklahoma City, Oklahoma. Credit unions "look at fee structure and locations to make sure  
10 [they] benefit the greater good," he says. When a person joins a credit union and becomes an owner, the  
11 expectation is that status translates into certain privileges, including:

- 12                     • Lower rates on loans and credit cards;
- 13                     • Lower fees and account minimums;
- 14                     • A powerful presence in the community;
- 15                     • Higher rates on savings accounts;
- 16                     • Personalized credit assistance;
- 17                     • Lower borrowing rates.

18           **DIRECTOR DEFENDANTS**

19           40. By reason of their positions as Directors of CBS Employees and because of their ability to  
20 control the business and financial affairs of the Credit Union, Director Defendants owed CBS Employees  
21 and its members the duty to exercise due care and diligence in the management and administration of the  
22 affairs of the Credit Union, including ensuring that CBS Employees and management operated in  
23 compliance with all applicable federal and state laws, rules and regulations.

24           41. Director Defendants were required to act in furtherance of the best interests of CBS  
25 Employees and its members so as to benefit all members equally and not in furtherance of Director  
26 Defendants' personal interest or benefit. Each Director owed to CBS Employees and its members the  
27 fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Credit Union  
28 and in the use and preservation of its property and assets, and the highest obligations of fair dealing.

1           42. Because of their positions of control and authority as Directors of CBS Employees,  
2 Director Defendants were able to and did, directly or indirectly, exercise control over the wrongful acts  
3 detailed in this Complaint. Due to their positions with CBS Employees, Director Defendants had  
4 knowledge of material non-public information regarding the Credit Union.

5           43. To discharge their duties, Director Defendants were required to exercise reasonable and  
6 prudent supervision over the management, policies, practices, controls, and financial and corporate affairs  
7 of the Credit Union. By virtue of such duties, the directors of CBS Employees were required to, among  
8 other things:

- 9           a. Manage, conduct, supervise, and direct the management, businesses, and affairs of CBS  
10 Employees in accordance with laws, rules, and regulations;  
11           b. Ensure that CBS Employees management did not engage in imprudent or unlawful  
12 practices and that the Credit Union complied with all applicable laws and regulations;  
13           c. Remain informed as to how CBS Employees was, in fact, operating, and, upon receiving  
14 notice or information of imprudent or unsound practices, to take reasonable corrective and  
15 preventative actions, including maintaining and implementing adequate financial and  
16 operational controls; and  
17           d. Exercise good faith to ensure that the affairs of the CBS Employees were conducted in an  
18 efficient, business-like manner so as to make it possible to provide the highest quality  
19 performance to its members.

20           44. Director Defendants breached their duties to CBS Employees.

21 **SUPERVISORY COMMITTEE DEFENDANTS**

22           45. By reason of their position on the Supervisory Committee of CBS Employees and because  
23 of their ability to review the internal controls of the Credit Union, Supervisory Committee Defendants  
24 owed CBS Employees and its members the duty to exercise due care and diligence in the management  
25 and administration of the affairs of the Credit Union, including ensuring that CBS Employees and  
26 management operated in compliance with all applicable federal and state laws, rules and regulations.

1           46. Supervisory Committee Defendants were responsible for ensuring that the Board of  
2 Directors and management of CBS Employees met required financial reporting objectives and established  
3 practices and procedures sufficient to safeguard members' assets.

4           47. Because of their positions of control and authority on the Supervisory Committee of CBS  
5 Employees, Supervisory Committee Defendants were able to and did, directly or indirectly, exercise  
6 control over the wrongful acts detailed in this Complaint. Due to their positions with CBS Employees,  
7 Supervisory Committee Defendants had knowledge of material non-public information regarding the  
8 Credit Union.

9           48. To discharge their duties, Supervisory Committee Defendants were required to exercise  
10 reasonable and prudent supervision over the management, policies, practices, controls, and financial and  
11 corporate affairs of the Credit Union. By virtue of such duties, the Supervisory Committee of CBS  
12 Employees was required to, among other things:

- 13           a. At least once every calendar year, complete a supervisory committee audit, and  
14 provide a report on the audit to the board of directors;  
15           b. At least once every two years, conduct a verification of members' accounts;  
16           c. Ensure that the board of directors is safeguarding assets, and that management  
17 complies with their policies and plans;  
18           d. Review internal controls; and  
19           e. Review examination and audit findings and follow-up to ensure that management  
20 takes the necessary corrective action.

21           49. Supervisory Committee Defendants breached their duties to CBS Employees.

22 **SUCCESSOR IN INTEREST DEFENDANTS**

23           50. Defendant UCU with approval from the NCUA agreed to purchase and assume the assets  
24 and liabilities of CBS Employees.

25           51. Effective March 29, 2019, CBS Employees member-owners became member-owners of  
26 UCU.

27           52. *California Financial Code* section 15204 states that "upon any merger effectuated as  
28 provided in this article, all property, property rights, and interests of the merged credit union shall vest in

1 the surviving credit union, without deed, endorsement or other instruments of transfer, and all debts,  
2 obligations, and liabilities of the merged credit union are assumed by the surviving credit union under  
3 whose charter the merger has been effected. Thereafter the charter of the merged credit union is void, and  
4 the existence of the merged credit union as a legal entity separate from the surviving credit union  
5 terminates.”

6 53. Therefore, Defendant UCU as the successor in interest to CBS Employees is liable to  
7 Plaintiff to the same extent as the Director Defendants and the Supervisory Committee Defendants.

8 V

9 FACTUAL ALLEGATIONS

10 54. CBS Employees is a not-for-profit organization. Credit unions, like banks, accept deposits,  
11 make loans and provide a wide array of other financial services. However, unlike banks, credit unions aim  
12 to serve their members rather than seeking to earn a profit. Credit unions often are able to offer better  
13 savings rates, lower loan rates and reduced fees to their members.

14 55. CBS Employees was founded in 1961 providing financial services to employees of CBS  
15 Inc., Mary Tyler Moore Productions, and CBS/MTM who work in Studio City, California.

16 56. As of March 2019, CBS Employees had about 2,798 members and had assets of  
17 \$21,037,558.

18 57. CBS Employees was liquidated in March 2019 after it was discovered that former Manager  
19 and CEO Rostohar had engaged in a 20-year embezzlement scheme in which he stole more than \$40  
20 million from CBS Employees to fund his gambling and luxury lifestyle, devastating the Credit Union in  
21 the process.

22 58. Rostohar used the money that he embezzled from CBS Employees to pay off his personal  
23 credit card statements with funds from the Credit Union's online accounts or by forging checks. In order  
24 to steal from the Credit Union, Rostohar falsified CBS Employees' records and hid the stolen funds in  
25 shell companies under his control.

26 59. Rostohar, before working as the Manager and CEO of CBS Employees, was an examiner  
27 at the National Credit Union Administration (“NCUA”), an independent federal agency that regulates  
28 federal credit unions. That position gave Rostohar insight into what examiners and auditors at the NCUA

1 looked for when examining credit unions; therefore, he knew how to conceal his embezzlement scheme.  
2 Further, Rostohar explained that often the auditors themselves never operated a financial institution, and  
3 thus didn't really know what to look for.

4 60. Rostohar's scheme unraveled on or about March 6, 2019 when, by chance an employee at  
5 CBS Employees found a \$35,000 check made payable to Rostohar but the check did not include the reason  
6 for such a payment. That employee then did an audit of checks issued by the Credit Union since January  
7 2018 and uncovered checks totaling about \$3.8 made payable to Rostohar. These checks also included the  
8 forged signature of another employee without the employee's knowledge.

9 61. Although Rostohar allegedly estimated he'd taken about \$40 million from the Credit Union,  
10 an NCUA examination up to February 28, 2019 revealed a potential loss to CBS Employees of \$40.5  
11 million.

12 62. On March 11, 2019, an attorney for CBS Employees alerted the FBI to the alleged  
13 embezzlement.

14 63. On or about March 12, 2019, the CBS Employees Board of Directors suspended Rostohar  
15 from his job after an internal investigation.

16 64. Rostohar's fraud directly resulted in the liquidation of the CBS Employees in March 2019  
17 due to insolvency.

18 65. As of March 29, 2019, the 2,798 members of CBS Employees are now members of  
19 University Credit Union of Los Angeles. University Credit Union has assumed all assets, loans and shares  
20 of CBS Employees.

21 66. Rostohar, pled guilty on or about May 20, 2019 to Credit Union fraud in a 20-year  
22 embezzlement scheme in which he stole more than \$40 million from CBS Employees.

## 23 VI

### 24 CLASS ACTION ALLEGATIONS

25 67. This class action is brought pursuant to the provisions of *California Code of Civil*  
26 *Procedure* section 382. Plaintiff brings this class action on behalf of himself as well as all others similarly  
27 situated, with Plaintiff proceeding as the representative member of the proposed class defined as follows:  
28

1           68. All members of CBS Employees Federal Credit Union from 1999 to present who were  
2 harmed as a result of the embezzlement caused by Defendants' failure to exercise reasonable oversight of  
3 the Credit Union's management. Plaintiff reserves the right to modify or amend the definition of the  
4 proposed Class before the Court determines whether certification is appropriate and as the Court may  
5 otherwise allow.

6           69. Excluded from this class is any Defendant and their family members.

7           70. The class of said persons within the State of California are so numerous that the joinder of  
8 all members is impracticable, and the disposition of their claims in a class action is a benefit to the parties,  
9 the Court and the State of California as a whole. Plaintiff is informed and believe, and based thereon  
10 alleges, that CBS Employees Board of Directors and Supervisory Committee, through their actions and/or  
11 inactions have directly and/or proximately caused damages to the respective representative and members  
12 of the class alleged herein and each of them.

13           71. Though the exact number and identity of the respective class, as alleged herein, are not  
14 presently known, they can be identified thorough coordinated discovery pursuant to the class action and  
15 though usual forms of publication or such other methods approved by the Court.

16           72. There are common questions of law and fact arising out of Defendants' conduct, acts,  
17 omissions as alleged herein. The common question of law and fact include, but are not limited to:

- 18           a. Whether Director Defendants and/or Supervisory Committee Defendants were  
19 negligent to the members of the class alleged herein, and each of them;  
20           b. Whether Director Defendants and/or Supervisory Committee Defendants breached  
21 their fiduciary duties to the members of the class alleged herein, and each of them;  
22           c. Whether Director Defendants and/or Supervisory Committee Defendants were  
23 grossly negligent to the members of the class alleged herein, and each of them; and  
24           d. Whether Director Defendants and/or Supervisory Committee Defendants breached  
25 their duty to supervise by their actions and/or inactions pertaining to the management and  
26 officers of CBS Employees.

27           73. Furthermore, such common questions of law and fact predominate over any questions  
28 affecting only individual members of the class.

1           74.     The claims of the Plaintiff herein, with regard to the respective class of who they are  
2 proposed to be class representatives are typical of the claims of their respective class, all of who have  
3 sustained damages, including irreparable harm, as a proximate and legal result of the common course of  
4 conduct, acts and omission of the Defendants, and each of them, as alleged herein.

5           75.     Plaintiff, on behalf of himself and the members of the class for which it is proposed will  
6 act as aclass representative, will fairly and adequately protect the interest of all members, in connection  
7 with which they have retained attorneys experienced in the prosecution of multi-party and/ or class action  
8 cases. The named Plaintiff is able to fairly and adequately protect the interest of all members of the  
9 respective class because it is in his best interest to prosecute the claims herein alleged to obtain full  
10 compensation due to him for violations of California law and the causes of action alleged herein.

11           76.     Under the facts and circumstances set forth herein, class action proceedings are superior to  
12 any other methods available for both fair and efficient adjudication of the rights of each of the class  
13 members who have sustained, will sustain and/or are in danger of sustaining damages as a result of  
14 Defendants' actions, acts, failures to act and/or omissions arising out of or relating to Defendants' failure  
15 to exercise reasonable oversight of the Credit Union's management and allowing the former Manager and  
16 CEO Rostohar to steal \$40 million from CBS Employees.

17           77.     Inasmuch as joinder of individual members of the class is not practical, said class members  
18 could not individually afford the litigation, such that individual litigation would be overly burdensome,  
19 not only to said individuals, but also to the courts of the State of California.

20           78.     To process individual cases would increase both the expense and the delay not only to each  
21 member of the class alleged herein, but also to Defendants, the State of California, and the Court. In  
22 contrast, a class action will avoid difficulties related to case management and will provide multiple  
23 benefits to the litigating parties, including, but not limited to, efficiency, economy of scale, unitary  
24 adjudication with consistent results and equal protection of the rights of each of the members of the class  
25 alleged herein, all by way of the comprehensive and efficient supervision of the litigation by a single court.

26           79.     Notice of the pendency and any result and/or resolution of the litigation can be provided to  
27 class members by the usual forms of publication or such other methods as approved by the Court.  
28

1 80. Plaintiff is not aware of any difficulties that are likely to be encountered in the management  
2 of this action that would preclude their maintenance as a class action.

3 **VII**

4 **CAUSE OF ACTIONS**

5 **FIRST CAUSE OF ACTION**

6 **(NEGLIGENCE -AGAINST ALL DEFENDANTS)**

7 81. Plaintiff incorporates by reference, as though fully set forth herein, each and every  
8 allegation and statement contained in the foregoing paragraphs.

9 82. All Defendants owed duties to each and every member of CBS Employees to conduct its  
10 business in compliance with all applicable federal and state laws and to act in furtherance of the best  
11 interests of CBS Employees and its members so as to benefit all members equally. All Defendants owed  
12 to CBS Employees and its members the duty to use reasonable care, skill and diligence in the performance  
13 of their duties.

14 83. Each of the Defendants was negligent by abdicating his/her responsibilities to the Credit  
15 Union members, unreasonably failing to investigate material facts, failing to use his/her business judgment  
16 in carrying out his/her responsibilities to the Credit Union and its members and closing his/her eyes to the  
17 danger the negligence was causing to the Credit Union, as further detailed in this Complaint.

18 84. As a direct and proximate result of Defendants' negligence, Plaintiff suffered damages in  
19 an amount to be determined at trial.

20 **SECOND CAUSE OF ACTION**

21 **(CLAIM FOR BREACH OF FIDUCIARY DUTIES – AGAINST ALL DEFENDANTS)**

22 85. Plaintiff incorporates by reference, as though fully set forth herein, each and every  
23 allegation and statement contained in the foregoing paragraphs.

24 86. All Defendants owed the members of CBS Employees the fiduciary duties of obedience,  
25 diligence, loyalty, and to act in good faith in the best interests of CBS Employees' members. All  
26 Defendants owed a duty to the Credit Union and its members to adhere loyally, diligently and in good  
27 faith to internal policies, laws and regulations set up to ensure the Credit Union operated in a safe and  
28 sound manner.

08/09/2019

87. Each of the Defendants failed to discharge his/her fiduciary duties of obedience, diligence, loyalty and good faith, and to adhere to policies, laws and regulations as detailed in this Complaint.

88. As a direct and proximate result of Defendants' breaches of fiduciary duties, the Plaintiff suffered damages in an amount to be determined at trial.

### THIRD CAUSE OF ACTION

(CLAIM FOR GROSS NEGLIGENCE - VIOLATION OF THE FINANCIAL INSTITUTIONS  
REFORM RECOVERY AND ENFORCEMENT ACT ("FIRREA") -12 U.S.C. § 1821 et seq.  
AGAINST ALL DEFENDANTS)

89. Plaintiff incorporates by reference, as though fully set forth herein, each and every allegation and statement contained in the foregoing paragraphs.

90. Section 1821(k) of FIRREA holds directors or officers of financial institutions personally liable for loss or damage to the institution caused by their “gross negligence,” as defined by applicable state law. California law defines gross negligence as either a want of scant care or an extreme departure from the ordinary standard of care.

91. Each Defendant was grossly negligent in that his or her manner of carrying out his or her duties and responsibilities to the Credit Union constitutes an extreme departure from the ordinary standard of care as further described in this Complaint.

92. As a direct and proximate result of Defendants' gross negligence, Plaintiff suffered damages in an amount to be determined at trial.

#### FOURTH CAUSE OF ACTION

(CLAIM FOR BREACH OF DUTY TO SUPERVISE - AGAINST DIRECTOR DEFENDANTS)

93. Plaintiff incorporates by reference, as though fully set forth herein, each and every allegation and statement contained in the foregoing paragraphs.

94. Director Defendants have a duty to adequately supervise the executives and officers of the Credit Union, and to prevent shirking of responsibilities or incompetent performance by the executives and officers of the Credit Union.

95. For all the foregoing reasons delineated in this Complaint, including but not limited to allowing former Manager and CEO Rostohar to steal \$40 million from the Credit Union; permitting

1 incompetent officers to manage the Credit Union and permitting internal guidelines to be routinely  
2 violated, Director Defendants failed to reasonably discharge their duty to supervise.

3 96. As a direct and proximate result of this failure, Plaintiff has been injured in an amount to  
4 be determined at trial.

5 **FIFTH CAUSE OF ACTION**

6 **(CLAIM FOR BREACH OF DUTY TO SUPERVISE - AGAINST SUPERVISORY**  
7 **COMMITTEE DEFENDANTS)**

8 97. Plaintiff incorporates by reference, as though fully set forth herein, each and every  
9 allegation and statement contained in the foregoing paragraphs.

10 98. Supervisory Committee Defendants have a duty to adequately supervise the Board of  
11 Directors and management of the Credit Union, and to exercise reasonable and prudent supervision over the  
12 management, policies, practices, controls, and financial and corporate affairs of the Credit Union

13 99. For all the foregoing reasons delineated in this Complaint, including but not limited to  
14 allowing former Manager and CEO Rostohar to steal \$40 million from the Credit Union; permitting  
15 incompetent officers to manage the Credit Union and permitting internal guidelines to be routinely  
16 violated, Supervisory Committee Defendants failed to reasonably discharge their duty to supervise.

17 100. As a direct and proximate result of this failure, Plaintiff has been injured in an amount to  
18 be determined at trial.

19 **SIXTH CAUSE OF ACTION**

20 **(SUCCESSOR LIABILITY - AGAINST SUCCESSORS IN INTEREST DEFENDANTS)**

21 101. Plaintiff incorporates by reference, as though fully set forth herein, each and every  
22 allegation and statement contained in the foregoing paragraphs.

23 102. Upon information and belief, UCU is the successor in interest of CBS Employees as UCU  
24 has assumed all assets, loans, and shares of CBS Employees.

25 103. Upon information and belief, the assumption of CBS Employees by UCU was approved  
26 by the NCUA after determining that CBS Employees was insolvent with no prospect of restoring viable  
27 operations on its own.  
28

1 104. Upon information and belief, UCU assumed CBS Employees' assets, loans, and all  
2 member shares on March 29, 2019.

3 105. As a direct and proximate result of the assumption of CBS Employees by UCU, UCU is  
4 liable to Plaintiff to the same extent as the Director Defendants and the Supervisory Committee  
5 Defendants.

6 **VIII**

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for relief against Defendants as follows:

9 A. For compensatory and consequential damages, jointly and severally, in a minimum amount  
10 of \$40 million and any excess amount to be proven at trial;

11 B. For its costs of suit against all Defendants;

12 C. For prejudgment interest;

13 D. For attorneys' fees, costs for the investigation and litigation, and interest; and

14 E. For such other and further relief as this Court deems just and proper.

15 DATED: August 7, 2019

**MCCUNE WRIGHT AREVALO, LLP**

16 BY:   
17

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Directors, Supervisors of CBS Employees Federal Credit Union Hit with Class Action Over Years-Long \\$40M Embezzlement Scheme](#)

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