

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

GORDON LAWRIE, MARGARET)
LAWRIE, CHARLES MCKINLAY, ALAN)
SIEGEL, KIMBERLY SIEGEL, STEPHEN)
FRIEZE, ELIZABETH FRIEZE, BARRY)
SOBEL, NAOMI BERGER, ANDREW)
BILLINGTON and CHARLOTTE)
BILLINGTON,) Case No:
individually and on behalf of all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
The Ginn Companies, LLC, Ginn)
Development Company, LLC; Ginn Real)
Estate Company, LLC; Ginn Financial)
Services, LLC; Ginn Title Services, LLC;)
ESI Living, LLC; Lubert-Adler Partners,)
L.P.; Fifth Third Bancorp; Fifth Third Bank)
(Michigan); SunTrust Mortgage, Inc.; and)
Wachovia Bank, N.A.,)
)
Defendants.)
)

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

1. This is a proposed Class action to redress one of the largest real estate and mortgage frauds in recent history. This action is brought by Plaintiffs on behalf of themselves and those similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure, against Defendants The Ginn Companies, LLC, Ginn Development Company, LLC; Ginn Real Estate Company, LLC; Ginn Financial Services, LLC; Ginn Title Services, LLC; ESI Living, LLC; Lubert-Adler Partners, L.P.; Fifth Third Bancorp; Fifth Third Bank (Michigan); SunTrust Mortgage, Inc.; and Wachovia Bank, N.A., for violations of the Racketeer Influenced and

Corrupt Organizations Act, 18 U.S.C. §§ 1961 et seq. (“RICO”), and the Florida Unfair and Deceptive Practices Act, Florida Statutes §§ 501.201 et seq., in connection with a complex and wide ranging scheme used by Defendants to market, sell and finance real estate in certain residential real estate developments through misrepresentations, fraud and violations of federal and state law.

2. At issue in this case is Defendants’ scheme to market, sell and finance real estate in residential communities developed by the Ginn and Lubert-Adler Defendants at prices that were fraudulently inflated through misrepresentations, manipulation, fraud, deceptions, omissions and unconscionable conduct, as described in detail below, in order to astronomically increase their profits at the expense of purchasers such as Plaintiffs and the other members of the Class.

3. Plaintiffs and other members of the Class bought real estate in communities developed by the Ginn Defendants and Lubert-Adler that were marketed pursuant to a common scheme. These communities included, without limitation:

- a. Hammock Beach in Palm Coast, Florida;
- b. Tesoro Preserve in Port St. Lucie, Florida;
- c. Reunion Resort in Orlando, Florida;
- d. Bella Collina in Montverde, Florida;
- e. Yacht Harbor Village at Hammock Beach, in Palm Coast, Florida;
- f. Conservatory at Hammock Beach in Palm Coast, Florida;
- g. Quail West in Naples, Florida;
- h. Cobblestone Park in Blythewood, South Carolina;
- i. The BriarRose in Hancock County, Georgia;
- j. Laurelmor in Boone, North Carolina;

- k. Burke Mountain in East Burke, Vermont;
- l. Ginn Sur Mer the Bahamas; and
- m. Mahogany Run in the Virgin Islands.

4. Plaintiffs were victimized by Defendants and misled as to the value of such property through a scheme implemented by Defendants that involved every step of the real estate purchase process—from the introduction of the property at lavish “launches” deceptively promoted with standardized marketing materials through the mails and wires, to the intentional manipulation of property values through misrepresentations, fraud, deception, omissions and unconscionable conduct, to the funding of mortgage loans for the properties, based upon materially false, artificially-inflated and purposefully manipulated appraisals. Defendants developed this reprehensible scheme and moved their enterprise from one development to the next.

5. Each member of the Class fell victim to the Defendants’ scheme and purchased one or more Ginn properties with a value far below that represented by Defendants, thereby suffering substantial losses to their money and/or property. In fact, the subject properties are actually worth as little as ten percent of their “appraised value”—a phenomenon that absolutely cannot be explained by mere “market downturn.”

6. As set forth below, each of the Defendants actively participated in and exercised control over the conduct furthering the overall scheme for the common objective of fraudulently and substantially increasing profits from the sales and financing of Ginn properties to the Class members at substantially and artificially inflated prices.

7. Plaintiffs seek redress for the losses to property that the Class (defined below) suffered as a result of Defendants’ illegal acts, and further seek declaratory and injunctive relief to prevent further losses.

JURISDICTION AND VENUE

8. This Court has federal question jurisdiction over the subject matter of this action pursuant to 18 U.S.C. §§ 1961, 1962 and 1964; 28 U.S.C. §§ 1331, 1332 and 1367.

9. Diversity jurisdiction is also conferred over this Class action pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), providing for jurisdiction where, as here, the aggregated amount in controversy exceeds five million dollars (\$5,000,000), exclusive of interest and costs and: (a) any member of a class of Plaintiffs is a citizen of a State different from any defendant; and/or (b) any member of a class of Plaintiffs is a citizen or subject of a foreign state. See 28 U.S.C. §§ 1332(d)(2) and (6).

10. This Court has supplemental jurisdiction over the state law claims asserted herein, pursuant to 28 U.S.C. § 1367(a).

11. This Court has personal jurisdiction over the Defendants pursuant to 18 U.S.C. §§ 1965 (b) and (d).

12. The activities of the Defendants and their co-conspirators as described herein have been within the flow of interstate commerce on a continuous and uninterrupted basis and have had a substantial effect on interstate commerce.

13. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the Plaintiffs' claims occurred in this district and/or or a substantial part of property that is the subject of this action is situated in this district.

PARTIES

Plaintiffs

14. Plaintiffs Gordon Lawrie and Margaret Lawrie are British citizens residing in Winter Garden, Florida. The Lawries were victims of the illegal acts alleged herein and were injured as a result, suffering substantial losses to their money and property.

15. Plaintiff Charles McKinlay is a British citizen residing in Edinburgh, Scotland. McKinlay was a victim of the illegal acts alleged herein and was injured as a result, suffering substantial losses to his money and property.

16. Plaintiff Alan Siegel is a United States citizen residing in Orlando, Florida. Alan Siegel was a victim of the illegal acts alleged herein and was injured as a result, suffering substantial losses to his money and property.

17. Plaintiff Kimberly Siegel is a United States citizen residing in Orlando, Florida. Kimberly Siegel was a victim of the illegal acts alleged herein and was injured as a result, suffering substantial losses to her money and property.

18. Plaintiffs Stephen Frieze and Elizabeth Frieze are British citizens residing in Montverde, Florida. The Friezes were victims of the illegal acts alleged herein and were injured as a result, suffering substantial losses to their money and property.

19. Plaintiff Barry Sobel is a United States citizen residing in Boca Raton, Florida. Sobel was a victim of the illegal acts alleged herein and was injured as a result, suffering substantial losses to his money and property.

20. Plaintiff Naomi Berger is a United States citizen residing in Coconut Creek, Florida. Berger was a victim of the illegal acts alleged herein and was injured as a result, suffering substantial losses to her money and property.

21. Plaintiffs Andrew and Charlotte Billington are British citizens residing in Gloucestershire, England. The Billingtons were victims of the illegal acts alleged herein and were injured as a result, suffering substantial losses to their money and property.

Defendants

Ginn/Lubert-Adler Defendants

22. Defendant The Ginn Companies, LLC, a/k/a “The Ginn Companies” is a Delaware limited liability company with its principal place of business located in Celebration, Florida.

23. Ginn Development Company, LLC, a/k/a “The Ginn Company,” a/k/a “Ginn Clubs and Resorts,” is a Georgia limited liability company with its principal place of business located in Palm Coast, Florida.

24. The Ginn Companies and Ginn Development Company also operate through a myriad of affiliates and subsidiaries, including, without limitation: Ginn-LA, LLC; Ginn-LA Pine Island, Ltd., LLLP; Ginn-LA Orlando Ltd., LLLP; Ginn-LA Hammock Beach, Ltd., LLLP; Ginn-LA Wilderness, LLC; Ginn-LA Naples, LLC; Ginn-LA Hutchinson Island, LLC; Ginn BriarRose Holding, GP, LLC; Ginn LA-BriarRose Holdings, Ltd., LLLP; and Ginn-LA Hamlet, LLC. The Ginn Companies and Ginn Development Company directed and/or controlled the activities of such subsidiaries and/or affiliates.

25. Defendant Ginn Real Estate Company, LLC (“Ginn Real Estate”), is a Georgia limited liability company that maintains a principal place of business in Celebration, Florida. Ginn Real Estate knowingly and actively sold “resale” properties that were the subject of the scheme alleged herein at inflated prices to further the joint objectives of the Defendants

26. Ginn Financial Services, LLC (“Ginn Financial”) is a Georgia limited liability company that maintains a principal place of business in Celebration, Florida. Ginn Financial

knowingly and actively financed properties that were the subject of the scheme alleged herein at inflated prices to further the joint objectives of the Defendants.

27. Defendant ESI Living, LLC, formerly known as both Echelon Sales and as Resort Management Associates, is a property sales marketing firm that had its principal place of business in Orlando, Florida and in which Bobby Ginn, the founder of Ginn Real Estate Company, once owned 50% and which actively participated in and controlled various aspects of the scheme and conduct alleged herein.

28. Defendant Ginn Title Services, LLC (“Ginn Title”) is a Georgia limited liability company that maintains a principal place of business in Celebration, Florida. Ginn Title knowingly and actively participated in the scheme and conduct alleged herein by, as described at length below and without limitation, improperly and fraudulently recording sales and sales prices of properties in developments that are the subject of the scheme in order to further the joint objectives of the Defendants.

29. Defendant Lubert-Adler Partners, L.P. is a real estate private equity firm, domiciled in Delaware and headquartered in Philadelphia, Pennsylvania. Lubert-Adler has jointly developed real estate projects and marketed real estate properties, including those at issue in this lawsuit, with the Ginn defendants. Lubert-Adler has operated through various partnerships and through multiple funds, including, without limitation, the Lubert-Adler Real Estate Parallel Fund II, L.P., the Lubert-Adler Real Estate Fund II, L.P., the Lubert-Adler Real Estate Parallel Fund III, L.P., the Lubert-Adler Real Estate Fund III, L.P. and the Lubert-Adler Capital Real Estate Fund III, L.P. Upon information and belief, Lubert-Adler had a 50% ownership interest in Ginn Development Company, LLC, and owned 80% of all Ginn developments. Additionally, Dean Adler of Lubert-Adler actively participated in the scheme

described through a separate partnership with Ginn known as “A&G Enterprises.” Lubert-Adler actively participated in and exercised control over various aspects of the scheme and conduct alleged herein.

Lender Defendants

Fifth Third

30. Defendant Fifth Third Bancorp is a publicly-traded Ohio corporation headquartered in Cincinnati, Ohio. Defendant Fifth Third Bank (Michigan) is a subsidiary of Fifth Third Bancorp and is a Michigan-chartered bank headquartered in Grand Rapids, Michigan.

31. On or about January 1, 2005, Fifth Third Bancorp completed an acquisition of First National Bankshares of Florida, Inc. and merged First National Bank of Florida into Fifth Third Bank (Michigan). Both Jay Fulbright, a First National Bank of Florida loan officer, and Roy Snoeblen, a loan originator who headed up First National Bank’s Foreign National lending department, continued their activities in furtherance of the scheme alleged herein subsequent to the First Nation-Fifth Third merger, enabling Fifth Third to profit thereby. Roy Snoeblen eventually became a top producer for Fifth Third through his continued unlawful activities targeting foreign nationals in furtherance of the joint objectives of the Defendants and Enterprises alleged herein.

32. In or about November 2007, Fifth Third Bancorp completed its acquisition of R-G Crown Enterprises and merged R-G Crown Bank’s 30 Florida branches into Fifth Third Bank (Michigan). See [www.prnewswire.com/cgi-bin/stories\(11-05-2007\)](http://www.prnewswire.com/cgi-bin/stories(11-05-2007)). In its related press release, Fifth Third touted its rapid expansion within Florida and the merger with R-G Crown Bank as a continuation of its growth into “faster growing markets” and its increasing Florida presence. *Id.* In addition, Fifth Third welcomed the R-G Crown Bank customers and employees with whom it would have a continuing relationship going forward. *Id.*

33. As further described below, from the beginning of the scheme alleged herein, Brady Koegel, the Vice President of Residential Lending for R-G Crown Bank, and his father John (Jack) Koegel the President of R-G Crown Bank, controlled and/or actively participated in various aspects of the scheme with the purpose of furthering the joint objectives of the Defendants and the Enterprises.

34. Fifth Third Bancorp and Fifth Third Bank (Michigan) (collectively referred to as “Fifth Third”), as successor in interest to both R-G Crown Bank and First National Bank of Florida, merged with and continued the operations of those entities, reaping the benefits of the unlawful activities and conduct alleged herein. Both mergers increased Fifth Third’s Florida presence by merger and continuation of existing operations with fast growing banks that, through their executives, officers and/or employees, had originated a substantial number of loans from and actively participated in the unlawful conduct alleged herein. Moreover, after the mergers were effectuated employees and/or loan officers who continued at Fifth Third, including Roy Snoeblen and Jay Fulbright, continued to participate in the unlawful activities alleged herein directing conduct in connection with loan origination and manipulation of prices to further the objectives of the Enterprises.

35. Fifth Third, First National Bank of Florida and R-G Crown Bank were all “Preferred Lenders” for the Ginn Developments and Fifth Third continues to hold many of the mortgages in Ginn Developments that were made through the activities of the Defendants and Enterprises alleged herein. Following its acquisitions of First National Bank of Florida and R-G Crown Bank, Fifth Third derived income from the mortgages originated by those banks as well as from the continued active origination of loans and control/participation in the scheme at issue for Fifth Third directly.

36. The conduct of the executives, loan officers and employees of First National Bank of Florida, R-G Crown Bank and Fifth Third in furtherance of the scheme alleged herein is egregious and inconsistent with the standard applicable to bank employees in their dealings with customers which require, at the very least, that a bank not take steps to mislead, deceive and/or defraud those who seek funding from it. Such conduct which was known, or should have been known to Fifth Third and the banks with which it merged had they exercised an appropriate level of supervision, caused injury to Plaintiffs and members of the Class who were customers of the banks in connection with their purchases and financing of property in Ginn Developments. Fifth Third participated in and exercised control over various aspects of the scheme and conduct alleged herein by, *inter alia*, knowingly and actively facilitating the manipulation of the sales prices for the properties sold to members of the Class through misrepresentations, omissions, fraudulent conduct and funding property sales at inflated amounts in order to further the joint objectives of Defendants.

SunTrust

37. Defendant SunTrust Mortgage, Inc. (“SunTrust”) is a subsidiary of SunTrust Bank, a subsidiary of SunTrust Banks, Inc. SunTrust originates loans through over 200 locations in multiple locations, maintains correspondent and broker relationships in 49 states and services loans in 50 states and the District of Columbia. SunTrust, a “Preferred Lender” of the Ginn Developments, participated in and exercised control over various aspects of the scheme and conduct alleged herein by, *inter alia*, knowingly and actively facilitating the manipulation of the sales prices for the properties sold to members of the Class through misrepresentations, deceptions, omissions, fraudulent conduct, targeting and soliciting foreign nationals to purchase properties in the developments that are the subject of the scheme, and funding property sales at inflated amounts in order to further the joint objectives of Defendants.

38. The conduct of the executives, loan officers and employees of SunTrust in furtherance of the scheme alleged herein is egregious and inconsistent with the standard applicable to bank employees in their dealings with customers which require, at the very least, that a bank not take steps to mislead, deceive and/or defraud those who seek funding from it. Such conduct which was known, or should have been known to SunTrust had it exercised an appropriate level of supervision, caused injury to Plaintiffs and members of the Class who were customers of the bank in connection with their purchases and financing of property in Ginn Developments. SunTrust participated in and exercised control over various aspects of the scheme and conduct alleged herein by, inter alia, knowingly and actively facilitating the manipulation of the sales prices for the properties sold to members of the Class through misrepresentations, omissions, fraudulent conduct and funding property sales at inflated amounts in order to further the joint objectives of Defendants.

Wachovia

39. Defendant Wachovia Bank, N.A. is a national banking association organized and existing under the laws of the United States is headquartered in Charlotte, North Carolina. Wachovia, a “Preferred Lender” of the Ginn Developments, participated in and exercised control over various aspects of the scheme and conduct alleged herein by, inter alia, knowingly and actively facilitating the manipulation of the sales prices for the properties sold to members of the Class through misrepresentations, deceptions, omissions, fraudulent conduct, targeting and soliciting foreign nationals to purchase properties in the developments that are the subject of the scheme, and funding property sales at inflated amounts in order to further the joint objectives of Defendants.

40. The conduct of the executives, loan officers and employees of Wachovia in furtherance of the scheme alleged herein is egregious and inconsistent with the standard

applicable to bank employees in their dealings with customers which require, at the very least, that a bank not take steps to mislead, deceive and/or defraud those who seek funding from it. Such conduct which was known, or should have been known to Wachovia had it exercised an appropriate level of supervision, caused injury to Plaintiffs and members of the Class who were customers of the bank in connection with their purchases and financing of property in Ginn Developments. Wachovia participated in and exercised control over various aspects of the scheme and conduct alleged herein by, inter alia, knowingly and actively facilitating the manipulation of the sales prices for the properties sold to members of the Class through misrepresentations, omissions, fraudulent conduct and funding property sales at inflated amounts in order to further the joint objectives of Defendants.

41. Fifth Third, SunTrust, Wachovia and Ginn Financial are referred to collectively as the “Lender Defendants.”

42. The Defendants named herein also conducted their fraudulent activities and schemes through additional unnamed co-conspirators including additional appraisal companies, brokers, builders, lenders, attorneys, as well as numerous partnerships and companies formed by the co-conspirators and their officers and employees in order to make straw purchases of properties in the subject developments to further the Defendants’ joint objectives.

FACTUAL ALLEGATIONS

A. The Scheme

43. The scheme began as early as the late 1990s, with the Hammock Beach development in Palm Coast, Florida. The development was financed by Lubert-Adler. This development was followed by a string of other developments, including, without limitation:

- a. Hammock Beach in Palm Coast, Florida;
- b. Tesoro Preserve in Port St. Lucie, Florida;

- c. Reunion Resort in Orlando, Florida;
- d. Bella Collina in Montverde, Florida;
- e. Yacht Harbor Village at Hammock Beach, in Palm Coast, Florida;
- f. Conservatory at Hammock Beach in Palm Coast, Florida;
- g. Quail West in Naples, Florida;
- h. Cobblestone Park in Blythewood, South Carolina;
- i. The BriarRose in Hancock County, Georgia;
- j. Laurelmor in Boone, North Carolina;
- k. Burke Mountain in East Burke, Vermont;
- l. Ginn Sur Mer the Bahamas; and
- m. Mahogany Run in the Virgin Islands.

44. Upon information and belief, R-G Crown Bank also provided significant funding to Ginn for the purchase of the parcels to be used in the scheme including specifically funding for Ginn-LA's purchase of the parcel for Tesoro Preserve in Port St. Lucie, Florida.

45. Interested purchasers would be required to execute a power of attorney in favor of Richard T. Davis of the law firm of Cameron, Davis & Gonzalez, P.A. On May 14, 2003, Cameron, Davis & Gonzalez, P.A. formed Ginn Title, LLC as a Florida limited liability company and named Richard T. Davis as Ginn Title's registered agent. Mr. Davis would then execute documents, such as property reports, on behalf of Ginn purchasers. However, financial disclosures were often missing and forms were often not properly filled out. Cameron, Davis & Gonzalez, P.A. and Ginn Title performed many of the loan closings for the properties.

46. Ginn developed and maintained a database of thousands of names and would send marketing materials to those on the list through the mail, by fax and by electronic mail. Ginn also marketed through "whisper campaigns" and through brokers.

47. ESI managed marketing and sales of at least 13 Ginn communities and claimed to have sold more than 10,000 properties for \$5.5 billion over a seven-year period. Upon information and belief, ESI employees involved in the scheme included: Wilson Greene, Jim Matoska, Barry McDermott, Craig Wheeler, John Pinter and Jennifer Kelly.

48. The first phase of the scheme involved deviously creating frenzied demand through a standardized marketing approach that falsely touted the high value and high demand for the properties in the subject Ginn developments. The marketing approach included the dissemination of misleading, deceptive and/or false marketing material to potential purchasers and their agents in the United States and abroad through the use of the mail and wires. The intense demand created for the initial developments was an integral component of the scheme, as it laid the groundwork for successfully implementing the succeeding steps in the scheme.

49. The standardized approach used to develop the appearance of high value not only involved touting the amenities and features of the development (which were often never actually completed), but also the creation and manipulation of property values through the use of fraudulent bank-ordered appraisals. For example, the Tesoro and Quail West were marketed as being sites for lavish beach clubs that were never built. Bella Collina was marketed as having a world-class equestrian center, which was never built.

50. Defendants' scheme involved the creation of high comparable sales figures for the appraisals through various techniques including: (a) using inappropriate comparables for appraisals; (b) creating documents to reflect transfers that did not exist; (c) transferring properties to bank officers and employees (sometime as known or silent partners) at artificially high prices to subsequently be flipped to an innocent purchaser; (d) purposefully soliciting and utilizing cash purchases to serve as artificially inflated comparables for appraisals, often with

promises of guaranteed funding and/or other special treatment by banks and/or developers; (e) utilizing straw purchases at inflated prices; (f) falsely recording the sales prices when multiple lots were sold, so as to falsely indicate that one lot alone sold for the entire purchase price; and (g) soliciting sales from and providing multiple mortgage loans to unsuspecting foreign nationals.

51. The scheme was hugely successful and created windfall profits for Defendants. For example, in a Ginn development known as Bella Collina, prices rose from approximately \$277,000 to approximately \$1.2 million in only 3 months. Through their scheme, Defendants would sell and finance the purchases of up to \$200 million in residential real estate in a single day.

52. As set forth in detail below, each of the Defendants participated in and controlled a portion of the activities and conduct described in this paragraph in order to advance the overall scheme and the joint objectives of the Defendants.

B. Fostering Frenzied Demand

53. Defendants used these and other tactics, many of which, upon information and belief, were developed and directed for this scheme by Defendant ESI Living, LLC, to create a false sense of high demand for properties in the Ginn developments. Defendants used “launches” for the Ginn developments which were promoted to potential purchasers and their agents, both in the United States and abroad, through the mails and wires and invited “select” individuals to pay refundable deposits of \$1,000 down for the opportunity to “win,” through a lottery, the right to purchase one of the purportedly limited number of available lots. Upon information and belief, however, in reality, the launch parties were a sham and simply another component of the unlawful scheme. Individuals who “won” at the lavish launches had actually been preselected by the Ginn and Lender Defendants.

54. Each launch was preceded by an extravagant party in a luxurious location, such as the Ritz-Carlton Hotel. The lavish parties would often feature helicopter rides, cocktails, prize drawings and expensive hors d'oeuvres. The pre-launch party would be attended not only by Ginn sales representatives, but also by representatives and employees of Ginn's "preferred lenders," who had already committed to their co-conspirators to finance purchases by the "winners" in order to further the joint objective of generating future property sales at inflated prices and funding corresponding mortgages for substantial amounts.

55. Additionally, to create demand for the properties, Defendants would, for instance, invite far more interested buyers than could possibly receive properties during the launch parties (for example, having up to 1000 people present, whereas only 300 lots were available under the "lottery"). Ginn would also have its salespersons make false statements during the launch events in order to mislead purchasers and create demand. For example, upon information and belief, Ginn employees would make statements on walkie-talkies concerning lots that "just sold" or falsely indicating that inventory was almost gone.

56. As another tactic, if a Ginn salesperson was having trouble with making a sale, he/she would radio the on-site sales office. The sales office would sometimes then send employees out to pretend to be potential buyers, in order to put pressure on the potential purchaser go ahead and close the deal.

57. Ginn would also make false promises of amenities. For example, Ginn promised private boat docks for Bella Collina purchasers, although, upon information and belief, local authorities had refused to grant permission for the installation of such docks. Ginn also promised luxurious fitness facilities and amenities such as equestrian courses that were actually never constructed.

58. Another tactic used to create false demand was to falsely represent to interested buyers that a number of the available lots in a development had already been placed under contract. For example, prior to the second launch for Bella Collina, in June 2005, Ginn represented to potential buyers that fifteen lots were already under contract for an average sales price of \$2.2 million. Shortly after the launch, however, all of the lakefront contracts were suddenly rescinded. Upon information and belief, this is because the contracts were never real; rather, this tactic was used to fuel demand for other lots in the development and convince purchasers to buy such other lots for artificially-inflated prices. Based on this information, for instance, on the day of the launch, a lakefront lot sold for \$1.6 million. Then, on the same day, Bobby Ginn and Dean Adler of Lubert-Adler, through their partnership known as A&G Enterprises, sold a lakefront lot that they had purchased **on the same day** for \$609,000 to another buyer for \$1.95 million cash, based on the false representation that the lakefront lots had just sold for an average price of \$2.2 million—**producing a fraudulently-obtained windfall profit of over \$1.34 million in a single day**. Further, upon information and belief, bank-hired appraisers later used this fraudulent \$1.95 million sale as a comparable for appraisals for other lots

C. Manipulating Prices in Ginn Developments

59. Another tactic used by Defendants in order to fraudulently and artificially inflate selling prices for the Ginn properties was to purposefully record false information with respect to property sales. For instance, under one aspect of the scheme, Ginn would sell and one of the Lender Defendants would finance a mortgage loan for two properties for a particular buyer, under one contract. Ginn Title would then cause the sale to be publicly recorded as one property having been sold for \$1 and with the other property having been sold for the entire purchase

price. Then, an appraiser would use the “high-priced” sale as comparables for later sales to unsuspecting buyers.

60. For example, on June 7, 2004, builder RL Vogel Homes purchased Lots 260 and 391 in Bella Collina for a total purchase price of \$707,800, financed by R-G Crown Bank. However, Ginn Title caused the sale to be recorded as Lot 260 having been sold for \$707,800 and Lot 391 having been sold for \$1. Lot 260 was later used as a comparable for appraisals. Later, on January 28, 2005, Lot 391 was flipped to Stephen Frieze for over \$500,000—also financed by R-G Crown Bank and based on a fraudulent appraisal that was solicited by R-G Crown Bank.

61. Under another tactic, Ginn would sell multiple lots to a single buyer under one contract. Ginn Title would then cause each property to be recorded for the complete amount of the purchase price. Then, an appraiser would use the “high-priced” sales as comparables for later sales to unsuspecting buyers.

62. Another tactic utilized by Defendants was the use of cash purchases of properties at inflated prices, so that these properties could later serve as comparables for bank-ordered appraisals. In other words, Defendants would attempt to cover their tracks and add a false level of legitimacy to the appraisals by surreptitiously planting a comparable based upon a cash purchase—which did not include a bank-ordered appraisal—rather than based solely upon other financed purchases that involved appraisals ordered by the very banks that participated in the scheme. For example, on or about June 28, 2005, R-G Crown Bank’s Braden (“Brady”) S. Koegel told a foreign national purchaser, who was seeking financing for the purchase of two Ginn lots, that R-G Crown Bank would guarantee financing for Lot 1, Conservatory, if the purchaser would agree to pay cash for Lot 194, Bella Collina. As another example, in a video

taken on April 23, 2005 during a Bella Collina launch, the following conversation took place between Phillipa Liddel (realtor with IPG Realty) and Ginn salesperson Brad Smedberg:

Liddel: How many cash buyers have you got in here today, Brad?

Smedberg: We've probably got about 8 or 9. They usually give everybody that's paying cash homesites because we need the appraisals. We tell—if you're paying cash, you're closing in fourteen days, we'll guarantee you a home site.

63. Ginn would also feed comparables to appraisers, cherry-picking properties with high values to be used as comparables for the appraisals even though the properties were not truly comparable in terms of location, features and/or other standard measures. Appraisers violated their standards of conduct, as articulated by the Appraisal Standards Board of the Appraisal Foundation's Uniform Standards of Professional Appraisal Practice, by: (a) basing appraisals on predetermined opinions and conclusions; (b) performing as advocates for the Defendants; and (c) failing to perform their duties with impartiality, objectively, independence and without accommodation of personal interests.

D. Lender Defendants' Participation in Kickbacks and Fraudulent Appraisals

64. R-G Crown Bank was heavily involved in the scheme. John a/k/a "Jack" A. Koegel was President of R-G Crown Bank, while his son, Brady Koegel, was Vice President, New Housing Division, within the bank.

65. SunTrust was also heavily involved in the scheme. For example, SunTrust provided mortgage loans for over thirty percent of the properties in Bella Collina. Upon information and belief, some of the SunTrust employees involved in the scheme included Jay Fulbright, Michael Knight, Karen Miller Losicky, Brad King, Celita Ryan-Quinn, James J. Shaffer and Nick Cotter.

66. Wachovia was also heavily involved in the scheme. For example, Wachovia arranged for financing based on fraudulent appraisals and artificially-inflated property values in Reunion, Bella Collina and Laurelmor. Upon information and belief, some of the Wachovia employees involved in the scheme included, for instance, Roy Snoeblen, Brad King and Craig Fairey.

67. Ginn Financial arranged mortgage loans based on fraudulent appraisals for many Ginn properties, including properties in Bella Collina, Yacht Harbor Village and Quail West.

68. The Lender Defendants directly participated in the launches and other conduct intended to create artificially high valuations of properties in Ginn developments. For example, the Lender Defendants permitted Ginn to select the “winners” and agreed fund sales without regard for safeguards against over-valuation of properties such as using independent appraisers and applying regular underwriting standards. For example, by agreement with its co-conspirators, the Lender Defendants often utilized appraisers selected by Ginn and who committed such atrocities as: (a) never inspecting the properties at issue; (b) using grossly inappropriate comparables—often provided by Ginn; (c) providing appraisals at values pre-determined by Ginn and/or the Lender Defendants. Further, certain of the co-conspirator appraisers received kickbacks from the Lender Defendants in the form of receiving large mortgage loans in order to purchase Ginn properties at discounted prices and flip them.

69. The Lender Defendants would also often advertise on Ginn’s website and in the materials sent to potential purchasers through the mail and wires. For example, on the website www.GinnResorts.com, the following quote and endorsement from R-G Crown Bank President John Koegel appeared:

From a lender’s perspective, it’s been a total joy working with the Ginn company. In 2½ years, we’ve handled almost \$300 million

in lot and construction loans for the company and we've never had one go delinquent. When they say they're going to do something, it gets done. Their people are exceptional from top to bottom.

(last accessed in July 2007; website no longer accessible).

70. The Lender Defendants further participated and advanced the objectives of the scheme by financing property sales in the Ginn developments at the substantially and artificially inflated prices that they had helped to create, knowingly approving loans for amounts that were not justified by the true value of the properties and knowingly failing to apply appropriate underwriting and property valuation standards.

71. For example, according to one foreign national, R-G Crown Bank's Brady Koegel would attempt to convince purchasers to build model homes on Ginn lots with no money out of pocket. Koegel would offer to obtain an appraisal on the empty lot based on the future value of the lot plus the completed home and use the "equity" in the lot as the down payment portion of the new construction loan that would be made available to the purchaser through R-G Crown Bank. According to Koegel's plan, once the house was built, R-G Crown Bank would convert the loan to a permanent loan, list the property with Ginn and sell it for a profit.

72. The Lender Defendants were also directly involved in soliciting new loans for Ginn properties. One tactic was to approach current buyers, utilize fraudulent appraisals in order to convince them that their property had risen in value, then have them take out additional loans in order utilize the "equity" in the properties to purchase additional Ginn properties.

73. The Lender Defendants provided financing for numerous properties within the Ginn developments, based on fraudulent appraisals and artificially-high property values. The banks actively worked hand-in-hand with Ginn to create, effectuate and further the scheme. For instance, upon information and belief, the Lender Defendants would often only hire appraisers

that they knew would “play ball” by using inappropriate techniques to over-value the Ginn properties.

74. Illustratively, in an email dated June 22, 2006, on which appraiser David Tremblay was copied, R-G Crown Bank’s Brady Koegel stated to Stephen Frieze that Mr. Frieze could simply let him know, in uncertain terms, what numbers needed to appear on the appraisal and he would make it happen. Specifically, Brady Koegel stated:

Stephen, email me (as well as the appraiser above) the physical addresses of both properties to appraise, your cell number or best contact number, **the value of each property you would like to see on the appraisal...** we should be in great shape (emphasis added)

75. The appraisers utilized by Ginn and the Lender Defendants frequently used inappropriate comparables. This was accomplished by using comparables that were: (a) located in far more expensive developments; (b) located in developments targeted to end-users, rather than to investors; (c) provided to the appraiser by Ginn, rather than independently selected; (d) plainly more valuable than the subject property, such as using large, lakefront lots such as Lot 143, Bella Collina, as comparables for small interior lots; and/or (e) based on fraudulent straw purchases.

76. Another tactic was to utilize purported comparables from Isleworth, one of the most expensive and exclusive communities in the United States, and certainly the most expensive community in the area. Isleworth, pictured below, is home to such residents as Tiger Woods, Ken Griffey Jr., Mark O’Meara, and Planet Hollywood CEO Robert Earl and includes homes valued as high as \$16 million, including a 26,000 square foot home purchased by Shaquille O’Neal.



Source: <http://www.celebritydetective.com/aerial/isleworthphoto.html>. Comparables from Isleworth were inappropriate, due to the unusually high property values in Isleworth and due to the fact that Isleworth properties were typically purchased for use as primary residences, rather than for vacation homes and/or investment properties.

77. As an example of a fraudulent appraisal, Wachovia provided a mortgage loan to Paul Storti to purchase Lot 8, Bella Collina (a mid-sized lakefront lot). However, the appraiser hired by Wachovia did not use comparable lots, but rather the largest lakefront lots possible. In April 2005, Lot 8 was appraised at \$1.45 million, even though Lot 7, a comparable lot, had sold for \$416,000 less than a year earlier, on June 7, 2004.

78. Another tactic used in the bank-ordered appraisals was to fraudulently include inappropriate items as part of the subject property's appraised value, such as the value of an expensive furniture package. The value of the furniture package would often be improperly included in the appraisal in that the contract price included the value of the furniture and the predetermined amount for the appraisal was based upon the contract price. For example, in an email to a foreign national prospective purchaser, dated February 11, 2005, R-G Crown's Brady Koegel stated that R-G Crown Bank would fraudulently arrange for the appraisal of the subject property to include the price of a \$65,000 furniture package in the appraisal. Koegel stated, "as long as the property appraises out with the furniture included, we are good to go."

79. Yet another tactic was to fraudulently include inappropriate items as part of the subject property's appraised value, such as the value of a builder leaseback. Under this scheme, the property would be sold to the buyer, with an agreement by the builder to lease the property back from the buyer until construction was complete and a promise by Ginn that the buyer would be able to flip the property for a substantial profit before the expiration of the leaseback period. The value of the leaseback would often then be improperly included in the appraisal in that, upon information and belief, the contract price included the value of the leaseback and the predetermined amount for the appraisal was based upon the contract price.

80. Bank-ordered fraudulent appraisals played a substantial role in the scheme.

81. Upon information and belief, complicit appraisers who participated in the scheme included:

- a. David Appraisals (Diana David);
- b. Appraisal Associates of the Treasure Coast (David Tremblay and Adam Jones);
- c. Brad Long Appraisals, Inc.;

- d. Duane Associates;
- e. Certified Appraisal Services, Inc.;
- f. Anthony Puvill;
- g. Jeremy Stinemetz;
- h. Appraisals Inc. of Central Florida;
- i. AFL Appraisals (Julie E. Chartier, Diana David);
- j. Scott Rhodes and Cecil Wright;
- k. Premier Appraisals, Inc.

82. Upon information and belief, complicit builders who conspired with Defendants but are not named Defendants herein included:

- a. Continental Builders;
- b. RL Vogel Homes;
- c. Homes by Carmen Dominguez;
- d. Coudriet;
- e. River Oaks;
- f. P.G.M. Builders;
- g. Purucker & Marrano Custom Homes;
- h. Brewer Homes; and
- i. Bradford Builders.

83. The Lender Defendants' officers and employees would also often, accept kickbacks from Ginn. Through specially-formed partnerships and/or limited liability companies, bank officers and employees purchased Ginn properties at "pre-launch" prices for the purpose of being able to later flip them for a profit, as property values were artificially inflated through false representations, deceptive-created demand and fraudulent appraisals. This was in furtherance of Defendants' scheme to artificially inflated selling prices for Ginn properties.

84. For example, on or about June 13, 2005, Lot 453, Bella Collina was sold to an unsuspecting buyer for \$1,550,900. On the same day, however, SunTrust employee James J. Shaffer, who arranged a large number of SunTrust mortgage loans in Bella Collina, purchased Lot 452 in Bella Collina—a plainly comparable lot—for \$850,900, financed by SunTrust.

85. As another example, on or about March 2, 2004, SunTrust employee Bradley Robert King—who arranged financing for a number Ginn properties—purchased Lot 20, Tesoro Preserve for \$640,900 through a partnership with Greg Ulmer, who was a Ginn salesman at Tesoro. Approximately one year later, on or about June 9, 2005, King flipped the lot for \$1.3 million.

86. King also formed a partnership with Ginn salesman Brad Hufstettler whereby he would purchase Ginn properties at “discounted” prices and flip them, with financing provided by SunTrust.

87. In an email dated July 4, 2005 to an interested purchaser, R-G Crown Bank’s Brady Koegel boasted, “I own 50% of 28 Ginn properties...I do not want to bite the hand that feeds me, regardless of how involved I am...I will not buy a lot at a Ginn launch moving forward when I can buy in their projects before the public can.” Koegel also stated, “I consistently partner with Ginn execs and sales staff behind the scenes and without each of them knowing. I know A LOT of good information” (emphasis in original). Koegel also attempted to have the purchaser help him to flip Ginn properties by “just lining up a buyer to take them off my hands or a joint venture with a backside kicker.”

88. In an email dated June 28, 2005, Koegel bragged that he was “buying before most of Ginn’s biggest hitters can and below launch prices!”

89. On June 7, 2004, Lot 361, Bella Collina, was sold to Mark A. Keenan for \$444,000. R-G Crown Bank gave Keenan a \$400,000 mortgage for this purchase. On January 25, 2005, R-G Crown Bank's President John Koegel and Vice President Brady Koegel partnered with Mark A. Keenan to form a company called Golf Frontage, LLC, in Longwood Florida. Subsequently, on May 3, 2005, Lot 361, Bella Collina, was flipped to an unsuspecting buyer named Michael J. Adams for \$1.49 million, with 100% financing provided by R-G Crown Bank.

90. The Lender Defendants would also provide kickbacks to Ginn employees by providing them with financing—which they would not have been able to obtain elsewhere—in order to purchase Ginn properties and flip them at artificially-inflated prices.

91. For example, in an email dated June 28, 2005, R-G Crown Bank's Brady Koegel boasted to an interested purchaser regarding such kickbacks: "I have made their families millions inside Ginn when other banks would not finance them, as well as partnered on no-brainers inside Ginn with them personally and they are now 'returning the favor.'"

92. Ginn employees would often set up partnerships or limited liability companies and purchase Ginn properties, with mortgages provided by the Lender Defendants, so that they could flip the properties at artificially-inflated prices. This was done for the purpose of furthering Defendants' scheme to drive up the selling prices of Ginn properties.

93. For example, Eddie Schatz was Bobby Ginn's partner in Austin Outdoors, which did the majority of the landscaping for Ginn properties. On or about April 25, 2005, Schatz purchased Lots 141 and Lot 142, Bella Collina for \$529,900. On the same day, Schatz then flipped the properties to a purchaser named Michael J. Adams for \$640,000 per lot—a combined profit of approximately \$220,000 in a single day. Financing and the appraisal for Michael J. Adams were arranged by R-G Crown Bank.

94. As another example, Jim Matoska, Vice President of Sales and Marketing for Ginn Real Estate Company, formed a company called Terrazul, LLC and purchased several Ginn properties with financing provided by Wachovia. Matoska also purchased property in Bella Collina under his own name. R-G Crown Bank also provided financing for members of Matoska's family to purchase Ginn properties.

95. As another example, Nicole Costello served as Ginn's closing coordinator/notary. On or about December 23, 2004, Costello purchased Lot 147, Bella Collina, for \$242,910. On the same day, Costello flipped the property to a buyer named JHM Investments, LLC, for \$456,500—a one-day profit of approximately \$213,590. Financing and the appraisal for JHM Investments, LLC, were arranged by R-G Crown Bank.

96. As another example, Diana David, one of Ginn's top preferred appraisers, was involved in numerous property-flipping deals with Sean Barrett, Ginn's Vice President of Sales and Marketing, in a company called R&S Real Estate Investments, Inc.

97. As another example, at launch, Lot 256, Bella Collina, was sold for \$297,900. One year later, while comparable Bella Collina lots were being sold to unsuspecting buyers for substantially, artificially inflated prices as high as \$1.2 million, Ginn sales manager Rusty Rogers purchased Lot 256, Bella Collina for \$299,000, with a loan from SunTrust, arranged by loan officer Celita Ryan Quinn. Pursuant to a Loan Modification Agreement dated September 9, 2005, Rogers received a construction-to-perm loan from SunTrust and increased his note to \$2,767,000. SunTrust also gave Rogers a \$2 million loan for a condominium in downtown Orlando. Thus, Rogers was given over \$4.7 million in SunTrust loans. In return, Rogers referred the majority of construction-to-perm loans in Bella Collina to SunTrust.

98. Jennifer Leachman, another Ginn salesperson, personally had over \$1.4 million in SunTrust residential mortgage loans.

99. As yet another example, Richard T. Davis, an attorney who worked very closely with Ginn and Ginn Title, together with builder Purucker & Marrano Custom Homes, which built Ginn homes in Tesoro, formed a limited liability company called R&P, LLC. Davis and the builder then purchased Lots 46, 47, 50 and 61 in a Ginn community known as Watersong, Port St. Lucie, with mortgage loans arranged by R-G Crown Bank.

100. These incestuous practices were stunningly rampant. For example, upon information and belief, R-G Crown Bank officers/employees purchased at least 28 Ginn properties. KDHC, LLC was a company in the name of Rebecca Martel, wife of R-G Crown Bank's Brady Koegel. Through this company she had four loans from R-G Brown Bank to purchase four lots in Reunion. Through flipping properties, Martel earned \$541,400 in three months. Two of the resales were also financed by R-G Crown Bank. R-G Crown Bank President John Koegel and Vice President Brady Koegel formed a company known as "Golf Park Properties," through which they purchased multiple Ginn properties at discounted prices in order to flip them at artificially-inflated values.

101. Ginn and the Lender Defendants also used mortgage brokers, such as John C. Grady of Acquisitions Mortgage Group and mortgage broker Gary Harmon and Samuel Trafelet, to further their scheme. Upon information and belief, however, Ginn only permitted mortgage brokers who referred to Ginn's preferred lenders.

102. The Lender Defendants plainly misrepresented to the Class members the true the loan-to-value ("LTV") ratios for their loans. As each of the Lender Defendants knew, independent and accurate appraisals are essential in order to correctly represent the LTV ratio for

a given mortgage loan. The LTV ratio is calculated by dividing the value of the home by the amount of the loan. For example, if a borrower desires to borrow \$900,000 purchase a property valued at \$1,000,000, the LTV ratio is 90%. However, if the appraisal has been artificially inflated, such that the actual value of the property is only \$250,000, then the LTV ratio is actually 360%. While each of the Lender Defendants represented to the members of the Class that their LTV ratios were, generally, between 80 and 100%, because of Defendants' scheme, the actual LTV ratios for the Class members' loans were much, much greater. Had the Class members known the true LTV ratios for their loans, they would not have accepted such loans. For instance, no member of the Class would have accepted a loan with an LTV ratio of 360%.

103. The Lender Defendants' misrepresentations were a critical part of the scheme. Quite plainly, the Ginn developments would not have sold for such enormously artificially inflated prices had the Lender Defendants represented to the Class members the true LTV ratios for their mortgage loans.

E. Targeting Foreign Nationals

104. On information and belief, Defendants often targeted foreign nationals in promoting property sales due to the minimal credit checks required and the ability to avoid compliance with certain disclosure and document requirements. Sales to foreign nationals necessarily involved the use of the mail and wires at various steps of the property sales and financing transaction.

105. The Lender Defendants often required absolutely no documentation and/or income verification whatsoever from foreign nationals.

106. Defendants would often market to foreign nationals via the internet. For example, on advertisement used advertise that the buyer could obtain instant equity; the buyer could purchase a Ginn lot for \$350,000 and build a home for \$750,000. The advertisement stated that a

bank would then appraise and finance the property for \$1.5M—producing instant substantial profits for the buyer. *See, e.g., http://www.investin.co.uk/overseas_property.html.* Once the foreign national contacted Ginn, he/she would be referred to one of the Lender Defendants. Ginn employees would go out of their way to introduce foreign nationals to banks that had already agreed to “play ball.” For example, in June 2004, one Ginn salesperson personally drove one foreign national at least four hours to personally join him for a meeting in Casselberry, Florida with R-G Crown Vice President Brady Koegel.

107. This type of marketing scheme was extremely successful. Fifth Third employee and often top producer Roy Snoeblen (first with First National Bank of Florida, then with Fifth Third Bank) arranged approximately 85% of the foreign national mortgages for Bella Collina; was the top producer for all of Fifth Third. Upon information and belief, certain of the Lender Defendants provided foreign national Andrew Louka as many as sixteen mortgage loans for Ginn properties. The loans were provided by First National Bank of Florida, R-G Crown Bank and Fifth Third Bank. Louka was once provided with six loans in a single day for purchases in Reunion.

F. Lubert-Adler

108. Lubert-Adler actively participated in the scheme. In addition to the fact that the Lubert-Adler fund owned a 50% interest in Ginn and an 80% interest in the Ginn developments, Dean Adler of Lubert-Adler formed a partnership with Bobby Ginn called A&G Enterprises. Through this partnership, Bobby Ginn and Adler would purchase Ginn properties at discounted rates, then flip them for substantial profits to unsuspecting buyers—**sometimes on the same day**—based on fraudulent appraisals and mortgage loans by the Lender Defendants. For example, A&G Enterprises made the following transactions in Bella Collina:

Lot number	Purchase price	Date of Purchase	Date of sale	Sale Price	Profit
329	\$510,320	12/10/2004	12/10/2004	\$840,900	\$330,580 (sale financed by First National Bank of Florida)
330	\$520,320	10/29/2004	10/29/2004	\$810,900	\$290,580 (sale financed by SunTrust)
331	\$550,320	10/29/2004	10/29/2004	\$854,900	\$304,580 (sale financed by First National Bank of Florida)
332	\$550,320	10/31/2004	11/20/2004	\$854,900	\$304,580 (sale financed by R-G Crown Bank)
446	\$600,900	6/24/2005	6/24/2005	\$1,950,000.00	\$1,349,100 (cash sale)
Total Profit	\$2,579,420				

109. Although such information clearly would have been material to Plaintiffs and the members of the Class, and although disclosure of such information was necessary given the misleading and false statements and representations convey by Defendants affirmative conduct and statements, Defendants omitted any disclosure of: the scheme; the factors distorting and rendering inaccurate LTV calculations; the inappropriate nature of comparables used; the silent and secret relationships between the Defendants and their officers, agents, employees and associates; the true affiliations between the co-conspirator entities that were contrary to the appearance of independence they conveyed; and the kickbacks and private profits realized by Defendants, their officers, employees and agents.

The Plaintiffs' Purchases

Gordon Lawrie, Margaret Lawrie and Charles McKinlay

110. Plaintiffs Gordon, Margaret Lawrie and Charles McKinlay are British citizens. The Lawries and McKinlay were victims of the illegal acts alleged herein and were injured as a result, suffering substantial losses to their money and property.

111. Gordon Lawrie and McKinlay purchased multiple Ginn lots.

112. On or about October 4, 2002, Gordon Lawrie and Margaret Lawrie purchased Lot 163, Phase II, Parcel 1, Reunion for \$215,000.

113. In May 2004, Gordon Lawrie and McKinlay received solicitations by mail and by telephone regarding the first launch for Bella Collina. Prior to the launch, each completed a reservation certificate, indicating up to 27 lots that they would like to receive. In May 2004, Ginn salesperson Rusty Rogers told McKinlay by telephone that it was highly unlikely that he would receive a lot. Later in May 2004, however, Rogers called to inform them that they had “won” a lot and invited them to attend the launch in June 2004. McKinlay “won” the lot that he had requested as his first choice. On the call, Rogers stated that Ginn gave priority to cash buyers. Upon information and belief, this is because cash sales would be used by Defendants as comparables for future appraisals of other lots in the development. During the launch in June 2004, Ginn employees, including Rogers, attempted to convince McKinlay and Gordon Lawrie to pay cash.

114. On or about December 8, 2004, McKinlay purchased Lot 337, Bella Collina for \$784,900 from Ginn-LA Pine Island. Rogers referred him to R-G Crown Bank, where Brady Koegel arranged for a mortgage loan in the amount of \$588,670.

115. On or about December 8, 2004, Gordon Lawrie and Margaret Lawrie, husband and wife, purchased Lot 352, Bella Collina, for \$544,900 from Ginn LA-Pine Island.

116. In February 2005, by email and by telephone, Rogers contacted McKinlay and Gordon Lawrie and told them that they were two of his best investors. Rogers said he had a “special opportunity” for them. Rogers described it as a joint venture with builder Carmen Dominguez with Homes by Carmen Dominguez. Rogers told Gordon Lawrie and McKinlay that the builder would give them a leaseback if they bought a lot on the “Street of Dreams” and that Dominguez and Rogers had an end user who would buy the property for \$8.8 million, once construction of a house on the property was complete. Gordon Lawrie and McKinlay then purchased this property, Lot 390, Bella Collina. Rogers, the Ginn sales person referred to SunTrust loan originator Celita Ryan-Quinn. After the loan application was denied by SunTrust, Carmen Dominguez, the builder, referred McKinlay and Gordon Lawrie to her friend Jack Koegel, President of R-G Crown Bank. The total purchase price under the contract was \$ 5.349 Million, including a \$500,000 furniture package and a with a two-year leaseback from the builder. R-G Crown Bank arranged for the property to be appraised at \$5.4 million—including the lot and the home that would be constructed. The lot alone was purportedly appraised at \$900,000, yet purchased for \$460,000, so that the “equity” in the lot could be used to fund the construction. Interestingly, Dominguez was directly involved in the loan process and knew of the loan approval before McKinlay and Gordon Lawrie. In an email to Gordon Lawrie dated May 5, 2005, Dominguez wrote:

Good news! Your loan was approved by loan committee. Now it goes to Mr. Galan for signature and voila...you sign...

117. In connection with this purchase, Gordon Lawrie and McKinlay executed a mortgage loan dated May 20, 2005 and recorded on July 27, 2005, in the principal amount of \$4,814,100. The builder agreed to provide a two-year leaseback—approximately \$23,000 per month for 24 months. Upon information and belief, the value of both the leaseback and the

\$500,000 furniture package were fraudulently included in the appraisal, in that the contract price included the value of the furniture package for the house and the value of having the two-year the leaseback and, upon information and belief, R-G Crown Bank purposefully ensured that the property appraised for an amount that exceeded the contract price by providing the appraiser with a predetermined value based upon the contract price. The appraisal for Lot 390 was also fraudulent, in that it relied upon comparables located in Isleworth.

118. On or about July 8, 2005, McKinlay purchased Lot 37, Bella Collina for \$1,560,900 cash. Rogers convinced McKinlay to pay cash by telling him that the lots were selling so quickly that he did not have time to arrange a mortgage.

119. On or about July 15, 2005, Gordon Lawrie and McKinlay purchased Lot 207, Bella Collina West for \$655,900.

120. Upon information and belief, each of the foregoing purchases was tainted by Defendants' conduct and scheme described above, causing Plaintiffs Lawrie and McKinlay to be victims of the illegal acts alleged herein and to suffer substantial losses to their money and property as a result..

Alan Siegel and Kimberly Siegel

121. On or about November 12, 2004, Alan Siegel and Kimberly Siegel (formerly husband and wife) purchased Lot 27, Bella Collina, for \$675,000 through R-G Crown Bank. Ginn salesperson Scott Scovill referred the Siegels to R-G Crown Bank. Around the time of closing Scovill guaranteed the Siegels that they would easily make money on the property because the property would increase in value dramatically. Throughout each of their visits to the Ginn properties and through telephone conversations, Ginn employees, including Scovill, would constantly reiterate that the properties were "world class" and that the Siegels had nothing to

lose. Scovill told Alan Siegel that the Siegels would be “in the money” immediately following closing.

122. On January 31, 2005, Alan and Kimberly Siegel purchased Lot 48, Tesoro Preserve for \$304,900. The mortgage was provided by R-G Crown Bank, in the amount of \$243,920. The Ginn salesperson was Joe Carney.

123. On or about August 12, 2005, Alan Siegel, Kimberly Siegel and Lou Pearlman purchased Lot 427, Bella Collina, financed through Wachovia. The lot was purchased for \$1,600,900. The mortgage amount was \$1,465,136. The Ginn salesperson was Scovill. In July 2005, when no other bank would provide financing, Scovill stepped in and referred the Siegels to Wachovia. The loan was arranged by Wachovia loan officer Craig Fairey, who, upon information and belief, arranged most of Wachovia’s loans in Bella Collina.

124. The appraisal for Lot 427 was fraudulent, in that the wrong lot was used as the subject lot, the appraiser used inappropriate comparables, in that the lots used as comparables were substantially larger than Lot 427. Close to the time of closing, Scovill told Alan Siegel that, during the next launch, lots comparable to Lot 427 would be released for no less than \$2.2 million. Scovill stated, “where else can you make \$600,000 in sixty days?” Once the lots were released, however, they were released for less than \$1.6 million.

125. During the fall of 2006, Scovill informed Alan Siegel that Ginn’s policy was to blacklist borrowers who did not follow through with purchasing Ginn properties, by denying them the “opportunity” to participate in future launches and participate in Ginn’s resale program.

126. Subsequently, on or about December 27, 2006, Alan Siegel and Ron Clapper purchased Unit C-277, Yachts Harbor Village (now known as Unit C-369). The mortgage was provided by SunTrust. Prior to closing, the appraisal came in hundreds of thousands of dollars

below the sales price. Ginn salesperson Billy Neil then arranged for a different appraiser to used—one that would appraise the property for the contract price. SunTrust failed to obtain an independent appraisal. The SunTrust loan officer was Pepper Kinser.

127. Upon information and belief, each of the foregoing purchases was tainted by Defendants' conduct and scheme described above, causing the Siegels to be a victims of the illegal acts alleged herein and to suffer substantial losses to his money and property as a result.

Stephen Frieze and Elizabeth Frieze

128. The Friezes purchased Lot 227, Reunion, on or about August 20, 2004 for \$550,000. The property was purchased from Sunshine Builders. Ginn salesperson Jeff Cox referred the Friezes to Brady Koegel of R-G Crown Bank. Cox told Mr. Frieze that he had worked with Brady Koegel before and that Cox was the right person to help the Friezes obtain a mortgage for the Reunion lot. At a meeting set up by Cox in early August 2004 on location at Reunion, Brady Koegel told the Friezes that he would have no trouble helping them to obtain a mortgage, as R-G Crown Bank was already working extremely closely with Ginn. Brady Koegel told the Friezes that his father was president of R-G Crown Bank and they would, therefore, have no problem with obtaining a mortgage.

129. Brady Koegel then traveled to Reunion to meet with the Friezes. R-G Crown Bank arranged the appraisal and provided a mortgage of \$937,500.

130. For the appraisal for Lot 227, Brady Koegel handpicked David Tremblay of Appraisals of the Treasure Coast from Vero Beach, Florida—approximately 150 miles away from the subject property. Upon information and belief, Tremblay was one of Defendants' preferred appraisers. For example, Tremblay did majority of the appraisals for R-G Crown Bank and for Ginn Financial in Tesoro and Preserve in Port St. Lucie, Florida.

131. The appraiser relied on comparables from Celebration, a thriving, well-established residential community built by Disney which was not at all comparable to the subject property—an empty lot located in a deserted area.

132. In October 2004, Stephen Frieze was approached by Ginn salesperson Rusty Rogers regarding purchasing a house on the Street of Dreams. Rogers told Frieze that he would “make a fortune overnight” and that it was an amazing opportunity. Rogers told Frieze that Brady Koegel of R-G Crown Bank would take care of him and ensure that he received a mortgage for the purchase. Shortly thereafter, the Rogers contacted Brady Koegel and set up a meeting. During their meeting with Brady Koegel, Koegel told the Friezes that R-G Crown Bank was very much interested in being involved in Bella Collina and that some of the bank’s own directors had already purchased lots in the developments. Brady Koegel assured the Friezes that they would have absolutely no problem obtaining a mortgage to build the premium home and that he foresaw no problem with obtaining the board’s approval. Koegel also showed the Friezes a copy of an advertisement off the Ginn website which showed that Jack Koegel, as president of R-G Crown Bank, had been involved with over \$300 million in mortgages for Ginn properties.

133. On or about January 28, 2005, the Friezes purchased Lot 391, Bella Collina, on the “Street of Dreams.” The purchase price for Lot 391, including the home, was \$4.5 million. The lot was valued at \$500,000. R-G Crown Bank provided a mortgage in the amount of \$3,600,000.

134. Upon information and belief, each of the foregoing purchases was tainted by Defendants’ conduct and scheme described above, causing Plaintiffs Frieze to be victims of the illegal acts alleged herein and to suffer substantial losses to their money and property as a result.

Barry Sobel and Naomi Berger

135. On or about June 11, 2004, Sobel and Berger purchased Lot 24 and Lot 70 in Bella Riva, Tesoro. Lot 24 was purchased for \$314,900. Lot 70 was purchased for \$245,900. Both mortgage loans were provided by R-G Crown Bank. In May 2004, Ginn salesperson Rick Deal referred Sobel and Berger to Brady Koegel of R-G Crown Bank. Deal said that Ginn was working a few select lenders to finance the lots and that R-G Crown Bank would take care of him.

136. On or about April 18, 2006, Sobel and Berger purchased Lot 132 and Bella Villagio, Tesoro. Lot 132 was purchased for \$754,900. SunTrust provided a mortgage loan in the amount of \$679,000. In March 2006, Ginn salesperson Rick Deal referred Sobel and Berger to SunTrust. Deal told Sobel that SunTrust would take care of them.

137. On or about November 14, 2006, Sobel purchased Lot 20 and Solomar, Tesoro. Lot 20 was purchased for \$2,718,000.

138. On or about November 14, 2006, Berger purchased Lot 20 and Solomar, Tesoro. Lot 20 was purchased for \$2,718,000. In connection with the purchase, Deal promised Berger and Sobel that they would earn at least \$1 million in profit on the home.

139. Upon information and belief, each of the foregoing purchases was tainted by Defendants' conduct and scheme described above, causing Plaintiffs Sobel and Berger to be victims of the illegal acts alleged herein and to suffer substantial losses to their money and property as a result.

Andrew Billington and Charlotte Billington

140. As a result of the first launch at Bella Collina (which occurred in early June 2004), on or about July 2, 2004, Andrew Billington purchased Lot 2, Bella Collina, through a

previously-executed power of attorney in favor of Richard T. Davis. The purchase price was \$377,900. A Ginn salesperson named Brett Campbell, who was onsite at Bella Collina, referred Andrew Billington to a mortgage brokerage company called Investors Mortgage Services, which was owned by mortgage brokers Gary Harmon and Samuel Trafelet. Upon information and belief, Harmon and Trafelet shared in the profits resulting from the scheme alleged herein. For example, in addition to receiving fees and referring borrowers to Ginn's "preferred lenders," in June 2004, Harmon and Trafelet personally purchased Lot 321, Bella Collina for approximately \$277,000. Subsequently, Larry Smith, a Ginn sales executive, purchased Lot 321 from Harmon and Trafelet for \$427,500 and then flipped it to Michael J. Adams for \$750,000. Upon information and belief, Smith shared the profits with Harmon and Trafelet.

141. Not surprisingly, Andrew Billington's mortgage loan for Lot 321 was placed with R-G Crown Bank. Brady Koegel of R-G Crown Bank provided Billington with a mortgage loan for \$264,530. Ginn employee Nicole Costello notarized the documents, stating that Billington was personally known to her—despite the fact that Andrew Billington actually executed his loan documents in the United Kingdom, rather than in person.

142. On July 4, 2004, Andrew Billington purchased Lot 134, Bella Collina, for \$1,340,900. Upon information and belief, this was key because it was the first purchase in Bella Collina for over \$1 million. Andrew Billington's purchase was later used by Defendants to further the scheme, in that it was utilized as a comparable for appraisals for other lots in the development and used to fraudulently convince other buyers of the extraordinary "value" of the Bella Collina lots. For example, on or about January 12, 2005, Andrew Billington's brother, Ian Billington, paid \$1,340,900 in cash for Lot 137, based on the appraisal for Lot 134.

143. The appraisal for Lot 134 was fraudulent. The appraiser used as comparables properties located in Isleworth, one of the most expensive and exclusive communities in the United States.

144. In July 2004, Andrew Billington inquired of Ginn salesperson Brett Campbell as to who else was buying in the development and was told by Campbell that Jim Matoska, Ginn's Vice President of Marketing and Sales, had bought lots in the development. This representation was false. In actuality, upon information and belief, Matoska had not purchased lots in Bella Collina. Later, on August 6, 2004, Matoska purchased Lots 78 and 79 in Bella Collina—which were comparable to Lot 134. While Andrew Billington paid \$1,340,900 for his lot, Matoska purchased these two comparable lots for \$255,000 each. For the financing of Andrew Billington's purchase, Campbell recommended R-G Crown Bank, which had the property appraised and provided a mortgage loan in the amount of \$938,630.

145. In late March 2004, Sean Barrett of Ginn showed Andrew Billington Lot 331, Bella Collina. Andrew Billington expressed an interest in purchasing Lot 331. However, Ginn pulled Lot 331 back from the launch, purportedly because Bobby Ginn personally desired to purchase it. Later, however, in June 2004, Andrew Billington received a telephone call from Ginn salesperson Brett Campbell. Campbell told Andrew Billington that Bobby Ginn may be willing to sell Lot 331 and offered Andrew Billington the "opportunity" to purchase it. In August 2004, both verbally and via a written list of Ginn's preferred lenders, Campbell referred Andrew Billington to First National Bank of Florida. Roy Snoeblen of First National Bank of Florida arranged a mortgage loan for Andrew Billington for the purchase of Lot 331.

146. Andrew Billington purchased Lot 331 on or about October 29, 2004. Unbeknownst to him, Bobby Ginn and Dean Adler, through their company known as A&G

Enterprises, “purchased” Lot 331 from Ginn-LA Pine Island, Ltd., LLLP on the day of Billington’s closing for \$550,320 and simultaneously flipped it to Billington for \$854,900. The appraisal was arranged by First National Bank of Florida and performed by Brad Long. One of the comparables was located in Isleworth. Another comparable was a lot that actually did not close until after the appraisal was performed.

147. As detailed below, the Billingtons received six mortgage loans in one day to purchase lots in Reunion.

148. On or about March 22, 2004, Andrew Billington attended the Reunion launch. He attended a lavish party on the Friday night before the launch. On March 23, 2004, Billington toured the property with Sean Barrett. Prior to the launch, (upon information and belief in early March 2004), Andrew Billington received a telephone call from a Ginn salesperson, informing him that he had “won” the right to purchase Lots 8, 9 and 10 in the Reunion Villages, west side, as well as Lots 54, 56 and 85, while a number of other interested buyers were allocated no lots.

149. The Reunion lots were purchased on or about December 16, 2004. Ginn referred Andrew Billington to First National Bank of Florida. Roy Snoeblen of First National Bank of Florida arranged the mortgages for the lots. In December 2004, Snoeblen told Andrew Billington that he could arrange six mortgage loans in one day by listing three of the loans under the name of Andrew Billington’s wife, Charlotte Billington, while leaving Andrew’s name off of the loan documents. Snoeblen did not request any financial information for Charlotte Billington, yet provided three mortgage loans in her name. The mortgage loans in Andrew Billington’s name listed “Andrew Billington, a married man,” but did not include Charlotte Billington. The mortgage loans in Charlotte Billington’s name listed “Charlotte Billington, a married woman,” but did not include Andrew Billington. Andrew Billington offered to provide financial

information to Snoeblen, but was told by Snoeblen to provide no more than Snoeblen requested. In an email dated October 29, 2004, Snoeblen sent an email to the Billingtons that stated: “you sign the paperwork, I will take care of the notary.” The Billingtons never attended a closing—they signed their documents in the United Kingdom—yet, Snoeblen caused the documents to indicate that the Billingtons were present and signed in person.

150. On or about September 12, 2005, Andrew Billington purchased Lot 330, Conservatory, for \$449,900 cash. Upon information and belief, this cash purchase was later used as a comparable for appraisals for other lots in the development.

151. On or about April 26, 2007, Andrew Billington purchased Unit A-380, Lots Harbor Village Condominium, for \$950,000. The mortgage was provided by Ginn Financial. The appraisal used oceanfront condominiums as comparables, whereas the subject property was on the intercoastal waterway.

152. On or about May 22, 2007, Andrew Billington purchased Lot 7 North Shore, Plat Four, Hammock Beach for \$850,000. Ginn referred Billington to SunTrust. SunTrust loan officer Celita Ryan-Quinn arranged a mortgage loan in the amount of \$680,000. Celita Ryan-Quinn was made aware of the other mortgage loans that Andrew Billington had, but made no attempt to ensure he had the ability to pay.

153. Upon information and belief, each of the foregoing purchases was tainted by Defendants’ conduct and scheme described above, causing the Billingtons to be a victim of the illegal acts alleged herein and to suffer substantial losses to their money and property as a result.

Defendants’ Conduct Has Injured Plaintiffs and the Class

154. As set forth above, Plaintiffs and Class members relied on Defendants’ deceptions, misleading conduct, fraud, omissions and misrepresentations in buying property within the Ginn developments at issue at substantially and artificially inflated prices. Absent

Defendants' misrepresentations, omissions, fraud, misleading conduct, and unconscionable conduct, Plaintiffs and Class members would not have bought the property at issue or would have bought the property at a significantly reduced price.

155. As a result of Defendants' actions, Plaintiffs and Class members have suffered significant injury to their property or business including but not limited to the deposits and payments Plaintiffs and Class members paid for the property and closing costs and other costs and fees. Plaintiffs and Class members were also injured because the properties they purchased were significantly less valuable than represented by Defendants and have become even less valuable as a result of Defendants' conduct.

156. Defendants actively concealed their conduct, their manipulation of property values and their concerted efforts to sell the Ginn properties at issue at amounts that were far in excess of their true value. As a result, Plaintiffs and Class members could not have uncovered the unlawful conduct any earlier with the exercise of reasonable diligence.

RICO ALLEGATIONS

The Ginn Company Enterprise

157. Plaintiffs, the Class members and Defendants are "persons" within the meaning of 18 U.S.C. § 1961(3).

158. Based upon Plaintiffs' current knowledge, the following persons constitute a group of individuals persons associated in fact who constitute a RICO enterprise that is referred to herein as the "Ginn Company Enterprise": The Ginn Companies, LLC, and Ginn Development Company, LLC including all of the myriad affiliates and subsidiaries through which they operated (*i.e.* Ginn-LA, LLC; Ginn-LA Pine Island, Ltd., LLLP; Ginn-LA Orlando Ltd., LLLP; Ginn-LA Hammock Beach, Ltd., LLLP; Ginn-LA Wilderness, LLC; Ginn-LA Naples, LLC; Ginn-LA Hutchinson Island, LLC; Ginn BriarRose Holding, GP, LLC; Ginn LA-

BriarRose Holdings, Ltd., LLLP; and Ginn-LA Hamlet, LLC); Ginn Real Estate Company, LLC; Ginn Financial Services, LLC; Ginn Title, LLC; ESI Living, LLC; Lubert-Adler Partners, L.P.; Fifth Third Bancorp; Fifth Third Bank (Michigan); SunTrust Mortgage, Inc.; Wachovia Bank, N.A.

159. The Ginn Company Enterprise is an ongoing organization which engages in, and whose activities affect interstate commerce.

160. While the Defendants participated in and are members and part of the Ginn Company Enterprise, they also have an existence separate and apart from the enterprise.

161. In order to successfully and convincingly market properties at artificially inflated prices and get purchasers to pay and finance purchases at inflated prices, Defendants needed an organization and system that enabled them to effectively establish an aura of bona fide values and demand. The Ginn Company Enterprise provides that organization and system. While each of the Defendants would typically act independently, the participation of lenders, appraisers, Ginn Title with Ginn and Lubert-Adler, allows the Enterprise to function effectively and eliminates the checks and balances that would normally protect purchasers and conceals the true and common objective of the Defendants.

162. The Ginn Company Enterprise has an ascertainable structure separate and apart from the pattern of racketeering activity in which Defendants have engaged.

163. The Defendants control and operate the Ginn Company Enterprise through a variety of means, including, but not limited to, the following:

- a. investing funds to secure and preliminarily develop the property to be developed for sale in lots to individual purchasers such as Plaintiffs and the Class;
- b. developing and utilizing a common marketing plan designed to mislead prospective buyers regarding the high value and high demand for the real estate within the development;

- c. agreeing to orchestrate, finance and/or participate in straw purchases, filing inaccurate and false title records, using inappropriate appraisals and other tactics to create comparable sales data that appears to support the representations of high value and high demand;
- d. agreeing to facilitate the approval and funding of loans at amounts that do not correspond to the true value of the properties, but rather which are based upon inflated/manipulated values;
- e. agreeing to manipulate the values of the properties;
- f. retaining inflated profits from the sale of real estate and services resulting from the conduct of the Ginn Company Enterprise.

Alternative Enterprise Allegations

164. Plaintiffs, the Class members and Defendants are “persons” within the meaning of 18 U.S.C. § 1961(3).

165. Based upon Plaintiffs’ current knowledge, the following persons constitute a group of individuals persons associated in fact who constitute a RICO enterprise that is referred to herein as the “Ginn/Lubert-Adler Enterprise”: The Ginn Companies, LLC, and Ginn Development Company, LLC including all of the myriad affiliates and subsidiaries through which they operated (*i.e.* Ginn-LA, LLC; Ginn-LA Pine Island, Ltd., LLLP; Ginn-LA Orlando Ltd., LLLP; Ginn-LA Hammock Beach, Ltd., LLLP; Ginn-LA Wilderness, LLC; Ginn-LA Naples, LLC; Ginn-LA Hutchinson Island, LLC; Ginn BriarRose Holding, GP, LLC; Ginn LA-BriarRose Holdings, Ltd., LLLP; and Ginn-LA Hamlet, LLC); Ginn Real Estate Company, LLC; Ginn Financial Services, LLC; Ginn Title, LLC; ESI Living, LLC; and Lubert-Adler Partners, L.P.

166. The Ginn/Lubert-Adler Enterprise is an ongoing organization which engages in, and whose activities affect interstate commerce.

167. While the Defendants participated in and are members and part of the Ginn/Lubert-Adler Enterprise, they also have an existence separate and apart from the enterprise.

168. In order to successfully and convincingly market properties at artificially inflated prices and get purchasers to pay and finance purchases at inflated prices, Defendants needed an organization and system that enabled them to effectively establish an aura of bona fide values and demand. The Ginn/Lubert-Adler Enterprise provides that organization and system. The participation of the Ginn subsidiaries and affiliates Ginn Title and Ginn Financial allows the Enterprise to function effectively and eliminates the checks and balances that would normally protect purchasers and conceals the true and common objective of the Defendants.

169. The Ginn/Lubert-Adler Enterprise has an ascertainable structure separate and apart from the pattern of racketeering activity in which Defendants have engaged.

170. The Defendants control and operate the Ginn/Lubert-Adler Enterprise through a variety of means, including, but not limited to, the following:

- a. investing funds to secure and preliminarily develop the property to be developed for sale in lots to individual purchasers such as Plaintiffs and the Class;
- b. developing and utilizing a common marketing plan designed to mislead prospective buyers regarding the high value and high demand for the real estate within the development;
- c. agreeing to orchestrate, finance and/or participate in straw purchases and other tactics to create comparable sales data that appears to support the representations of high value and high demand;
- d. agreeing to facilitate the approval and funding of loans at amounts that do not correspond to the true value of the properties, but rather which are based upon inflated/manipulated values;
- e. agreeing to manipulate the values of the properties;
- f. retaining inflated profits from the sale of real estate and services resulting from the conduct of the enterprise.

PREDICATE ACTS

MAIL AND WIRE FRAUD

171. Section 1961(1) of RICO provides that “racketeering activity” includes any act indictable under 18 U.S.C. § 1341 (relating to mail fraud) and 18 U.S.C. § 1343 (relating to wire fraud). As set forth below, Defendants have engaged and continue to engage in conduct violating each of these laws to effectuate their scheme.

VIOLATIONS OF 18 U.S.C. § 1341 AND 18 U.S.C. § 1343

172. For the purpose of executing and/or attempting to execute the above described scheme to defraud or obtain money by means of false or fraudulent pretenses, representations or promises Defendants in violation of 18 U.S.C. § 1341 caused matter and things to be delivered by the Postal Service or by private or commercial interstate carriers. These acts were done intentionally and knowingly with the specific intent to advance Defendants’ scheme, or with knowledge that the use of the mails would follow in the ordinary course of business, or that such use could have been foreseen, even if not actually intended.

173. Defendants carried out their scheme in different states and internationally and could not have done so unless they used the Postal Service or private or commercial interstate carriers.

174. For the purpose of executing and/or attempting to execute the above described scheme to defraud or obtain money by means of false pretenses, representations or promises, Defendants, in violation of 18 U.S.C. § 1343, transmitted, caused to be transmitted and/or received by means of wire communication in interstate and foreign commerce, various writings, signs and signals. These acts were done intentionally and knowingly with the specific intent to advance Defendants’ scheme, or with knowledge that the use of wire communications would

follow in the ordinary course of business, or that such use could have been foreseen, even if not actually intended.

175. The matter and things sent by Defendants via the Postal Service, private or commercial carrier, wire or other interstate media include, inter alia:

- a. Correspondence and marketing materials that intentionally misled Plaintiffs and Class Members regarding the interest and availability of property within each Ginn Development;
- b. Correspondence and marketing materials that intentionally misrepresented the value of the properties in the Ginn Developments that were the subject of the scheme;
- c. Correspondence, contracts, agreements, appraisal reports, financing documents, powers of attorney and other materials used to further Defendants' fraudulent scheme and buttress misrepresentations regarding the amount of interest in and value of properties within each Ginn development;
- d. Correspondence and e-mails between Defendants regarding the scheme and conduct to be undertaken in furtherance of the scheme; and
- e. Other matters and things sent through or received from the Postal Service, private or commercial carrier or interstate wire transmission by Defendants included information or communications in furtherance of or necessary to effectuate the scheme.

176. Defendants' misrepresentations, omissions, deceptions and acts of concealment were knowing and intentional, and made for the purpose of deceiving Plaintiffs and the Class and obtaining their property for Defendants' gain.

177. Defendants either knew or recklessly disregarded the fact that the misrepresentations and deceptions described above were material, and Plaintiffs and the Class relied on the misrepresentations and omissions set forth above.

178. As a result of Defendants' fraudulent scheme, Defendants have obtained money and property belonging to Plaintiffs and Class Members, and the Plaintiffs and the Class have been injured in their business or property by the Defendants' overt acts of mail and wire fraud.

Pattern of Racketeering Activity

179. Defendants did knowingly, willfully and unlawfully engage in a “pattern of racketeering activity,” within the meaning of 18 U.S.C. §§ 1961(5), by committing at least two acts of racketeering activity, *i.e.* indictable violations of 18 U.S.C. §§ 1341 and 1343 as described above, within the past four years. In fact, each of the Defendants has committed multiple acts of racketeering activity. Each act of racketeering was related, had a similar purpose, involved the same or similar participants and means of commission, had similar results and impacted similar victims, including Plaintiffs and Class Members.

180. The multiple acts of racketeering activity which Defendants committed and/or conspired to or aided and abetted in the commission of, were related to each other and amount to and pose a threat of continued racketeering activity, and therefore constitute a “pattern of racketeering activity” as defined in 18 U.S.C. § 1961(5).

CLASS ACTION ALLEGATIONS

181. Plaintiffs bring this action against Defendants on their own behalf and, pursuant to Rules 23(a) and (b) of the Federal Rules of Civil Procedure, as a Class action on behalf of a Class of all persons or entities that purchased real estate in one of the following Ginn developments:

- a. Hammock Beach in Palm Coast, Florida;
- b. Tesoro Preserve in Port St. Lucie, Florida;
- c. Reunion Resort in Orlando, Florida;
- d. Bella Collina in Montverde, Florida;
- e. Yacht Harbor Village at Hammock Beach, in Palm Coast, Florida;
- f. Conservatory at Hammock Beach in Palm Coast, Florida;
- g. Quail West in Naples, Florida;

- h. Cobblestone Park in Blythewood, South Carolina;
- i. The BriarRose in Hancock County, Georgia;
- j. Laurelmor in Boone, North Carolina; and
- k. Burke Mountain in East Burke, Vermont.

182. Excluded from the Class are Defendants, any entity in which any defendant has a controlling interest or is a parent or subsidiary of, or any entity that is controlled by a defendant and any of Defendants' officers, directors, employees, affiliates, legal representatives, heirs, predecessors, successors and assigns.

183. There are at least several hundred of members of the Class. Accordingly, the Class is so numerous that joinder of all members is impracticable. Although the exact number of Class members is not yet known, on information and belief, thousands of persons or entities have purchased property from Defendants. These customers are geographically dispersed throughout the United States and abroad. The Class members are ascertainable, as the names and addresses of all Class members can be identified in business records maintained by Defendants or from other readily accessible records.

184. Plaintiffs will fairly and adequately protect the interests of the Class and has no interest adverse to, or which directly or irrevocably conflicts with, the interests of other Class members. Plaintiffs are represented by counsel experienced and competent in the prosecution of complex Class action litigation and other complex litigation including federal RICO claims.

185. There are questions of law and fact common to the Class which predominate over any questions affecting only individual members of the Classes. Regardless of the specific appraisal, recording or other tactic was used with regard to a particular Class member, each member of the Class was harmed by Defendants' overarching scheme. Common questions of law and fact include, inter alia:

- a. Whether Defendants have engaged in the schemes or artifices described herein to improperly and unlawfully sell property within their development at significantly inflated values;
- b. Whether Defendants have engaged in mail and wire fraud;
- c. Whether Defendants have engaged in a pattern of racketeering activity;
- d. Whether the Ginn Company Enterprise is an enterprise within the meaning of 18 U.S.C. 1961(4);
- e. Whether Defendants conducted or participated in the affairs of the Ginn Company Enterprise through a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c);
- f. Whether the Ginn/Lubert-Adler Enterprise is an enterprise within the meaning of 18 U.S.C. 1961(4);
- g. Whether Defendants conducted or participated in the affairs of the Ginn Lubert-Adler Enterprise through a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c);
- h. Whether Defendants conspired to violate 18 U.S.C. § 1962(c) as prohibited by 18 U.S.C. § 1962(d);
- i. Whether the Lender Defendants failed to properly supervise their employees and agents;
- j. Whether Defendants have violated the Florida Deceptive and Unfair Trade Practices Act, Florida Statutes §§ 501.201 et seq.;
- k. Whether Defendants' violations of FDUTPA caused losses to Plaintiffs and the Class;
- l. Whether Defendants have been unjustly enriched;
- m. Whether Plaintiffs and Class members have been harmed as a result of Defendants' conduct as set forth herein;
- n. Whether, and to what extent, Defendants are liable for the conduct alleged herein; and
- o. Whether Defendants fraudulently concealed their scheme.

186. Plaintiffs' claims are typical of the claims of the members of the Class because they originate from the same illegal and fraudulent practices of Defendants and Defendants acted in the same way toward Plaintiffs and the Classes.

187. Plaintiffs will fairly and adequately protect the interests of the members of the Class, is committed to the vigorous prosecution of this action, has retained counsel competent and experienced in Class litigation and has no interests antagonistic to or in conflict with those of the Class. As such, Plaintiffs is an adequate representative of the Class.

188. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications which would establish incompatible standards of conduct for the parties opposing the Class.

189. A Class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all members of the Class is impracticable and because of the many questions of law and fact that are common to Plaintiffs claims and those of the Class. Further, the expense and burden of individual litigation make it impossible for all the members of the Class individually to redress the wrongs done to them. There will be no difficulty in the management of this action as a Class action.

190. Class treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without unnecessarily duplicating evidence, effort, and expense that numerous individual actions would engender.

COUNT I

**Violation of 18 U.S.C. § 1962(c) – RICO
(As to all Defendants)**

191. Plaintiffs hereby incorporate by reference paragraphs 1-190 as if fully set forth herein.

192. As set forth above, Defendants have violated 18 U.S.C. § 1962(c) by conducting, or participating directly or indirectly in the conduct of the affairs of the Ginn Company Enterprise, and/or in the alternative, the Ginn/Lubert-Adler Enterprise through a pattern of racketeering, including acts indictable under 18 U.S.C. §§ 1341 and 1343.

193. As a direct and proximate result, Plaintiffs and the members of the Class have been injured in their business or property by the predicate acts which make up the Defendants' pattern of racketeering activity through the Ginn Company Enterprise, or in the alternative, the Ginn/Lubert-Adler Enterprise.

COUNT II

**Violation of 18 U.S.C. § 1962(d) – RICO
(As to all Defendants)**

194. Plaintiffs hereby incorporate by reference paragraphs 1-190 as if fully set forth herein.

195. In violation of 18 U.S.C. § 1962(d), Defendants have, as set forth above, conspired to violate 18 U.S.C. § 1962(c). The conspiracy commenced at least as early as 1999 and continues. The object of the conspiracy was to sell real estate in Ginn developments at inflated prices resulting in increased profits for Defendants.

196. As set forth above, each of the Defendants knowingly, willfully, and unlawfully agreed and combined to conduct or participate, directly or indirectly, in the conduct of the affairs and activities of the Ginn Company Enterprise, or in the alternative, the Ginn/Lubert-Adler

Enterprise through a pattern of racketeering activity, including acts indictable under 18 U.S.C. §§ 1341 and 1343 in violation of 18 U.S.C. § 1962(c).

197. Defendants committed numerous overt acts of racketeering activity or other wrongful activity in furtherance of such conspiracy.

198. The purpose of the acts that caused injury to Plaintiffs and Class members was to advance to overall objective of the conspiracy and the harm to Plaintiffs and Class members was a reasonably foreseeable consequence of Defendants' scheme.

199. As a direct and proximate result, Plaintiffs and Class members have been injured in their business or property by the Defendants' conspiracy and by the predicate acts which make up the Defendants' pattern of racketeering activity through the Ginn Company Enterprise, or in the alternative, the Ginn/Lubert-Adler Enterprise.

COUNT III

Violations of the Florida Deceptive and Unfair Trade Practices Act, Florida Statutes ("FDUTPA") §§ 501.201 et seq. (As to all Defendants)

200. Plaintiffs hereby incorporate by reference paragraphs 1-190 as if fully set forth herein.

201. The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) provides for a civil cause of action for "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce." § 501.204(1), Fla. Stat. (2005).

202. The conduct of Defendants as alleged herein, including the use of misrepresentations, lies, collusions, manipulation, kickbacks, omissions, mail and wire fraud, and other tactics in furtherance of an overarching scheme to artificially inflate the apparent values and demand for the properties purchased by Plaintiffs and members of the Class, is unfair,

unconscionable and/or deceptive in that it is immoral, unethical, oppressive, and unscrupulous and further, is injurious to consumers, including Plaintiffs and members of the Class.

203. The artificially inflated apparent high value and purportedly limited supply of the properties at issue were necessarily material to the purchase decisions of Plaintiffs and members of the Class and, in making their decisions to purchase, Plaintiffs and members of the Class relied on the false and misleading illusion of high value of and high demand for the Ginn properties at issue created by Defendants' unfair and deceptive conduct as alleged herein and the omissions of material fact that supported that illusion.

204. Plaintiffs and members of the Class, each of whom purchased Ginn properties as a result of the Defendants' unfair, unconscionable, misleading and deceptive conduct alleged herein, suffered losses and actual damages as a result including the deposits and payments Plaintiffs and Class members paid for the property and closing costs and other costs and fees, as well as, the difference between the true and represented values of the properties and the artificially high carrying costs associated with the properties.

205. Defendants are liable to Plaintiffs and the members of the Class under the FDUPTA for the losses resulting from their unfair, deceptive and unlawful conduct alleged herein and Plaintiffs and the members of the Class are therefore entitled to all of the remedies provided by the statute for Defendants' unlawful conduct.

COUNT IV

Negligent Supervision (As to the Lender Defendants)

206. Plaintiffs hereby incorporate by reference paragraphs 1-190 as if fully set forth herein.

207. The unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of the Lender Defendants' executives, loan officers, agents and/or employees as alleged herein was harmful to and caused injury to Plaintiffs and members of the Class.

208. The Lender Defendants had a duty to act in good faith and not to engage in conduct that is unlawful, deceptive, fraudulent, collusive, self-dealing, misleading and harmful to their customers.

209. By virtue of the very nature of the conduct alleged, as well as, the rapid, numerous and substantial value of the mortgage loans for Ginn properties generated by the conduct alleged, the Lender Defendants were aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees as alleged herein.

210. Although the Lender Defendants were aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees as alleged herein, and although the Lender Defendants had the ability to take action to control their executives, loan officers, agents and/or employees, they did not take the steps necessary and available to prevent the conduct, such as investigation, discharge, reassignment, reprimand or referral to appropriate law enforcement authorities.

211. The Lender Defendants' failure to take action to control their executives, loan officers, agents and/or employees, although they aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees as alleged herein constitutes negligent supervision and a breach of the Lender Defendants' duties to act in good faith and not to engage

in conduct that is unlawful, deceptive, fraudulent, collusive, self-dealing, misleading and harmful to their customers.

212. The Lender Defendants' failure to take action to control their executives, loan officers, agents and/or employees, although they aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees as alleged herein caused injury to Plaintiffs and members of the Class for which the Lender Defendants are liable.

COUNT V

Unjust Enrichment (As to all Defendants)

213. Plaintiffs hereby incorporate by reference paragraphs 1-190 as if fully set forth herein.

214. As a result of the scheme alleged herein, Defendants sold and/or financed properties within the Ginn developments to Plaintiffs and the other Class members at inflated prices, and benefitted therefrom through the receipt of money and fees that were unreasonably high.

215. Defendants are aware of their receipt of the above-described benefits.

216. Defendants received the above-described benefits to the detriment of Plaintiffs and each of the other members of the Class.

217. Defendants continued retention of the above-described benefits, to the detriment of Plaintiffs and the Class, is inequitable.

218. As a result of Defendants' unjust enrichment, Plaintiffs and the respective Class have sustained damages in an amount to be determined at trial and seek full disgorgement and

restitution of Defendants' enrichment, benefits, and ill-gotten gains acquired as a result of the unlawful or wrongful conduct alleged above.

219. Further, Plaintiffs and the Class, individually and on behalf of the public, seek restitution and disgorgement of profits realized by Defendants as a result of their unfair, unlawful and/or deceptive practices.

PRAYER FOR RELIEF

The Plaintiffs and Class Members request that this Court grant the following relief:

A. Determine that this action is a proper Class action and certify Plaintiffs as Class representatives and Plaintiffs' counsel as counsel for the Class under Federal Rule of Civil Procedure 23;

B. Find that Defendants have violated 18 U.S.C. §§ 1962(c) and (d);

C. Enjoin Defendants from further violations of 18 U.S.C. §§ 1962(c) and (d);

D. Find that Defendants have violated the FDUTPA;

E. Find the Lender Defendants liable for Negligent Supervision;

F. Find that Defendants have been unjustly enriched and are liable to Plaintiffs and the Class therefore;

G. As to all Counts, order Defendants to pay damages in an amount to be determined at trial;

H. As to Counts I, II and III, order Defendants to pay treble the amount of damages suffered by Plaintiffs and Class members;

I. Order restitution of all improperly collected charges and interest, and the imposition of an equitable constructive trust over all such amounts for the benefit of the Class;

J. Award Plaintiffs and members of the Class, the costs and disbursements of this

action, including reasonable attorneys' fees (including pursuant to FDUPTA) and the reimbursement of expenses in amounts to be determined by the Court;

- K. Award pre-judgment and post-judgment interest; and
- L. Grant such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiffs request a jury trial on any issue so triable.

DATED: May 19, 2009.

Respectfully submitted,

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