

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE  
COUNTY, FLORIDA

**DANA R. GOLDMAN,**  
derivatively as a member and on  
Behalf of Poinciana Island Yacht and  
Racquet Club Condominium Association,  
Inc.

Complex Business Litigation Section  
CIVIL DIVISION

Plaintiff,

**CASE NO.**

vs.

**POINCIANA ISLAND YACHT AND  
RACQUET CLUB CONDOMINIUM  
ASSOCIATION, INC.,**  
a Florida not for profit corporation,  
**GREGORY E. CAPRA, a/k/a GREG CAPRA,  
SHEILA CAPLAN,  
ROBERT S. CAPLAN,  
NIKOLINA CAPRA, a/k/a NIKOLINA DONTCHEVA,  
YELENA FRIDMAN,  
GASTON SIROIT,  
MARIA DEL SOL,  
and ALVARO VILLA**

Defendants

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**VERIFIED COMPLAINT**

NOW COMES Plaintiff Dana R. Goldman, derivatively as a member and on behalf of Poinciana Island Yacht and Racquet Club Condominium Association, Inc., (“Goldman”), and sues the following Defendants: Poinciana Island Yacht and Racquet Club Condominium Association, Inc., (the “Association”) Gregory E. Capra, *A/K/A* Greg Capra (“Greg Capra / “Capra”) individually; Sheila Caplan (“Sheila Caplan” / “Caplan”) individually; Yelena Fridman (“Fridman”) individually; Gaston Siroit (“Siroit”) individually, (collectively the “Directors”); Nikolina Capra, *A/K/A* Nikolina Dontcheva (“Niki Capra”) individually; Robert S. Caplan (“Bob Caplan”) individually; Maria Del

Sol (“Del Sol”) individually; and Alvaro Villa, individually (“Villa”), and in support thereof allege the following:

### **JURISDICTIONAL ALLEGATIONS**

1. This is an action for damages exceeding the sum of FIFTEEN THOUSAND and 00/100 DOLLARS (\$15,000.00) exclusive of interest, fees, and costs, and is within the jurisdiction of this Court.
2. Plaintiff Goldman is a resident of Miami-Dade County, Florida, *sui juris*, and is at all material times the record owner of legal title of a condominium parcel described as Unit 308 Poinciana Island Drive #710 of the Association located in Sunny Isles Beach, Florida (“Unit 308”), and is a member of the Association.
3. Defendant Association is a Florida, non-profit corporation operating a condominium commonly known as “Poinciana Island Yacht and Racquet Club” commonly referred to as “*Poinciana Island*”, located and operating within Miami-Dade County, Florida, and is subject to the jurisdiction of this Court.
4. Defendant Greg Capra is a resident of Miami-Dade County, Florida, resides in Unit 257 of Poinciana Island Drive #607 (“Unit 257”) of the Association, and is otherwise *sui juris*. Capra has served as a director and purported officer of the Association since 2007; however, at all material times he was not a unit owner, nor a member of the Association. Capra is currently listed as “President” of the Association in its most recent *Annual Report* filed with the Secretary of State, and which Capra himself electronically signed under date of February 7, 2012 [See **Exhibit “A”** attached hereto].
5. The *Defendant Directors* (all of those referenced as being on the Association’s board of directors and/or serving as pertinent officers at all material times below) are individuals; each a member of the Association’s Board of Directors at all

material times; and each a resident of Miami-Dade County, Florida. The Defendant Directors along with their legal unit numbers and designated officer positions at all material times during the following annual Board terms as of the latest elections in or about 2014 through the present (“2014 Annual Term”); 2012 – 2013 (“2013 Annual Term”); 2011-2012 (“2012 Annual Term”); 2010-2011 (“2011 Annual Term”); 2009-2010 (“2010 Annual Term”); 2008-2009 (“2009 Annual Term”); and 2007-2008 (“2008 Annual Term”) to the facts of this Complaint follow:

- |                    |  |  |
|--------------------|--|--|
| a. Greg Capra:     | Unit 257/#607<br>“President”<br><br>“Treasurer”<br>“Director”      | 2014 Annual Term, 2013 Annual Term, 2012 Annual Term, 2011 Annual Term, 2010 Annual Term, 2009 Annual Term<br>2008 Annual Term<br>2007 Annual Term |
| b. Sheila Caplan:  | Unit 252/#520<br>“Vice President”<br><br>“Treasurer”<br>“Director” | 2014 Annual Term, 2013 Annual Term, 2012 Annual Term, 2011 Annual Term<br>2010 Annual Term and 2009 Annual Term, respectively at material times    |
| c. Gaston Siroit:  | Unit 439/#1510<br>“Treasurer”<br><br>“Director”                    | 2014 Annual Term, 2013 Annual Term, 2012 Annual Term, 2011 Annual Term, and 2007 Annual Term<br>2009 Annual Term                                   |
| d. Yelena Fridman: | Unit 209/#109<br>“Secretary”<br>“Director”                         | 2014 Annual Term, 2013 Term, 2012 Annual Term, 2011 Annual Term  |

6. Defendant Villa is a resident of Miami-Dade County, Florida and is otherwise *sui juris*. Villa previously served as maintenance supervisor for the Association on or

about 1991-1992. Villa subsequently obtained his Community Association Management (CAM) license and served as property manager for the Association at various intervals. During the time Plaintiffs have resided in Poinciana Island, Villa has continuously served as the property manager of the Association on or around March 1, 2011 to the present date.

7. Defendant Niki Capra, spouse of Greg Capra, unit owner of Unit 257 and member of the Association, has been appointed or designated by the Board to serve, at all material times hereto since approximately 2009, on certain committees of the Association, including, without limitation, the “Welcoming/Screening Committee”.
8. Defendant Bob Caplan, spouse of Defendant Director Sheila Caplan (collectively “the Caplans”), unit owner of Unit 252 and member of the Association, has been appointed or designated by the Board to serve, at all material times hereto, on certain committees of the Association, including, without limitation, the “Architectural Committee.”
9. Defendant Del Sol is a resident of Miami-Dade County, is *sui juris*, and was at all material times the Association’s bookkeeper who is employed by the Association and works at the instruction of the Association’s management, directly reporting to the Board of Directors and pertinent officers.
10. Venue is proper in Miami-Dade County, Florida as the Association operates within said county and all individual Defendants reside in said county, and the subject matter of all disputes in this Complaint arises in said county.

**COMPLIANCE WITH ALL CONDITIONS PRECEDENT  
and FLORIDA STATUTE 617.07401**

11. All conditions-precedent to this suit have occurred, have been performed, and/or have been waived, unless specified otherwise herein.
12. Specifically, with respect to Florida Statute Section 617.07041, Plaintiff made a written demand to Defendants in the form of an initial Complaint filed in the Circuit Court for the Eleventh Judicial Circuit (Case Number 12-25503 CA 15), which was served on all Defendants on July 11, 2012.
13. On January 31, 2013, Plaintiff filed and served upon Defendants an Amended Complaint in Case Number 12-25503 CA 15, alleging with particularity, for all intents and purposes, all of the allegations contained herein.
14. Defendants failed to conduct a good faith investigation of the allegations made by Plaintiff in this initial demand dated July 11, 2012 and/or the Amended Complaint dated January 31, 2013.
15. Defendants have never taken any action in response to Plaintiff's demands contained in the Complaint served on July 11, 2012 and/or the Amended Complaint served on January 31, 2013.
16. More than ninety days has elapsed since Defendants' refusal to make a good faith investigation of the allegations that were provided to Defendants on July 11, 2012 and/or January 31, 2013.
17. More than ninety days have elapsed since Defendants' refusal to take any action in response to Plaintiff's demands dated July 11, 2012 and/or January 31, 2013; and it is Plaintiff's belief that issuing any further formal notice arguably pursuant to the subject statute would be effectively futile, especially as the Defendants have been given adequate notice as stated above in conformity with the statute.

**PROCEDURAL HISTORY AND RELATION BACK OF  
ALLEGATIONS TO JANUARY 31, 2013,  
THE DATE PLAINTIFF FIRST FILED THIS DERIVATIVE ACTION**

18. On March 21, 2014, the Honorable John J. Thornton dismissed the Amended Complaint in Case Number 12-25503 CA 15, *without prejudice*, on the grounds that the Amended Complaint inappropriately joined derivative and direct claims in the same complaint.
19. In Judge Thornton's March 21, 2014 Order, he specifically granted Plaintiff leave to file a Second Amended Complaint in Case Number 12-25503 CA 15, in either Plaintiff's derivative or individual capacity, as well as granting Plaintiff leave to file a separate complaint in either Plaintiff's derivative or individual capacity.
20. This Derivative Complaint is now being filed by Plaintiff pursuant to the leave granted by Judge Thornton in his March 21, 2014 Order.
21. As such, for purposes of determining any appropriate statute of limitations for the allegations contained herein, the allegations in this Complaint are presumed to relate back to the January 31, 2013 filing date of the Amended Complaint in Case Number 12-25503 CA 15.

**ALLEGATIONS COMMON TO ALL COUNTS**

22. The following allegations pertinent to the background facts underlying the counts of this Complaint, as applicable, are listed in the following sections:

**Overview of Wrongful Actions**

23. As early as 2009, Plaintiff Goldman, along with other unit owners, began to observe certain troubling aspects of the Association's governance and began to ask questions about the fact that Board meetings were only held sporadically and then only after decisions had already been reached, leaving an impression that secret meetings were being held in violation of the Florida Condominium Act, in

- combination with the revolving door of Association Managers, the Board's lack of transparency and failure to provide Financial Statements, the delivery of Association Budgets months after the commencement of the fiscal year, and numerous *red flags* of conversion of funds and overspending.
24. As the Clubhouse Renovation and the Front Gate Project (*see infra*) unfolded, around 2010, Plaintiff Goldman raised additional questions of certain Board Members and their spouses, including Defendants Greg Capra, Niki Capra, Bob Caplan and Sheila Caplan, who seemed to be exercising complete control over every aspect of life at Poinciana Island, with the explicit cooperation of certain office personnel, inclusive of Defendant Del Sol.
25. Plaintiff Goldman's questions became Official Records requests, pursuant to F.S. 718.111(12), in late 2011, over the Association's financial practices and possible Board of Director acts of malfeasance, self-dealing, bad faith and other breaches of the Condominium Act under Chapter 718 of the Florida Statutes and Condominium Declaration and Bylaws.
26. It is precisely because Plaintiff Goldman asked "too many questions" and sent "too many Official Records requests" that Defendants Greg Capra, Niki Capra, Sheila Caplan and Bob Caplan entered into an orchestrated and ongoing, malice-driven conspiracy amongst themselves and with additional co-conspirators identified in these background facts, so as to effectively deter further inquiries from any members of the Association, quell their efforts to obtain the truth, and shut them down with evil intent.
27. Greg Capra has utilized his purported presidential and directorship authority to direct the staff, inclusive of Alvaro Villa and Maria Del Sol, to issue multiple retaliatory and baseless letters, strategically-timed and retaliatory covenant

enforcement notices and schedule attendant hearings on arguable and disparately enforced violations to deter Association members from pursuing their rights as residents of the Association. This targeted campaign to stalk and harass has taken various forms, such as directing the Association's security company, Elite Guard, to stalk, heckle and harass so-called "dissident" Association Members and residents regularly.

28. Lawful document requests from Association Members for Association documents were frequently met with retaliatory actions by the Association in an effort to deter Association Members from pursuing their rights as residents of the Association.
29. For example, the sequencing of wrongful covenant enforcement notices mirrors closely the timing of Plaintiff Goldman's requests for official records whereby each time Plaintiff Goldman sent an official records request to the Association, within a matter of one to three days afterwards, a covenant enforcement notice or some other improper, baseless, and retaliatory action would be effected on Plaintiff Goldman.
30. As a dilatory tactic to Plaintiff Goldman's official records requests in 2011, Defendant Capra directed the adoption of new Association rules by Special Meeting of the Board of Directors on October 3, 2011, the primary purpose of which was to wrongfully rebuke and delay Plaintiff Goldman's rights as a unit owner and deter other Association Members from pursuing their rights as residents of the Association.
31. These rules, which have been revised as recently as April 23, 2014 ("2014 Rules"), serve to further deter Association Members from pursuing their legitimate, statutory rights to expediently obtain records of the Association; said 2014 Rules



remain in effect as of the date of the filing of this Complaint.

32. For example, these new 2014 Rules give broad discretion to the Board to deem document requests “harassing” and permit the Board to unlawfully and inappropriately deny document requests on the basis of the Board’s own arbitrary designation of a request as “harassing.”
33. The 2014 Rules also provide that inspection of all official records be limited to a four (4) hour period, to take place in a single business day, **per month**. This is but a well-honed, dilatory tactic by the Association to stretch out Members’ official records requests for several months at a time, even though the 2014 Rules allow up to four (4) written requests to inspect the records from a single Unit Owner in a thirty (30) day period.
34. The 2014 Rules also provide that the Board shall be obligated to respond to only one (1) written official inquiry per Unit during any thirty (30) day period. “Such inquiry must be limited to a single subject and may not have any sub-parts or sub-headings with additional inquiries. Any additional inquiry or inquiries received by the Board, including those that may be found in sub-parts or sub-headings of an inquiry previously responded to by the Board, **shall be responded to during the subsequent thirty (30) day period, or periods, as applicable**. During any subsequent thirty (30) day period, the Board will be obligated to respond to only one (1) of the remaining additional written inquires, including those that may be found in sub-parts or sub-headings of an inquiry previously responded to by the Board.”
35. The practical effect of the new 2014 Rules, utilizing the time and resources of Association counsel in the process, is to codify Defendants’ historic practice of dragging out Association Members’ official records requests (and now official

- inquiries) for months at a time, to essentially “wear down” any would be requestor.
36. More importantly, these built-in traps and dilatory tactics fly in the face of the Florida Condominium Act, F.S. 718.111 and 718.112, which provide that official records are to be made immediately available (and in any event no later than ten (10) days thereafter without penalty), and official inquiries within thirty (30) of receipt (without placing burdensome and artificial extensions regarding “subparts” and “subheadings” of the same inquiry).
37. Continuing to the present, Defendant Greg Capra has instructed Alvaro Villa and others to stall, delay and frustrate unit owners’ official records requests, as he had done so many times in the past, dragging them out for weeks and months at a time.
38. This protocol is the continuation of a pattern of bad faith tactics which Greg Capra earlier initiated and executed in regard to a previous owner’s similar request, when instructing then-Association Manager Pascucci not to release records pursuant to an official records request made by said unit owner, Larry Marro.
39. In turn, as a result of this patterned bad-faith type conduct against Association Member Moshe Weitz, then-Manager Pascucci had to insist repeatedly for the permission to obtain rightfully requested information. Ultimately, Capra decided to conditionally release the data to Mr. Weitz, but ordered Pascucci to give him one ballot at a time and to drag it on as long as Pascucci could, so that Mr. Weitz would need to arduously reschedule the review of records.
40. The Defendants’ open aversion to unit owners who exercise their statutory rights to obtain official records, their self-serving Association Newsletters distributed to

the Members that publicly castigate and denigrate the requestors (Joel and Pattie Aresty, Moshe Weitz, Larry Marro and Plaintiff Goldman, to name a few), and their imposition of new rules and regulations regarding same, have had a decisive and chilling effect on present and future requests.

41. Plaintiff Goldman brings this lawsuit to obtain equitable relief and all derivative relief afforded her and the other Association Members so that the egregious pattern of wrongful and criminal activity of the Association, its individual directors, officers and agents, as more elaborated in the following factual background, does not continue unabated.

**Wrongful Conduct in Assessments, Projects and Budgetary Matters**

42. On or about March 31, 2006, the Association approved a special assessment in the aggregate amount of \$1,357,800.00 for Hurricane Wilma-related damages and other code violations (the “Wilma SPA”). The Board of Directors and officers have implemented the Wilma SPA repairs and replacements at all times continuously thereafter through to December 2010, as published in writing to the unit owners.

43. The unit owners of Poinciana Island, including Plaintiff Goldman, were intended beneficiaries of the Wilma SPA.

44. The Wilma SPA included a \$150,000 line item for certain renovations to the clubhouse at Poinciana Island (“Club House Renovation”).

45. Defendant Bob Caplan, appointed by the Board as chairman of the Architectural Committee, was at all times the driving force behind the Club House Renovation, and worked in concert with Defendants Greg Capra and Defendant Sheila Caplan in all related matters.

46. Bob Caplan is also the driving force behind all Architectural Committee violations since being appointed to such post by the Board, and exerts strong influence over the newly formed Covenant Enforcement Committee, all as a force of political intimidation towards certain unit owners, inclusive of Plaintiff.
47. Bob Caplan also plays an “expansive role” in the Association through its capital improvement projects, inclusive of the Club House Renovation and Front Gate Project, where he led those projects in concert with Defendants Capra and Caplans, pursuant to which Caplan selects most of the vendors who do business in Poinciana Island, and implements the vast majority of major repairs, replacements and capital improvement projects with his wife, Defendant Sheila Caplan, up to and including the present date, his latest “pet project” - fiberglass doors for the townhomes (at a likely overinflated price through an upcoming special assessment). In fact, the Caplans have been planning these fiberglass door replacements with one of “their vendors” for quite some time, Sheila Caplan even announcing at a Board meeting several years ago that “there is only one [vendor] in America that can supply these doors for us [for Poinciana Island].”
48. According to information provided to Plaintiff Goldman in a recent official records inspection on October 3, 2011 (“Club House Records Inspection”), the Association spent approximately \$51,000 for “Club House Renovation”, but conspicuously absent from the records is any evidence of expenditure pursuant to the Club House Renovation of more than \$99,000 for accounting purposes.
49. Defendant Greg Capra admitted in an email to City of Sunny Isles Beach Officials (Code Enforcement, Mayor, City Manager, copy to Sheila Caplan and Bob Caplan dated January 23, 2012), that “Both of us (Sheila Caplan and Greg Capra) are Board members at Poinciana for the last few years and were the primary

- members that advanced the completion of the Poinciana front entrance.”
50. In fact, Greg Capra generally directed where the bids should go or to whom they should go, and supervised the Front Gate Project bidding procedures. He had the final approval of every Front Gate Project vendor.
51. When any unit owner wanted to review the underlying records, his and the Caplans’ response, in publications distributed to the Members of the Association, was “Why the Witch Hunt”?
52. As revealed in the Club House Records Inspection, a check in the amount of \$9,500.00 for furniture was made out to “Design Consulting Group, Inc.” of which Defendant Bob Caplan and his spouse Defendant Sheila Caplan are the sole shareholders, officers and directors of Design Consulting Group, Inc.
53. In fact, Bob Caplan and Sheila Caplan have paid their maintenance assessments to the Association through the Design Consulting Group, Inc.’s operating account.
54. Bob Caplan and Sheila Caplan are interior decorators, and it is industry custom and practice for interior decorators to receive commissions on contracts.
55. Plaintiff Goldman’s October 3, 2011 official records inspection revealed multiple agreements, invoices, bills of lading, shipping orders, purchase orders, check and other documents that specifically identify Bob Caplan, Sheila Caplan, Design Consulting Group, Inc., Concepts Design Group, Inc. or Unit 252 (Caplans’ Unit) as the contact person, vendor or party to be billed to in connection with the Clubhouse Renovation; with credits to such entities or overlapping and duplicative payments for delivery of furnishings, all suggestive of additional commissions and compensation to the Caplans or their designees.
56. Upon information and belief, Defendant Sheila Caplan intentionally and for personal gain failed to disclose in any Association meeting minutes her and her

husband Bob Caplan's financial interest in Design Consulting Group, Inc. in connection with the Club House Renovation, or the acquisition of furniture through Design Consulting Group, Inc., and/or additional delivery of furniture items unaccounted for, and failed to have said transactions, commissions, additional deliveries, or any purported "discounts" authorized by the then Board of Directors and Officers, inclusive of Moshe Weitz.

57. The Wilma SPA includes a \$100,000 line item for the gate house, with the following specifications: roof, interior, electrical, fountain, desk, flooring, windows, removal of a section of the South Planter. As discussed in the Manager's Report and Assessment Request dated March 31, 2006 which accompanies the Wilma SPA, "Gate House: The roof has to be replaced. The entire interior has been water damaged and the electrical must be brought up to code."

58. In fact, the Wilma SPA contemplates a repair and renovation of the gate house, not a demolition of part of the existing structure and full installation of a capital improvement, including, without limitation, extension, modification and alteration of concrete structure, fountain, pavers, entry gates, entry features, large arches, posts, surveillance system, etc., nearly five years later (collectively the "Front Gate Project").

59. Section 8 of the Association's Declaration provides in pertinent part that whenever in the judgment of the Board of Directors, the common elements, or any of them, shall require capital additions, alterations, or improvements (as distinguished from repairs and replacements) costing in excess of \$25,000 in the aggregate in any calendar year, the Association may proceed with such additions, alterations or improvements only if making such additions, alterations or

improvements shall have been approved by (i) a majority of the Unit Owners voting at a meeting at which a quorum has attained, and (ii) the Primary Institutional First Mortgagee. However, no such approvals were obtained by the Association.

60. During the 2009 Annual Term or the 2010 Annual Term, Capra and Sheila Caplan, presiding as President and Treasurer, respectively, and acting in concert with Defendant Bob Caplan, but not a majority of the Unit Owners nor the institutional mortgagee, intentionally, wrongfully and fraudulently approved the Front Gate Project in violation of the pertinent portion of Section 8 of the Declaration and Fla. Stat. 718.113(2)(a).

61. The Front Gate Project has cost the Association in excess of \$400,000, four times the amount identified in the SPA.

62. One of the Front Gate Project vendors, Insight Design Group, in a bid proposal with Miami-Dade County, described the Front Gate Project as costing \$375,000, and identified Defendant Bob Caplan as the contact person.

63. Defendant Bob Caplan was not a Director at the time the Front Gate Project was implemented; however Bob Caplan selected Insight Design Group to complete the architectural services, and Defendants Sheila Caplan and Greg Capra issued a \$3,885.00 retainer check to Insight Design Group in connection with the Front Gate Project several months prior to approval by the then Board of Directors, inclusive of Moshe Weitz.

64. Defendant Bob Caplan exercised an undue amount of control on the Front Gate Project bidding and procurement, of which Insight Design Group is but one example, and by doing so facilitated the Defendant Directors to violate the material provisions of Chapter 718 governing the Defendants' duties to Plaintiff.

65. Further, the Defendant Directors (inclusive of references to the “Board”), and in particular Defendant Sheila Caplan, Treasurer during the 2009 Annual Term and 2010 Annual Term, and as Vice President during the 2011 Annual Term, and who maintains a close relationship with the Association bookkeeper, Maria Del Sol, orchestrated deceptive and otherwise fraudulent accounting practices in connection with the Front Gate Project in an attempt to hide the true associated costs.
66. Further, during the 2010 Annual Term and upon information and belief, Defendant Siroit offered compensation to the Association’s Manager at the time, Michael Pascucci, in connection with procurement activities, in an effort to steer the Association to contract with a friend or affiliate of Siroit. Greg Capra allegedly worked in concert with Siroit to steer work to a contractor of Siroit’s choosing; telling Pascucci to take an offer of \$600.00 as bribe and keep quiet.
67. The Association and Defendant Directors have exceeded their scope of authority relating to the Front Gate Project, by willfully and recklessly failing to obtain unit owner approval for approximately \$300,000 in excess of the Wilma SPA allocation, in violation of Section 8 of the Declaration, Fla. Stat. 718.113(2)(a) and Fla. Stat. 718.116(10) for unlawful institution of special assessments, and in breach of fiduciary duties to the unit owners.
68. Defendant Sheila Caplan, then-Treasurer in or about September 2009, controlled the Club House Renovation and Front Gate Project accounting matters, co-signed virtually all checks with Defendant Capra related to the Club House Renovation and Front Gate Project, and in connection therewith, worked in concert with Defendants Capra and Bob Caplan on all related matters.



69. The Wilma SPA includes a \$500,000.00 line item for “Existing Assessment for Emergency Roof Repairs Dry Wall Restoration (30) units), Reimbursement of Reserves and Operating Account.
70. The Reserve Schedules attached to the 2012, 2013 and 2014 Association Budgets have identified the Fund Balance as of 12/31/2010 to be “-0-“.
71. According to Note 5 to the 2010 Financial Statement, during the year 2010 the Association transferred funds from reserves to pay operational expenses. Not one penny of the \$500,000 from the Wilma SPA was maintained in the reserve accounts evidencing fraud and bad faith in the manipulation of the Association’s reserves.
72. The Association and through its Directors have fraudulently or recklessly failed to follow or otherwise have willfully violated principles of fund accounting by using segregated funds for operating purposes in derogation of the rights of the unit owners and members of the Association.
73. According to the Reserve Schedule attached to the 2011 and 2012 Association Budgets, the Association provides current required reserve funding at \$3,593,810.00 but this too was false and deceptive, because the then applicable Dreux Isaac Reserve Study indicated that the current required reserve funding exceeded \$12,000,000.00.
74. The Association’s intentional and reckless, bad faith actions in connection with the Front Gate Project depleted needed reserves, while a mandatory 40-year recertification approaches, amidst the disappearance of \$500,000 of unit members’ funds provided to the Association, without the requisite unit owner approval.

75. The Association and Defendant Directors led by Greg Capra, in conspiracy with Alvaro Villa and Maria Del Sol (the latter 2 who may be also be referenced as “Defendant Agents” for purposes of this count through their manipulation and presentation of financial data), have further intentionally, by fraudulent mechanisms, and recklessly violated and otherwise breached their fiduciary duty to the unit owners through facilitating the Association to misrepresent its financial condition to the unit owners, inclusive of the Defendant Directors having created artificial reserve numbers and “assessments with reserves” figures via fraudulently procured and submitted budgets and financial statements to the unit owners, inclusive of Plaintiff Goldman.
76. For the past five years and continuing to the present date, the Association has distributed its estimated operating budgets between the months of March and May of the subsequent year. Section 9.2 of the Bylaws requires that assessments be made for the calendar year annually in advance on or before December 20<sup>th</sup> preceding the year for which the assessments are made.
77. As recently as May 14, 2014, the Association adopted the 2014 Budget five months after the commencement of the Association’s fiscal year, and in violation of Section 9.2 of the Bylaws, established new assessment amounts (imposing additional fees “retroactively” from January 1, 2014 to the present), which assessments amounts, according to the Association’s June 13, 2014 Memo to All Unit Owners, “should have begun in January 2014”.
78. Commencing in 2010 and continuing through the present, the Defendant Directors and Defendant Agents have engaged in fraudulent and deceptive trade practices, actionable under the Florida Deceptive and Unfair Trade Practices Act, by levying special assessments prior to furnishing the unit owners with its annual estimated

operating budget, introducing standard common expenses in its special assessments, and falsifying projected expenses that have no relation to actual expenses.

79. The Board approved the levy of special assessments in 2011 for a “Reimbursement to Operating Account” on December 21, 2010 (\$223,376.00) (“2011 SPA”); however, it did not furnish the Proposed Operating Budget for Year 2011 (“2011 Budget”) until April 6, 2011.
80. The Board approved the levy of special assessments in 2012 for a “List of Projects and Monies Owed to the Operating Account” on January 19, 2012 (\$322,747.00) (“2012 SPA”); however, it did not furnish the Proposed Operating Budget for the Fiscal Year 2012 (“2012 Budget”) until April 19, 2012.
81. In 2013, the Association continued its practice of levying (and bifurcating) annual and special assessments (rather than having a combined annual budget of estimated revenues and expenses, per Fla. Stat. 718.112(2)(f)), here and again, at least three to four months after the commencement of the current fiscal year. In 2014, the Board of Directors adopted the Association’s Operating Budget on May 14, 2014 (five months after the commencement of the fiscal year) with a 2014 Managers Report indicating that another “annual” special assessment is imminent.
82. It is disingenuous for a condominium association to levy special assessments on an annual basis with overlapping common expense categories and for purposes such as “reimbursing the operating account”. Many, if not most of the items covered by the Association’s annual special assessments have been planned years in advance, but the Board has predetermined that it is politically “untenable” (*i.e.*, for re-election purposes) to raise the general maintenance assessments by more than a nominal amount. With the Capras and the Caplans at the helm, this dual

approach has resulted in a cumulative approximate 20% increase (on average, \$300,000.00 per year) in combined annual and special assessments, featuring a bloated payroll (administrative staff), astronomical legal expenses (wholly excessive fees and costs for a unit owner controlled condominium association (as a consequence of the Board's and primarily Greg Capra's leadership), and its focus on cosmetic items.

83. Numerous line items in the 2012 SPA are ordinary common expenses and the Association, through the Board and Defendant Agents, is masking the Association's true expenses. This is a classic *bait and switch* exercise because certain line items in the 2011 SPA and 2012 SPA belong as normally budgeted common expenses, and the 2011 Budget and 2012 Budget are false, deceptive and misleading.

84. As an illustration of the false, deceptive, and misleading nature of the Association's financial practices, the 2011 Budget sets forth the "Approved 2010 Budget" line item for legal expenses at \$40,000.00, the actual year to end at \$64,452.00, and the Proposed Budget 2011 at \$60,000. The 2012 Budget lists the line item for legal expenses as follows: the "Approved 2011 Budget" is \$70,000.00, and the "Proposed Budget 2012" is \$70,000. But the 2012 SPA, approved four months earlier on January 19, 2012, provides for a special assessment line item of \$50,000 for legal fees (short fall in 2011). Apparently there is a logical inconsistency or irreconcilable discrepancy where the Association lists a \$50,000 shortfall, a \$70,000 expense item in the 2011 Budget, and then a proposed \$70,000 expense in the 2012 Budget. This practice continues to the present, with a \$70,000 expense item in the 2014 Budget, this despite all historical data to the contrary.

85. The general practice for condominium associations is to show the proposed budget versus the actual expenses for the previous year. However, in 2010, 2011, 2012 and 2013, the Association did not correlate “budgeted” versions “actual”, as the projected legal expenses demonstrate.
86. The 2011 General Ledger from January 2011 to September 2011 reflected in excess of \$95,000 in legal fees, in addition to \$9,233.54 in aging payables to Association counsel. The reality is that the Association has been spending well over \$120,000.00 in legal fees each year, and this figure is growing exponentially. In fact, according to the Association’s 2014 Budget, \$184,085.00 was spent in legal fees in 2013. Continuing this deception, the Association’s 2014 Budget has budgeted, once again, \$70,000 in legal expenses in 2014.
87. Cumulatively, the subtotal Administrative actual expense of \$307,975.00 in 2013 is actually three times the Association’s budgeted subtotal Administrative expense of \$108,722.00. Yet the Association fails to adjust the 2014 budget, projecting the subtotal Administrative expense at \$108,722.00. In furtherance of this deception against the unit owners, the Association failed to disclose the existence of this lawsuit in its 2012 Year End Financial Statement. Further, there is no meaningful detail regarding the Association’s annual special assessments in its Financial Statements, with a breakdown of actual expenditures versus budgeted special assessments.
88. The Association, through its Board and Defendant Agents, masked its true expenses and deceived the unit owners, including Plaintiff, by failing to provide estimated operating budgets over a four-year period, having any true relation to actual expenses.

89. Further, at all material times, the Association, through its Board, inclusive of the Defendant Agents, deliberately deceived the unit owners about its financial reserves over a five-year period, and prior to the allegations in this lawsuit, as a prelude to soliciting special assessment funds from Plaintiff and the unit owners, and it is believed that such false solicitation and deception for the primary purpose of obtaining such funds by fraud, and misappropriating portions of same through various means, for personal use and improper personal benefits amongst all said Defendants.
90. The unit owners cannot knowingly waive the funding of reserves if applicable figures are not provided to them, as most of the Association budgets furnished to Plaintiff did not even contain reserve schedules, in violation of Section 12 of the Declaration of Condominium and the Condominium Act, or if they were provided, the figures were wildly inaccurate and unreliable by design.
91. The Association, through its Board of Directors, inclusive of the Defendant Directors and Defendant Agents, has created artificial reserve numbers and “assessments with reserves” figures in its budgets.
92. The Association deceived the unit owners about reserves in four (4) consecutive annual Association Budgets, because in fact, the Board of Directors does NOT want unit owners to approve the funding of reserves. That would detract from their goal to continually specially and over-assess for special improvement projects. The Board of Director’s real prize is the multi-million dollar 40- year recertification special assessment, which is expected to provide a windfall in the steering of vendors, self-dealing, and skimming profits off inflated contracts, all to the unit owners’ imminent and grave financial detriment.

93. To effect this self-dealing and fraud, the Association, and in particular, Officers Greg Capra, Sheila Caplan and Gaston Siroit, with the assistance of Maria Del Sol and Alvaro Villa, as instructed through their manipulation and presentation of financial data, have deceived the CPAs who prepared the Association's Financial Statements regarding its reserves. Notes about reserves are typically unreported or underreported in each of the Association's Financial Statements; and moreover, none of the five (5) Financial Statements contained any schedules (2007, 2008, 2009, 2010, 2011) indicating the estimated life of any reserve item, the estimated cost of replacement and the remaining useful life of such reserve item, and this, even after the Association commissioned and paid for reserve studies for 2008 and in 2011.
94. The deception of the Board inclusive of the Defendant Directors' ongoing deception is to maintain artificially low budgets, which cannot possibly cover the Association's operating expenses, and then levy annual special assessments, a practice continuing to this day in the 2014 Association Budget, which allows the Defendant Directors to bring in "their vendors" to obtain improper personal benefits, and/or otherwise misappropriate such funds derived from the special assessments in particular, obtained by fraud and deception, all to the detriment of Plaintiff and the unit owners.
95. Moreover, the fraudulent manipulation and transfer of Wilma SPA funds to the Operating Account, as reflected in the General Ledger and described in the applicable Financial Statements prepared by the Defendant Directors in collusion with the Defendant Agents through the applicable committee(s) or otherwise have created artificial and fraudulent transfers in violation of Fla. Stat. 718.116(10) in regard to improper usage of special assessment funds, and the fraud in regard to

reserves misrepresentation violates Fla. Stat. 718.112(2)(f)(2); in addition to violation of Florida Administrative Code 61B-22.003(1)(e),(f),(g) and Fla. Stat. 718.111(13) respectively, concerning budget restrictions and financial statement disclosures by failing to include all pertinent schedules and required components as mandated therein, constituting the fraudulent and bad faith i) failure to report proper reserves, ii) improper calculation of reserve funds, and iii) omission of significant reserve fund disclosure in financial statements.

**Caplans' Self-Dealing, Conversion of Funds, Steering of Projects and Vendors**

96. Defendant Sheila Caplan was basically “second in command” to Defendant Greg Capra with respect to colluding with him and other agents of the Association in the orchestrating and coordinating of a massive and continuing corruption-laden enterprise at Poinciana Island.
97. Sheila Caplan held primary responsibility for the Club House Renovation, the source of missing, overspent and illegally derived compensation of thousands of dollars and has improperly profited from the project after having selected, directed and controlled virtually all of the Clubhouse Renovation vendors with her husband, Defendant Bob Caplan.
98. Moreover, the Defendant Caplans were making all the decisions in regard to the expenditure of funds and how those funds were being directed to specific contractors or specific vendors for furniture, appliances, and the like without employing industry standard bidding processes so as to ensure direct and indirect personal profit and gain; and with disregard for the revenue tax implications for certain furniture purchases.
99. The Defendant Caplans from 2009 through in or about 2010, are believed to have spent approximately \$115,000 on the Club House Renovation, but the General



Ledger despite supporting spreadsheets provided through official records requests indicating that only \$53,000 was spent, with such discrepancy not appearing in the General Ledger, so as to attempt hiding the fact of personal gain through misappropriation and/or embezzlement of Association funds with the solicitation and/or conspiratorial assistance of Defendant Del Sol.

100. Sheila Caplan in collusion with her husband Defendant Bob Caplan also was primarily responsible for the Front Gate Project, the source of missing, overspent and illegally derived compensation of tens of thousands of dollars (and potentially hundreds of thousands of dollars). She selected, directed and controlled most Front Gate Project vendors with her husband, Bob Caplan, and then colluded with Maria Del Sol to issue the checks and code the entries, all without appropriate management approval or oversight.

101. Specifically, Sheila Caplan intentionally and wrongfully for personal gain signed numerous checks without customary countersignature, inclusive of AF Lighting on February 27, 2009, El Gee Lighting on February 25, 2010, Insight Design on March 2, 2009, and Servpro of Hollywood; and vendors to which she wrote checks identified her company at her instruction, "Concepts Design Group" rather than the "Association" as the client, so that the Defendant Caplans could improperly and unlawfully derive a commission.

102. The Defendant Caplans and Greg Capra hired architect, Insight Design, for the Front Gate Project, without Board approval or bids. In an official records request inspection on November 3, 2011, it was uncovered that the retainer check for Insight Design, dated March 2, 2009, months prior to Board approval, had only Sheila Caplan's signature, and then instructed Maria Del Sol to have Greg

Capra add the signature via photocopy to effect a record request in a wrongful and fraudulent manner.

103. The following are further examples of bad faith actions, intentional and/or reckless and gross overspending, and unjust enrichment and self-dealing through steering of vendors and contracts by Defendants Bob Caplan, Directors Sheila Caplan, Greg Capra and Siroit for the Front Gate Project during the 2009 Annual Term and 2010 Annual Term: (a) excessively priced surveillance camera system with overlapping proposals by TSI Electric, Inc. (West Palm Beach location) and Access Masters (Coconut Creek), respectively, each for \$6,842.00 (there appears to be two vendors for the same project, however, the Association checks are payable to Access Masters but not TSI Electric, Inc. and the governmental permit is with TSI Electric, Inc.); (b) demolition contract awarded to Brite Construction and Development, Inc., (“Brite”), a friend/affiliate of Siroit (several of Siroit’s companies have the same physical location) for approximately \$5,500.00 (costing the Association an additional \$1,300.00 due to faulty implementation); (c) a topographic survey fee by A.R. Toussaint & Associates, Inc. to the attention of Bob Caplan, in the amount of \$2,500.00, (d) a front landscaping fee by Luke’s Landscaping for \$4,868.00 (extremely small surface area for landscaping), (e) a small formica top for \$850, and (e) the “larger ticket” items implemented by the project’s main vendors and their subcontractors.

104. The Board represented at a meeting that the Front Gate Project would be \$250,000 all inclusive, but actually resulted in approximately a \$400,000 project sum. When a records request was made for the Front Gate Project, then-manager Michael Pascucci witnessed Sheila Caplan and Maria Del Sol reviewing the list pursuant to which she was trying to make the total cost as low as possible and

deceptively filtering what to report to the residents; hence the coding “front gate repairs” and likely miscoding actual related costs and expenses.

105. Sheila Caplan further deceptively failed to disclose that she paid her maintenance expenses for Unit 252 through business entities, inclusive of Design Consulting Group, Inc., while at the same time improperly procuring goods and services directly for the Association through these entities for the Clubhouse Renovation and Front Gate Project in a gross example of self-dealing. .

**Conspiratorial Self-Dealing, Steering Contracts, Bribery & Kickbacks**

106. Defendants Greg Capra, Nikolina Capra, Bob Caplan and Sheila Caplan acting for the Association, individually, or in collusion with each other and in bad faith, without disclosure to the unit owners and/or legal authorization or approval, have illicitly obtained some form of compensation in the form of cash, goods furnished for individual use and possession, exchange of goods or services for individual use, commission, consideration, kick-back like-kind exchange, or other direct or indirect financial incentive (“Club House Renovation Compensation”), in violation of the Condominium Act and other laws, as derived directly or indirectly from vendors providing goods and/or services for the Club House Renovation resulting in improper personal benefit.

107. Defendants Gaston Siroit, Greg Capra, Nikolina Capra, Bob Caplan and Sheila Caplan acting for the Association, individually, or in collusion with each other and in bad faith, without disclosure to the unit owners and/or legal authorization or approval, have illicitly received compensation in the form of cash, goods furnished for individual use and possession, exchange of goods or services for individual use, commission, consideration, kick-back like-kind exchange, or other direct or indirect financial incentive or perk (“Front Gate

Project Compensation”), in violation of the Condominium Act and other laws, as derived directly or indirectly from vendors providing goods and/or services in connection with the Front Gate Project resulting in improper personal benefit.

108. Defendants Gaston Siroit, Greg Capra, Nikolina Capra, Bob Caplan and Sheila Caplan acting for the Association, individually, or in collusion with each other and in bad faith, without disclosure to the unit owners and/or legal authorization or approval, have illicitly received and continue to receive compensation in the form of cash, goods furnished for individual use and possession, exchange of goods or services for individual use, commission, consideration, kick-back like-kind exchange, or other direct or indirect financial incentive or perk (“Poinciana Vendor Compensation”), in violation of the Condominium Act and other laws, as derived directly or indirectly from vendors providing ongoing goods and/or services to the Association, either separately or in connection with special assessments resulting in unlawful, improper personal benefit.

109. Defendants Sheila Caplan, Bob Caplan Greg Capra and Nikolina Capra acting for the Association, individually, or in collusion with each other and in bad faith, without disclosure to the unit owners and/or legal authorization or approval, have illicitly received and profited from Club House Renovation Compensation, Front Gate Project Compensation and/or Poinciana Vendor Compensation, with such self-dealing evidenced by fraudulently obtained invoices, checks, receipts, bids or other paperwork designating “Bob Caplan”, “252 Poinciana Island Drive, Sunny Isles Beach, Florida”, “Design Consultant, Inc.”, “Concepts Design Group”, “Concepts Development Group, Inc.”, “Design Consulting Group International Inc.” in violation of the Condominium Act and other laws, all

derived as a direct or indirect consequence of Bob Caplan's contracting for services, resulting in unlawful, improper personal benefit.

110. Defendants Greg Capra and Nikolina Capra acting for the Association, individually, or in collusion with each other and in bad faith, without disclosure to the unit owners and/or legal authorization or approval, have illicitly received and have profited from Club House Renovation Compensation, Front Gate Project Compensation and/or Poinciana Vendor Compensation, in violation of the Condominium Act and other laws, all derived as a direct or indirect consequence of Greg Capra's contracting for services, and resulting in unlawful, improper personal benefit.

111. In addition to the factual allegations pertaining to the self-dealing of Defendants the Capras and the Caplans, the particular facts relating to Defendant Gaston Siroit's self-dealing, unjust enrichment, bad faith actions, fraud, unlawful acts, and violations of F.S. Chapter 617 and 718, are particularly alarming.

112. At all material times, Siroit maintained significant influence with the Board in recommending various contractors that he knew or with whom he had done business in the commercial real estate industry, and has used his position to steer contracts to friends and/or affiliates, inclusive of Brite and DC Management Group, LLC ("DC").

113. The Managing Member of DC is also the Qualifying Broker of More Realty LLC., the real estate brokerage company where Siroit "hangs" his real estate salesperson's license; and Adrian Goett is also the Managing Member of River of Gold LLC, which is listed as the corporate Registered Agent of Brite, and Goett apparently controls Brite, while also being close friends with Siroit.

114. Siroit is also affiliated with Daniel Canelo, the Manager/Managing Member of DC, through another entity, 121 Store LLC, and the principal office of 121 Store LLC is Siroit's Poinciana Island unit at 439 Poinciana Island Drive, Sunny Isles Beach, Florida 33160.
115. Siroit has not disclosed any affiliation with Adrian Goett, Daniel Canelo, Brite or DC at Board or Members Meetings.
116. In or about December 2009, then-Association Treasurer, Siroit, approached then-Manager Pascucci, asked for bids relating to a fountain wall demolition ("Wall Demolition") and then told Pascucci that he wanted to hire Brite for this project, and that Greg Capra wanted to hire Brite as well; subsequent to which Brite was hired shortly thereafter.
117. In fact, Defendant Siroit actually typed the proposal for the Brite Wall Demolition bid himself and then emailed it to Pascucci. Pascucci notified Greg Capra and Siroit that this was unacceptable and illicit.
118. Shortly following the hiring of Brite for the Wall Demolition project in or about early 2010, at a lunch meeting between Siroit and Pascucci, Siroit offered Pascucci a \$600 bribe to secure future work for Brite, after which Pascucci emailed the Association's legal counsel and Greg Capra advising them that this conduct was inappropriate and unacceptable and that Siroit should stop offering him bribes and trying to solicit business, in response to which Defendant Capra instructed Pascucci to accept the bribe and report directly to Siroit if he wanted "anything done on the Island".
119. Defendant Siroit, shortly thereafter in or about early 2010, then took over the leasing of golf carts which was being provided by Elite Guard, and Pascucci was instructed by Greg Capra to let Siroit "handle it"; and to date, the Association

contracts with DC for the golf cart lease pursuant to the collusive arrangement whereby Siroit's proposal to Pascucci for DC was summarily accepted against his will due to the previous coercive and extortive instructions of Greg Capra, whereby Pascucci was threatened with loss of employment or otherwise exposed to disgrace, so that Capra and Siroit could derive an improper personal benefit.

120. In furtherance of the conspiracy to receive improper benefits without proper disclosure and approval, the Association has contracted Brite for the installation of 18 Fire Doors in the amount of \$6,950.00; and Siroit is believed to have benefitted personally by other "perks" inclusive of: (a) installation of a hedge/fence which converts a portion of the common elements to his personal use, (b) installation of four (4) surveillance cameras in the Poinciana Island garage, (c) Association approval in an under-market "insider trading" of Unit 238, and suspected side deal with Eric Luka, and (d) other (unlicensed and/or inexperienced) "friends and family" bids, proposals and contracts commencing with the Wilma SPA and continuing thereafter.

121. Upon credible information and belief, Defendant Directors Siroit and/or Greg Capra derived an improper personal benefit, inclusive of kickback-type funds, directly or indirectly from steering contracts to Siroit's recommended contractors, inclusive and without limitation, the Brite and DC projects and contracts, through bribery and extortive means as described more specifically herein, whereby Pascucci was instructed by Greg Capra not to divulge the bribes and falsification of bid proposals, and to not advise the unit owners, Board, nor otherwise submit the proposals and the nature of such personal benefits for approval or authorization by the Association in violation of Florida law, inclusive of Fla. Stat. Sect. 617.0831.

### **Caplans' Patio Enclosure, Pritts Roofing and other Capra Acts**

122. By letter contract dated October 19, 2011, Arbab Engineering entered into an agreement with the Association for the plans and specifications related to the repair of the Defendant Sheila Caplan and her spouse Defendant Bob Caplan's (collectively the "Caplans") patio enclosure/roof extension in their Association unit ("Arbab Agreement").
123. The Caplans were personally responsible for their patio enclosure/roof extension, as provided in the applicable provisions of the Declaration and the then adopted Architectural Guidelines.
124. In particular, Section 9.1 of the Declaration provides in pertinent part that "A Unit Owner making or causing to be made any such addition, alterations or improvements agrees, and shall be deemed to have agreed, to hold the Association and all other Unit Owners harmless from any liability and expenses arising therefrom."
125. The Association's Architectural Standards, Final Revision April 25, 2005, to which Unit 252 is subject to, and even more so in light of the fact that Bob Caplan serves as Chair of the Architectural Committee, provides as follows:
- "Roofs General: ***the individual unit owner shall be responsible for the maintenance and repair of any roof built as part of any addition or enclosure.*** All roofs must be in compliance with the Associations architectural specifications...additionally, unit owner is required to sign a Statement of Responsibility as part of the Architectural Modification Request." (***emphasis added***)
126. Sometime in the fall of 2012, Plaintiff Goldman learned that the Association, purportedly through the Board, and specifically through purported President of the Board Greg Capra, executed the Arbab Agreement on October



19, 2011, as President of the Association, during the time in which Greg Capra was not a unit owner and prior to actual Board approval.

127. Defendants the Capras and Siroit paid an \$850.00 retainer to Arbab Engineering from the Association's operating account, and said Defendants have spent tens of thousands of dollars and have tied up countless hours of administrative resources to attempt to remedy the Caplans' patio enclosure/roof extension permit violation with the City of Sunny Isles Beach, Florida (while at the same time denying the roof repairs or costs to their perceived "unsympathetic" unit owners, such as the Levys). To date, more than \$6,000.00 in engineering services and in the aggregate more than \$20,000 has been expended on the Caplans' roof extension and the remedial work related to their illegal exterior structural modifications. Moreover, Caplan's unit, which is currently offered for sale, is promoted in various listings as being the only Townhouse in Poinciana Island with a "5 foot back extension." Caplan, the head of the Architectural Committee no less, is the only person in Poinciana Island to have personally extended the physical boundary of his Unit, attached with party walls and party roofs as part of a six-unit townhome building, to have compromised the building's structural integrity and materially altered the common elements of the Condominium in violation of Section 9.1 of the Declaration, without having commensurate violations attach, simply because the "rules do not apply".

128. The Defendant Directors along with Defendants the Capras and the Caplans all knew of the applicable Association Rules at the time of entering into the Arbab Agreement, and that this patio enclosure-related matter was personal in nature to the Caplans, and that they should not have encumbered any of the unit members' resources through applicable Association expenditures.

129. The Defendant Directors have breached their fiduciary duties owed to Plaintiff, and have conspired and colluded with Defendants Capra and Caplans to defraud the Association's unit owners, inclusive of Plaintiff, and/or have acted recklessly, derived an improper personal benefit without disclosure and lawful approval, and have otherwise converted and/or misappropriated funds for personal use in violation of the Condominium Act and other laws, in connection with the Caplans' patio enclosure/roof extension permit violation; and Capra's actions as a purported officer of the Association are further considered *ultra vires* acts in connection with executing the Arbab Agreement on behalf of the Association.
130. Further, by way of Defendant Alvaro Villa's email circulated to the Board of Directors on April 19, 2011 for roof repair proposals, three competitive bids were presented: (i) Pritts Roofing at \$83,720.00, (ii) Advance Roofing, at \$60,000.00 and (iii) Universal Roofing at \$37,300. Greg Capra selected Pritts, Inc. as the Poinciana Island roofer.
131. In order to obtain an improper and unlawful personal benefit and to otherwise defraud the Association's unit owners, Defendant Mr. Capra, wrongfully and collusively with manager Villa, selected the Pritts as the highest bidder and shunned the other competitive bids offered at \$20,000 to \$40,000 less, despite Pritt's poor performance in previously attempting repairs of Defendant Caplans' roof; and the Pritts roof permits, although approved several months prior to the 2011 Board Election, went up the very next day after said Election, in which Capra's slate emerged "overwhelmingly" victorious.
132. In fact, the Pritts contract cost the Association well over \$96,000.00 in 2011-2012, which is triple the lowest bid provided to Defendant Villa, in addition to a five-year \$10,000 annual maintenance program contract at minimum, upon

information and belief, and Greg Capra is believed to have profited directly through kickback-type consideration and/or “perks”. Ultimately, the Pritts work proved futile and more costly, as upon completion of the work roof leaks emerged all over Poinciana Island resulting in tens of thousands of dollars in additional repairs involving other contractors, suppliers and Poinciana Island maintenance staff.

133. Further, Pritts was issued Permit B2011-170 for the framing installation of window enclosure of terrace for Capras; and this work is believed to have been paid through Association funds without proper disclosure to the unit owners, as was work performed for the Defendant Caplans’ roof issues pursuant to a letter issued by Defendant Mr. Capra dated December 16, 2011.

134. Greg Capra further used his position of authority by improperly and unlawfully diverting Association funds to finance a lawsuit against the Andronicus family, who resided on Poinciana Island, said suit which was driven by a personal vendetta between the then minor children of spouse/Defendant Niki Capra and the then minor children of the Andronicus family. The Andronicus lawsuit has, upon information and belief, cost the unit owners upwards of \$160,000.00 in accumulated past-due assessments, attorneys fees and costs, all stemming from the Capras’ vendetta against Andronicus, with the Association, through Association counsel, having no hope of recouping its costs and expenses because the judgment against Andronicus is essentially ‘uncollectible’.

135. As late as November 1, 2011, the Association had actively maintained at least seven (7) different bank accounts. Capra opened multiple bank accounts except for the Wilma SPA Account, which Sheila Caplan is believed to have

opened, related to every special assessment, and improperly authorized transfers to and from special assessment accounts into operating accounts.

136. Defendant Capra further improperly and by fraudulent means obtained and utilized Association resources, including funds, to illicitly secure permits for his unit 257 at the Association's expense, seeking costly extensions with the City of Sunny Isles Beach; and further unlawfully utilized the maintenance crew and applicable special assessment funds to cure his personal permit violations so as to remedy his unit's multiple municipal violations which remained uncured for months, even years, yet he maintained an "officer" status in the Association in violation of Section 9.1 of the Declaration.

#### **Concealment via Destruction of Association Records and Extortion**

137. F.S.718.111 (12)(b) provides that the Association is required to maintain official records within the State of Florida for at least seven (7) years.

138. From 2007-2011, the Association hired five (5) different managers, their Association databases (or portions thereof) were improperly expunged, and email correspondence deleted, after each manager left, as Greg Capra, Sheila Caplan and/or Bob Caplan ordered the systematic destruction of Association records of at least three (3) Association managers: (i) Gloria Tessandier, (ii) Michael Dielo, and (iii) Michael Pascucci in order to conceal evidence of fraud, self-dealing, statutory duty breaches, conspiracy to commit a variety of torts and fiduciary breaches, and/or criminal wrongdoing in connection with intentional mismanagement and misappropriation of Association funds, property and services.

139. In or about late 2008 through the termination of Mr. Dielo's employment, Defendant Greg Capra coercively instructed Dielo to perform certain acts which

Dielo believed were in violation of the Condominium Act, i.e., Greg Capra's instruction to turn off the electronic access control at the front gate for the vehicles for anyone who was (i) delinquent in their maintenance fees, or (ii) had not provided the Association with proof of homeowners insurance (HO-6) which at the time was required by the Florida Condominium Act. Dielo advised Capra that such actions were contrary to the law.

140. In addition, Greg Capra advised Dielo to tear down a privately owned dock on the island owned by Mr. Thomas Mendez and Miss Deborah Moller, because in Mr. Capra's opinion, it was an eyesore. Dielo advised Mr. Capra that it was private property, and Dielo would not do that as it was unlawful. Dielo sent an email to the Association's attorney who advised Capra that such actions were against the law.

141. Dielo, being unwilling to carry out Greg Capra's punitive actions against certain unit owners, with intent to gain a pecuniary advantage in continuing to maintain his position where he could benefit from self-dealing and derive improper personal benefits while in control of Association operations, and under Capra's extortive threats of coercion and malicious threats which would expose Dielo to disgrace and deprive him of his employment, and threats against Dielo's will to commit such actions, Dielo was fired and his computer containing the Association's official records was improperly and unlawfully wiped clean.

142. When the successor manager, Michael Pascucci filed a complaint with the Florida Department of Business and Professional Regulation ("DBPR") on October 7, 2010 against various Board actions which he believed to be illicit, Greg Capra deleted the Association official records on Pascucci's computer and through extortive threats, with intent to gain a pecuniary advantage in continuing

to maintain his position where he could benefit from self-dealing and derive improper personal benefits while in control of Association operations, coerced Pascucci to resign and agree to confidentiality against his will and under threat of disgrace, with an eyewitness to the destruction and coercive threats.

143. Maria Del Sol and Greg Capra represented to the unit owners that Pascucci's computer was being "wiped clean" so that Pascucci could no longer get emails forwarded to his email account, but this was a blatant lie. He faced much intimidation and pressure from certain Board Members and he has consensually recorded proof of same.

144. Pascucci under malicious threat of coercion and extortive threats as described above, agreed in writing to keep confidential the nature of his employment; however, as of October 15, 2012, the confidentiality provisions have expired and he is currently in a position to testify in all material aspects to the multiple and egregious actions of the Defendants Greg Capra, Nikolina Capra, Gaston Siroit, Maria Del Sol, Bob Caplan and Sheila Caplan.

#### **Main Conspiratorial Parties ("Main Conspirators") & Actions**

145. The Poinciana Island team of *Main Conspirators* consist of the following Defendants with attendant roles, actions and conduct attributable to each and directed as applicable to Plaintiff and the other unit owners creating a pattern of racketeering activity in violation of civil and criminal laws:

A) Greg Capra, as Director and purported Officer (past Treasurer and current President) who signs virtually every check, authorizes all money wires, over a four plus year term as purported "President" of the Board, is in chief responsible for all inside dealings; selects vendors who are the higher bidders, i.e., Pritts, Elite Guard; intentionally executes inflated

contracts; steered the Clubhouse Renovation and Front Gate Project for personal gain within a web of conspiratorial conduct; engages in fraud, and extortive practices in obtaining of Association funds, property, and services for unlawful, improper personal benefit; illicitly controls the flow of the Association's goods, services, money and commissions, Board approvals, and staff implementation; orchestrates violations campaigns to make all unit owners he deems to be "dissidents" (such as Plaintiff) live so intolerably that they will be "shut down" and ultimately move out; has executed a malicious defamatory campaign against unit owners, and improperly administers complete control over all financial, operational and political aspects of the Association to the detriment of Plaintiff and the other unit owners and residents.

B) Sheila Caplan, Director and Vice President, and Greg Capra's alter-ego, co-signs Association checks, opened up Wilma SPA bank accounts and presumably maintains other banking relationships; oversees large and small vendors; presides over all financial aspects and personally administers to the financial records with the Association bookkeeper; personally implemented the Clubhouse Renovation and Front Gate Project with husband Bob Caplan; conspires with Greg Capra to commit fraudulent obtaining of Association funds, property and services, all costing the Association hundreds of thousands of dollars in excessive spending and waste to the detriment of Plaintiff and the other unit owners and residents.

C) Bob Caplan, Head of the Architectural Committee, is cloaked by Greg Capra with the authority to oversee all unit modification requests, is the

chief ringleader on the Clubhouse Renovation and Front Gate Project and all capital improvement and renovation projects over decades; is as knowledgeable as any co-conspirator and engages in actions constituting violations of civil and criminal law relating to fraudulent obtaining of Association funds, property and services for an improper personal benefit to the detriment of Plaintiff and the other unit owners and residents.

D) Nikolina Capra, who serves as the Island's chief "enforcer" directs wrongful retaliation through the Board and Management office, against any known critics of her husband Greg Capra; also has direct communication with Elite Guard, meting out favors to friends and punishment to unit owners that she deems to be enemies (such as Plaintiff); she illicitly keeps her husband, Greg Capra, and Directors Sheila Caplan and Gaston Siroit in power through a rigged voting process and is the Island's notorious "balotera"; she is clothed with the authority to screen applicants under the Welcoming/Screening Committee and uses such power to intimidate and harass unit owners; participates in virtually all decisions such as hiring managers, despite not having been elected to the Board; and is collusively involved in the violation of civil and criminal laws dealing with fraud, property and services benefiting the Defendant Capras and in coordinated efforts with the other Main Conspirators all to the detriment of Plaintiff and the other unit owners and residents.

E) Gaston Siroit, Director and Treasurer, who is also at the core of the conspiracy to commit a plethora of violations described in this Complaint; exercises control over project vendors and the financial affairs of the



Association; serves as and illicitly abuses his position as the second “co-signer” of Association checks; and steers vendor relationships to his personal friends and affiliates, and in that process has violated civil and criminal laws relating to fraud by obtaining Association property, funds and services for unlawful, improper personal benefits all to the detriment of Plaintiff and the other unit owners and residents.

F) Yelena Fridman, Director and Secretary of the Association and “insider”; is closely allied with Niki Capra and serves as “co-enforcer”; also informally enforces or otherwise greatly facilitates Greg and Niki Capra’s retaliatory efforts against known critics (such as Plaintiff), and is directly involved in many of the conspiratorial efforts to conceal the Main Conspirators’ illicit activities, inclusive without limitation, steering of vendors and contracts, fraud concealment and conspiracy relating to special assessment allocation and budgetary practices, and the obtaining of unlawful and improper personal benefit in violation of civil and criminal laws all to the detriment of Plaintiff and the other unit owners and residents.

G) Maria Del Sol, since her employment for the Association as a bookkeeper is responsible for all bookkeeping and budget-related entries, coding and management of financial records and cover-up, fraud, breach of fiduciary duties, bad faith and self-dealing, and other civil and criminal wrongdoing as directed and organized mainly by Sheila Caplan, Greg Capra, and Alvaro Villa and in concert with the Main Conspirators all to the detriment of Plaintiff and the other unit owners and residents.

H) Alvaro Villa, Association Manager since inception of employment for the

Association as its Property Manager, through cooperation and support from inside the Association, basically implements improper affirmative directives, is guilty of inaction upon such directives, is a vital component to the continuing abuse and self-serving conduct and actions of the Main Conspirators, and is heavily involved in the organized, conspiratorial efforts to violate civil and criminal fraud laws all to the detriment of Plaintiff and the other unit owners and residents.

146. Greg Capra, Nikolina Capra, Sheila Caplan, Bob Caplan, Gaston Siroit and Maria Del Sol colluded extensively in bad faith on two major Association projects: the Club House Renovation and Front Gate Project, a source of missing and misallocated funds, questionable bookkeeping, highly inflated contracts, steering of contacts and overspending, for personal financial gain, without full and fair disclosure to the unit owners or lawful approval process.

147. Greg Capra, Nikolina Capra, Sheila Caplan, Bob Caplan, Gaston Siroit have in bad faith, improperly and unlawfully, personally profited from tens, if not hundreds of thousands of dollars, while continuously serving on the Board of Directors, with the assistance of Maria Del Sol, a grossly overcompensated bookkeeper, with an outside bookkeeper doing much of the work.

148. Defendants Bob Caplan, Sheila Caplan, Greg Capra, Niki Capra, and Gaston Siroit could not have operated without the efforts of bookkeeper, Defendant Maria Del Sol, who worked from the "inside". Maria Del Sol reported directly to those key members of the Board of Directors on matters relating to invoices, contract services and financial dealings, circumventing the Manager's authority.

149. Specifically, upon commencement of his employment, then-Manager Pascucci had a stamp made and instructed Del Sol that he would review and approve all invoices as part of his Manager duties; however, a pattern emerged whereby Del Sol circumvented the Manager's instructions despite Pascucci having complained repeatedly to Defendant President Greg Capra, who apparently instructed Del Sol to report consistent with the patterned scheme of fraud and self-dealing to approve invoices and steer monetary benefit directly to him and his cohorts without regard to appropriate management protocol and law.
150. In fact, a pattern developed whereby the Board members could essentially circumvent the Manager's protocol by instructing Maria Del Sol to write the checks without approval process by the Manager, and the checks would issued by the Defendant Directors and Officers directly to vendors and entities to further their illicit conspiratorial, self-dealing conduct.
151. Indeed, Del Sol had an expansive role in Association operations to further the illicit self-dealing, bad faith and criminally-based pattern of conspiratorial schemes promulgated by Greg Capra and the other Main Co-Conspirators to wit: (A) facilitating the over-inflated "Total Renovations and Cabinetry" bill for the Front Gate desk accepted by Maria Del Sol on August 12, 2010 circumventing the Manager's functions to directly authorize the work; (B) intentional failure to submit approval of invoices for the Front Gate Project to Manager Pascucci at the instruction of the Defendant Caplans; (C) directly handling matters relating to the financial audit in collusion with Sheila Caplan so as to improperly hide discrepancies and evidence of self-dealing on behalf of the Main Conspirators and bad faith actions towards the unit owners and Plaintiff; (D) participation in voter election fraud by using her position within the management staff to steer unit

owners to vote for certain candidates at the instruction of Niki Capra; (E) colluding with the Main Conspirators to perpetuate a pattern of criminal activity to clandestinely and unlawfully obtain funds, property and services of the Association for improper personal benefit, and (F) even running the Association's "petty cash" exchanges from her pocketbook, according to eyewitness account.

152. Further, Defendant Del Sol controls the "Black Book" which contains the voting certificates for out-of-state and corporate owned units, and is known to physically enter the Capras at Unit 257 on a regular basis, conspires with Defendants Greg Capra, Niki Capra, Sheila Caplan, Bob Caplan to "stack the election" results, and has taken part in the steering of unit owner votes to the incumbent Board, interfering with the annual election process and the forging of signatures on election ballots.

153. Defendant Alvaro Villa was an integral component in the conspiracy to defraud, conceal self-dealing, perpetrate various breach of fiduciary duties, and otherwise act in bad faith in concert with the Main Co-Conspirators to perpetuate the patterned scheme of ongoing criminal activity at the Association, especially at the direction of Greg Capra, as Defendants could not have accomplished many if not all of their goals without his participation, approval or instructed inaction.

154. Villa was Defendants' Bob Caplan, Sheila Caplan, Greg Capra and Niki Capra's obvious choice for Property Manager after they had dealt so unsuccessfully with previously fired managers Dielo and Pascucci, who had constantly challenged the impropriety of these Defendants' actions.

155. Because Villa was financially distressed, he could be more easily manipulated and controlled; and in fact, on or about October 18, 2011, approximately five months after returning to Poinciana Island, Villa had filed

bankruptcy in the U.S. Bankruptcy Court, Southern District of Florida, listing an estimated \$612,344.18 in liabilities, inclusive of \$11,574.00 of unpaid homeowners and condominium association dues.

156. From the very first day Villa returned to Poinciana Island, it was apparent that he would be serving as an instrumentality of the Caplans and Capras, and for this he would be financially rewarded. Upon information and belief, Villa's salary more than doubled from his previous employment.

157. The following illustrates: (A) Villa has issued selective covenant enforcement notices and specifically has targeted Plaintiff and other unit owners whom he deems to be opponents of the incumbent Board, inclusive of Moshe and Marta Weitz, and Arie and Jeannie Levy, upon instruction of Defendant Capra and/or other Main Conspirators, but he has not issued any violations to Board Members and their friends despite various violations having been committed by same (in but one minor example, the Capras and Caplans each house two (2) dogs in their units, in violation of Section 17.2 of the Declaration of Condominium and the Rules and Regulations of the Association (according to the Association's Bylaws, as amended in 1994, "A director who is in violation of any provision of the condominium documents or rules and regulations shall automatically be deemed to have resigned his position on the Board"); (B) he has hidden written disclosure of checks and other expenses that he claimed were readily available to the unit owners and Plaintiff so as to conceal evidence of criminal wrongdoing by the Main Conspirators; (C) he has openly misrepresented the operating budget of the Association with intention to defraud the unit owners in efforts to fraudulently obtain property, funds and services of the Association for improper personal benefit in violation of fraud-based criminal laws; (D) he has made fraudulent and

self-serving remarks on behalf of the Main Conspirators to justify the hyper-inflated cost of the Front Gate Project; (E) he has intentionally and in bad faith deceived the unit owners denying that there is evidence of significant vandalism on the Island when in fact Plaintiff Goldman's car was vandalized twice on Poinciana Island property in the last four years, as have incidents of vandalism hit numerous other unit-member or residents who were opponents of the board, including but not limited to Valerie and David Mafdali, Philip Andronicus, Dany Sabban, Marta Weitz, Sarah Anderson and Jana Boruchovich; and (F) he has generously meted out favors to the Capras' designees, *i.e.*, orchestrating drywall repairs/replacements to the interior of Ekaterina Khromina's unit derogation of Section 7.1 of the Declaration of Condominium, while refusing to provide and/or reimburse other unit owners for their repairs *i.e.*, Ari and Jeannie Levy's roof repairs; and (G) he has, at various intervals from 2011 to the present, turned a "blind eye" to prohibited commercial activities at Poinciana Island, to wit: a parked commercial taxicab, docked commercial fishing charter boat, parked commercial vehicles with advertising/lettering, and tennis academy, all for the benefit of or out of allegiance to "friends and family" of the Capras.

158. Villa's actions are unfettered by any responsible Director or Officer, and evidences Poinciana Island's desperate need for independent, third-party professional management.

159. In July 2011, at the eve of the 2011 Board Election Alvaro Villa distributed another Manager's Report, which contained information that Villa could never have known, because he was not employed by the Association at all relevant times and had no first-hand knowledge of the underlying facts. Here are some falsehoods: (A) "no manager was paid off for silence, and he was not

fired”; (B) “they were an overwhelming number of unit owners that did not want a management company. The board followed with the majority asked for”, (C) “the front entrance gate house was completed within the proposed bid by Hogan Brothers of \$244,000”, (D) “Nothing wrong was done and all records are available in the office.” (E) “The total price for the front guard entrance was \$325,000.” (F) “the extra funds came from collecting arrears of unpaid maintenance.” (G) “The check to the architect was a retainer – deposit to the architect.” Then the president Greg Capra formed an executive committee made up of Jeff Rudman, Linda Bard and Bob Caplan to work with the architect”, and (H) “as I recall this project was approved by a prior board many years ago and was left undone.”.

160. Sheila Caplan, Bob Caplan, Greg Capra, and Niki Capra conspired to have Villa issue the Manager’s Report as a platform for untruths and half-truths, in a bad-faith effort to deceive the unit owners. His comments were obviously not his words, rather, words written by the Caplans and the Capras who wished to illicitly hide the actual costs of the Front Gate Project.

161. The Main Conspirators, through their operation of an extensive criminal enterprise based in part on rampant fraud, extortion, bribery, and cheating (the latter as defined by F.S. 817.29) have established a culture of fear and oppression at Poinciana Island, whereby unit owners and residents, such as Plaintiff, who oppose or openly challenge any or all of the Main Conspirators, or who seek additional information through official records requests, or ask questions as a matter of right, face extreme obstacles and are shunned in their efforts to obtain approval for any update, modification, repairs or replacements in their unit, and face the prospect of harassment, baseless violations, vandalism, persecution, and

other intentionally designed, bad faith, and retaliatory conduct, which, as applicable, violate numerous civil and criminal statutes.

162. Moreover, the Main Conspirators in bad faith, intentional reckless disregard of Plaintiff and the unit owners' property and rights, and in many cases to derive an unlawful, improper personal benefit in violation of civil and criminal laws through a well-organized patterned scheme: (a) unlawfully control all aspects of Association governance, inclusive of all Board of Directors voting, Architectural Committee and Welcoming Committee-related aspects of the Association; (b) improperly control office personnel, using bloated salaries and compensation to manipulate financial records, and control of voting process and management; (c) improperly use and trump up purported violations as intimidation; (d) effect timely and ongoing criminal acts of vandalism, property damage, harassment and coercion to suppress and deter any dissent, causing numerous unit owners to acquiesce to the abuse, sell their units and leave Poinciana Island; (e) deplete Association assets through highly inflated contracts with outside vendors and outright fraud-based patterned criminal acts and (f) engage in (and turn a blind eye to co-conspirators acts of) rampant voter fraud in rigging elections so as to perpetuate their operational fraud and malfeasance.

**Intentional Failure to Timely Provide Audited Financial Statements**

163. F.S. 718.111(13) provides that an association with total annual revenues of \$400,000 or more is required to prepare audited financial statements. Within ninety (90) days after the end of the fiscal year, or annually on the date provided in the bylaws, the Association is required to prepare and complete, or contact for the preparation and completion of a financial report of the preceding fiscal year.

164. For four (4) out of the past six (6) years, the Association's financial statements



have been “delivered” late, in violation of F.S. 718.111(13). As such, the Defendant Directors have breached their fiduciary duties to the Association as this is a “category 1” major violation of F.S. 718.111(13) and Rule 61B-22.006(7)(b), F.A.C., for failure to provide year-end financial statements in a timely manner.

165. The Association’s audited Financial Statements for 2007, 2008 and 2009 were not completed until March 3, 2010. The 2007 Financials were three (3) years past due and the 2008 Financials were two (2) years past due. When Mr. Pascucci arrived as Manager, he noticed there was no audit for the past three (3) years although required every year, but Defendant Director and Treasurer Sheila Caplan told Pascucci that the Association did not need to prepare one, which evidences the intentional, reckless and willful misconduct of the Association and Defendant Sheila Caplan.

166. When Plaintiff Goldman requested the Association’s Financial Statements for the Year Ended December 31, 2011 (“2011 Financial Statement”) on July 9, 2012, a full one hundred and eighty (180) days following the end of the Association’s fiscal year, she was informed by the Association attorney, Roberto Blanch, that the 2011 Financial Statement was not yet available. The Independent Auditors’ Report, dated June 11, 2012 (but not made available to Plaintiff on July 9, 2012, presumably again out of malice, spite or disdain for Plaintiff) was late; this is an ongoing and systemic pattern of statutory violation.

167. Continuing to this day, the Association has failed to make its Annual Financial Statements available to the Members on the statutory time-table, to wit: the Association’s Financial Statements for the Year Ended December 31, 2012 were made available to the Members well past one hundred and twenty (120) days after the end of fiscal year 2012. As of May 31, 2014, there is no indication that

Association will have made available the Association's Financial Statements for the Year Ended December 31, 2013 within one hundred and twenty (120) days after the end of the 2013 fiscal year.

### **Elections and Voting Fraud Conspiracy**

168. F.S. 718.111(12)(a)(12) requires ballots along with sign-in sheets, voting proxies, and all other papers relating to voting by unit owners to be maintained by a condominium association for a period of one (1) year from the date of the election, vote, or meeting to which the document relates.
169. Upon arriving at work one day in mid-June, 2008, a former Association manager, Gloria Tessandier ("Tessandier") was fired without notice, immediately following the then-election of a new Board of Directors ("2008 Election").
170. Michael Dielo ("Dielo"), who served as manager of the Association from July 15, 2008 through October 25, 2009, was surprised and suspicious that a number of ballots from the 2008 Election did not appear to have been properly delivered to the Association office prior to being opened, and the envelopes with the required owner's signature did not add up or correlate to the number of ballots. In fact, Dielo observed a discrepancy of at least fifty (50) to sixty (60) missing envelopes in relation to the number of ballots.
171. Upon other credible information and belief, Nikolina Capra was directly involved in certain material irregularities in the 2010 election of the Board of Directors ("2010 Election") inasmuch as an extra hundred (100) to one hundred fifty (150) election packages were ordered during the 2010 Election, at the Association's expense, upon Nikolina Capra's request, and many of the extra election packages were delivered directly to Nikolina Capra's residence.
172. In fact, Nikolina Capra and her daughter campaigned to ensure "their

- people” were elected to Board positions and when residents visited the Association’s office, Maria Del Sol, if she knew them or knew she could influence them, would tell them for whom to vote.
173. Moreover, there was no integrity of Board elections, as instructions were given to Manager(s) of the Association and the other staff to make voting recommendations to unit owners preceding the 2010 Election.
174. As an inducement, Greg Capra and Nikolina Capra represented to the Association’s manager that they would provide him with an enticing employment contract after the new Board was elected, contingent on keeping the “bad people” out; i.e., anyone who challenged or disagreed or asked questions, including Plaintiff and anyone who didn’t like the way things were being operated. Greg Capra and Nikolina Capra specifically instructed the office staff to campaign against those individuals.
175. In connection with the 2010 Election, Nikolina Capra requested election materials of the Association’s Manager (presumably, voting certificates, unit owner contact information, ballots, etc.) and was left alone with them.
176. Upon information and belief, during the August 10, 2011 election of the Board of Directors (“2011 Election”) Maria Del Sol visited Capra’s unit on several occasions and conspired with Defendants Greg Capra, Nikolina Capra, Sheila Caplan and Bob Caplan to “stack” the votes. Maria Del Sol held the “black book” of voting certificates and unit owner signatures and is the person who has the ongoing interactions with the unit owners.
177. According to the Election Monitor, a total of 176 ballots were received from 190 unit owners in 2011 Election, (93% participation, which is statistically improbable), in which 12 envelopes were disregarded: 4 envelopes had been

tampered with, 6 envelopes were double voting, 1 was not the owner of record and 1 had no voter certificate.

178. A sample internal comparison of 2010 Election outer ballot envelope signatures against 2011 Election outer ballot envelope signatures and 2012 Election outer ballot envelope signatures, compared with signatures obtained through the public records and official records requests, including conveyance instruments, title documents, maintenance checks and executed contracts reveals just how systemic the voter fraud problem is at Poinciana Island, and the extent of the collusion rig the elections process.

179. Defendant Manager Alvaro Villa and Defendant Maria Del Sol are believed to have actively solicited ballots and/or votes (inclusive of calls and personal visits to unit owners) upon agreement with and for the incumbent Directors, Defendants Greg Capra, Sheila Caplan and Gaston Siroit, and their designees, Yelena Fridman, Emilio Valdez, Eric Luca and Sandra Farber in the 2011 Election, while on the Association's clock and getting paid by the Association.

180. As of the 2012 Election and for those referenced herein, the Defendants Greg Capra, Nikolina Capra, Gaston Siroit, Sheila Caplan, Bob Caplan, Maria Del Sol and Alvaro Villa's fraudulent plans have resulted in the election of the referenced Defendant Director and Officers, and consequently, the results of all the fraudulent elections referenced herein have been published in due course by the Association to all of the unit owners of Poinciana Island and have been falsely and fraudulently documented in the corporate books of the Association.

181. Accordingly, there was no 2013 election of Directors and Poinciana Island will never have an opportunity to conduct a fair election as long as the *inside*

staff, inclusive of Del Sol and Villa, who as a proven form of “job security”, control and oversee the ballots, signatures, unit owner rolls and the “black book” of voting certificates, and collude with the Defendant Directors, their spouses and appointees, chief among them, Defendants the Capras, the Caplans and Gaston Siroit. As such, the only equitable means of relief is to substitute an independent third party manager/entity appointed by the Court to uproot this massive corruption and conspiratorial pattern of fraudulent and criminal conduct.

**COUNT I –FRAUD**  
**VS ASSOCIATION, GREG CAPRA, BOB CAPLAN, NIKI CAPRA, SHEILA CAPLAN, GASTON SIROIT, YELENA FRIDMAN, ALVARO VILLA, AND MARIA DEL SOL**

182. Plaintiffs re-allege and adopt Paragraphs 1 through 181 of this Complaint and further allege as follows:

183. This is a common law action for fraud by Plaintiff Goldman, derivatively as to matters affecting the Association as a whole, brought against Defendants the Association, the Defendant Directors including applicable officers, and its board-appointed committee members and agents, namely Greg Capra, Sheila Caplan, Gaston Siroit, Yelena Fridman; Bob Caplan, Alvaro Villa and Maria Del Sol individually; and seek equitable relief and damages, as applicable, against all such defendants, jointly and severally.

184. Defendant Association is liable vicariously through the fraudulent acts of its Board of Directors, officers, agents and representatives under Florida law, as alleged in the following paragraphs of this Count.

**Actionable Fraud of Greg Capra**

185. Defendant Capra acting on behalf of the Association, individually and conspiratorially, with at minimum the Defendant Directors and agents of the

Association, has masterminded, orchestrated and perpetuated a massive campaign and ongoing pattern of unlawful conspiracy to violate civil and criminal laws, fraud, deception, intimidation and harassment against the Association's unit owners and residents, all done individually and in Capra's capacity as Director and under further guise of being President of the Board; and has made material and fraudulent misrepresentations to unit owners of the Association regarding his purported status as a unit owner and legitimacy and authority as an officer of the Association so as to facilitate his egregiously wrongful, unlawful, and fraudulent conduct.

186. Defendant Capra assumed the office of the Association's Treasurer in 2007, and from 2008 through the present, Capra has acted as the purported "President" of the Board and the Association.

187. During the time in which Capra served as officer for purposes of all material acts complained of herein with regard to the actions of Capra in an officer capacity, Capra claimed to have ownership interest in Unit 257; however, according to the Miami-Dade County Official Records during that time period, Capra was not listed as the record owner of said unit.

188. Capra, while knowing his status as a non-owner, certified in writing prior to becoming an officer, that he has read and understands the governing documents of the Association (Declaration of Condominium, Articles of Incorporation, Bylaws, Rules and Regulations) and the Florida condominium laws and administrative code.

189. It was not until on or about March 10, 2012, that a certain quit claim deed was recorded pursuant to which said document purports to vest in Capra an ownership interest in Unit 257. [See Exhibit "B" attached hereto].

190. Neither the Association nor its Directors have enacted any resolutions pursuant to any vote, nor has any election been conducted, by which Defendant Capra has been duly elected or otherwise validly and legally confirmed as an officer of the Association, much less its President.
191. Pursuant to the Association's governing documents and Florida Statutes, Defendant Capra was not an officer of the Association from 2007 through March 2012, and is in violation of Article 6.1 of the Association's Bylaws together with Chapter 718 and other relevant provisions of the Florida Statutes.
192. Accordingly, since at least 2007, Capra has willfully deceived the unit owners, inclusive of Plaintiff Goldman, by fraudulently holding himself out as a unit owner, and thus, a rightful officer of the Association, through and including March 10, 2012, at minimum, a period of 5 years.
193. Defendant Capra has intended that his misrepresentation of his status as a unit owner would induce the Association, the Directors, and the unit owners to rely upon it and allow him to serve as Treasurer and then as President.
194. As a consequence of such fraudulent misrepresentation, the Association, the Directors and the unit owners, inclusive of Plaintiff, have justifiably relied on same in allowing Capra to serve as an officer of the Association, thereby promulgating *ultra vires* rules and regulations under false color of office.
195. Defendant Capra's continuing course of conduct and pattern of deceit and deception, inclusive of the facts alleged herein pertaining to his collusion with the Caplans and Board, and his *ultra vires* acts in a purported officer capacity over several years, evidence his intent to defraud the unit owners and perpetrate his agenda of harassment and intimidation of the unit owners and residents, inclusive of Plaintiff.

196. Defendant Capra individually, as Director and in his purported capacity as an officer and President of the Board, has further engaged in the wrongful independent and conspiratorial actions involved in the fraudulent and deceptive concealment and allocation of Association resources relating to improperly administered special assessments raised for the Wilma SPA, Club House Renovation, Front Gate Project, and other fraud and unlawful conduct inclusive of that relating to bidding, reserves, and budgetary items as specifically elaborated in the factual background section of this Complaint titled “**Wrongful Conduct in Assessments, Projects and Budgetary Matters**” and referencing the actions alleged on pages 11 through 24 therein; specifically naming Greg Capra or Capras in Paragraphs 45, 47, 49-50, 60, 63, 66, 68, 75, 82 and 93, in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors* and/or in concert with Niki Capra, as may be referenced therein.

197. Defendant Capra individually, as Director and in his purported capacity as an officer and President of the Board, has further engaged in the wrongful independent and conspiratorial actions involved in the fraudulent and deceptive actions specifically elaborated in the factual background section of this Complaint titled “**Caplans Self-Dealing, Steering of Projects & Vendors**” and referencing the actions alleged on pages 24 through 27 therein; specifically naming Greg Capra or Capras in Paragraphs 96, 102 and 103, in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors* and/or in concert with Niki Capra, as may be referenced therein.

198. Defendant Capra individually, as Director and in his purported capacity as an officer and President of the Board, has further engaged in wrongful independent and conspiratorial, fraudulent and/or criminal conduct involved with



Niki Capra, Bob Caplan, Sheila Caplan, and Gaston Siroit, as specifically elaborated in the factual background section of this Complaint titled **“Conspiratorial Self-Dealing, Steering Contracts, Bribery & Kickbacks”** and referencing the actions alleged on pages 27 through 31 therein; specifically naming Greg Capra or Capras in Paragraphs 106-111, 116-119 and 121, in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors* and/or in concert with Niki Capra, as may be referenced therein.

199. Defendant Capra individually, as Director and in his purported capacity as an officer and President of the Board, has further engaged in wrongful independent and conspiratorial, fraudulent, and/or criminal conduct involved with Niki Capra, Bob Caplan, and Sheila Caplan, as specifically elaborated in the factual background section of this Complaint titled **“Caplans’ Patio Enclosure, Pritts Roofing & Other Capra Acts”** and referencing the actions alleged on pages 32 through 36 therein; specifically naming Greg Capra or Capras in Paragraphs 126 - 136, in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors* and/or in concert with Niki Capra, as may be referenced therein.

200. Defendant Capra individually, as Director in his purported capacity as an officer and President of the Board, independently and conspiratorially has further engaged in the fraudulent and unlawful destruction of Association records and the criminally extortive intimidation and firing of previous managers of the Association as specifically elaborated in the factual background section of this Complaint titled **“Concealment via Destruction of Association Records and Extortion”** and referencing the actions alleged on pages 24 through 27 therein;

specifically naming Greg Capra in Paragraphs 138-144, in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors* and/or in concert with Niki Capra, as may be referenced therein.

201. Defendant Capra individually, as Director and in his purported capacity as an officer and President of the Board, has further engaged in the fraudulent, unlawful and ongoing patterned, criminal activity, independently and collusively with the other *Main Conspirators* (defined *supra*), and covering the gamut of widespread activity specifically summarized and elaborated in the factual background section of this Complaint titled “**Main Conspiratorial Parties and Actions**” and referencing the conduct alleged on pages 38 through 48 therein; specifically naming Greg Capra in Paragraphs 145-157 and 159-160, in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors, Main Conspirators* and/or in concert with Niki Capra, as may be referenced therein.

202. Defendant Capra individually, as Director and in his purported capacity as an officer and President of the Board, has further engaged in wrongful independent and conspiratorial, fraudulent, and/or criminal conduct involved the rigging of applicable Board elections, as specifically elaborated in the factual background section of this Complaint titled “**Elections and Voting Fraud Conspiracy**” and referencing the actions alleged on pages 50 through 53 therein; specifically naming Greg Capra in Paragraphs 171-172, 174-176, and 179-181, in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors* and/or in concert with Niki Capra, as may be referenced therein.

### **Actionable Fraud of the Other Individual Defendants**

203. Defendants **Niki Capra** (Greg Capra's wife), individually and by virtue of being an agent of the Association as a member of committees to which she was appointed by the Board, **Sheila Caplan** individually and as Director and officer; **Bob Caplan** (Sheila Caplan's husband), individually and by virtue of being an agent of the Association as a member of committees to which he was appointed by the Board; **Gaston Siroit**, individually and as Director and officer, **Alvaro Villa**, individually and as Property Manager-agent under his CAM license; **Yelena Fridman**, individually and as Director and officer; and **Maria Del Sol**, individually and as employee/bookkeeper agent of the Association reporting to the Board and its officers, have all participated heavily in a massive corruption campaign and ongoing pattern of unlawful acts both independently and collusively by conspiratorial efforts to commit fraud through affirmative acts, concealment and deception against the Association, inclusive of its unit owners and residents to wit.

204. Specifically, **Niki Capra** at all material times, has engaged in numerous acts of fraud, deceit and concealment towards the Association, inclusive of its unit owners and residents as alleged throughout the various titled sections within the *Allegations Common to All Counts* and as particularly stated in Paragraphs 26, 107-110, 134, 144-148, 151-152, 154, 160, 171-172, 174-176, and 180 of this Complaint in addition to those allegations encompassing her wrongful conduct in acting as part of the *Defendant Directors, Main Conspirators* and/or in concert with Greg Capra, as may be referenced therein.

205. Specifically, **Sheila Caplan** has engaged in numerous acts of fraud, deceit and concealment towards the Association, inclusive of its unit owners and

residents as alleged throughout the various titled sections within the *Allegations Common to All Counts* and as particularly stated in Paragraphs 24, 26, 45, 47-48, 52-56, 60, 63, 65, 68, 93, 96-97, 100-109, 122, 135, 138, 144-146, 151-152, 154, 160, 165, 176, and 179-180 of this Complaint in addition to those allegations encompassing her wrongful conduct in acting as part of the *Defendant Directors, Main Conspirators* and/or in concert with Bob Caplan, as may be referenced therein.

206. Specifically, **Bob Caplan** has engaged in numerous acts of fraud, deceit and concealment towards the Association, inclusive of its unit owners and residents as alleged throughout the various titled sections within the *Allegations Common to All Counts* and as particularly stated in Paragraphs 24, 26, 45-47, 49, 52-56, 60, 62-64, 68, 97, 100, 103, 106-109, 122, 125, 138, 144-148, 152, 154, 159-160, 176, and 180 of this Complaint in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors, Main Conspirators* and/or in concert with Sheila Caplan, as may be referenced therein.

207. Specifically, **Gaston Siroit** has engaged in numerous acts of fraud, deceit and concealment towards the Association, inclusive of its unit owners and residents as alleged throughout the various titled sections within the *Allegations Common to All Counts* and as particularly stated in Paragraphs 66, 93, 103, 107-108, 111-121, 127, 144-148, and 179-181 of this Complaint in addition to those allegations encompassing his wrongful conduct in acting as part of the *Defendant Directors* and *Main Conspirators*, as may be referenced therein.

208. Specifically, **Alvaro Villa** has engaged in numerous acts of fraud, deceit and concealment towards the Association, inclusive of its unit owners and

residents as alleged throughout the various titled sections within the *Allegations Common to All Counts* and as particularly stated in Paragraphs 27, 37, 75, 93, 130-132, 145, 153-160, and 180-181 of this Complaint in addition to those allegations encompassing his wrongful conduct in acting as the Association's *Property Manager*, one of the *Defendant Agents* (pars. 78, 83, 88-89, 91, 95), and one of the *Main Conspirators*, as may be referenced therein.

209. Specifically, **Yelena Fridman** has engaged in numerous acts of fraud, deceit and concealment towards the Association, inclusive of its unit owners and residents as alleged throughout the various titled sections within the *Allegations Common to All Counts* and as particularly stated in Paragraphs 145, 179, and 183 of this Complaint in addition to those allegations encompassing her wrongful conduct in acting as part of the *Defendant Directors* and *Main Conspirators*, as may be referenced therein.

210. Specifically, **Maria Del Sol** has engaged in numerous acts of fraud, deceit and concealment towards the Association, inclusive of its unit owners and residents as alleged throughout the various titled sections within the *Allegations Common to All Counts* and as particularly stated in Paragraphs 24, 27, 65, 75, 93, 99-100, 102, 104, 143-152, 172, 176, and 179-181 of this Complaint in addition to those allegations encompassing her wrongful conduct in acting as the Association's official *Bookkeeper*, one of the *Defendant Agents* (pars. 78, 83, 88-89, 91, 95), and one of the *Main Conspirators*, as may be referenced therein.

211. All such Defendants' actions were done with intent to defraud the Association, inclusive of its unit owners and residents.

212. As a direct and consequential result of Defendants' individual fraudulent and/or conspiratorial actions, the Association, inclusive of its unit owners and residents, have been harmed and continue to suffer harm.
213. Equitable and injunctive relief is required in regard to remove Greg Capra and his cohorts from continuing to manage the Island, as the continuing and future actions of Defendants in their positions of unfettered and unchecked control of the Association's operations, inclusive of elections fraud, special assessments, budgetary and financial fraud affecting the fiscal health of the Association and its unit owners, and the ongoing targeted fraud of Plaintiffs, led by improperly-elected "President" Greg Capra.
214. Irreparable harm to the Association inclusive of the the unit owners, residents and the residential community as a whole is manifested by the crippling of Poinciana Island, and numerous unit owners and residents continue to live in fear and in a hostile and oppressive residential environment for as long as the current management regime is in place.
215. Plaintiff has a clear legal right to the equitable relief requested pursuant to this common law action for fraud derivatively on behalf of the Association.
216. Inadequate remedy at law exists in regard to preventing the continuing and future abuse by the Defendant Directors, officers, and agents empowered with managerial and directive control on behalf of the Association which would result in permanent damage. Monetary relief is only requested to redress past wrongs through and including the removal of the Defendants from their official positions.
217. Substantial likelihood of success on the merits is indeed virtually assured in view of the numerous acts of fraud and documents of proof to be adduced through discovery evidencing the rampant actionable fraud alleged in this

Complaint against the Defendants so as to prevent ongoing and future harm to the Association, inclusive of its unit owners and residents.

218. Consideration of public interest is paramount and well-served by the removal of the named Defendants Directors, officers, and agents so as to preserve the integrity of operations and avert continuing and future harm to the Association inclusive of all unit owners and residents.

219. Plaintiff has hired undersigned counsel to represent her in this derivative action, and has incurred attorney's fees and expenses as a consequential result, for which all such items are recoverable from Defendants pursuant to Paragraph 19.3 of the Declaration of Condominium for the Association.

**WHEREFORE**, Plaintiff DANA R. GOLDMAN, as a member and on behalf of the Association, requests that this Court (i) declare that Defendant Gregory E. Capra was not a unit owner at all material times until at minimum March 10, 2012; (ii) remove Defendant Capra from serving in his current capacity as officer and director of the Association with prejudice; (iii) remove Defendants Sheila Caplan, Gaston Siroit, and Yelena Fridman from their respective positions as directors and officers of the Association and from all Board-appointed committees with prejudice; (iv) remove Defendants Bob Caplan and Niki Capra from all Board-appointed committees with prejudice; (v) order the Association to terminate or otherwise remove Alvaro Villa from his position of Property Manager for the Association with prejudice; (vi) order the Association to terminate or otherwise remove Maria Del Sol from any employment or representative capacity on behalf of the Association with prejudice; (vii) order the appointment of a third party management company and/or court-appointed Receiver to assume management responsibility of the Association; and (viii) award damages to Plaintiffs against the ASSOCIATION, and individual

Defendants GREGORY E. CAPRA, NIKOLINA CAPRA, ROBERT S. CAPLAN, SHEILA CAPLAN, YELENA FRIDMAN, GASTON SIROIT, ALVARO VILLA, and MARIA DEL SOL, jointly and severally, in excess of the jurisdictional amount of this Court, along with attorney's fees and costs and other expenses related to this litigation, and any other relief this Court deems just and proper.

**COUNT II – STATUTORY BREACH OF FIDUCIARY DUTY  
VS ASSOCIATION, GREG CAPRA, BOB CAPLAN, SHEILA CAPLAN,  
GASTON SIROIT, NIKI CAPRA, YELENA FRIDMAN, MARIA DEL SOL  
AND ALVARO VILLA**

220. Plaintiff Goldman re-alleges and adopts Paragraphs 1 through 181, and 184 through 210 of this Complaint, and further alleges as follows:

221. This is an action brought by Plaintiff Goldman pursuant to Chapter 718 of the Florida Statutes (the "Condominium Act") derivatively as to matters affecting the Association inclusive of its unit owners and residents as a whole and indistinct to her, against Defendants: the Association, Greg Capra, Sheila Caplan, Yelena Fridman, Gaston Siroit, Alvaro Villa, Bob Caplan, Niki Capra, and Maria Del Sol.

222. Defendant Association is governed by Chapters 617 and 718 of the Florida Statutes and the Florida Administrative Code; and the manner in which the Association is governed is specified in the Florida Statutes and in the Association's "governing documents", which consist of the Declaration of Condominium ("Declaration"), the By-Laws of the Association ("Bylaws"), and the Articles of Incorporation ("Articles"), all recorded in the Official Records of Miami-Dade County at Book 10775 page 131 *et seq*, and as amended periodically.

223. The operations and actions of the Association are governed by a Board of Directors (the "Board" or alternately referenced as the "Directors") subject to the



provisions of Chapters 617 and 718 and other pertinent provisions of the Florida Statutes and the Florida Administrative Code, as well as the Association's governing documents, which also govern its powers.

224. Pursuant to Fla. Stat. § 718.111(1)(a) and (d) and the Association's governing documents, the officers, directors and agents of the Association, inclusive of employees, the Property Manager and appointees of the Board, have a fiduciary relationship to the Association and its unit owners.

225. Further, pursuant to Chapter 617, the officers and directors of the non-profit Association have a fiduciary relationship to the Association and its unit owners, as members of the Association.

226. The officers and directors of condominium associations individually and on behalf of the Association itself have a fiduciary relationship to the Association and its members (owners) such as Plaintiff, as stated in Chapters 617 and 718, Florida Statutes.

227. Specifically, the Condominium Act requires that board members act in compliance with established standards of conduct to wit:

Fla. Stat. § 718.111(1)(d) mandates that:

“As required by s. 617.0830, an officer, director, or agent shall discharge his or her duties in good faith, with the care an ordinarily prudent in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the association. An officer, director or agent shall be liable for monetary damages as provided in s. 617.0834 if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in 617.0834; constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.”

228. Pursuant to the above cited statutes and regulations, **the Association**, at all times material to this Complaint, maintained a fiduciary relationship to act in the best interests of the Association including the unit owners, and owed a fiduciary duty to the Association itself, inclusive of the unit owners.
229. Pursuant to the above cited statutes and regulations, **Greg Capra**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.
230. Pursuant to the above cited statutes and regulations, **Niki Capra**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.
231. Pursuant to the above cited statutes and regulations, **Sheila Caplan**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.
232. Pursuant to the above cited statutes and regulations, **Bob Caplan**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.
233. Pursuant to the above cited statutes and regulations, **Gaston Siroit**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.

234. Pursuant to the above cited statutes and regulations, **Alvaro Villa**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.
235. Pursuant to the above cited statutes and regulations, **Yelena Fridman**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.
236. Pursuant to the above cited statutes and regulations, **Maria Del Sol**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.
237. Pursuant to the above cited statutes and regulations, **Alvaro Villa**, at all times material to this Complaint, maintained a fiduciary relationship with the Association including the unit owners, and owed a fiduciary duty to the Association inclusive of its unit owners.
238. The Association, and all individual Defendants breached their corresponding statutory duties to act in good faith and with care through the following applicable acts of self-dealing, fraud, violating material provisions of the Condominium Act, the Association's governing documents, and/or other willful misconduct and wrongdoing, which were done intentionally, with malicious purpose, recklessly, in bad faith, and by criminal acts as defined by the Florida Statutes, in violation of §718.111(1) (a) and (d); and thereby constitute breaches of the fiduciary relationship for which personal liability ensues pursuant

to the dictates of Chapter 718 and Chapter 617 of the Florida Statutes, as are described more fully herein.

239. Defendant **Greg Capra** has committed statutory breaches of fiduciary duties owed the unit owners through his willfully, deceitful circumventing of the governing documents and Florida law to become “President” of the Board and the Association, thereby fraudulently assuming control of the Board, despite not legally being a unit owner at all material times specified herein, and the Defendant Directors’ intentional inaction in said regard (see, Pars. 186 - 192).

240. The resulting fiduciary duty breaches of Greg Capra towards the Association, inclusive of its unit owners, as a Director and empowered by his illicit position as “President” of the Board and of the Association, constitute *ultra vires* acts, subject to invalidation; i.e., see Par. 129 by way of example, and all said breaches of Defendant Capra include those alleged in the facts incorporated into this Count by Paragraphs 196 through 202, at minimum.

241. Defendant **Niki Capra** has committed statutory breaches of fiduciary duties owed to the Association and its unit owners, as an appointee to Board-related committees and/or by virtue of acting as an agent of the Association, said actions which include those alleged in the facts incorporated into this Count by Paragraph 204, at minimum.

242. Defendant **Sheila Caplan** has committed statutory breaches of fiduciary duties owed to the Association and its unit owners as one of the Director Defendants and/or as officer, said breaches of Defendant which include those alleged in the facts incorporated into this Count by Paragraph 205, at minimum.

243. Defendant **Bob Caplan** has committed statutory breaches of fiduciary duties owed to the Association and its unit owners as an appointee to Board-

related committees and/or by virtue of acting as an agent of the Association, said breaches of Defendant which include those alleged in the facts incorporated into this Count by Paragraph 206 at minimum.

244. Defendant **Gaston Siroit** has committed statutory breaches of fiduciary duties owed to the Association and its unit owners as one of the Director Defendants and/or as officer, said breaches of Defendant which include those alleged in the facts incorporated into this Count by Paragraph 207, at minimum.

245. Defendant **Alvaro Villa** has committed statutory breaches of fiduciary duties owed to the Association and its unit owners as Property Manager and therefore acting as an agent of the Association, and/or in his capacity as a “manager” of the Association, said breaches of Defendant which include those alleged in the facts incorporated into this Count by Paragraph 208, at minimum.

246. Defendant **Yelena Fridman** has committed statutory breaches of fiduciary duties owed to the Association and its unit owners as one of the Director Defendants and/or as officer, said breaches of Defendant which include those alleged in the facts incorporated into this Count by Paragraph 209, at minimum.

247. Defendant **Maria Del Sol** has committed statutory breaches of fiduciary duties owed to the Association and its unit owners by virtue of acting as an agent of the Association, including but not limited to acting in her official employment as a “bookkeeper” and undertaking such duties well beyond such official status, said breaches of Defendant which include those alleged in the facts incorporated into this Count by Paragraph 210, at minimum.

248. The Defendant Directors’ bad faith and willful misconduct in deceiving the Association and its unit owners by routinely conducting secret meetings, at minimum for the past 2 years, without proper notice, in violation of Fla. Stat. §

718.112, whereby Board Meetings are “rubber stamped” and decisions are rendered well in advance of any formal vote as required by the Condominium Act and the Association’s governing documents.

249. As a direct and consequential result of Defendants’ individual and/or conspiratorial actions, the Association inclusive of its unit owners have been harmed, and continue to suffer harm.

250. Equitable and injunctive relief is dually required pursuant to Fla. Stat. 718.303(1) in regard to removing Greg Capra and his cohorts from continuing to manage the Island, as the continuing and future actions of Defendants in their positions of unfettered and unchecked control of the Association’s operations, inclusive of elections fraud, special assessments improprieties, rampant self-dealing, violations of civil and criminal statutes, budgetary and financial fraud affecting the fiscal health of the Association and its unit owners, led by improperly-elected “President” Greg Capra.

251. Irreparable harm to the unit owners and the Association as a whole is manifested by the crippling of Poinciana Island, and numerous unit owners and residents continue to live in fear and in a hostile and oppressive residential environment for as long as the current management regime is in place.

252. Plaintiff as a member and on behalf of the the Association has a clear legal right to the equitable relief requested pursuant to this statutory action governed by the Condominium Act.

253. Inadequate remedy at law exists in regard to preventing the continuing and future abuse by the Defendant Directors, officers, and agents empowered with managerial and directive control on behalf of the Association which would result

in permanent damage. Monetary relief is only requested to redress past wrongs through and including the removal of the Defendants from their official positions.

254. Substantial likelihood of success on the merits is indeed virtually assured in view of the numerous statutory breaches of fiduciary duties through fraud, self-dealing, criminal acts, bad faith acts with malicious purpose, and/or reckless conduct in disregard of the best interests of the Association, inclusive of the unit owners' rights, with documentary proof to be adduced through discovery evidencing the rampant, actionable fiduciary breaches for which liability attaches to the Association and to the individual Defendants as alleged in this Complaint along with equitable relief so as to prevent ongoing and future harm to the Association, inclusive of its unit owners and residents.

255. Consideration of public interest is paramount and well-served by the removal of the named Defendants Directors, officers, and agents so as to preserve the integrity of operations and avert continuing and future harm to the Association, inclusive of its unit owners and residents.

256. Plaintiff has hired undersigned counsel to represent her in this cause, and has incurred attorney's fees and expenses as a consequential result, for which all such items are recoverable from Defendants pursuant to Fla. Stat. § 718.303 and Paragraph 19.3 of the Declaration of Condominium for the Association.

**WHEREFORE**, Plaintiff DANA R. GOLDMAN, derivatively, as a member and on behalf of the Association, requests that this Court (i) declare that Defendant Gregory E. Capra was not a unit owner at all material times until at minimum March 10, 2012; (ii) remove Defendant Capra from serving in his current capacity as officer and director of the Association with prejudice; (iii) remove Defendants Sheila Caplan, Gaston Siroit, and Yelena Fridman from their respective positions as directors and

officers of the Association and from all Board-appointed committees with prejudice; (iv) remove Defendants Bob Caplan, and Niki Capra from all Board-appointed committees with prejudice; (v) order the Association to terminate or otherwise remove Alvaro Villa from his position of Property Manager for the Association with prejudice; (vi) order the Association to terminate or otherwise remove Maria Del Sol from any employment or representative capacity on behalf of the Association with prejudice; (vii) order the appointment of a third party management company and/or court-appointed Receiver to assume management responsibility of the Association; and (viii) award damages to Plaintiff against the ASSOCIATION, and individual Defendants GREGORY E. CAPRA, NIKOLINA CAPRA, ROBERT S. CAPLAN, SHEILA CAPLAN, YELENA FRIDMAN, GASTON SIROIT, ALVARO VILLA, and MARIA DEL SOL, jointly and severally, in excess of the jurisdictional amount of this Court, along with attorney's fees and costs and other expenses related to this litigation pursuant to the Condominium Act, the Association's Declaration, and any other relief this Court deems just and proper.

**COUNT III – COMMON LAW BREACH OF FIDUCIARY DUTY  
VS ASSOCIATION, GREG CAPRA, BOB CAPLAN, SHEILA CAPLAN,  
GASTON SIROIT, NIKI CAPRA, YELENA FRIDMAN, MARIA DEL SOL  
AND ALVARO VILLA**

257. Plaintiff Goldman re-alleges and adopts the *Jurisdictional Allegations* and *Facts Common to all Counts* stated in Paragraphs 1 through 81, 184 through 210, and 250 through 255 of this Complaint, and further alleges as follows:

258. This is a common law action seeking damages and injunctive relief for breach of fiduciary duty brought by Plaintiff against Defendants: Association, Greg Capra, Bob Caplan, Sheila Caplan, Gaston Siroit, Niki Capra, Yelena



Fridman, Alvaro Villa, and Maria Del Sol, acting individually and/or on behalf of the Association, and seeks liability jointly and severally.

259. The Association, through its Directors and their appointees to Board committees, its officers, and its agents whom have specifically undertaken certain functions relating to the safety and financial security of Poinciana Island, and whom have been entrusted by the Association, inclusive of its unit owners and residents, through management to act with a degree of care attendant to such functions, have been placed in a position of trust, including without limitation, the safeguarding of confidential and/or private unit owner file information, the proper management of Association funds affecting unit owners, appropriate enforcement of Association rules and the governing documents, not to disparately treat or discriminate against unit owners, and serving the best interests of unit owners and residents, in the handling of such duties on behalf of the Association.

260. Defendants owed a common law duty as agents of the Association to preserve their position of trust on which the Association, inclusive of the unit owners and residents, as relied upon in matters affecting fiscal responsibility, operational management of the Association, and to otherwise act in good faith based on the relationships created between Defendants, the unit owners and residents by virtue of Defendants' agency capacity on behalf of the Association.

261. Specifically, Defendant Villa, as property manager of Defendant Association, has at all material times maintained a fiduciary relationship with the unit owners as he was entrusted by them to properly undertake the management of the Association, and including refraining from any wrongful conduct towards unit owners, conspiratorially or otherwise, which violates such duty, independent of

any separate contractual obligations owed by the property manager to the Association.

262. Specifically, Defendant Del Sol, as an employee of the Association who undertook to handle matters well beyond those of a mere bookkeeper, was entrusted by the unit owners at all material times to properly execute the responsibilities to which she was assigned beyond those of mere “bookkeeper” including refraining from any wrongful conduct towards unit owners, conspiratorially otherwise, said conduct which violates such duty, independent of any separate employer-employee relationship with the Association.

263. A duty implied in law was created based on the particular relationships of trust and confidence which unit owners maintained with both Property Manager Villa, and employee-agent Del Sol, which respectively concerned, without limitation, key financial and operational control of Association matters to avoid detriment to unit owners, safekeeping of unit owner files, proper enforcement of Association rules and regulations, and any and all other fiduciary responsibilities entrusted by the Association to Villa and Del Sol which may affect the welfare of unit owners while residing at Poinciana.

264. Defendants breached their common law duties owing to Plaintiff and the unit owners by betraying the trust placed in them to act in accordance with their fiduciary relationships as alleged in the *Facts Common to all Counts* of this Complaint.

265. Specifically, the following segmented allegations set forth under the count for Common Law Fraud are attributable to each of the following Defendants, inclusive of the Association’s vicariously, to wit:

A. **Greg Capra:** Pars. 185 – 195 and 196 – 202;

- B. **Niki Capra**: Par. 204;
- C. **Sheila Caplan**: Par. 205;
- D. **Bob Caplan**: Par. 206;
- E. **Gaston Siroit**: Par. 207;
- F. **Alvaro Villa**: Par. 208;
- G. **Yelena Fridman**: Par. 209;
- H. **Maria Del Sol**: Par. 210.

266. The afore-stated allegations applicable to Plaintiff on behalf of the Association, are set forth notwithstanding any applicability of Chapter 718 to this action, and is pleaded alternatively, inclusive of equitable and injunctive relief sought and adopted herein, in the event relief is denied pursuant to the action set forth in this Complaint for the statutory action set forth in Count II.

267. Plaintiff has hired undersigned counsel to represent her in this cause, and has incurred attorney's fees and expenses as a consequential result, for which all such items are recoverable from Defendants pursuant to Paragraph 19.3 of the Declaration of Condominium for the Association ("Declaration"), as the breach of fiduciary duties involve failure of the Association to comply with obligations arising and/or governed by, in pertinent part, by the Declaration.

**WHEREFORE**, Plaintiff DANA R. GOLDMAN, derivatively, as a member and on behalf of the Association, requests that this Court (i) declare that Defendant Gregory E. Capra was not a unit owner at all material times until at minimum March 10, 2012; (ii) remove Defendant Capra from serving in his current capacity as officer and director of the Association with prejudice; (iii) remove Defendants Sheila Caplan, Gaston Siroit, and Yelena Fridman from their respective positions as directors and officers of the Association and from all

Board-appointed committees with prejudice; (iv) remove Defendants Bob Caplan, and Niki Capra from all Board-appointed committees with prejudice; (v) order the Association to terminate or otherwise remove Alvaro Villa from his position of Property Manager for the Association with prejudice; (vi) order the Association to terminate or otherwise remove Maria Del Sol from any employment or representative capacity on behalf of the Association with prejudice; (vii) order the appointment of a third party management company and/or court-appointed Receiver to assume management responsibility of the Association; and (viii) award damages to Plaintiff against the ASSOCIATION, and individual Defendants GREGORY E. CAPRA, NIKOLINA CAPRA, ROBERT S. CAPLAN, SHEILA CAPLAN, YELENA FRIDMAN, GASTON SIROIT, ALVARO VILLA, and MARIA DEL SOL, jointly and severally, in excess of the jurisdictional amount of this Court, along with attorney's fees and costs and other expenses related to this litigation pursuant to the Condominium Act, the Association's Declaration, and any other relief this Court deems just and proper.

#### **COUNT IV – ACTION FOR DECLARATORY JUDGEMENT**

268. Plaintiff Goldman re-alleges and adopts Paragraphs 1 through 81 and 184 through 210 of this Complaint, and further alleges as follows:

269. This is an action pursuant to Florida Statutes, § 86.011 seeking entry of a declaration as to whether Defendant Greg Capra served as a validly elected officer of the Defendant Association from inception of officer functions in 2007 through and including March 10, 2012, and if not, all such acts enacted by him or with his participation on behalf of the Association in the capacity as an officer thereof should be declared invalid as constituting *ultra vires* acts.

270. Defendant Mr. Capra assumed the office of the Association's Treasurer sometime in 2007; and from 2008 through the present, Capra has acted as the purported "President" of the Board and the Association (see, Exhibit "A" hereto).
271. During the time in which Capra served as officer for purposes of all material acts complained of herein with regard to the actions of Capra in an officer capacity, Capra claimed to have ownership interest in Unit 257; however, according to the Miami-Dade County Official Records during that time period, Mr. Capra was not listed as the record owner of said unit.
272. The pertinent Association's "Amendments to Articles of Incorporation and By-Laws" which governs the capacity of Greg Capra to serve as an officer of the Association, at all pertinent times, requires that "**Officers...must be Unit Owners.**" See **Exhibit C** attached hereto and made a part hereof; emphasis added.
273. Mr. Capra, while knowing his status as a non-owner, certified in writing prior to becoming an officer, that he has read and understands the governing documents of the Association (Declaration of Condominium, Articles of Incorporation, Bylaws, Rules and Regulations) and the Florida condominium laws and administrative code.
274. It was not until on or about March 10, 2012, that a certain quit claim deed was *recorded* pursuant to which said document purports to vest in Capra an ownership interest in Unit 257 (see Exhibit "B" hereto); yet, Fla. Stat. §718.103(28) defines a "unit owner" or "owner of a unit" as a **record** owner of legal title to a condominium parcel.
275. Upon information and belief, pursuant to the Association's governing documents and Florida Statutes, Mr. Capra was not an officer of the Association from 2007 through March 9, 2012, and is in violation of Article 6.1 of the

Association's Bylaws together with Chapter 718 and other relevant provisions of the Florida Statutes.

276. Accordingly, upon information and belief, since at least 2007, Mr. Capra has willfully deceived the Association, inclusive of its unit owners, by fraudulently holding himself out as a unit owner, and thus, a rightful officer of the Association, through and including March 10, 2012, at minimum, a period of 5 years, and all such actions enacted on behalf of the Association in Mr. Capra's purported position as President of the Board and/or as any officer on behalf of the Association should be considered and declared as *ultra vires* acts of the Association.

277. Based on the foregoing allegations, there is a bona fide, actual, present practical need for the declaration to be made by this Court.

278. Based on the foregoing allegations, the declaration deals with present, ascertained or ascertainable state of facts or present controversy.

279. Based on the foregoing allegations, Plaintiff's rights and those of the Association are dependent upon whether Defendant Greg Capra lawfully served as an officer of the Association during the time frame alleged herein.

280. Based on the foregoing allegations, at minimum Defendant Greg Capra and the Association have an actual, present, adverse interest in the subject matter; and all adverse parties are presently before the Court.

281. Based on the foregoing allegations, the relief sought herein is not merely seeking an advisory opinion, and the parties are in doubt as to its resolution, and have a genuine justiciable controversy ripe for the Court's determination.

**WHEREFORE**, Plaintiff DANA R. GOLDMAN derivatively, as a member and on behalf of the Association, requests that this Court enter a declaratory judgment and

(i) declare that Defendant Gregory E. Capra was not a unit owner from the inception of his election to an officer position for the Association until at minimum March 10, 2012; (ii) remove Defendant Capra from serving in his current capacity as officer and director of the Association with prejudice; and (iii) award Plaintiff her incurred attorney's fees and costs and other expenses related to this litigation pursuant to Chapter s86 and 718 of the Florida Statutes and the Association's Declaration, and award any other further relief this Court deems just and proper.

**COUNT V – VIOLATION OF FLORIDA DECEPTIVE AND TRADE PRACTICES ACT VS ASSOCIATION, GREG CAPRA, SHEILA CAPLAN, GASTON SIROIT, YELENA FRIDMAN, BOB CAPLAN, NIKI CAPRA, ALVARO VILLA AND MARIA DEL SOL**

282. Plaintiff Goldman re-alleges and adopts Paragraphs 1 through 181, 185 through 210, and 250 through 255 herein, and further alleges as follows:

283. This is an action for damages and equitable relief pursuant to the *Florida Deceptive and Unfair Trade Practices Act*, codified under Fla. Stat. Sect. 501.201 et seq., ("FDUTPA") brought by Plaintiff Goldman, derivatively as a member and on behalf of the Association, against Defendants the Association, Greg Capra, Sheila Caplan, Gaston Siroit, Yelena Fridman, Niki Capra, Bob Caplan, Alvaro Villa, and Maria Del Sol.

284. FDUTPA prescribes that "Unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." Fla. Stat. § 501.204(1).

285. The statute further defines *trade or commerce* as the "advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever

situated...and shall include the **conduct of any trade or commerce**, however denominated, **including any nonprofit or not-for-profit** person or activity.” Fla. Stat. § 501.203 (8) (*emphasis added*).

286. At all material times, Plaintiff and the unit owners were consumers as defined by §501.203.

287. At all material times, the Association, through its Directors, officers and agents, solicited, advertised, offered, and provided services pertinent to governance under FDUTPA, and were engaged in trade or commerce as defined by Fla. Stat. §501.203, which includes *consumer transactions* applicable to Condominium Associations, and *trade or commerce* as encompassing the type of *service* which Defendants provide to Plaintiff, as the purchaser of a condominium unit at Poinciana. *See, Williams v. Edelman*, 408 F. Supp. 2d 1261 (S.D. Fla. 2005).

288. Paragraphs 42 through 95 herein outline the facts underlying the Defendants’ fraudulent outright violation of Florida law and the governing documents in implementing special assessments without requisite owner approval; solicitation of funds pursuant to levying special assessments based on budgetary and reserves misrepresentations to its members; the latter premised on its providing or offering the tangible or intangible items outlined in its falsified budget, such items which are considered ongoing fraudulent and deceptive practices relating to services undertaken by the Association relating to condominium property, as applicable to the not-for-profit Association.

289. Moreover, the applicable background facts properly set forth the requisite *trade or commerce* as consisting of the Association’s various services in providing tangible and intangible benefits to its members relating to their interests



in real property, through the solicitation of funds via budgetary representations, inclusive of fraudulent reserves and financial statement reporting, as a deceptive prelude to levy special assessments and improperly deprive the unit owners, inclusive of Plaintiff, of their individual funds pursuant to wrongful special assessments and their allocation for which the Association has also committed a separate violation of Fla. Stat. 718.116, other stated statutory sections, and the Florida Administrative Code, as applicable.

290. Further, the Association's practice of collecting funds from owners pursuant to solicitation via fraudulent budgetary statements and then levying special assessments under false pretenses constitutes real estate *transactions* themselves subject to the interpretation of FDUTPA wrongful acts, said definition and application of terms which are to be construed liberally.

291. The individual funds paid by the Association unit owners pursuant to the soliciting and levying of unlawful and fraudulent special assessments, budgets and manipulation of reserves figures resulting in violations of FDUTPA as stated in this Complaint, are distinct to them, and are recoverable by Plaintiff, derivatively on their behalf and as a specific authorized monetary remedy.

292. Individually and/or collectively on behalf of the Association, all named Defendants acted in the process of either soliciting funds, creation of false budgetary and financial statements, made misrepresentations of the fiscal status of the Association, omitted disclosure of material facts, and/or otherwise participated collusively to violate the provisions of FDUTPA as evidenced in the voluminous allegations set forth in the *Allegations Common to All Counts* adopted herein.

293. As a result of Defendants' unlawful and unfair methods of competition, as well as unconscionable acts and deceptive practices, in violation of Chapter 501,

Florida Statutes, the Association and its unit owners for whom this claim is brought, were damaged and aggrieved.

294. Irreparable harm to the unit owners and the Association as a whole is manifested by the crippling of Poinciana Island, and numerous unit owners and residents continue to experience the deleterious financial effects for as long as the current management regime is in place.

295. The Association, through Plaintiff, has a clear legal right to the equitable relief requested pursuant to this statutory action governed by Chapter 501 of the Florida Statutes, as affecting Poinciana Island and its unit owners and residents.

296. Inadequate remedy at law exists in regard to preventing the continuing and future abuse by the Defendant Directors, officers, and agents empowered with managerial and directive control on behalf of the Association which would result in permanent damage. Monetary relief is only requested to redress past wrongs through and including the removal of the Defendants from their official positions.

297. Substantial likelihood of success on the merits is indeed virtually assured in view of the numerous violations of FDUTPA as alleged in this Complaint against the Association and its directors, officers and agents so as to prevent ongoing and future harm to Plaintiff, the unit owners and residents of the Association.

298. Consideration of public interest is paramount and well-served by the removal of the named Defendants Directors, officers, and agents so as to preserve the integrity of operations and avert continuing and future harm to the Association.

299. Plaintiff has hired undersigned counsel to represent her in this cause, and has and continues to incur attorney's fees and expenses as a consequential result.

300. **WHEREFORE**, Plaintiff DANA R. GOLDMAN, derivatively, as a member and on behalf of the Association, requests that this Court (i) declare that the acts complained of by Defendant(s) violate Fla. Stat. Sect. 501.201 et seq., (ii) enjoin Defendant Capra from serving in his current capacity as officer and director of the Association with prejudice; (iii) enjoin Defendants Sheila Caplan, Gaston Siroit, Yelena Fridman, Niki Capra, and Bob Caplan from serving in their respective positions as directors and officers of the Association and from all Board-appointed committees with prejudice; (iv) enjoin Alvaro Villa from serving in his position of Property Manager for the Association with prejudice; (v) enjoin Maria Del Sol from serving in any employment or representative capacity on behalf of the Association with prejudice; (vi) order the appointment of a third party management company and/or court-appointed Receiver to assume management responsibility of the Association; and (vii) award damages to Plaintiff against the ASSOCIATION and/or individual Defendants GREGORY E. CAPRA, SHEILA CAPLAN, YELENA FRIDMAN, GASTON SIROIT, ALVARO VILLA, and MARIA DEL SOL, jointly and severally, in excess of the jurisdictional amount of this Court, along with attorney's fees and costs and other expenses related to this litigation under Chapter 718 and the Association's Declaration, and any other relief this Court deems just and proper.

**COUNT VI – VIOLATION OF FLORIDA RICO ACT  
VS ASSOCIATION, GREG CAPRA, NIKI CAPRA, SHEILA CAPLAN, BOB  
CAPLAN, GASTON SIROIT, YELENA FRIDMAN,  
MARIA DEL SOL & ALVARO VILLA**

301. Plaintiff re-alleges and adopts Paragraphs 1 through 81 and 184 through 210 of this Complaint, and further alleges as follows:

302. This is an action for violation of Fla. Stat. § 772.101 et seq., known as the *Florida Civil Remedies for Criminal Practices Act* and otherwise known as *Florida RICO* (hereinafter referred to as “the Act”) brought by Plaintiff Goldman, derivatively as to matters affecting the Association inclusive of its unit owners as a whole and indistinct to her, against Defendants the Association, Greg Capra, Sheila Caplan, Gaston Siroit, Yelena Fridman Niki Capra, Bob Caplan, Alvaro Villa and Maria Del Sol (other than the Association referred to collectively as “Directors, Officers and Agents”); and seeks damages, as applicable, against all such defendants, jointly and severally.

303. Under Section 772.103 of the Act, and as interpreted consistent with Florida and Federal case law interpreting the similarly patterned Federal RICO Act, it is unlawful for any person or entity:

(1) Who has with criminal intent received any proceeds derived, directly or indirectly, from a pattern of criminal activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.

(2) Through a pattern of criminal activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

(3) Employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of criminal activity or the collection of an unlawful debt.

(4) To conspire or endeavor to violate any of the provisions of subsection (1), subsection (2), or subsection (3).

304. The Association and Directors, Officers and Agents, as employed by or associated with the Association, directly or indirectly, through a pattern of

criminal activity, have acted individually and conspiratorially, to violate any or all of the provisions of Section 772.103 of the Act.

305. Specifically, Defendant **Association**, through its Directors, Officers and Agents, and/or individually and/or collusively, as applicable and as detailed below, have in violation of the Act committed, attempted to commit, conspired to commit, solicited, coerced, or intimidated another person to commit the following crimes, as defined pursuant to Section 772.101 of the Act, and Plaintiff fears that such acts will continue if unabated by this Court.

306. Defendants **Greg Capra, Niki Capra, Sheila Caplan, Bob Caplan, and Gaston Siroit**, have through their individual, collusive and/or joint conduct and/or with the solicited assistance of third parties, violated the Act as alleged in the section herein titled **“Wrongful Conduct in Assessments, Projects & Budgetary Matters”** as particularly set forth in Paragraphs 42 through 95, attributed to each of them as applicable, constituting violations of Fla. Stat. § **812.014** relating to numerous separate and continuous incidents of criminal theft and/or conversion in knowingly and fraudulently obtaining funds, directly and indirectly from the Association, inclusive of the unit owners and residents, misrepresented as allocated for Association usage and then misappropriated for personal usage as distributed amongst the Defendants, said crimes perpetrated against the Association and said unit owners, as brought derivatively through Plaintiff, resulting in the deprivation of said funds.

307. Defendants **Sheila Caplan, Bob Caplan, and Maria Del Sol**, have through their individual, collusive and/or joint conduct and/or with the solicited assistance of third parties, violated the Act as alleged in the section herein titled **“Caplans’ Self-Dealing, Conversion of Funds & Steering of Vendors”**, as

particularly set forth in Paragraphs 96 through 105, attributed to each of them as applicable, constituting a violations of Fla. Stat. § **812.014** relating to numerous separate and continuous incidents of criminal theft and/or conversion in knowingly and fraudulently obtaining funds from the Association and the unit owners, misrepresented as allocated for Association usage and then misappropriated for personal usage as distributed amongst the Defendants, said crimes perpetrated against said unit owners, as brought derivatively through Plaintiff, where each has been deprived of the benefit of said funds.

308. Defendants **Greg Capra, Niki Capra, Sheila Caplan, Bob Caplan, and Gaston Siroit**, have through their individual, collusive and/or joint conduct and/or with the solicited assistance of third parties, violated the Act as alleged in in the section herein titled “**Conspiratorial Self-Dealing, Steering Contracts, Bribery and Kickbacks**” as particularly set forth in Paragraphs 106 through 121 attributed to each of them as applicable, constituting violations of Fla. Stat. § **812.014** relating to numerous separate and continuous incidents of criminal theft and/or conversion in knowingly and fraudulently obtaining funds and property, directly and indirectly from all the unit owners and residents, misrepresented as allocated for Association usage and then misappropriated for personal usage as distributed amongst the Defendants, as applicable, said crimes perpetrated against said unit owners, as brought derivatively through Plaintiff, where each has been deprived of the benefit of said funds.

309. Defendants **Greg Capra, Sheila Caplan, Bob Caplan, and Gaston Siroit**, have through their individual, collusive and/or joint conduct and/or with the solicited assistance of third parties, violated the Act as alleged in the section herein titled “**Caplans’ Patio Enclosure, Pritts Roofing & Other Capra Acts**”

as particularly set forth in Paragraphs 122 through 136, attributed to each of them as applicable, constituting violations of Fla. Stat. § **812.014** relating to numerous separate and continuous incidents of criminal theft and/or conversion in knowingly and fraudulently obtaining funds and property, directly and indirectly from all the unit owners and residents, misrepresented as allocated for Association usage and then misappropriated for personal usage as distributed amongst the Defendants, as applicable, said crimes perpetrated against said unit owners, as brought derivatively through Plaintiff, where each has been deprived of the benefit of said funds and property.

310. Defendants **Greg Capra, Niki Capra, Sheila Caplan, Bob Caplan, Gaston Siroit, Alvaro Villa, and Maria Del Sol**, have through their individual, collusive and/or joint conduct and/or with the solicited assistance of third parties, violated the Act as particularly alleged in the various titled sections and corresponding factual paragraphs as applicable to each of them to wit: **“Wrongful Conduct in Assessments, Projects and Budgetary Matters”** (Pars. 42 through 95); **“Caplans Self-Dealing, Conversion of Funds, Steering of Projects & Vendors”** (Pars. 96 through 105); **“Conspiratorial Self-Dealing, Steering Contracts, Bribery & Kickbacks”** (Pars. 106 through 121); **“Caplans’ Patio Enclosure, Pritts Roofing & Other Capra Acts”** (Pars. 122 through 136); **“Concealment via Destruction of Association Records and Extortion”** (Pars. Pars. 137 through 144); **“Main Conspiratorial Parties and Actions”** (Pars. 145 through 162); **“Intentional Failure to Provide Audited Financial Statements”** (Pars. 163 through 167); and **“Elections and Voting Fraud Conspiracy”** (Pars. 168 through 181); each as attributable to the Defendants named therein as applicable, and constituting attendant criminal violations of **Chapter 817** of the

Florida Statutes relating to: Fraudulent practices, False Pretenses, and Fraud Generally, including without limitation: Fla. Stat. § **817.03** relating to Making False Statement to Obtain Property; and Fla. Stat. § **817.15** relating to Making False Entries on Books of Corporation; and Fla. Stat. § **817.155** relating to False, Fictitious, or Fraudulent Acts, Statements to Dept. of State, through their numerous separate and continuous, patterned incidents of fraudulently attempting to deceive the Association and the unit owners within a 5-year span, so as wrongfully obtain funds, property and/or services, said crimes perpetrated as applicably set forth in addressing acts committed towards the Association and its unit owners, as claimed separately and brought derivatively through Plaintiff, where each has been deprived of the benefit of said funds, property, resources, and/or services.

311. Defendant **Greg Capra**, has through individual, collusive and/or joint conduct and/or with the solicited assistance of third parties, violated the Act as alleged in the the section herein titled “**Concealment via Destruction of Association Records and Extortion**” as particularly set forth in the applicable Paragraphs 137 through 144 specifically describing the extortive and threatening conduct to wrongfully conceal evidence of wrongdoing in violation of Fla. Stat. § **836.05** relating to several incidents of criminal Threats and Extortion against 2 former managers of the Association throughout at minimum 2010, said crimes perpetrated as applicably set forth in distinctly addressing acts as affecting the Association and its unit owners where each has been affected to their detriment.

312. Defendants **Greg Capra** and **Gaston Siroit**, have through individual, collusive and/or joint conduct and/or with the solicited assistance of third parties, violated the Act as alleged in the the section titled “**Conspiratorial Self-Dealing,**



**Steering Contracts, Bribery & Kickbacks**” as particularly set forth in Paragraphs 106 through 121, attributed to each of them as applicable, and specifically describing the extortive and threatening conduct of Capra in conspiring with Siroit to wrongfully obtain rights to Association projects and funds derived therefrom in violation of Fla. Stat. § **836.05** relating to several incidents of criminal Threats and Extortion against a former manager of the Association over a span of at minimum 2 years, said crimes perpetrated as applicably set forth in distinctly addressing acts as affecting the Association’s unit owners separately and brought derivatively through Plaintiff, where each has been affected to their detriment.

313. The above-stated conduct and violations of criminal laws pursuant to the Act in a continuous and ongoing manner is reflective of the cumulative nature and pattern of criminal activity which the Association as an enterprise, and through its individual agents, have perpetrated with impunity, and are actionable as such under the Act.

314. Plaintiff has the right to derivatively claim damages suffered on behalf of the Association and its unit owners for all actions and damages that are indistinct to Plaintiff Goldman and that affect the Association, inclusive of such unit owners consistent with the dictates of Section 772.104 of the Act.

**WHEREFORE**, Plaintiff DANA R. GOLDMAN, derivatively, as a member and on behalf of the Association, requests that this Court award damages to Plaintiff against the **ASSOCIATION**, and individual Defendants **GREGORY E. CAPRA, NIKOLINA CAPRA, SHEILA CAPLAN, BOB CAPLAN, YELENA FRIDMAN, GASTON SIROIT, ALVARO VILLA, and MARIA DEL SOL**, jointly and severally, in excess of the jurisdictional amount of this Court, along with



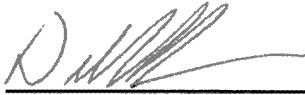
attorney's fees and costs and other expenses related to this litigation under Chapter 772 of the Florida Statutes, and Paragraph 19.3 of the Association's Declaration, and any other relief this Court deems just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiff DANA R. GOLDMAN, by and through undersigned counsel, hereby files and demands trial by jury of any and all issues so triable.

**VERIFICATION OF PLAINTIFF**

I the Plaintiff, DANA R. GOLDMAN, hereby attest to and verify the accuracy, veracity, and truthfulness of all of the allegations of this Complaint to the best of my knowledge.



**DANA R. GOLDMAN**

**DATED** this 20<sup>th</sup> day of June, 2014.

**NOTARY PUBLIC**

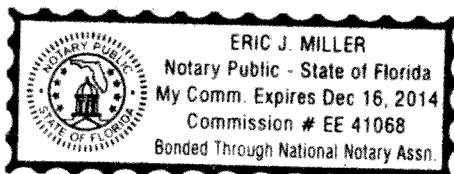
County of Miami-Dade, State of Florida

Before me on this 20<sup>th</sup> day of JUNE, 2014, appeared DANA R. GOLDMAN, who is personally known to me and who took an oath as to her verified statement presented above.



**NOTARY PUBLIC**

Seal:



*/s/ Eric J. Miller*

**ERIC J. MILLER, ESQ.**

**Fla. Bar No. 881066**

Law Office of Eric J. Miller, P.A.

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**Fla. Bar No. 11255**

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[ndkodsi@gmail.com](mailto:ndkodsi@gmail.com)

Attorneys for Plaintiffs

**EXHIBIT "A"**

**2012 NOT-FOR-PROFIT CORPORATION ANNUAL REPORT**

**FILED**  
**Feb 07, 2012**  
**Secretary of State**

**DOCUMENT# 752721**

**Entity Name:** POINCIANA ISLAND YACHT AND RACQUET CLUB CONDOMINIUM ASSOCIATION, INC.

**Current Principal Place of Business:**

**New Principal Place of Business:**

350 POINCIANA IS. DR.  
SUNNY ISLES BEACH, FL 33160 US

**Current Mailing Address:**

**New Mailing Address:**

350 POINCIANA IS. DR.  
SUNNY ISLES BEACH, FL 33160 US

FEI Number: 69-2025683      FEI Number Applied For ( )      FEI Number Not Applicable ( )      Certificate of Status Desired ( )

**Name and Address of Current Registered Agent:**

**Name and Address of New Registered Agent:**

SKRLD. INC.  
201 ALHAMBRA CIRCLE,  
SUITE 1102  
CORAL GABLES, FL 33134 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE: \_\_\_\_\_

Electronic Signature of Registered Agent

\_\_\_\_\_ Date

**OFFICERS AND DIRECTORS:**

Title: P  
Name: CAPRA, GREG  
Address: 350 POINCIANA ISLAND  
City-St-Zip: SUNNY ISLES, FL 33160

Title: VP  
Name: CAPLAN, SHEILA  
Address: 350 POINCIANA IS. DR.  
City-St-Zip: SUNNY ISLES BEACH, FL 33160

Title: T  
Name: SIROIT, GASTON  
Address: 350 POINCIANA IS. DR.  
City-St-Zip: SUNNY ISLES BEACH, FL 33160

Title: S  
Name: FRIDMAN, YELENA  
Address: 350 POINCIANA ISLAND DRIVE  
City-St-Zip: SUNNY ISLES, FL 33160

Title: D  
Name: VALDEZ, EMILIO  
Address: 350 POINCIANA ISLAND DR  
City-St-Zip: SUNNY ISLES, FL 33160

Title: D  
Name: LUCAS, ERIK  
Address: 350 POINCIANA ISLAND DR  
City-St-Zip: SUNNY ISLES, FL 33160

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 617, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: GREG CAPRA

P

02/07/2012

\_\_\_\_\_ Electronic Signature of Signing Officer or Director

\_\_\_\_\_ Date

**EXHIBIT "B"**



CFN 2012R0173362  
 DR Bk 28028 Pgs 3918 - 3919 (2pgs)  
 RECORDED 03/10/2012 08:06:28  
 DEED DDC TAX 0.60  
 HARVEY RUVIN, CLERK OF COURT  
 MIAMI-DADE COUNTY, FLORIDA

Parcel Identification Number: 31-2214-021-0490

Prepared by and return to:

Law Offices of Ilona Fridman, P.A.  
 Ilona Fridman, Esq.  
 15757 Pines Blvd., #279  
 Pembroke Pines, FL. 33027

**QUITCLAIM DEED**

This Quitclaim Deed, made this 16<sup>th</sup> day of February, 2012, between **Nikolina Dontcheva, a/k/a Nikolina Capra, a married woman, Grantor, whose address is 257 Poinciana Island Drive, Sunny Isles Beach, FL. 33160 and Nikolina Capra and Greg Capra, husband and wife, whose address is 257 Poinciana Island Drive, Sunny Isles Beach, FL. 33160, Grantee.**

**Witnesseth**, that the Grantors, for and in consideration of the sum of -----TEN & NO/100 (\$10.00) -----DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, have granted, bargained, and quitclaimed to the said Grantee and Grantees' heirs and assigns forever, the following described land, situate, lying and being in the County of Miami-Dade, State of Florida, to-wit:

**POINCIANA IS YT & RCQ CLUB CONDO UNIT 607 UNDIV 0.5069% INT IN COMMON ELEMENTS OFF REC 10775-131 F/A/U 30-2214-021-0490**

**This Quitclaim Deed is between related parties of unencumbered property; therefore minimum documentary stamps are due.**

**To Have and to Hold** the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of Grantors, either in law or equity, for the use, benefit and profit of the said Grantees forever.

**In Witness Whereof**, the Grantors have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in our presence:

Nikolina Dontcheva  
Nikolina Dontcheva, a/k/a Nikollna Capra  
257 Princiana Island Dr., Sunny Isles Bch., FL 33160

[Signature]  
Witness Signature  
Printed Name: Elena Fridman

[Signature]  
Witness Signature  
Printed Name: MARINA LEONE SIROIT

**STATE OF FLORIDA  
COUNTY OF MIAMI-DADE**

The foregoing Instrument was acknowledged before me the 16 day of FEBRUARY, 2012 by Nikolina Dontcheva, a/k/a Nikolina Capra, who is personally known to me or who has produced a FL D.L. as identification.

[Signature]  
Notary Signature  
Printed Notary Name: MARINA LEONE SIROIT  
My Commission Expires: 2/15/10

SEAL





**EXHIBIT "C"**

REF: 1626100561

EXHIBIT "A"  
AMENDMENTS  
TO  
ARTICLES OF INCORPORATION  
AND  
BY-LAWS  
OF  
POINCIANA ISLAND YACHT AND RACQUET CLUB  
CONDOMINIUM ASSOCIATION, INC.

(Additions shown by underlining; deletions shown by "----")

1. Amendment to Article 9.1 of the Articles of Incorporation as follows:

"Number and qualification. The property, business and affairs of the Association shall be managed by a board consisting of the number of directors determined by the By-Laws, but which shall consist of not less than three (3) directors. Directors need not be members of the Association or residents of a unit in the Condominium. The qualification of directors shall be as established by the By-Laws."

2. Amendment to Article 4.1 of the By-Laws of the Association as follows:

"The affairs of the Association shall be governed by a Board of not less than three (3) nor more than nine (9) ~~seven~~ (7) directors, the exact number to be determined in the Articles, and thereafter from time to time upon majority vote of the membership. Directors need not ~~must~~ be Unit Owners, or the lawful spouse of a Unit Owner, or the children or parents of a Unit Owner. In the event that there are multiple owners of a single unit, only one (1) of said owners shall be eligible to be included among the nominees for a position on the Board, or be elected or appointed to fill a position on the Board. For units owned by a corporation or partnership, the designated voting representative of said entity shall be deemed to be the "Unit Owner" for purposes of determining eligibility to serve on the Board of Directors, provided that that person is an officer, director, partner, or employee of said entity. In the case of a unit owned by a trust, the trustee or a beneficiary of the trust shall be deemed to be the "Unit Owner" for purposes of determining eligibility to serve on the Board."

3. Amendment to Article 6.1 of the By-Laws of the Association as follows:

"Executive Officers. The executive officers of the Association shall be a President, who shall be a Director, a Vice-President, who shall be a Directors, a Treasurer, a Secretary and an Assistance Secretary, all of whom shall be elected by the Board of directors and who may be peremptorily removed at any meeting by concurrence of a majority of all of the Directors. A person may hold more than one office except that the President may not also be the Secretary or Assistant Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office."

REC: 1626 W0562

The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. ~~Officers need not be Unit Owners.~~

4. Amendment to Article 4.2 of the By-Laws to create sub-section (g) as follows:

"(g) A director who is absent from three (3) consecutive board meetings or from fifty (50%) percent or more board meetings in any six (6) month period, shall be deemed to have resigned from his position on the board. The remaining directors, by majority vote, shall have the power to excuse an absence upon circumstances as deemed appropriate by a majority of the remaining directors, in their sole discretion. A director who is more than thirty (30) days delinquent in the payment of any regular or special assessment or who is in violation of any provision of the condominium documents or rules and regulations for a period of greater than thirty (30) days shall automatically be deemed to have resigned his position on the board. The resignation shall be deemed to be effective as of the first Board of Directors meeting (excluding the original organizational meeting of the Board) following either of the occurrences set forth in the previous sentence, unless the delinquency or violation is cured prior to said Board meeting.

RECORDED IN OFFICIAL RECORD BOOK  
OF CASE COUNTY, N.D. 4/24  
SECOND VOLUME  
HARVEY RIVIN,  
Clerk of Circuit & County  
Courts