

CUNA Mutual Files Lawsuit Alleging 'False and Defamatory Communications' Over Its Offerings

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Image from the Insuritas website

MADISON, Wis.—CUNA Mutual Group has filed a defamation suit against Banc Insurance Agency, Inc., better known to credit unions as Insuritas, alleging the company has spread “false and defamatory communications with intent to harm” CUNA Mutual’s reputation.

Insuritas’ CEO, Jeff Chesky, is also named as a defendant. Chesky spoke with *CUToday.info*, alleging that the complaint is “simply an effort to stop credit unions from owning their own insurance agencies.”

CUNA Mutual said its action for tortious interference and defamation based on the false and defamatory statements it alleges were “repeatedly and intentionally communicated to Plaintiffs’ customers regarding Plaintiffs’ business practices. Defendants publicly asserted these false and defamatory communications with intent to harm Plaintiffs’ reputation and interfere with their current contractual and customer relationships, in a desperate and transparent attempt to steal customers to bring to Defendants’ own struggling insurance business.”

Insuritas sells consumers insurance policies in competition with CUNA Mutual’s TruStage product line.

“Having failed to compete with Plaintiffs in the credit union insurance market in any meaningful way, Defendants have resorted to lying and defaming Plaintiffs to try to steal their customers,” the lawsuit states.

Specifically, CUNA Mutual is alleging that East Windsor, Conn.-based Insuritas and Chesky, “reached out to CUNA Mutual seeking financial assistance in the form of an effective \$10-million loan along with certain rights to put CUNA Mutual products on the

Insuritas platform. Insuritas also asked CUNA Mutual to do marketing for Insuritas, in order to drive more traffic to Mr. Chesky's firm. CUNA Mutual rejected Insuritas' proposal."

'Alternative Course Of Action'

CUNA Mutual alleges that in response, "Insuritas then decided to take an alternative course of action – it wrote an 'article' defaming CUNA Mutual and TruStage and sent it out to every credit union it could find that CUNA Mutual and TruStage do business with, or potentially could do business with in the future."

According to the lawsuit, the article was titled "CUNA Mutual Group Leaves Credit Unions Behind in Shift to Direct-to-Consumer Strategy" and was sent directly to credit union customers via e-mail and distributed on Insuritas' website, and was distributed publicly on Twitter by Chesky using both company and personal accounts.

That email reads, "Over the past several months, one of the credit union movement's longest tenured and historically trusted partners has initiated a quiet shift towards competing with the very credit unions it built its brand on.

"Via its TruStage Insurance Agency, LLC (TruStage) platform, CUNA Mutual Group has deviated from its focus on its traditional credit union partnership distribution model and launched a competing direct-to-consumer marketing strategy. (Emphasis in original.)

The message Insuritas sent to credit unions, according to CUNA Mutual lawsuit

"The move leverages decades of free advertising through 4,000+ credit unions to deploy a new direct-to-consumer model that competes against the very credit unions it has long partnered with. As threats to the credit union movement from consolidation, regulatory burdens, and fin-tech competition continue to grow, CUNA Mutual Group has broken the trust of the credit unions it owes its very success to, putting profits before long-term partnerships."

In its suit, CUNA Mutual said that it and TruStage do not "leverage" their credit union customers to "directly compete" with them. "In all of the direct-to-consumer marketing CUNA Mutual does through TruStage (which is what Defendants claim is at the heart of the alleged "breach of trust"), it compensates its credit union customers based on all sales to their members," the lawsuit states. "The obvious implication from the article is that CUNA Mutual is usurping these members to be their own direct customers to the detriment of the credit unions. That is completely false. Any policy sold to a credit union member increases the value of that credit union's endorsement of the TruStage Insurance Program, resulting in additional royalty income to the credit union."

No Longer 'Exclusive'

The lawsuit further alleges that the statement TruStage no longer provides “an exclusive benefit” for credit unions is false and defamatory, and asserted with intent to harm Plaintiffs’ contractual and customer relationships.

The suit further challenges other statements made in the Insuritas statement.

CUNA Mutual also alleged that previously Insuritas “has run afoul of the law with regard to Plaintiffs. At least twice before in the past two years, CUNA Mutual has had to write cease and desist letters to Mr. Chesky and Insuritas as a result of their unauthorized use of federally registered trademarks and inaccurate representations they made to credit unions regarding CUNA Mutual’s business.”

“Defendants sought to defame Plaintiffs with express malice, emanating from bad intent, ill will, bad motives, revenge, and/or malevolence,” the suit adds.

Evidence of that malice, according to the lawsuit, is “the fact that one month prior to publishing these false and defamatory communications, Mr. Chesky was actively soliciting Plaintiffs to try to seek financial assistance from them and/or work with them, including by having Plaintiffs market his company’s products and obtaining rights to put CUNA Mutual products on the Insuritas platform. It is clear evidence of Mr. Chesky’s malicious motives that one day he would be so adamant about trying to work with Plaintiffs, and just weeks later (after Plaintiffs rejected his proposal) he would be publishing false and defamatory information about how Plaintiffs have “breached the trust” of all of the credit unions he is soliciting.

“Further evidencing Defendants’ malice is the fact that on July 19, 2017, exactly one day before publishing the defamatory article attached hereto as Exhibit A, Defendant Chesky sent flowers to Susan Sachatello, the executive from CUNA Mutual that the article attacks by name,” the suit continues. “The card that came with the flowers read ‘Thanks! The Insuritas Family.’ This act shows that Defendants’ actions are malicious and intended as harm for harm’s sake.”

CUNA Mutual is seeking temporary and permanent injunctive relief, enjoining Defendants from continuing to publish or circulate their false and defamatory article and the false and defamatory information contained therein; requiring them to remove the article from their website and publish a retraction in its place; enjoining them from further tortuously interfering with Plaintiffs’ contractual and customer relationships, including by continuing to communicate to those customers false and defamatory information about Plaintiffs; and requiring Defendants to identify everyone they sent the defamatory article to directly, and send retractions to all of them individually.

Damages

In terms of damages, CUNA Mutual said it does not have an adequate remedy at law because the damage that likely will be caused to their business relationships, their

reputation, and their potential future business cannot be reasonably calculated or compensated monetarily. It said the award of actual and compensatory damages should be determined at trial.

Chesky told *CUToday.info*, “We notified credit unions around the nation that the TruStage the platform is no longer for credit union members only. We estimate that several thousand credit unions have TruStage advertising on their websites that still say for credit union members only. It is false and misleading advertising. CUNA Mutual is now competing against credit unions. Simple as that.”

Chesky reiterated that CUNA Mutual’s action is an effort to stop CUs from owning their own insurance agencies.

“We have over five million credit union members that now buy their insurance through their CU-owned agency and no longer through third parties, like TruStage,” continued Chesky. “Not only will our company and credit union partners defend these allegations aggressively, but more importantly, CUNA Mutual is going to have to respond to insurance commissioners who are receiving complaints about UDAAP (Unfair, Deceptive, or Abusive Acts or Practices) violations. That’s the issue. CUNA Mutual’s complaint never speaks to the single concern we have raised—that credit unions are advertising as members only, when TruStage is now marketing to all Americans.”

In a statement to *CUToday.info*, CUNA Mutual spokesperson Phil Tschudy said “We are taking this matter very seriously. We firmly believe these statements were malicious and asserted with intent to harm CUNA Mutual Group’s contractual and customer relationships. We have communicated with credit unions and leagues directly to address these false statements and set the record straight.

“Of particular concern is the assertion in the article that, through the TruStage Insurance Program, CUNA Mutual directly competes with credit unions,” said Tschudy. “That is false. TruStage has continued to expand its media to reach members and potential members about the availability of these financial products. In the consumer marketing CUNA Mutual does through TruStage, credit union customers are compensated based on sales to their members. Any policy sold to a credit union member increases the value of that credit union’s endorsement of the TruStage Insurance Program, resulting in additional royalty income to the credit union.”