IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT, IN AND FOR ST. JOHNS COUNTY, FLORIDA

RICHARD NICKELSON,

Plaintiff,

Case No.: 2015-CA-0174

v.

CREATIVE LEARNING CORPORATION,
a foreign corporation,

Defendant.
_____/

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, RICHARD NICKELSON, by and through his undersigned counsel, and alleges the following:

I. NATURE OF ACTION

1. This is an action brought by Plaintiff for damages in excess of $15,000 incurred as a result of Defendant's defamation of Plaintiff.

II. JURISDICTION AND PARTIES

2. Jurisdiction is founded upon Article 5, Sections 5 and 20, Florida Constitution.

3. Plaintiff, RICHARD NICKELSON, is a citizen of the United States whose residence is in Jacksonville, Duval County, Florida.

4. Defendant, CREATIVE LEARNING CORPORATION, is a foreign corporation licensed and authorized to do business in the state of Delaware.

III. FACTUAL ALLEGATIONS

5. Defendant is a franchisor of three franchise brands, Bricks 4 Kidz, Challenge Island and Sew Fun, operating as subsidiaries of CLC. Challenge Island and Sew Fun are the newest brands, with Bricks 4 Kidz being the flagship and original brand started in 2009. Defendant currently has over 600 franchise territories and approximately 450 to 500 individual franchisee owners, with the majority being under the Bricks 4 Kidz brand.

6. Defendant is a publicly owned company with about 270 shareholders. It is a microcap company and the stock trades as a penny stock on the OTC/Bulletin Board. As a public company, Defendant is what is called an "insider" operated company. The Board of Directors ("the Board") consists of only the three company insiders, that are also the key management of the business, Brian Pappas as CEO and Chairman of the Board, Dan O'Donnell as COO, and Michelle Cote as Founder and Director of Curriculum.

7. The shareholders in a public company collectively own the company. The responsibility of a public company's Board of Directors is to oversee the management of the company on behalf of the shareholders. As in insider operated company, the Defendant's Board of Directors does not have an at "arm's length" oversight process of company management, since the Board members are also the management.

8. Two of the insiders also are the largest two shareholders by a wide margin. Defendant has approximately 12 million outstanding shares. Mr. Pappas, as Franchise Ventures, owns 1.8MM shares, and Mrs. Cote, as Cote Trading Company LLC, owns 1.4MM shares. Collectively they own 27% of the Defendant's outstanding shares.

9. The Board is collectively, and each individual Board member, separately is responsible for the knowledge and information they receive in the day to day operations to fulfill their duties to the shareholders of the Company. Mr. Pappas operated out of an office from his

house, while Mr. O'Donnell's and Mrs. Cote's offices were at the headquarters. While Plaintiff's communications with the Board were both verbal and written at times, to all three Directors, Plaintiff had much more interaction with Mr. O'Donnell and Mrs. Cote. Each time he did communicate with a Board member, either verbal or written, Plaintiff was going on record with the Board in its official capacity.

10. Defendant's Board of Directors also does not operate with any normal parliamentary procedure process for a public company board by having official Board minutes documenting motions, seconds, discussions of motions, recording each Director's opinions on matters, or a majority voting process. Basically, when a decision was made by Mr. Pappas, the other two Directors would sign off on a Board resolution after the fact when documentation for Board resolutions was needed.

11. Defendant's upper level management team also includes Chris Pappas, the wife of Brian Pappas, who operates at a level of authority on the management team, acting like an adjunct for her husband. Mrs. Pappas also carried the title of Director of Human Resources, although she does not have education, credentials or experience as an HR professional other than her experience in the company with her administrative functions for payroll and employee vacation tracking.

12. Plaintiff was initially hired by Defendant as a temporary employee in November, 2011. His task was, as a Controller, to complete Defendant's December 31, 2011 financial reports and SEC 10-Q.

13. Defendant subsequently hired Plaintiff as their Controller on a permanent basis on, or about, February 16, 2012.

14. As Controller, the Defendant's Board of Directors chose not to make Plaintiff an SEC defined executive officer of the Company. Mr. Pappas continued as Defendant's SEC Principal Financial Officer and signor of SEC certifications of the financials and SEC reporting.

15. As Controller, the Defendant's Board of Directors also chose not to make Plaintiff part of the Defendant's own internal executive management team. Plaintiff was not involved in any of the management, or short term or long term organizational or strategic planning meetings, despite his extensive financial and business operational management experience.

16. Plaintiff was tasked with supervising two direct reports in the Accounting Department: an Office Manager, who took on the dual role as Plaintiff's Accounting Specialist in accounts receivables and payables; and a full time Accounting Clerk that Plaintiff hired.

17. During the first six months of his employment as Controller with the Defendant Plaintiff was very surprised to find some serious core issues for the company that were not getting attention by the Board. Plaintiff communicated these issues to the Board at different times during his tenure in the company. Mrs. Cote, one of Board members, had personally and openly acknowledged to Plaintiff on several occasions, her agreement with the core issues, even saying she had met with Mr. Pappas by herself to try and discuss these company issues and the morale in the company. Some of these core issues were areas involving information that Plaintiff later witnessed Mr. Pappas specifically misrepresenting to investors and shareholders in the microcap conferences the Plaintiff attended with Mr. Pappas.

18. As Controller, one of Plaintiff's new duties was to take over the franchisee royalty fee invoicing and receivables. Plaintiff discovered there were royalties to franchisees that had not been invoiced for up to a year, as well as discrepancies to what the franchisees owed, and

very aged receivables. Plaintiff cleaned up all of the old invoicing and balance issues, and then automated a streamlined and efficient, monthly franchise royalty fee invoicing system.

19. Plaintiff also identified that there was not a defined, or effective, process to support the franchisees, even after franchisees were signed up. There were five or six people in the company that had other full time job duties that were involved in taking the calls from franchisees as they needed help. But, there was no direct effort at analyzing their financial performance and helping the franchisees in a deeper way.

20. After three months in the Company, Plaintiff built an analysis and a metrics report to the Board that showed only approximately 12% of the approximately 180 franchisees had levels of revenues that could make the franchisees profitable. He communicated this to the Board as the single most important core issue that could affect the true sustainability of the company as a real franchise system. Franchisees are the lifeblood of any Franchise organization. A typical, viable franchisor should have at least 80% of the franchisees that are meeting at least the minimal levels of required profitability

21. Plaintiff specifically advised a redirection of a good share of the focus and company resources to address and fix this issue as quickly as possible. However, the Board took no action.

22. Plaintiff discovered, that when Mr. Pappas, acting as a franchise consultant, met Ms. Cote, the founder of Bricks 4 Kidz, Ms. Cote was just a part time, hobby level business and not profitable.

23. No one in management up to the two year point when Plaintiff entered into the Company, had ever prepared a proper, realistic projection and financial model for the typical franchise operation to see if the typical franchise operation could, or could not be profitable.

Plaintiff repeatedly prompted the Board to have the concept's operational experts come up with what they thought a viable, middle of the road operational and financial model would be for a franchisee. After 14 months of asking the Board to do this, Mr. O'Donnell and Mrs. Cote, the operational experts finally constructed the basis for this model, and Plaintiff formatted it into a spreadsheet to use in new franchisee training.

24. Plaintiff also discovered that there was no formal qualifying process, either in terms of financial qualifications (liquidity or net worth ratios) or business operating ability, and profiling of the prospective franchisee applicants before they were sold a franchise.

25. The franchisee applicants did fill out financial information on their Requests for Consideration (RFC's). But, not only was any of this financial information on the applications from prospective franchisees not verified in any way, even when a franchisee applicant showed low, or even no liquid assets, as long as they could raise, or borrow the needed capital, the Board sold them a franchise anyway.

26. As early as July 2012, Plaintiff sent a full report and recommendation to the Board, including Mr. Pappas, that the lack of properly qualifying franchise candidates was hurting the company and potentially placing weak operators in financial hardship. Part of Plaintiff's recommendations were: "Overall, I am recommending that we up our requirements. I do understand, as we up our Requirements, it reduces our total available, candidate market. We do need some level of a balance though, as weak operators do nothing but hurt the system and brand, increasing negative reporting, and support costs, and even maybe having to exit the system later anyway. But, given we had 88 people below a gross annual operating level of FMT reported collections of $50,000 in my last Franchisee Financial Performance Analysis, we know

that we are having a high level of people struggling financially in the system. My guess, is that in the end, we may be having to find exit strategies for at least 30% of these."

27. Mr. Pappas replied to Plaintiff, stating in part: "I agree in one sense of what you're saying, but on the other hand if we follow those guidelines then our sales will plummet and to reduce our sales to 1 or 2 per month will not work for us. I doubt that most of the people will go bankrupt. A better and more workable solution is to get the weak players to sell their business (if we're not successful in getting them to be successful)."

28. Plaintiff then took the financial information from 88 of the bottom tier franchisee financial performers applications and performed a liquidity analysis. Even with a very liberal liquidity ratio, only 12% of these applicants met the level of this liberal liquidity ratio. Plaintiff reported these findings to the Board and again recommended changes to this process so that new franchisees would not have to use up all of their liquid assets to start their business.

29. Even beyond these basic requirements, Plaintiff found that the Board had sourced, and made available to prospective franchisees that had no liquid assets and even low net worth, a credit card acquisition process, called Seed Capital.

30. Seed Capital is a company that through some questionable process could get prospective franchisees approved to have up to 10 credit cards awarded to them at the same time. In some cases, Seed Capital would take a large payment up front for this service from the prospective franchisee. The credit on these cards was interest free for six months, but carried very high rates thereafter.

31. Later as Plaintiff took on the role of trying to help franchisees become profitable, he found one case of a franchisee that had borrowed up to $80,000 on 10 credit cards acquired through Seed Capital. When the interest kicked in, it crippled their business and they had to try

and sell. Seed Capital also adversely affected other franchisees in this way as well. Indeed, by the time Plaintiff left the Company, the number of franchisees needing to sell or quit had increased dramatically as he had warned the Board.

32. All of these sales methods obviously had resulted in the quick growth of the number of franchises, which gave the Defendant high rankings in the fastest growing franchises in Entrepreneur Magazine.

33. Plaintiff advised the Board more than once that, for the real protection of the individual franchisees themselves, the Board should not put new franchisees in a dangerous financial position from the start, not to even offer the Seed Capital credit process, and that it was really the obligation of the franchisor to properly advise franchisees in prudent business methods. He told them that all these processes could create the negative connotation in a franchise organization of churning franchisees.

34. Other key employees in the company had also openly criticized these sales practices to the individual Board members as well. At one point, Mr. O'Donnell specifically expressed to Plaintiff that potentially, this could all be just a "house of cards," and that Mr. Pappas would never want to change the sales process. Mrs. Cote also said several times that Mr. Pappas would not change the sales process, as if it was Mr. Pappas's sole decision on this.

35. In a meeting called by Mr. and Mrs. Pappas with Plaintiff questioning Plaintiff's liquidity analysis, Mr. Pappas again said they were not going to change the sales process. He specifically stated his reasoning at that point by saying that if the Board didn't sell to these people, then the candidates would just go down the street to a competitor and buy from them.

36. Dan O'Donnell, in a companywide meeting, later explicitly announced this same thing to the whole company and asked that employees not criticize the Board for taking their money, since the franchisees would just go down the street to our competitors.

37. Of course, commissions and other financial benefits were substantial for the three insider Board Members and other close in, relatives to Mr. and Mrs. Pappas, for signing up and adding to the number of franchisees. Mr. O'Donnell also had incentive to keep the sales flowing, as he owned his own company that had the rights to the central FMT software. Mr. O'Donnell's personal company separately received $900 per year from every franchisee in the Company.

38. At the six month mark of his employment, Plaintiff issued his second Franchisee Financial Performance report to the management showing no improvement in Franchisee financial performance.

39. There was still no response, or action, by the Board to change focus and mobilize efforts to address the situation.

40. Knowing that the low level of franchisee financial performance could ultimately bring the organization down if not corrected in a reasonable amount of time, Plaintiff proposed to the Board a second title and part time role for himself in operations as Director of Support for franchisees. Plaintiff's express goals were to build a dedicated support effort, and a special process called the Financial Performance Plan (FPP) to give a deep level of consulting help to the financially ailing franchisees.

41. The Board accepted his offer, and Plaintiff began these part time duties as Director of Support in November of 2012.

42. In his new Director of Support role, Plaintiff consolidated several job descriptions, freeing up some of the staff as soon as possible to be full time support personnel, for general franchisee support and to begin the FPP process.

43. Later, Plaintiff hired two people as dedicated FPP case managers, and ultimately had a four person full time support team, three of which were FPP case managers. He also had two additional part time consultants as FPP case managers.

44. Over the next year, the FPP process started showing good results in being able to help move more of the lower tier franchisee financial performers to more acceptable levels of performance.

45. Mr. Pappas openly recognized Plaintiff's efforts; in fact, Mr. Pappas expressed appreciation for Plaintiff's work. Mr. Pappas stated to Plaintiff that he recognized that this should have been a responsibility of Mr. O'Donnell, the COO.

46. For his contributions to the Company in both operations and financial management, the Board awarded Plaintiff a total of 45,000 employee stock options. At the time of his departure, these options were fully vested, but Mr. Nickelson had not exercised them.

47. In recognition of his hard work, diligence, and commitment to the success of Defendant, the Board offered Plaintiff a promotion to Chief Financial Officer (CFO). This would also make Plaintiff an SEC defined executive officer of the company and the SEC defined Principal Financial Officer.

48. Plaintiff recognized that there was still upside potential for the Company, as it still had significant financial resources that could be used to address these core issues over a reasonable period of time to get them corrected if the Board would act on them.

49. Ms. Cote, one of the Board members, had personally and openly acknowledged to Plaintiff on several occasions her agreement with the core issues, even saying she had met with Mr. Pappas by herself to try and discuss these issues and the low morale in the company. This also gave Plaintiff more hope that there could be some positive changes in decisions at the Board level in the future with her support, particularly because she was also the second largest shareholder in the Company.

50. Before accepting the new role, and the increased potential of liabilities, Plaintiff offered the Board three conditions for acceptance of the offer of promotion: a salary level to cover the cost of the Plaintiffs monthly health insurance premiums, since Defendant did not provide health care as a company benefit; that if not becoming an actual Director, the Plaintiff would become an advisor to the Board, attending the Board meetings and all upper management level organizational and strategic planning meetings; that the Plaintiff would remain in his operational role as Director of Support. The Defendant's Board accepted Plaintiff's proposal in early September 2014, at a salary level of $120,000 per year. With the promotion by the Board and acceptance of his terms, Plaintiff felt that the Board had come to truly value his efforts in the company, and that they now trusted him as a competent professional to be able to also advise the Board for the long term care of the business.

51. During the course of the year before Plaintiff became CFO, Mr. Pappas had been traveling by himself to various microcap investor relation events and conferences, promoting the company and attempting to raise the price of the stock.

52. Shortly following his promotion, and as a way of publicly announcing the same, Defendant's Chief Executive Officer, Brian Pappas, had Plaintiff accompany him to two (2)

MicroCap investor conferences, one in New York in September, and one in Detroit the first week of October.

53. Just before Plaintiff had accepted the CFO position, two employees spoke with Plaintiff alluding to potential sexual misconduct in the office.

54. Following the conference in New York, Plaintiff was informed by an employee in the Training Department that her daughter, an intern in the Marketing Department within Defendant, had been served alcohol by her supervisors on the company premises. Bringing and consuming alcohol on company premises is a violation of the Defendant's employee handbook. The mother said that her daughter was very distraught over the incident, being subjected to this kind of pressure by her supervisors, and was afraid to speak up and concerned about losing her job.

55. Plaintiff gathered more specific details regarding the sexual misconduct. He discovered that the sexual misconduct allegations involved a female department manager and her boss, the male. Plaintiff determined there was sufficient reason to believe that the sexual misconduct could be true, including a potential eye witness account of an act and the female department manager herself bragging about the relationship in front of several other employees. And, at another point, the female had also told employees that she was trying to break it off with her boss, but that he kept pursuing it.

56. In the October MicroCap Club conference in Detroit, Plaintiff sat with Mr. Pappas as he repeated a presentation and Q&A session thirteen times to rotating groups of five investors at their table. Approximately 85 investors in all sat through these presentations by Mr. Pappas. At least two of these investors, who manage investment funds, were already current shareholders of the company.

57. In these repeated presentations and Q&A sessions, Plaintiff was shocked to hear Mr. Pappas specifically misrepresent the sales qualifying process, as a "meticulous vetting process from the time the application is submitted", as well as potential franchisee financial performance, churn rates and other types of structural analysis that outside investors would need to be able to make good decisions about whether to invest in the Company's stock.

58. These misrepresentations showed to Plaintiff that, even as Mr. Pappas had defended the Board's sales methods over the course of Plaintiff's tenure in the company as not being wrong and nothing to be ashamed of, Mr. Pappas understood he had to cover them up in front of investors and shareholders.

59. Mr. Pappas had expressly put Plaintiff at risk in his new role as an SEC executive officer and CFO of the Company.

60. Plaintiff first brought his concerns regarding the issues of the alcohol and sexual misconduct to Mr. Pappas's attention following the conference in Detroit, and provided him with a written log of the information he had gathered about the two matters on Monday, October 6th.

61. The sexual misconduct allegation involved a close associate and friend of Mr. and Mrs. Pappas, and with Mrs. Pappas, the CEO's wife, as the head of HR. Plaintiff advised Mr. Pappas of the apparent conflict of interest and Plaintiff recommended in an email to Mr. Pappas that they consult with a professional HR consultant about this process, since it had potentially, serious liability issues to the Company. This same conflict of interest had been readily acknowledged by other employees in previous instances when employees had come forward to speak about potential company issues. Despite Plaintiff's voiced concern(s), Mr. Pappas stated that he and Mrs. Pappas would be conducting the investigation.

62. Later, Mr. Pappas informed Plaintiff that Mr. and Mrs. Pappas were going to call every employee in the Company one by one, including Plaintiff, into these questioning sessions. Mrs. Pappas said she was going to send out a schedule to the whole company, with the name and time she would question each person. Plaintiff immediately questioned why Mr. and Mrs. Pappas would want to turn the investigation into a companywide process in an investigation of these two issues, when there were only 4 or 5 named witnesses and parties in the issue logs. It appeared as if they had a totally different agenda for the investigation.

63. This companywide investigation also was in direct violation of the company's own stated policies.

64. Although Mr. Pappas and Mrs. Pappas declined to consult with a neutral, third-party human resources professional, Plaintiff decided to meet with such a person. After informing him of what had happened, the human resources professional informed Plaintiff of the potential liabilities inherent in Defendant's actions to date. Based on his conversation with the human resources professional, as well as company policy, Plaintiff penned a letter to the Board advising them of the impropriety of Mr. and Mrs. Pappas's proposed company-wide investigation and the potential liabilities that exposed Defendant to as a consequence.

65. The Board never responded, and Mrs. Pappas scheduled the investigatory interviews with all employees, with the exception of upper management and Plaintiff, in an email to the whole company.

66. Thereafter, Plaintiff once again consulted with the human resources professional. Among other things, the human resources professional informed Plaintiff that it was improper to turn a limited case investigation into a companywide process, and opened up the company to

liabilities from employee actions. The human resources professional also informed Plaintiff about basic employee rights in an investigatory process.

67. Plaintiff had only one of his direct reports out of six that had been named in the issues log as having information regarding these two issues.

68. As a consequence of the meeting with the human resources professional, Plaintiff scheduled meetings with his subordinates to inform them of their rights during the investigation process. Defendant's Chief Operations Officer, Dan O'Donnell, passed by the room in which Plaintiff was holding his closed door meetings. According to Mr. O'Donnell, Plaintiff had been informing his subordinates not to cooperate in Mrs. Pappas's investigation; however, that was not a true statement. Plaintiff was only informing his subordinates of their rights and available options.

69. Mr. O'Donnell called Mr. Pappas at his home office and told him that Plaintiff was allegedly instructing his subordinates not to cooperate.

70. Mr. Pappas specifically asked Plaintiff if he was telling his subordinates not to talk to Mrs. Pappas, and Plaintiff told him no, that is not what he was doing. Despite Plaintiff's response, Mr. Pappas sounded very angry, and proceeded by telling Plaintiff that he had really crossed the line, and the he (Mr. Pappas) was furious with Plaintiff, and that Plaintiff would never want to really see his bad side. Mr. Pappas said if Plaintiff did not go in and order his subordinates to meet with Mrs. Pappas, then he (Mr. Pappas) would come in right then and there and fire them all, adding explicitly, "they mean nothing to me", and "they are all replaceable".

71. Plaintiff was stunned at such a belligerent outburst, hostile threat, unprofessional conduct, and uncaring attitude by Mr. Pappas, the CEO against Plaintiff and the CEO's own employees. After a period of silence, Plaintiff asked Mr. Pappas if Mr. Pappas did not think that

would be extreme, and Mr. Pappas simply repeated his threats, saying he would come in and fire this person and that person (naming specific names), and when Plaintiff injected to ask if that meant he would also fire the Office Manager, a long term employee that was also Plaintiff's accounting specialist, Mr. Pappas, said yes.

72. Plaintiff complied with Mr. Pappas's instruction, despite having never actually instructed his subordinate not to cooperate in the investigation. Plaintiff went on record with Mr. Pappas' threat against the Board's employees, and exactly how it was related by him verbally with Mrs. Cote, and also followed up in writing to her.

73. Mr. O'Donnell and Mrs. Pappas, also knew about Mr. Pappas's threat against the employees, as they also had told other employees about it.

74. This hostile outburst by Mr. Pappas was a turning point for Plaintiff. Plaintiff realized he could no longer stay at the company, as in his opinion, this Board had proved not only dangerous to himself, but also to their employees, investors, shareholders and the other stakeholders of this public company.

75. Mrs. Pappas proceeded with her investigatory interviews of all employees, as scheduled. However, the investigation did not appear to be directed to the alcohol and sexual misconduct issues that Plaintiff had come forward with. Rather, the investigation seemed focused on rooting out other potential misconduct by other employees as well. Indeed, Mrs. Pappas, in a conversation with an employee, attempted to give the impression to the employee that there were also rumors that Plaintiff had been engaged, or was engaging, in inappropriate relations with a subordinate. Plaintiff, though, never engaged in inappropriate relations with any employee of Defendant, nor had he ever been accused of doing so. This unethical attempt, also demonstrated to Plaintiff the Defendant's open attitude and effort in specifically retaliating

against Plaintiff for having come forward with information that could be harmful to their friend and close associate.

75. Plaintiff subsequently formulated an exit plan that would allow him to leave Defendant with little to no damage done to himself and Defendant. The exit process would be a non-adversarial and managed resignation. Plaintiff's exit plan called for, inter alia, a nine (9) month severance, which would run concurrently with his continued employment; Plaintiff to continue work for 4-5 more months in order to complete Defendant's financial paperwork and train his replacement; a reduction in duties to focus only on Plaintiff's CFO position for any continued period of employment; a delay in announcing Plaintiff's departure as long as possible, which would lessen potential shareholder concerns regarding the length of his tenure as CFO/PFO. If Plaintiff found another position during the continued employment, then there would be no additional severance. Under the proposed plan, Plaintiff could keep, or do a workout on his 45,000 shares of stock options he had been awarded during his tenure with Defendant. Plaintiff's proposal did include proper, mutual hold harmless clauses, but did include a specific stipulation that Plaintiff would have to make sure that none of these events would bring Plaintiff any type of liabilities, disclosure or otherwise, before the SEC, the SEC attorney, or SEC Auditors.

76. Mr. and Mrs. Pappas scheduled a meeting with Plaintiff for October 15, 2014, the purpose of which was to discuss the investigatory findings.

77. Plaintiff emailed his exit plan to the Board on October 14, 2014. Plaintiff received a response from Mr. Pappas that same day, which stated:

> We can discuss this tomorrow Richard. Chris and I feel that you've done a great job and do not want to see you move on, but clearly there are some differences in our approach to management and yours, which we plan to discuss tomorrow. However, if you

> feel at this point that our relationship is broken beyond repair, or that there are irreconcilable differences in our management approach then we understand.

78. Mr. Pappas having described the situation as simply having differences in approach to management, in regards to the serious and hostile threats Mr. Pappas had made to Defendant's employees, as well as Mr. Pappas' intentional misrepresentations to investors out in the public, was a serious down playing, and being out of touch, with the seriousness of these situations. But, as Mr. Pappas' response indicated agreement of Plaintiff's exit proposal, in the intent of keeping his exit non-adversarial as possible, Plaintiff assumed he could just go with Mr. Pappas' offering and to be able to say that they could just agree to disagree.

79. Prior to meeting with Mr. and Mrs. Pappas on October 15, Plaintiff saw Michelle Cote, a Board member. Plaintiff asked her for her thoughts on his proposed exit plan. Ms. Cote stated that she thought it to be very reasonable.

80. Plaintiff met with Mr. and Mrs. Pappas on October 15, 2014. During the meeting, Plaintiff asked Mr. Pappas if he believed his exit plan was reasonable. Mr. Pappas stated that he believed it was and verbally approved of its terms and conditions.

81. Additionally, during the meeting, Mr. and Mrs. Pappas attempted to inform Plaintiff of the results of the investigation. Despite Plaintiff's attempt to diffuse the situation by stating that they should agree to disagree, Mr. and Mrs. Pappas insisted on discussing the results.

82. Mr. Pappas indicated that all of the allegations for the alcohol and sexual misconduct had proved to be just rumor and hearsay. Mrs. Pappas said that, after talking to all employees, everyone loved working there. Out of the whole investigation process, Mr. Pappas said he could only conclude that Plaintiff was the cause for a breakdown in inter-departmental communications, and that they had already decided that they were going to remove Plaintiff from

his operational role as Director of Support. Plaintiff was totally dismayed by the Pappas' seemingly disregard for logic and the blatant retaliation against him that these decisions demonstrated as the only outcome of an investigation for alcohol on the premises and sexual misconduct. Plaintiff was again able to diffuse the situation by again repeating that they could just agree to disagree, and eventually was able to leave the meeting without rebuttal.

83. Plaintiff received an email from Mr. Pappas on October 16, 2014, after speaking with Mr. O'Donnell, informing him that the Board was not going to approve his exit plan at that time. Specifically, Mr. Pappas impliedly rescinded his prior approval of Plaintiff's exit plan. Among other things, Mr. Pappas also insinuated that Plaintiff would potentially be liable in suit for leaving Defendant.

84. The threat simply showed Mr. Pappas and the Board's renewed hostility and intention of starting a bullying, threatening and intimidation process as it had no logic. Without an employment contract between Plaintiff and Defendant Florida being an employment "at will" state, Plaintiff had the right to resign without notice at any time, as well as Defendant could fire Plaintiff at any time without notice. Neither of these events would be any kind of issue of shunning fiduciary responsibilities.

85. From this point forward Plaintiff had to defend himself from this of type of hostile attitude and threats towards him even out to beyond the time Plaintiff had left the Company.

86. Plaintiff responded that of course there was no plan to shun any of his responsibilities while he was still employed, fiduciary or otherwise as his exit proposal clearly showed. Plaintiff asked if by corporate counsel, Mr. Pappas was referring to Bill Hart, the Company's SEC attorney.

87. Mr. Pappas sent Plaintiff another email on October 16, 2014. Therein, Mr. Pappas insinuated that Plaintiff could find himself in a lawsuit as a result of his decision to leave. Notably, Mr. Pappas also stated that Defendant would make it clear to its employees and shareholders that the decision to leave was entirely Plaintiff's.

88. Soon after, Plaintiff received yet another email from Mr. Pappas on October 16 2014. It accused Plaintiff of accepting the CFO position in bad faith. Mr. Pappas further stated that he'd be seeking legal counsel as to the propriety of suing Plaintiff.

89. The next morning, October 17, Plaintiff sent the Board his first draft of his exit proposal in a legal document for their review, saying he had received Mr. Pappas' threatening emails the night before, and would like to meet with the Board to address their concerns and see if the matter could be resolved. Plaintiff later also replied to Mr. Pappas and the Board that he was not in favor of escalating this issue into an adversarial posture. The above referenced threats of seeking grounds for legal action were getting more and more adversarial, as evidenced by his exit proposal. Plaintiff again stated that he thought it was still wise to agree to disagree.

90. Mr. Pappas grew more agitated as time went on, and ordered Plaintiff to appear before the Board on October 20, 2014 to discuss the "liabilities" Plaintiff continued to reference.

91. With the hostility now showing openly in communications from the Board, under illogical threats of legal action, Plaintiff explicitly felt he was in harm's way from the Board. Mr. Pappas and the Board did not seem to really be able to grasp the seriousness of their actions, even with all that Plaintiff had already put on record up to that point, which would certainly be the basis for any reasonable executive not to be able to remain as part of their management team.

92. In response to Mr. Pappas's directive, Plaintiff prepared a detailed explanation of his position, describing the events that had led up to that point. Among other things, Plaintiff

informed the Board of Mr. Pappas's misrepresentations at the Detroit MicroCap conference. Plaintiff also prepared some questions for the Board, such as whether they were going to fire him, still looking for grounds to bring legal action against him, or accept his proposed exit plan. Plaintiff openly put Mr. Pappas on notice of how unacceptable those kinds of threats and behavior were, even going against his own company written policies in the employee handbook. Plaintiff stated to the Board that if Mr. Pappas ever spoke to Plaintiff, or any company employee that way again while Plaintiff was still employed in the company, then Plaintiff would file an employee grievance according to the company's own employee handbook and find a correct HR process to bring it to investigation.

93. In light of Plaintiff's response, his scheduled meeting with the Board was cancelled.

94. After receiving no response to his inquiries all day, Plaintiff once again emailed his questions to the Board, asking if they were going to fire him, still looking to find legal grounds against him, or willing to do an exit agreement. He stated that he needed answers by 5:00 P.M. on October 20, 2014 (that same day) so he would have a clearer idea regarding his employment situation moving forward. Given the hostile environment, Plaintiff now purposed he would have to meet with the Board as a whole so that there could be witnesses; i.e., he did not want to meet with any individual Board member alone.

95. At approximately 4:45 P.M. on October 20, 2014, Mr. Pappas came to Plaintiff's office, alone, to meet with him in private. Mr. Pappas was clearly upset. Mr. Pappas tersely stated that they needed two weeks to be able to answer Plaintiff's questions, without offering any explanation as to why. Mr. Pappas said at that time maybe the Board would do something for him. Mr. Pappas tersely gave the Plaintiff an ultimatum, that if this was unacceptable to

Plaintiff, then he could leave today and that Plaintiff had to give him the answer immediately. Plaintiff stated he could not give him an answer right at that moment, and Mr. Pappas tersely said he could then have until first thing the next morning to give them an answer. As Mr. Pappas left Plaintiff's office, Mr. Pappas also tersely stated that Plaintiff's office door must now always remain open.

96. Plaintiff was very concerned about the continued hostility and threatening atmosphere, and could only assume this would continue if he were to stay employed while the Board would not answer his simple questions. He certainly could not focus on his duties, feeling all the Board was really doing was buying time and looking for legal grounds against him.

97. On October 22, 2014, Plaintiff emailed Ms. Cote regarding how Mr. Pappas had issued this final ultimatum to him, and informed her that he would not be coming back to work per Mr. Pappas's ultimatum.

98. The Board made an announcement in a company meeting later that day telling them that Plaintiff had left the company.

99. Mr. Pappas was obviously concerned about what Plaintiff might say about all of this. Later on Wednesday afternoon, Mr. Pappas called Plaintiff on the phone and issued specific threats against the Plaintiff. Mr. Pappas threatened Plaintiff with a lawsuit if he went to the shareholders with certain, unidentified information.

100. Defendant filed an SEC Form 8-K on October 22, 2014. It falsely stated that Plaintiff had been terminated. This is a public document, and showed up in news reports on sites such as yahoofinance.com.

101. By turning Plaintiff's reasonable request for a mutually beneficial, managed approach to his resignation and exit into an adversarial process, and the Board's final ultimatum placed on Plaintiff him to immediately decide to leave or not, Defendant took constructive steps

to insure the atmosphere in the company was unworkable for Plaintiff causing him to have to leave the Company. Defendant created an abusive work environment so intolerable that Plaintiff's decision to leave was the only fitting response. This action by Defendant resulted in a constructive discharge.

102. By entering into a hostile, threatening and adversarial process in response to Plaintiff's attempt to simply resign in a mutually beneficial process, Defendant denied Plaintiff a reasonable amount of time to find comparable employment, which could have been remedied by a severance agreement. Without an income, Plaintiff has incurred additional damage such has his own high health insurance costs and placing hardship on him to potentially be underemployed. Defendant filed a public document stating Plaintiff was terminated from a public company, CFO position, damaging Plaintiff's reputation and ability to find comparable work. In addition, Defendant's process denied Plaintiff his 45,000 shares of stock options awarded during his tenure with Defendant. Defendant denied Plaintiff a proper hold harmless agreement, protection from disparaging comments and a proper work reference for him to move forward with in seeking new employment.

103. Part of Plaintiff's proposed exit plan, would be to have full disclosure of this process to Defendant's SEC level advisors, the Company's SEC Attorney, Mr. Bill Hart, and the Company's SEC auditors, Hartley Moore Accountancy Corporation, so that Plaintiff could know that he would not have any remaining liability to the SEC for these circumstances.

104. After his departure, Plaintiff did forward his two discovery documents that he had supplied to the Board as full disclosure of these events to the Company's SEC attorney, and SEC Auditor.

COUNT I
DEFAMATION

105. Plaintiff realleges and reaffirms the allegations contained in paragraphs 1-104 as if fully set out herein.

106. Defendant, through its various agents and employees—including, but not limited to Mr. Pappas, caused to be filed a SEC Form 8-k stating that Plaintiff had been terminated from employment. That statement was false and malicious and was intended to, and did, deprive Plaintiff of public confidence and good will, and lowered the reputation of Plaintiff in the opinion of Plaintiff's former employer, former fellow employees, friends, and the general public.

107. The statement of Defendant was wrongful, unlawful, and malicious, and was intended to mean, and were taken to mean by those reading and hearing them, that Plaintiff was not qualified to be employed, and were made with the malicious intent of injuring Plaintiff in his trade, business, and profession.

108. Said statement was made by Defendant maliciously or with knowledge of its falsity or with reckless disregard for the truth or falsity of said statement when Defendant should have known that they were false.

109. As a direct and proximate result of the false, wrongful, and malicious statement by Defendant, Plaintiff has sustained damages, including a reduction of his income and potential income, the loss of his good name, the tarnishing of his good name and character, damages to his reputation, humiliation, shame, embarrassment, anxiety, and emotional distress.

WHEREFORE, Plaintiff demands judgment against Defendant for lost wages and income, compensatory damages, damages for emotional distress and loss of enjoyment of life, injunctive relief, including, but not limited to preparing and filing a corrected accurate SEC Form 8-k, and all other forms of damages and relief the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted,

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