

CAUSE NO. _____

JAVIER PALOMAREZ, <i>Plaintiff,</i>	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	
	§	
NINA VACA; UNITED STATES	§	HARRIS COUNTY, TEXAS
HISPANIC CHAMBER OF COMMERCE	§	
FOUNDATION; MARIA CARDONA;	§	
KATIE BAKER; ROBERT RENDON;	§	
BRIAN TIPPENS; RAY DEMPSEY; BP	§	_____ JUDICIAL DISTRICT
AMERICA, INC.; AND ROLAND JUAREZ	§	
<i>Defendants.</i>	§	JURY TRIAL DEMANDED

PLAINTIFF’S ORIGINAL PETITION; REQUEST FOR DISCLOSURES; REQUESTS FOR PRODUCTION; REQUESTS FOR ADMISSIONS AND FIRST REQUEST FOR INTERROGATORIES

Plaintiff JAVIER PALOMAREZ (“Plaintiff”) submits this Original Petition and Request for Disclosures, Requests for Production, Requests for Admissions and First Request for Interrogatories, complaining of Defendants NINA VACA a/k/a XIMENA GUADALUPE VACA-HUMRICHOUSE; UNITED STATES HISPANIC CHAMBER OF COMMERCE FOUNDATION; MARIA CARDONA; KATIE BAKER; ROBERT RENDON; BRIAN TIPPENS; RAY DEMPSEY; BP AMERICA, INC.; AND ROLAND JUAREZ (collectively “Defendants”), and for cause would show as follows:

I. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 3 of the Texas Rules of Civil Procedure.

II. PARTIES

2. Javier Palomarez is an individual residing in Denton County, Texas. Plaintiff may be served through his attorneys of record, The Pinkerton Law Firm, PLLC, Chad Pinkerton,

5020 Montrose Blvd., Suite 550, Houston, Texas 77006, and Bell, Rose, and Cobos, LLP, Andrew J. Cobos, 2201 Hermann Drive, Houston, Texas 77004.

3. Nina Vaca a/k/a Ximena Guadalupe Vaca-Humrichouse (“Vaca”) is an individual and resident of Dallas County, Texas. Ms. Vaca is the chairman of the Foundation and currently serves as a director on the publicly traded boards of Comerica, Inc., Kohl’s Corporation, and Cinemark Holdings. Ms. Vaca is also the current chairman and chief executive officer of Pinnacle Group. Ms. Vaca also conducts extensive Foundation and personal/business activities in Harris County, Texas. Ms. Vaca can be served via personal service at 8508 San Fernando Way, Dallas, Texas 75218, or wherever she may be found.

4. The United States Hispanic Chamber of Commerce Foundation (the “Foundation”) is a foreign 501(c)(3) corporation that conducts business in Texas, including Houston, Harris County, Texas. Although the Foundation conducts extensive business in Texas, which includes conducting events and conferences in Texas, holding telephonic and in-person meetings in Texas, hiring employees from Texas, and soliciting sponsorships from major Texas corporations and individuals, the Foundation does not maintain a registered agent in Texas. Accordingly, the Foundation can be served through the Texas Secretary of State at its corporate headquarters, 1424 K St. NW #401, Washington, DC 20005.

5. Maria Cardona (“Cardona”) is an individual and resident of the District of Columbia. Ms. Cardona conducts extensive business in Texas. Ms. Cardona can be served at 5317 16th St. NW, Washington DC 20011, or wherever she may be found.

6. Katie Baker (“Baker”) is an individual and resident of Kansas City, Missouri. Ms. Baker serves as a Foundation board member and, in connection with that organization, has availed herself of the laws of Texas by establishing sufficient minimum contacts. Ms. Baker also

conducts extensive business in Texas. Ms. Baker can be served via personal service at her usual place of business, Kauffman Foundation, 4801 Rockhill Road, Kansas City, MO 64110, or wherever she may be found.

7. Robert Rendon (“Rendon”) is an individual and resident of Salt Lake City, Utah. Mr. Rendon serves as a Foundation board member and, in connection with that organization, has availed himself of the laws of Texas by establishing sufficient minimum contacts. Mr. Rendon also conducts extensive business in Texas. Mr. Rendon can be served through the Texas Secretary of State via personal service at his usual place of business, Zions Bank Corporate Headquarters, 1 Main St., Salt Lake City, UT 84133, or wherever he may be found.

8. Brian Tippens (“Tippens”) is an individual and resident of Harris County, Texas. Mr. Tippens serves as a Foundation board member. Mr. Tippens can be served via personal service at his homestead, which is located at 15827, Stable Creek Circle, Cypress, TX 77429-7059, or wherever he may be found.

9. Ray Dempsey (“Dempsey”) is an individual and resident of Washington D.C., but frequently travels to Texas. Mr. Dempsey also conducts extensive business in Texas. Mr. Dempsey serves as a Foundation board member and, in connection with that organization, has availed himself of the laws of Texas by establishing sufficient minimum contacts. In addition, Mr. Dempsey currently serves on the board of the Congressional Hispanic Leadership Institute (“CHLI”). Mr. Dempsey can be served through the Texas Secretary of State via personal service at his residence, which is located at 2027 Hunter Mill Road, Vienna, VA, 22181, or wherever he may be found.

10. BP America, Inc. (“BP”), also often referred to as “BP America” or “BP Products America,” is a corporation formed under the laws of Delaware, with its corporate headquarters

and principle place of business located in Houston, Harris County, Texas. This Defendant conducts extensive business throughout the state of Texas, including Houston, Harris County, Texas. This Defendant may be served by serving its statutory agent for service of process, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

11. Roland Juarez (“Juarez”) is an individual and resident of Los Angeles, California. Mr. Juarez serves as personal counsel and business partner of Nina Vaca and has availed himself of the laws of Texas by establishing sufficient minimum contacts. Mr. Juarez also conducts extensive business in Texas. Mr. Juarez can be served via personal service at his usual place of business, Hunton and Williams, 550 South Hope Street, Suite 2000, Los Angeles, CA 90071, or wherever he may be found.

III. MISNOMER/ALTER EGO

12. In the event any parties are misnamed or are not included herein, it is Plaintiff’s contention that such was a “misidentification”, “misnomer” and/or such parties are/were “alter egos” of parties named herein. Alternatively, Plaintiff contends that such “corporate veils” should be pierced to hold such parties properly included in the interest of justice.

IV. REQUEST PURSUANT TO RULE 28

13. To the extent that any Defendants are conducting business pursuant to a trade name or assumed name, then suit is brought against Defendants pursuant to the terms of Rule 28 of the Texas Rules of Civil Procedure, and Plaintiff demands that, upon answer to this petition, that Defendants answer in their correct legal and assumed name.

V. JURISDICTION AND VENUE

14. The subject matter in controversy is within the jurisdictional limits of this Court. This Court has personal jurisdiction over Defendants as they are Texas residents and/or were doing business in Texas and committed a tort in this state that is the subject of this lawsuit.

15. Venue is proper in Harris County, Texas pursuant to TEX. CIV. PRAC. & REM. CODE § 15.002(a)(2) because it is the county where at least one Defendant resides or maintains its corporate headquarters. Furthermore, the defamatory statements that make this basis of this action were published and re-published in Harris County, Texas, including but not limited to publications in *Mundo Hispanico*, *Al Dia*, *Texas Monthly*, and others pursuant to TEX. CIV. PRAC. & REM. CODE § 15.017.

16. The amount in controversy is within the jurisdictional limits of this Court.

VI. FACTS

17. To precisely summarize the facts that surround this dispute, Plaintiff provides this factual summary¹:

A. **Plaintiff's Personal Background and Professional Achievements**

18. Plaintiff is a Hispanic-American who represents all that is good about this great country's diverse population. Plaintiff was the youngest of ten (10) children. His parents were first-generation immigrants. Growing up his family was very poor. Plaintiff grew up in a single-room, dirt floor shack with nine (9) other family members. There was no indoor plumbing, no running water, and no electricity.

19. Plaintiff's family struggled to make it in this country, but never gave up on the promise of the American Dream—the umbrella of freedom America provides and the

¹ All the factual allegations below are incorporated into every other section in this Original Petition.

opportunity to make a better life. Plaintiff represents the definition of the American success story for all immigrant families in our nation. He did overcome. He did succeed. He has given back to this country.

20. Growing up in Edinburg, Texas, Plaintiff witnessed the struggles of his predominantly Hispanic community. Plaintiff spent his youth working the fields as a migrant farmer to help his family survive. He watched his parents leave before dawn and return after dark, working two jobs each to make ends meet. It was a tough childhood, but Plaintiff embraces his upbringing. It taught him the value of hard work. It ingrained in him the level of commitment it takes to survive in an impoverished environment.

21. His hardship did not end there. The difficult only became more difficult. At six years old, Plaintiff's father left the family, leaving Plaintiff and his brothers to care for their mother, younger brothers and sisters. Because of this, Plaintiff became even more close to his mother. She was his everything. She taught him to be tough and strong. She ingrained in him that women are to be treated with respect, dignity, and kindness. She taught him a man is nothing without integrity.

22. Unfortunately, Plaintiff lost his mother at age fifteen (15) to a sudden heart attack. His rock was gone. Plaintiff was devastated. His life was shattered. Without a mother or father, Plaintiff was alone in the world. Afraid of being sent to foster care, Plaintiff dropped out of high school and ran away.

23. Isolated and homeless, Plaintiff got a job as a dishwasher at a restaurant. He slept behind the building between a dumpster and a wall. He had three changes of clothes. He washed his clothes in a dish sink using dish soap. In the mornings, he would change in the alleyway and then clean up in the restaurant bathroom.

24. One night while sleeping behind this restaurant, Plaintiff saw headlights shine on him. Out of the vehicle stepped his oldest brother. Plaintiff was then reunited with his family. This was a pivotal moment in his life. This reunification allowed Plaintiff to get his GED, which allowed him to work his way through college.

25. While in college, Plaintiff received the *Wall Street Journal Student Achievement Award* (1986). Plaintiff graduated *Summa Cum Laude* from the University of Texas—Pan American with a B.A. in Finance.

26. After graduation, Plaintiff went to work. He started at the bottom, working in call centers. If the story ended there this would still be a great American success story, but it did not. Plaintiff continued to push himself. He continued to impress his employers. He was promoted time and time again. In his corporate career, Plaintiff achieved the following:

-) Director of Sales and Marketing, Allstate (1986-1997);
-) Assistant Vice President of Marketing and Public Relations, Sprint (1997-2002);
-) Senior Vice President of Marketing, Bank of America (2003-2005);
-) Chief Marketing Officer, NetSpend (2005-2006); and
-) Vice President, ING Opportunity Markets (2007-2009).

27. Plaintiff's career achievements are well-chronicled. The following is a list of such achievements:

-) Hispanic Target Magazine "Portada" Award;
-) British Broadcasting Corporation "Ten Latinos Who Made History" Award;
-) B'Nai Zion "Humanitarian of the Year" Award;
-) Latino Leaders Magazine "Maestro" Award;
-) Honorary Doctorate of Commercial Sciences;

- J National 4H “Distinguished Alumni Medallion” Award;
- J “100 Most Influential Hispanic-Americans” Recognition; and
- J Government of Mexico’s Highest Award for a Non-Citizen “Ohtli” Award.

28. However, he aspired for something greater than what corporate America had to offer. He had an internal passion to help people, especially those of his heritage. That opportunity finally presented itself. The United States Hispanic Chamber of Commerce (“USHCC”) offered him the position of President and CEO. Although Plaintiff had a great job and the USHCC was floundering, Plaintiff had to consider following his heart and dream of making a difference for Hispanic-Americans. Plaintiff even accepted the position despite the fact that the USHCC Board told him the organization had an estimated thirty-two (32) days of survival at the organization’s current burn rate. Instead of scaring him away like it would most people, it pushed him harder.

29. From 2009 to 2018, Plaintiff brought the USHCC from seven-figure debt to over ten (10) million in the black—bringing in millions in donations and sponsorships. But, more importantly, Plaintiff repaired the image of the USHCC. Before Plaintiff arrived, the USHCC was known as a disorganized group without a clear mission, political influence or financial wherewithal to help those who it purported to service. It was widely criticized for boasting that it operated like a small business for small businesses when over 90% of all the organization’s funding came from the Federal Government.² The criticism was well-deserved.

30. Plaintiff overhauled the USHCC entirely. He brought in new board members who represented the successes of small Hispanic owned businesses. He immediately rejected any

² Based on information and belief, the organization is now strongly considering again accepting Federal funding because, since Plaintiff’s departure, the organization’s income level is already down approximately \$2,000,000 for the 2018 fiscal year. Moreover, the organization has lost at least four (4) large corporate sponsors that Plaintiff brought to the organization. This illustrates a clear return to the old ways of the organization.

government—State or Federal—assistance. Plaintiff used his connections with Fortune 500 (and even Fortune 100) companies to garner support for the USHCC and legitimize its place in the public and private sectors—increasing the number of corporate sponsors from twenty-two (22) when he arrived to over 260 at the time of his departure.

31. While working at the USHCC and raising awareness for Hispanic-Americans and small businesses, Plaintiff met and negotiated with several U.S. Presidents, including but not limited to, President Bush, President Obama, and President Trump. Senators, congressmen, governors, government officials, and ambassadors have applauded him for his efforts to help Hispanic-Americans, including but not limited to, Senator John McCain, Senator John Cornyn, Senator Jeff Flake, Congresswoman Leader Pelosi, Congresswoman Ilina Ros Lehtinen, Congressman John Lewis, Governor Gary Herbert, Governor Suzana Martinez, Former Governor Rick Perry, Governor John Kasich, Governor Jeb Bush, Vice President Joe Biden, U.S. Ambassador Roberta Jacobson, Mexican Ambassador Sarukhan, Mexican Ambassador Gutierrez and California Attorney General Xavier Becerra.

32. Plaintiff brought the goals of the USHCC and talents of Hispanic-Americans into the board rooms of the most powerful companies in the world, including but not limited to, British Petroleum, Hewlett Packard, AT&T, Comcast, Toyota, Zion Bank, and Bank of America. Plaintiff sat on ten (10) boards to “work from the inside rather than complain from the outside”, including but not limited to, Goldman Sachs Small Businesses Initiative, 4H National Council, Comcast Diversity Advisory Council, Catholic Legal Immigration Network, International Republican Institute and Forward Air Corporation.

33. Obviously, Plaintiff’s impact on the USHCC was tremendous. He took the organization from impending doom to enormous success. At the time Plaintiff was terminated

without cause as the President and CEO, the USHCC was well-recognized as the nation's most powerful and influential organization for advocating the rights of Hispanic-Americans and their small businesses.³

34. From a shack in South Texas to the White House and Halls of Congress, Plaintiff has been steadfast in his core beliefs: work hard, be honest, act with integrity, treat others with dignity, keep your word, fight for what is right, stand for what you believe, be a good man, cherish your family, and never give up. However, being steadfast does not mean he has been without mistakes. Admittedly, Plaintiff has made many mistakes over his lifetime, and a few that strayed from his core beliefs.

35. There has been no greater mistake in Plaintiff's life than breaking his vows to his wife. Plaintiff met his now wife, Rebecca, in 1983. Plaintiff and Rebecca have enjoyed a life together for thirty-seven (37) years. They have raised two boys. They are now blessed with two amazing granddaughters.

36. Doing something that was destructive to his wife and family has been devastating. Making this right to his wife—the woman that has stood by him for over three decades when Plaintiff was so broke that he “couldn't pay attention”—is all that matters to him. That will require diligence at home, but also the courage to clear his name and the name of his family.

³ Plaintiff recognizes that none of these accomplishments could have occurred without the dedicated service of those that worked tirelessly with him hand-in-hand and step-by-step. It was those people who sacrificed their time. It was their blood, sweat, and tears that contributed as much as his. Plaintiff would like to recognize some of those amazing individuals herein: Marco Deleon, Andres Pena, Kevin Hernandez, Suzan Farhang, Lucero Pena, Eliza Hernandez, Mary Gardner, Jesse Bauld, Matt Ruth, Kenny Roberts, Erick Alarez, Brenda Simpson, Mario Valdez, Frederico Uribe, and many others. Plaintiff is also sincerely grateful for the support of the USHCC's over 200 members.

37. Mistakes are made in life, but a good man, a man of quality core values, admits and corrects those mistakes. Plaintiff is committed to repairing his marriage and helping to heal the wounds he has caused. He is committed to facing the music and winning back his reputation.

38. Healing his family does not mean hiding in the dark. It also does not mean others can lie about him without consequences. It does not mean that others can accuse him of dreadful crimes without response.

39. With the full support of his wife and family, Plaintiff moves forward. He will defend his honor and good name. The intentional acts of the devious will not go without repercussion. Plaintiff will not go easily into the night. He will stand his ground and reclaim his reputation. He will fight back with the resolve ingrained into all Texans, Americans, and Hispanic-Americans.

B. The Genesis of this Dispute⁴

40. The dispute in this case began with a soured affair between Plaintiff and Defendant Nina Vaca. Plaintiff and Ms. Vaca had engaged in a multi-year extra-marital affair. Approximately two years ago, Plaintiff ended the relationship. It was not mutual, and Ms. Vaca insisted it continue. Plaintiff refused and did not surrender to his superior within the Foundation—a powerful woman known for her vengeful and retaliatory nature.

41. Ms. Vaca lost her mind. Initially, Ms. Vaca began pleading to continue the relationship, offering sexual favors and requesting sex regularly. All advances were denied.⁵

⁴ For the purposes of this filing, all statements and allegations herein are based on information and belief.

⁵ It is curious as to why the USHCC and the Foundation have never acted against Ms. Vaca for her workplace treatment of Plaintiff. Ms. Vaca engaged in a sexual relationship with her subordinate for almost seven (7) years without the organizations taking any action. Exhibit A. When the relationship ended, Ms. Vaca proceeded to sexually harass Plaintiff. There are numerous witnesses to this harassment. Additionally, Ms. Vaca created a hostile work environment. For instance, Ms. Vaca verbally attacked Plaintiff at the 2016 USHCC retreat. There were many witnesses to this attack. Finally, and most obviously, there are the lengths Ms. Vaca took to retaliate against

When those methods failed, Ms. Vaca became vindictive. She began demonstrating her anger publicly. She embarrassed Plaintiff at various Foundation events. On one occasion, Ms. Vaca made a scene at an organizational retreat and had to be controlled by others because she was verbally hostile towards Plaintiff.⁶

42. When those attempts to harm Plaintiff failed to satisfy Ms. Vaca's zest for revenge, she initiated a plan to destroy Plaintiff professionally and publicly. Ms. Vaca then partnered with board members from both the Foundation along with leaders from some of the largest companies in America to effectuate her plan. That plan, and its devastating effects on Plaintiff, are the basis of Plaintiff's claims today.

C. The Conspiracy to Have Plaintiff Wrongfully Removed and Terminated

43. Ms. Vaca sat on the board for the Foundation as its Chairwoman. She concocted a plan to have Plaintiff removed from the board and from his positions as the President and CEO of the Foundation. In executing this plan, Ms. Vaca affirmatively asserted that Plaintiff had embezzled and/or misappropriated money from the Foundation and/or the USHCC. Ms. Vaca presented her claims to the Foundation.⁷ She provided the Foundation board not one shred of

Plaintiff. For two years Ms. Vaca engaged in such illegal activities. The USHCC and the Foundation refused to take action to protect Plaintiff from the sexual harassment and hostile work environment Ms. Vaca created, even with the current climate around verbal and sexual harassment.

This seems ludicrous. For instance, the USHCC and the Foundation enjoy business relationships with many Fortune 100 companies. Exhibit B. It seems that the organizations would want to conform to the business ideologies of those companies to further facilitate those relationships, which are key to survival. This means that the public issues and the responses thereto are paramount and must be addressed within the organizations, *i.e.*, the #metoo movement.

⁶ A Foundation executive has confirmed this fact, as has the event facilitator. The event facilitator stated that he had "never seen anything like it."

⁷ This is an important factor because the Foundation by-laws require that any board member who has a conflict of interest not participate in a discussion or vote to which that conflict of interest is connected. Exhibit D. The USHCC did an analysis of this very issue in 2011 related to Ms. Vaca's suspected affair with Plaintiff. Exhibit E. The USHCC concluded that a conflict of interest existed, and thus, the board members could not participate in any part of the discussion of the issue and, especially, could not vote on the issue. *Id.* In making this determination, the

evidence—merely false statements and unsupportable assertions of fact. In thirty-one minutes, without asking a single question, the Foundation’s board astonishingly voted to terminate Plaintiff’s association with the Foundation. Exhibit C.

a. Foundation’s October 30, 2017 Board Meeting

44. The board meeting was held on October 30, 2017. The Foundation’s by-laws required that Plaintiff be given notice of any board meetings. That notice did not occur. It is a bit strange that Plaintiff did not receive notice of a meeting where he was going to be accused of stealing or misappropriating money from the USHCC and/or the Foundation.⁸ It would seem appropriate to give Plaintiff an opportunity to defend himself, provide any explanation and/or submit contrary evidence to the defamatory statements.

45. It is important to discuss this meeting in detail herein, as it is the initial event that set this unfortunate situation in motion. Please consider the following from the minutes of the Board Meeting:

USHCC applied its by-laws to federal regulations; the analysis is exactly the same for the Foundation. Applying the USHCC’s analysis to this matter, Ms. Vaca should not have even been in the room when the board discussed this matter. Moreover, it was solely Ms. Vaca that presented any concern about this issue. Therefore, if she was not in the room to present on the topic of Plaintiff’s termination, then none of this would have occurred. Lastly, Ms. Vaca should not have been allowed to vote on the issue. This represents a clear violation of the Foundation’s by-laws that harmed Plaintiff, and the only conceivable explanation is that this violation was intentional on the part of Ms. Vaca and the Foundation’s board. Further, the Foundation knew or should have known of this conflict, thereby requiring that the Foundation act to stop the violating acts of its agent. Exhibit F. The Foundation did nothing.

⁸ In all the years prior to this meeting while Plaintiff served on the Foundation’s board, he received written notice of each board meeting per the terms of the by-laws. It is not a coincidence that Plaintiff was denied notice in this instance. This represents an intentional act by the Foundation to violate its by-laws and evidences that all members were a part of the conspiracy to defame and tortuously interfere with Plaintiff’s contracts. The only possible explanation for the Foundation board members’ failure to give Plaintiff proper notification was to further this conspiracy. If Plaintiff would have been given notice of the meeting, then he would have had twenty-one (21) days to prepare a response to Ms. Vaca’s blatantly false and malicious assertions. Exhibit D. Should he have been given that opportunity, the outcome would have been much different—just as the USHCC’s determination was much different in finding no wrongdoing on the part of Plaintiff. Exhibit G. The only wrongdoings the USHCC found related to the circumstances were “misconduct” on the part of Ms. Vaca, wrongful disclosure of information by Ms. Vaca and Ms. Cordona and bias on the part of Roland Juarez. The evidence will show that the wrongful conduct in this matter extends much further than these three individuals.

) Ms. Vaca called the meeting to order as Chairman.

“Ms. Vaca called the meeting to order and asked Ms. Baker to take a roll call.”

) Plaintiff was not present as an “attende.”

“Attendees:

Nina Vaca, Chairman
Katie Baker
Robert Rendon
Brian Tippens
Ray Dempsey”

) Ms. Vaca stated that the “meeting content was confidential.”⁹

“Ms. Vaca then stated that the meeting content was confidential and contained **highly sensitive** information and should not be shared outside the group.”

) Ms. Vaca then falsely told the board members that “Javier Palomarez was paid around \$600,000-\$1,000,000 more than his contract provided for.”¹⁰

“Ms. Vaca provided background information as context for the discussion.

⁹ In contrast with her official statements, Ms. Vaca, her colleagues and other board members disclosed the contents of the meeting publicly. Notably, the reason Plaintiff was ultimately fired from the USHCC was due to the public release of the contents of the Foundation termination meeting. This was not by accident. Ms. Vaca is very shrewd when it comes to media coverage. She has extensively used the media to promote herself and her businesses. Ms. Vaca has perpetrated herself as a strong example to her daughters while spending most of her married life cheating on her husband. Exhibit H. Ms. Vaca has presented herself as a champion of Hispanic-Americans while shipping hundreds of jobs overseas. Exhibit I. Ms. Vaca has duped some of the most conservative companies in the world to sit on their boards by media driven campaigns focused on her proclaimed integrity, upstanding character, and civil leadership. Exhibit J. Ms. Vaca is none of these things. Ms. Vaca will do anything to achieve her personal goals, gain power, and extract money from unwitting companies.

¹⁰ Ms. Vaca stated during the Foundation board meeting that Plaintiff had embezzled funds. Embezzlement is defined as “theft or misappropriation of funds placed in one’s trust or belonging to one’s employer.” Exhibit K. This definition requires an element of **intent**. *Id.* In Texas, making a false statement while accusing a person of a felony is defamation *per se*. See *In re Lipsky*, 460 S.W.3d 579, 596 (Tex. 2015) (Accusing someone of a crime . . . [is an] example of defamation *per se*. Remarks that adversely reflect on a person’s fitness to conduct his or her business or trade are also deemed defamatory *per se*.) An internal email by Mr. Juarez, USHCC General Counsel, specifically declares that the organization did not believe that Plaintiff “intended to do anything wrong.” Thus, as a matter of law, Plaintiff was *per se* defamed.

- As president and CEO of the USHCC, Javier Palomarez was paid around \$600,000-\$1,000,000 more than his contract provided for”¹¹

) Without any investigation whatsoever, Ray Dempsey moved “to remove Javier Palomarez as President and CEO of the FOUNDATION, effective immediately.” Brian Tippens seconded the motion.¹²

“Ray Dempsey moved to remove Javier Palomarez as President and CEO of the Foundation, effective immediately. Brian Tippens seconded the motion.”

¹¹ This was a complete fabrication made without providing any analysis of the contract and zero documents to support the assertion of fact. Notably, it was Ms. Vaca who chaired the Compensation Committee that determined the contents of Plaintiff’s employment contract. This false allegation of over-compensation was an intentional deception perpetrated by Ms. Vaca and furthered by each board member. Exhibit L. For instance, Marc Rodriguez, who sat on the compensation committee with Ms. Vaca, attested to the following:

“Mrs. Vaca was the Chair of the Compensation Committee. As such, it was Mrs. Vaca who organized and coordinated all efforts related to Mr. Palomarez’s employment, including but not limited to, his employment contract. . . no person was more involved in Mr. Palomarez’s contract than Mrs. Vaca. . . Mrs. Vaca was astutely aware of each clause of the contract—recommending and approving all clauses, terms and conditions. . . Mrs. Vaca . . . knew exactly the terms and conditions of the employment agreement. Mrs. Vaca . . . worked . . . to have Mr. Palomarez wrongfully terminated from the USHCC and smeared publicly. . . Mrs. Vaca suggested the per annum 5% raise and approved it. It was Mrs. Vaca that presented the 5% annual increase pay schedule to the Board. . . this was yet another intentional deception in an attempt to have Mr. Palomarez terminated and ruin his reputation.

Id.

¹² Mr. Dempsey and Mr. Tippens work in human resources and/or diversity leadership divisions of Fortune 100 companies. The fact that these two men—upper echelon executives of two of the most powerful companies in the world—forgot about by-laws, employment laws, diversity issues, conflicts of interest, due process and the like during this thirty-one-minute meeting where not a single page of evidence was reviewed in the termination of a President and CEO, not one witness was called, the accused perpetrator was not interviewed, lawyers were not officially called in to advise on the situation, and no investigation of any kind was performed, is beyond belief. These types of things only happen when there is a preconceived agenda. There is no doubt that this board meeting was a precision hit on Plaintiff’s employment, planned and executed by many individuals. The very definition of conspiracy is (1) two or more persons; (2) with an object to be accomplished; (3) a meeting of the minds on the object or course of action; (4) one or more unlawful, overt acts; and (5) damages as a proximate result. *Chon Tri v. J.T.T.*, 162 S.W.3d 552, 554 (Tex. 2005). This was a conspiracy, actionable under Texas law. *See Bell v. Bennett*, 2012 Tex. App. LEXIS 2097, at *23 (App.—Fort Worth Mar. 15, 2012) (A civil conspiracy claim can be predicated on an allegation of a conspiracy to defame); *see also Bunton v. Bentley*, 176 S.W.3d 1, 16 (Tex. App.—Tyler 1999) (“The jury having found that a civil conspiracy existed, all elements of defamation are imputed to Gates and Gates became responsible for all actions by Bunton during the conspiracy.”).

) The motion was unanimously passed without giving any specific justifications for such termination.

“The motion passed unanimously with no abstentions.”

) Ms. Vaca closed the meeting by reiterating “the need for confidentiality.”

“Ms. Vaca gave closing comments on the importance of the actions taken to protect the Foundation from risk. She noted the supremacy of the board’s fiduciary duties and the importance of financial integrity in connection with the Foundation’s raising, and acceptance, of corporate and public funds. Finally, she reiterated the **need for confidentiality** and asked for comments and questions.”

Exhibit C (emphasis added).

46. The meeting minutes illustrate the contrived nature of Plaintiff’s termination.¹³

The Foundation board terminated Plaintiff without specifically identifying the reason for termination.¹⁴ However, the board members go out of their way to detail specifically the reason he was **not** being terminated:

“Ms. Vaca explained that in bringing this information forward to the Foundation board, the purpose of the conversation was not to discuss Plaintiff’s compensation or his contract with the USHCC, as any investigation or action on that topic would need to be handled by the USHCC board, including any additional controls to prevent a similar situation from happening in the future.”

Exhibit C.

¹³ A source within the Foundation provided irrefutable information that each of the reasons asserted by the Foundation for Plaintiff’s termination are false. Moreover, the source provided information that there is no evidence that Plaintiff ever did anything wrong related to his compensation, his bonuses, audits, and/or debt allocation. Finally, the source confirmed that Ms. Vaca and others acted intentionally to disparage Plaintiff and falsely accuse him of financial impropriety by making statements they knew to be false at the time such statements were made. The source has provided a documented statement reflecting the same. However, the source’s identity is not disclosed herein, nor is the specific content of the source’s statement, because of the source fears retaliation and retribution.

47. This statement is important because it proves that the board knew in advance that it did not have justification for terminating Plaintiff based on embezzlement or misappropriation.¹⁵ Moreover, it is interesting that when the Foundation board was informed that its President and CEO had stolen up to \$1,000,000, board members did not subsequently ask a single question regarding this issue.¹⁶ The board did not ask for any documentation to support such an outrageous statement—not one document. This illustrates the board’s premeditated conclusion that Ms. Vaca’s statement was true following Ms. Vaca’s direction as part of a broad conspiracy to defame and ruin Plaintiff.¹⁷ The motivations each member had to participate in this conspiracy are detailed below.¹⁸

48. Instead, what the board did was to list multiple internal issues related to the Foundation’s own operation, none of which were attributable directly to Plaintiff. Indeed, the Foundation’s own “Organizational Chart” proves that Plaintiff was not responsible for the

¹⁵ Ms. Vaca’s *modus operandi* is to pre-sale votes. She does this by discussing voting issues before the meeting. She does this with the intent of convincing others to vote her way. In this very instance, Ms. Vaca attempted to taint Mr. Salazar prior to the USHCC vote. Exhibit F. Mr. Salazar was not biting, pointing out a conflict of interest and wrongful intentions. *Id.* Mr. Salazar also pointed out the falsity of Ms. Vaca’s positions. *Id.* Ms. Vaca used this same wrongful method with the Foundation board. But, in that instance, each of the Foundation board members had their own agenda; thus, deciding to participate in the conspiracy. Therefore, whether the charges of embezzlement and/or misappropriation were true or false, each of the other board members chose to participate in an overt, wrongful plan based on an advanced meeting of the minds to terminate Plaintiff.

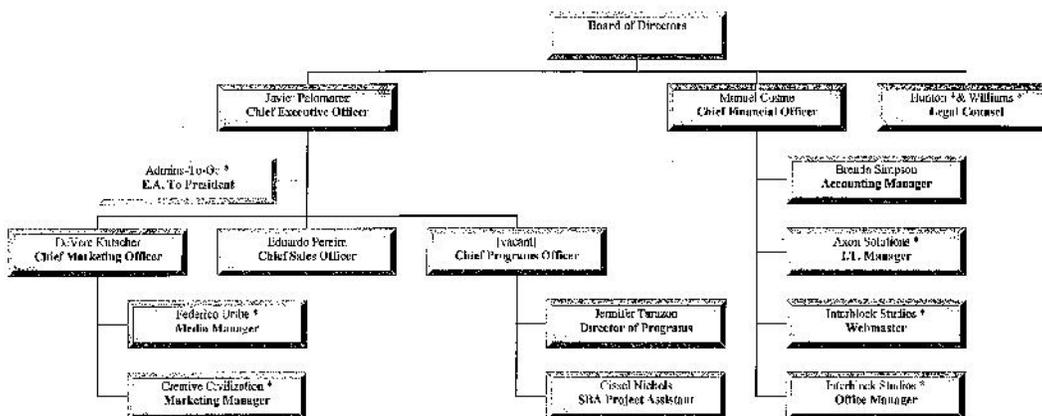
¹⁶ Not only was it proved later that Plaintiff never stole or embezzled a penny from the organization, the evidence is that Plaintiff was very generous to the organization and employees. For instance, Plaintiff often deferred bonus payments to help the organization financially during hard times. Moreover, Plaintiff paid employee bonuses from his own funds when the organization did not meet funding goals in 2017. This is confirmed in the following internal email communication: “Alice you can rest assured that no Christmas or any other bonuses will be given out this year. The team unfortunately did not hit their marks. However, **according to Mario Valdez Mr. Palomarez gave them bonuses out of his own funds of approximately 30 thousand dollars....**” Exhibit M (emphasis added).

¹⁷ The Foundation board did not want to just terminate Plaintiff. The Foundation board wanted to destroy him. What better way to do so than to use the pretenses of embezzlement—embezzlement or misappropriation of money meant to help the constituents Plaintiff so faithfully served.

¹⁸ Ms. Vaca stated that she would ruin Plaintiff and had the necessary support within the Foundation board to do so. This represents a clear admission by a party opponent applicable to all conspirators.

oversight of compensation, audits, or financial management within the organization. It is unbelievable to think that Plaintiff was terminated for things not directly attributable to him (and not determined to be within his oversight) while there was a seven-figure claim of theft presented.¹⁹

**USHCC FOUNDATION
ORGANIZATION CHART**
*includes staff and key consultants (marked with *)*



49. This meeting is conclusive evidence of the civil conspiracy between the Foundation and board members, including but not limited to, Ms. Vaca.²⁰ For having so many “smart” people in that room, the execution was poor. The documentation of the execution was even worse. The veil of legitimacy contained in the meeting minutes is quite transparent. Essentially, the Foundation board drafted and submitted a document that will be *Plaintiff’s Exhibit A* at trial.

¹⁹ It was Ms. Vaca’s responsibility to oversee the financials of the organization. In fact, Ms. Vaca publicly stated that it was her responsibility. Ms. Vaca told employees and board members that financial accountability was her duty as Chairwoman. If this is true, Ms. Vaca should have fired herself—the board should have fired Ms. Vaca on the spot, not Plaintiff.

²⁰ All defendants participated in this conspiracy.

b. Media Blitz by Nina Vaca and Fellow Conspirators

50. Thereafter, to further their conspiracy and ruin of Plaintiff, Ms. Vaca and others moved swiftly to publicly and wrongfully disclose that Plaintiff was terminated for embezzlement, despite the patent untruth of this statement per the meeting minutes of the October 30, 2017 Foundation board meeting. Exhibit C. Specifically, the following publications reported:

) NPR Station:²¹

“Plaintiff, who has run the organization for close to a decade, was accused by a longtime board member last fall of paying himself hundreds of thousands of dollars more than he was entitled to under his contract, according to minutes from the board’s charitable foundation and a Texas court filing.” Exhibit N.

) ABC News:

“‘Plaintiff is being investigated for financial improprieties. That is a fact,’ stated Brent Walker.”²² Exhibit O.

) D Magazine:²³

“Vaca’s lawyer vigorously denies Palomarez’s claim. ‘Plaintiff has mischaracterized their friendship in a way designed to deflect attention and get retribution against Nina for raising the original financial concerns,’ Charla Aldous of Aldous\Walker LLP said. ‘It’s been reported that the chamber ultimately acted to remove Plaintiff from his role, so they at least saw past the deflection and attempted bullying.’” Exhibit A.

²¹ Reported by an unidentified board member.

²² Reported by Brent Walker who was and still is Ms. Vaca’s lawyer. He made this statement as Ms. Vaca’s agent.

²³ Reported by Charla Aldous who was and still is Ms. Vaca’s lawyer. She made these statements as Ms. Vaca’s agent.

) D Magazine:²⁴

“Cardona calls the alleged affair a ‘cheap shot,’ adding, ‘It’s a ridiculous reaction from someone whose hand got [his hand] caught in the cookie jar.’” Exhibit A.

) New York Times:²⁵

“‘What he did was financially inappropriate at best, and if he had done this at any other organization, he would have been fired on the spot,’ said Ms. Cardona, who voted to oust Plaintiff.” Exhibit P.

) Many other media outlets ran similar negative stories regarding the specific issues asserted by the Foundation and publicly disseminated by Vaca and the other conspirators—the Foundation knew of such and did nothing to correct such publications, which led to further harm and damages to Plaintiff.²⁶

51. Despite twice stating in the October 30, 2017 Foundation board meeting that all information discussed should be held strictly confidential due to the sensitive nature of the material, Ms. Vaca and others disclosed to the public this false allegation of embezzlement.²⁷ The timing of the public disclosure is important.²⁸ It occurred a mere days after Plaintiff’s

²⁴ Reported by Maria Cardona. Mrs. Cardona is Ms. Vaca’s close friend and business associate. Mrs. Cardona also works for CNN News as a political commentator. Interestingly, CNN News recently launched its “the truth matters” campaign. Exhibit Q. The future will only tell if CNN News means what it publicizes as being a factual and truthful news outlet.

²⁵ Reported by Maria Cardona. Mrs. Cardona knew of the affair between Plaintiff and Ms. Vaca. Thus, this statement represents a blatant lie perpetrated to protect her friend from liabilities and embarrassment.

²⁶ An internal email illustrates quite clearly the effectiveness of Vaca and the other conspirators wrongful character assassination of Plaintiff. Exhibit R.

²⁷ USHCC meeting notes express that Ms. Vaca (and Mrs. Cardona) violated by-laws by publicly disclosing this information. Exhibit U.

²⁸ Other than in the media, Ms. Vaca has led a revolt against Plaintiff by telling many people close to the Foundation and Plaintiff that he did in fact embezzle money from the USHCC. Ms. Vaca continued her onslaught even after the USHCC board cleared Plaintiff of all wrongdoing. Many individuals are coming forward attesting to such conduct. Exhibit F.

termination from the Foundation and before the actual investigation that cleared Plaintiff of any wrongdoing was completed:

Per our conversation this shall confirm that on the issue of compensation the Ad Hoc Committee after investigation, due inquiry and interviewing Mr. Palomarez the committee recommended that the salary paid was appropriate and that the Board take no action further action against Mr. Palomarez and the Board received and filed the recommendation.

Exhibit G; *See* Exhibit S; *See also* Exhibit T.

52. These publications were purposeful acts. Ms. Vaca intended to smear Plaintiff to convict him in the court of public opinion.²⁹ Even more damning is that it was Ms. Vaca who stated in the board meeting that no determination of fact was established against Plaintiff's asserted conduct and that Plaintiff's termination could not be acted upon based on the allegation of embezzlement until a proper investigation was completed by the USHCC. Exhibit C. Thus, Ms. Vaca and her co-conspirators intentionally undermined the process that ultimately cleared Plaintiff of the very lie publicly perpetrated. Ms. Vaca, knowing Plaintiff would be cleared of wrongdoing in any subsequent investigation, had to promptly turn public opinion against him before her allegations could be proven false. Please consider Ms. Vaca's statement to BuzzFeed:

"Vaca told BuzzFeed News Palomarez has threatened to sue her because she discovered the alleged issues with his compensation and bonuses and flagged them to the board. She said it was her fiduciary duty to do so and said Palomarez 'is a desperate man who will say anything.'"

Exhibit V.

²⁹ Samuel Johnson once so intuitively stated, "Ah! Sir, a boy's being flogged is not so severe as a man's having the hiss of the world against him." Nothing could be more appropriate in this case. Plaintiff was publicly flogged by Ms. Vaca and her accomplices.

53. This defamation served to ultimately cause Plaintiff to not only lose his job, but also his seat on several boards and numerous public speaking engagements.³⁰ It was not that Ms. Vaca's statements were true, because those were proven false. It was not because the board wanted to terminate Plaintiff for misconduct, because it could not. It was only because Ms. Vaca and her cohorts created a scheme which resulted in Plaintiff's termination and destruction of his reputation.

54. Former Chairman of the Board, Don Salazar, said it best:

“The ultimate reason for termination was based on the guise that the USHCC needed a ‘change in leadership’ because of the ‘optics’ of the situation which appeared to have been supported, created and driven by Ms. Vaca.

It is my belief that Mrs. Vaca and her supporters inflated sexual harassment and assault allegations, which added to the negative ‘optics.’ This seemed to be a purposeful attempt to garner public and internal support via the ‘me too movement.’ I found this particularly tactical.

Essentially, it is my belief that Mrs. Vaca led what turned out to be an unfounded charge for termination whereby an *ad hoc* committee never substantiated any findings of wrongdoing by Mr. Palomarez; yet, he was still terminated because of the appearance of wrongdoing created by a person who appeared to be in part motivated by personal feelings of hurt and anger.

After Mr. Palomarez was terminated I resigned my position as Chairman of the Board. I did so (a) because of certain health reasons; (b) ... because I recognized I could no longer be effective as Chairman, to some degree due to Mrs. Vaca; and (c) the steps I took to achieve transparency and fairness seemed irrelevant to the Board with respect to the handling of the Palomarez matter.”

Exhibit F.

³⁰ Plaintiff's damages due to Defendants' actions illustrated herein. Plaintiff has lost business contracts. He is unable to find work in his current field. He lost paying speaking engagements and opportunities for future speaking engagements. He lost boards seats, including paying board seats. Moreover, he lost future business opportunities in his field of work. Finally, his political ambitions are ruined. Plaintiff's only home to cure this harm and clear his name is through the litigation process. See Exhibits OO and KKK.

c. *Nina Vaca's Conflict of Interest and Lies About Her Affair with Javier Palomarez*

55. In making her statements to the Foundation board, Ms. Vaca and her co-conspirators had a duty to disclose an obvious conflict of interest—the multi-year affair she engaged in with Plaintiff. More importantly, Ms. Vaca was a scorned woman out for revenge because Plaintiff had terminated the relationship and rejected her relentless sexual pursuits and advances. The Foundation's by-laws state the following:

“Section 4(B)(d)(i)

- i. Board Members **shall refrain** from voting on any issues that constitute a conflict of interest. If there is uncertainty about the existence of a conflict, Board Members should seek clarification from the USHCC Board legal counsel...

Section 4(B)(g)(iii)

- iii. No Board Member shall allow personal prejudices to affect his/her decision making.”

Exhibit D (emphasis added).

56. To ensure that her assertions were reported and repeated, Ms. Vaca has vehemently denied the affair. Her denial is a laughable lie.³¹ However, to conclusively establish that Ms. Vaca had a conflict of interest at the time she voted to terminate Plaintiff, the following sworn statements are provided:

) Sworn Statement of Nebiyu Seyoum:³²

“As soon as they jumped in the car, she jumped on him. And the whole ride, they were making out...She sat on his lap, and they were making out...My conclusion was...she was really in love

³¹ Below is a summary of some of the sworn statements obtained. There are others, but the point is obviously made. Exhibit W; Exhibit X.

³² Mr. Seyoum was a limousine driver that escorted Plaintiff and Ms. Vaca on many occasions during out-of-town travel. Exhibit Y.

with him...She told me that if I ever see him with another girl, I better let her know...I could tell that she was very in love with him. She was very aggressive, you know. She was always jumping on him, you know, kissing him. I [have] seen them many times in my car, in the back seat of my car...”

) Sworn Statement of Ian Poush:³³

“Inside elevators, the holding hands, the occasional kiss...but kissing, general—general signs of affection that you would have in any normal relationship...A personal relationship, a boyfriend/girlfriend-ish-type relationship...I escorted Ms. Vaca to Mr. Palomarez’s room in the hotel where Mr. Palomarez was waiting...She had stayed the night...Ms. Vaca answered the door, not in the evening gown she had been wearing prior to, wearing a man’s dress shirt...I believe it was Javier’s shirt that he wore that night....”

) Affidavit of Roberto Pacheco:³⁴

“I drove Mr. Palomarez to Miami airport to pick up Ms. Vaca...They immediately began kissing passionately. I witnessed them touch each other on the thighs and hold each other closely...At the restaurant they sat close to each other and kissed on frequent occasion.

) Affidavit of Erika Therwhanger:³⁵

“I also noticed that Ms. Vaca would physically cling to Mr. Palomarez at social events. Often, I would not be able to use group photographs that included Ms. Vaca and Mr. Palomarez because they positioned themselves in ways that did not seem professional...Several other individuals involved in Chamber business commented to me on their perceptions of the personal relationship between Ms. Vaca and Mr. Palomarez ...Because my duties include capturing photos of Mr. Palomarez’s everyday life, I began photographing Plaintiff in the ocean...At the time I did not notice that Ms. Vaca had accompanied Mr. Palomarez on his ocean swim, and I inadvertently captured photographs of the personal

³³ Mr. Poush was private security for Plaintiff. Exhibit Z.

³⁴ Mr. Pacheco was a limousine driver that escorted Plaintiff and Ms. Vaca on many occasions during out-of-town travel. Exhibit AA.

³⁵ Ms. Therwhanger was the USHCC regular event photographer. Exhibit BB.

relationship between Ms. Vaca and Mr. Palomarez ...Ms. Vaca called me to inquire about the Miami beach photographs. She first asked whether I had retained any of those photos or had given any of those photos to Mr. Palomarez. She told me the she did not consent to the use of her image in any of those photos, and further told me that I would be receiving a telephone call from her lawyer if I did not immediately delete all such photos. I responded to Ms. Vaca by saying I felt threatened...She responded by saying ‘you should not feel threatened, unless you give any compromising images to Javier.’”

) Affidavit of Sandy Cajas.³⁶

“Many years ago, I witnessed actions between Ms. Vaca and Mr. Palomarez that led me to conclude that they were engaged in an extramarital affair. One such incident occurred at the Fontainebleau hotel during the 2011 USHCC convention in Miami, Florida. During that convention I was sharing a room with leaders from four other local chambers due to a shared concern for the impact that such travel expenses would have on the local chambers.

I returned to my room at the Fontainebleau one night, only to discover that my roommates possessed all the room keys. For that reason, I went downstairs and sat in a lobby couch, next to the elevator, but my presence was obscured by a pillar in the center of the room. At some point thereafter, Ms. Vaca came stumbling through the lobby, supported only by Mr. Palomarez, who had his hand around her waist. The interaction between them appeared affectionate. I observed them go into the elevator together and watched as the elevator stopped at only a single floor before coming down. I don’t believe that either of them saw me because of the obstructed view.

These interactions formed the basis of my belief that a personal relationship existed between Ms. Vaca and Mr. Palomarez as early as 2011. Moreover, given the openness of such interactions, I came to believe that other individuals at the 2011 USHCC convention understood and accepted that a personal relationship existed between Ms. Vaca and Mr. Palomarez.

During a different convention in October 2017 there was an event called the President’s Reception at a high-rise restaurant in Dallas, Texas. During that reception I witnessed that Ms. Vaca was very

³⁶ Ms. Cajas is the Chairman of the Regional Hispanic Chamber of Commerce. Exhibit CC.

intoxicated was all over Mr. Palomarez and followed him around the room wherever he would go. At this event Mr. Palomarez's wife was also in the room and was with him almost all the time. But at a certain time, Mr. Palomarez's wife went the other way and Ms. Vaca approached Mr. Palomarez with no shame and asked for him to take a picture with her. As the photo was being taken, Ms. Vaca placed her leg over Mr. Palomarez's leg."

57. More problematic for Ms. Vaca is that witnesses have come forward and attested that they witnessed sexual acts between Plaintiff and Ms. Vaca. In fact, two witnesses have attested that they witnessed sexual acts between Plaintiff, Ms. Vaca and third parties. Please consider the following sworn statements.

) Affidavit of Robert Harrison:

"During the trip, I could hear the conversation clearly between Mrs. Vaca and Mr. Palomarez. Mrs. Vaca began begging Mr. Palomarez for sex. Initially, Mr. Palomarez resisted. [REDACTED]

[REDACTED] Mrs. Vaca high-fived me and Mr. Palomarez. I then took them both to the Marriott and dropped them off." Exhibit DD.

) Affidavit of Jim Avila:

"On one occasion, [REDACTED]

[REDACTED] This event occurred at the Jefferson Hotel in Washington, D.C. This event occurred in 2014." Exhibit EE.

58. Further, photographs show their intimate and consensual relationship. Exhibit FF.

Pictures are worth a thousand words:



59. Pictures are great, but words are also pretty good—especially when they come from the horse’s mouth. In this instance, it was Ms. Vaca’s fingers typing on her phone that conclusively contradicts her position that her relationship with Plaintiff was a “mischaracterized friendship”:

10/1/2013 10:51:00 PM(UTC-5) Direction: Incoming, [REDACTED] (Nina Vaca), **Love you night**

10/1/2013 9:37:45 PM(UTC-5) Direction: Incoming, [REDACTED] (Nina Vaca), **Good night my love up at 4 am to head to DC**

10/30/2013 11:29:30 AM(UTC-5) Direction: Incoming, [REDACTED] (Nina Vaca), **Ok sounds good baby!**

9/26/2013 11:17:04 AM(UTC-5) Direction: Incoming, [REDACTED] (Nina Vaca), **But I know better :) still it's sweet of you to say and that's why I love you !**

9/19/2013 11:36:16 AM(UTC-5) Direction: Incoming, [REDACTED] (Nina Vaca), **So happy you called today me dormi pensando enti y desperte pensando en ti [translation: I fell asleep thinking about you and woke up thinking about you].**

10/23/2013 11:18:08 PM(UTC-5) Direction: Incoming, [REDACTED] (Nina Vaca), **Papa I can't sleep I've been worried about you_Since your text TEP and I'm hoping you know how much I love and cherish our love. I can't sleep have a bad feeling – I love you**

9/19/2013 4:00:48 PM(UTC-5) Direction: Incoming, [REDACTED] (Nina Vaca), **Eres mi vida completa! Te Adoro [translation: You are my whole world! I love you].**

12/28/2012 2:58:40 PM(UTC-6) Direction: Incoming, [REDACTED] (Nina Vaca) **That's what it's supposed to make you do I've been planning this gift for sometime. I love looking at them too and just remembering all those happy moments**

10/31/2013 10:37:15 PM(UTC-5) Direction: Incoming, [REDACTED] (Nina Vaca) **Love you!**

Exhibit GG (redacted).

60. Ms. Vaca also regularly bought Plaintiff lavish gifts as a display of her wealth and affection for him. The following is a picture of four expensive Rolex watches he received from Ms. Vaca and a photo of Ms. Vaca gifting him a watch.³⁷ Exhibit HH.

³⁷ There is a fifth Rolex watch not shown in the picture below. Picture of such is attached to the associated exhibit.



61. On one occasion Ms. Vaca publicly gave him a very expensive watch at a USHCC event and never explained if USHCC had paid for it or if it was a personal gift. Exhibit II. There were concerns within the organization and employees that Ms. Vaca used Foundation funds to purchase this watch. Thereafter, Ms. Vaca gifted watches (and other items) behind the scenes.

62. In addition to watches, Ms. Vaca purchased expensive furniture for Plaintiff's Washington D.C. home. One specific item is of interest here. Ms. Vaca purchased a \$3,500 mirror for Plaintiff.



ENTABLATURE MIRROR

ITEM QUANTITY	1
ITEM PRICE	\$3,495.00
ITEM TOTAL	\$3,495.00
ITEM #	40200196 NATL

This item can be returned. [Learn more about our Ret](#)

Ship To

JAVIER PALOMAREZ
1701 16th St Nw ,109
Washington , DC 20009
United States
Day Phone: 202.787.8369

[VIEW/ADD NOTES](#)

Ship Total

TOTAL MERCHANDISE	\$4,454.00
TOTAL TAX	\$276.00
TOTAL FREIGHT	\$21.00
ADDITIONAL FREIGHT	\$0.00
TOTAL HANDLING	\$125.00
TOTAL ADDITIONAL CHARGES	\$0.00
SHIP TO TOTAL	\$4,876.00

Billing

NINA VACA
5501 LYNDON B JOHNSON FWY
DALLAS, TX 75240
214.566.7209

Exhibit JJ.

63. In relation to this purchase, Ms. Vaca sent Plaintiff a sexually suggestive text message. Ms. Vaca’s message read as follows:

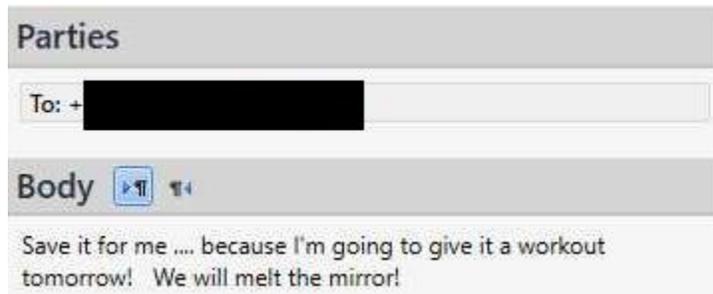


Exhibit KK.

64. Ms. Vaca also lavished generous amounts of money upon Plaintiff funneled through “Vaca Industries.” Exhibit LL. Ms. Vaca made mortgage payments on Plaintiff’s Washington, D.C. home in the amount of \$120,000.³⁸ Please consider the following copies of checks in support thereof:

³⁸ Ms. Vaca bought Plaintiff additional furniture for his Washington D.C. home. Exhibit MM.

Vaca Industries, Inc.
3561 Lyndon B Johnson Freeway
Suite 500
Dallas, TX 75240

7 10

Commerce Bank-Texas
P.O. Box 650282
Dallas, TX 75265-0282

10303

Date: 5/7/2014

Pay to the
Order of Wells Fargo Bank NA \$120,000.00

Twenty Thousand and 00/100

Wells Fargo Bank NA

Memo DC Hotel

0472243369

Vaca Industries, Inc.
3561 Lyndon B Johnson Freeway
Suite 500
Dallas, TX 75240

22 9

Commerce Bank-Texas
P.O. Box 650282
Dallas, TX 75265-0282

10304

Date: 5/7/2014

Pay to the
Order of Wells Fargo Bank NA \$125,000.00

Twenty Five Thousand and 00/100

Wells Fargo Bank NA

Memo DC Hotel

0472243369

Vaca Industries, Inc.
3561 Lyndon B Johnson Freeway
Suite 500
Dallas, TX 75240

18 10

Commerce Bank-Texas
P.O. Box 650282
Dallas, TX 75265-0282

10308

Date: 7/7/2014

Pay to the
Order of Wells Fargo Bank NA \$115,000.00

Fifteen Thousand and 00/100

Wells Fargo Bank NA

Memo DC Hotel

0472243369

Vaca Industries, Inc.
3561 Lyndon B Johnson Freeway
Suite 500
Dallas, TX 75240

19

Commerce Bank-Texas
P.O. Box 650282
Dallas, TX 75265-0282

10359

Date: 12/8/2015

Pay to the
Order of Wells Fargo Bank NA \$20,000.00

Twenty Thousand and 00/100

Wells Fargo Bank NA

Memo DC Hotel 0472243369

0472243369

Vaca Industries, Inc.
3561 Lyndon B Johnson Freeway
Suite 500
Dallas, TX 75240

14 12

Commerce Bank-Texas
P.O. Box 650282
Dallas, TX 75265-0282

10361

Date: 2/8/2016

Pay to the
Order of Wells Fargo Bank NA \$25,000.00

Twenty Five Thousand and 00/100

Wells Fargo Bank NA

Memo DC Hotel

0472243369

Vaca Industries, Inc.
3561 Lyndon B Johnson Freeway
Suite 500
Dallas, TX 75240

16

Commerce Bank-Texas
P.O. Box 650282
Dallas, TX 75265-0282

10362

Date: 4/6/2016

Pay to the
Order of Wells Fargo Bank NA \$115,000.00

Fifteen Thousand and 00/100

Wells Fargo Bank NA

Memo DC Hotel

0472243369

65. Despite all the evidence of the affair and the direct knowledge the Defendants had of same, as shown earlier, Ms. Vaca publicly stated, as have her co-conspirators, that Plaintiff fabricated the affair to cover his bad acts.³⁹ This statement, especially from Ms. Vaca who had lavished attention and gifts on Plaintiff, shows Ms. Vaca's true capacity for deceitfulness. This statement was particularly harmful to Plaintiff due to the political climate surrounding sexual harassment at the time.⁴⁰ As shown, the opposite was in fact true. Ms. Vaca was punishing Plaintiff, an employee and her subordinate at the Foundation for ending their sexual relationship. Ms. Vaca hypocritically has the following image on her website misappropriating the #timesup hashtag:⁴¹

³⁹ Ms. Vaca has a propensity to deny extra-marital affairs. Based on information and belief, Ms. Vaca has engaged in romantic relationships outside her marriage many times in the past. Ms. Vaca seems to target high-level, powerful men. The potential relationships include executives from Seven-Eleven, IHOP, Fortune International Group, and AT&T. The relevance here is Ms. Vaca's credibility—she lies. She especially lies about her affinity for cheating. Her credibility on this issue will be exposed in this case. The investigation into Ms. Vaca's extra-marital affairs has only begun. It took a matter of weeks to discover these affairs with prominent figures, businessmen and others. Time will tell how many affairs Ms. Vaca has engaged in over the years and denied when caught. Just a guess, the number of romances will be large.

⁴⁰ Ms. Vaca and her co-conspirators took advantage of the #metoo movement during a politically charged environment to tie Plaintiff to those that have harmed, belittled, and demeaned women. This was a sickening and deplorable abuse of today's political climate and the #metoo movement. Mr. Salazar specifically addressed this in his affidavit when he stated: "Ms. Vaca led a charge against Plaintiff with allegations of hostile work environment, sexual harassment, and later, sexual assault...there was never any credible evidence presented to the Board to support any such claims or allegations to a level legitimizing them as being substantiated...Ms. Vaca and her supporters inflated sexual harassment and assault allegations, which added to the negative situation. **This seemed to be a purposeful attempt to garner public and internal support via the 'me too movement.'** I found this particularly tactical." Exhibit F (emphasis added). Ms. Vaca's disgraceful conduct seems to have no bounds.

⁴¹ In this instance, a powerful woman who was the superior to a man whereby she used her position and power to harass an employee. Sexual harassment is about power; not the sex. Sexual harassment is about the harmed individual; not their gender. Thus, Ms. Vaca availed herself wrongly of the #metoo movement while being a perpetrator of the same.



d. Revenge Was Vaca's Motivation and Character Assassination Was Her Means

66. Evidence has now surfaced that Vaca utilizes revenge and character assassination tactics within the organization when anyone dares cross her. The most damning evidence comes directly from an internal email within the Chamber. Betty Manetta, a current board member of the USHCC, articulated exactly Ms. Vaca's motivation for ruining Plaintiff. In no uncertain terms, Ms. Manetta wrote the following:

“...she is out for blood...”

Exhibit NN (emphasis added).

67. Moreover, David Gomez, a former board member, provided the following:

“...To cross Ms. Vaca was a very dangerous proposition. Ms. Vaca has a propensity for retaliation.

For instance, Jennette Prenger once brought forth information that Ms. Vaca was engaged in an affair with her subordinate, Mr. Palomarez. Ms. Vaca denied the accusation. Repeatedly, Ms. Vaca lied to me and the board about this affair. In my mind, she used her influence and position to discredit Ms. Prenger and undermine due process. Clearly, having a sexual relationship with a subordinate is against the USHCC's internal policies.

...[W]hen Ms. Vaca found out that it was Ms. Prenger that levied the complaint against her, Ms. Vaca went ballistic. Ms. Vaca began a character assassination campaign against Ms. Prenger, just as she is doing to Mr. Palomarez. She discredited her to other board members. She trumped up allegations that Ms. Prenger lied

and was a danger to the USHCC. Eventually, Ms. Vaca led the charge to get Ms. Prenger kicked off the board.

...I felt like Ms. Vaca's attack on Ms. Prenger was particularly unjust and evil. It demonstrated exactly how far Ms. Vaca would go to get even against anyone who spoke out against her, even if the person who spoke out was being truthful.

I also witnessed Ms. Vaca railroad David Lizarraga, the USHCC's past Chairman. Ms. Vaca harassed him to the point where she forced his resignation. She accused him of unprofessional conduct and running the organization into the ground. From what I witnessed, Ms. Vaca did this to Mr. Lizarraga because she wanted to be Chairman. Again, Ms. Vaca took wrongful actions within the USHCC for her own benefit or for her own personal agenda.⁴²

Therefore, Ms. Vaca demonstrated a pattern and practice of taking what I considered wrongful actions against anyone who spoke out against her or failed to do as she wished. This included a clear pattern and practice of character assassination.

What Ms. Vaca did to Ms. Prenger and Mr. Lizarraga is eerily like what she is doing to Mr. Palomarez. Except with Mr. Palomarez, she set out to ruin him professionally and politically...

Ms. Vaca has evolved into a bully...As long as you go along with her you are okay, but once you disagree all gloves are off, and she will find a way to discredit you no matter what the cost. Mr. Palomarez is paying the full price...[H]e found himself on the wrong side of her way of doing business...."

Exhibit OO.

68. History repeated itself. Vaca did in fact character assassinate Palomarez by releasing false information to the public. In November 2017, BuzzFeed ran an article that stated, "The US Hispanic Chamber of Commerce (USHCC) is moving behind the scenes to oust its prominent president Javier Palomarez over allegations that he misused the organization's money for his personal salary and bonuses...." The sources of the statement were not provided. Now,

⁴² Internal emails sent by board members recognize that while other board members did not personally benefit from their participation in the organizations, Ms. Vaca did in fact personally benefit: "Nina yes benefited but no one who is calling for action in our current board has gained anything from sitting on USHCC board...." Exhibit KKK.

we know one of the sources. An internal email from Carmen Castillo, a board member of the USHCC, confirms who released the information to BuzzFeed. Castillo wrote:

“It’s surprising to see Nina going to the press (BuzzFeed article) as a whistleblower....”⁴³

Exhibit PP.

69. Jose Mas also confirmed that Ms. Vaca was the leak. Mr. Mas chastised Ms.

Vaca directly and condemned her actions:

You should have involved the entire chamber board before unilaterally making decisions that negatively affected the chamber. Being a source and a quote for buzzfeed only further complicates the issues and divides the organization. If the decisions made are now negatively affecting the foundation more thought should have been given to how the issues were handled!

Exhibit QQ.

70. The veracity of such assertions has been proven utterly false. Recall, the USHCC’s internal email proves that Palomarez did nothing wrong. Counsel for the USHCC provided the following email clearing Palomarez of any financial wrongdoing:

“Per our conversation this shall confirm that on the issue of compensation the Ad Hoc Committee after investigation, due inquiry and interviewing Mr. Palomarez the committee recommended that the salary paid was appropriate and that the Board take no further action against Mr. Palomarez and the Board received and filed the recommendation.”

*Email from Ruben Smith
USHCC Counsel*

71. The Foundation has since taken the position that the statements were not authorized. Nothing could be further from the truth. Internal emails from the USHCC’s attorney

⁴³ If there was any question as to why Ms. Vaca was terminated from the USHCC board, Peter Villegas, the current Co-Chairman of the board, when asked, made it very clear: “If there needs to be a reason....Buzzfeed.” Exhibit KKK.

in charge of the Palomarez investigation prove that there was never any proof of impropriety. Roland Juarez, who represented the USHCC, wrote the following to the former accountant for the USHCC:

“Javier would tell him [USHCC CFO] to make sure the Board approved his bonus and Manny recalled presenting on the KPI’s to the Board. **He recalled Javier always wanted Manny to get Board approval, and always wanted to be above-board with the Board with approvals...**Manny does not recall Javier just telling him to pay something...Manny recalled that Javier was always ‘above-board’ with his compensation, with Board approvals, and Manny never thought he was doing something wrong...**I told him [the] BuzzFeed article got a lot of the facts wrong....**”

Exhibit RR (emphasis added).

72. Finally, the USHCC’s leadership has confirmed what Juarez knew all along.

Board members during Palomarez’s tenure have attested to the following:

“Mrs. Vaca and Mr. Juarez knew exactly the terms and conditions of the employment agreement. To suggest that they could be confused regarding the compensation package is disingenuous in my opinion based on my interactions with them during the process. Based on my involvement in the process, for Mrs. Vaca and Mr. Juarez to provide false information to the Board regarding any so-called over-compensation and/or embezzlement was not by mistake. In my opinion based on my experience, these acts by these individuals were intentional. In my opinion based on my experience, Mrs. Vaca and Mr. Juarez worked together to have Mr. Palomarez wrongfully terminated from the USHCC and smeared publicly.

My understanding is that during the process that ultimately lead to Mr. Palomarez’s termination, Mrs. Vaca and Mr. Juarez provided information to both the Chamber and Foundation. From what I know, the information provided was clearly inaccurate in its assessment of Mr. Palomarez’s compensation. Apparently, the position asserted by Mrs. Vaca and Mr. Juarez was that Mr. Palomarez had intentionally over-compensated himself during his tenure to the tune of \$600,000-\$1,200,000. My understanding is that Mrs. Vaca and Mr. Juarez recommended the Board terminate

Mr. Palomarez for cause under the guise of embezzlement and forced him to return all the alleged embezzled funds.

One of the grounds presented by Mrs. Vaca and Mr. Juarez to support their claim of embezzlement was this idea that Mr. Palomarez “grossed up” his bonuses. It was the USHCC that had always “grossed up” bonuses for all employees long before Mr. Palomarez came on board. This was a normal compensation practice at the USHCC. Mr. Palomarez’s employment contract includes language that specifically states that any normal pre-existing compensation practice within the USHCC shall apply to Mr. Palomarez’s employment contract. It is in black and white and was included in the agreement by Mrs. Vaca, and Mr. Juarez typed the words into the agreement as the agreement’s drafter.

In my opinion, Juarez submitted false findings to the Board regarding this “grossing up” of bonuses....”

Exhibit L.

73. Recall Former board member Don Salazar echoed Mr. Rodriguez’s sentiments:

“I would like to now specifically address the circumstances that led to Mr. Palomarez’s exit. It is my belief that the process was initiated by Mrs. Vaca, who was an emeritus Board Member. Mrs. Vaca originally took the position that Mr. Palomarez had embezzled money from the USHCC and/or the Foundation.

As I recall, Mrs. Vaca’s specific allegations were three-fold. First, Mrs. Vaca argued that Mr. Palomarez’s compensation bonuses were inflated because the USHCC paid his taxes. This was commonly referred to ‘grossing up’ his compensation. However, based on this investigation, it was determined that this was a normal practice within the USHCC long before Mr. Palomarez’s tenure. Mario Valdez, the USHCC’s lead accountant, offered documented evidence and confirmed to the Board that ‘this is how it was always done.’ In fact, every employees bonus was ‘grossed up.’ The investigation found no wrongdoing in this regard. Thus, Mrs. Vaca’s allegations and statements to the Board were unfounded based on the investigation findings.

Second, Mrs. Vaca alleged that Mr. Palomarez had ‘padded’ his travel stipend and expense reimbursements. In my opinion, no evidence was ever presented to support this; nor was there any evidence that any of Mr. Palomarez’s expense reimbursement were ever inflated or improper. Mrs. Vaca’s allegations and statements

to the Board were yet again not substantiated by the investigation findings of the *ad hoc* committee.

Third, Mrs. Vaca alleged that Mr. Palomarez should not have given himself a Christmas Bonus. The bonus structure for Mr. Palomarez's compensation was outlined in his contract. In no way did his Christmas Bonus violate his contract, and certainly was not theft or embezzlement. This allegation was again not substantiated by the evidence found by the *ad hoc* committee. Arguably, the USHCC did not pay Mr. Palomarez enough for what he did and how he enhanced the organization..."

Exhibit F.

74. The truth is being exposed regarding Palomarez's firing. At the center of the controversy is Ms. Vaca. Ms. Vaca denies the affair with her subordinate. Ms. Vaca denies any wrongdoing in presenting false information to the board. Ms. Vaca strangely still denies releasing information to the press.

75. While Ms. Vaca lies and denies, the USHCC is facing financial ruin and the blame is being placed squarely on her shoulders:⁴⁴

I have been very critical of Ms. Vaca in this affidavit. In the beginning she was very instrumental in helping the USHCC grow

⁴⁴ Massey Villarreal, former Chairman of both the Chamber and Foundation, reiterated the sentiment that Ms. Vaca used her position within the organizations for her own benefit to the detriment of the organizations' mission:

"During my second tour I resigned from the Chamber Board due to what I believed were self-serving agendas by board members. I believed then, and continue to believe now, that Nina Vaca and a handful of other board members had a lust for power and influence that was responsible for transitioning the Chamber from one focused on service to local constituencies comprised of Hispanic business owners, to instead occupy a focus of forming alliances with powerful corporations. **I further believe that Ms. Vaca and this handful of other board members harbored motivations for so doing that were aimed at increasing their personal influence and financially benefitting their companies, like Pinnacle Resources, Inc., who I understand does business with many corporate Chamber sponsors...**I would be curious to find out how much of Pinnacle's business comes from corporations with employees who are Chamber board members, appointed by or because of Nina's influence and support."

Exhibit KKK (emphasis added).

and stabilize. I believe power got to her head and she forgot about the ones who helped her and the USHCC. I also believe once you do something wrong and lie about it, it starts a chain reaction that builds off that lie and compromises your judgments and actions. I am saddened that Ms. Vaca has allowed this lust for power and control to impair and misguide her.

Exhibit OO.

e. Intimidation and Threats Were Other Means Which Ms. Vaca Used to Meet Her Ends

76. Just as Ms. Vaca utilized character assassination efforts to get what she wanted within the organization, she also often utilized threats and intimidation. Mr. Mas, a Chamber board member, was threatened that if he did not go along with Ms. Vaca's attack on Plaintiff, his company would be "hurt." Mr. Mas responded curtly in an email, stating "There is obviously a level of intimidation and fear among certain board members. Not sure what is happening behind the scenes, **but someone suggesting my company would be hurt and I better be careful about my reputation leads me to believe this board is tainted and afraid.**" Exhibit NN (emphasis added). In response to Ms. Vaca's efforts to intimidate Mr. Mas, then Chairman Peter Villegas stated, "she needs to go...." *Id.*

77. A perfect example as it relates to this matter is when Ms. Vaca used a messenger to threaten Sandy Cajas, a Chairman of a local Hispanic chamber, because Ms. Cajas commented on a social media post that included a picture of Ms. Vaca with Plaintiff whereby it was suggested that they were involved in an intimate relationship. Ms. Cajas has attested to the following intimidation tactic utilized by Ms. Vaca regarding a critical issue at-hand:

Sometime in November 2017, I came to understand that Mr. Palomarez had been fired from the United States Hispanic Chamber of Commerce Foundation (the "Foundation") and that the USHCC board was consider terminating him as Chief Executive of the Chamber. I found this news surprising because I believed that Mr. Palomarez was one of the most effective and capable leaders that the USHCC and Foundation had ever had.

After learning that Mr. Palomarez had been fired from the Foundation, I saw a picture on the Facebook page of Elizabeth Chalas Berman, which depicted Ms. Vaca's leg touching Mr. Palomarez's leg. A screenshot of that picture is copied and pasted below. I believe that this was the photo that was taken at the 2017 USHCC Convention, which had occurred in Dallas, TX from October 1 – 3, 2017. The photo was posted on October 4, 2017.



Upon seeing the photo and knowing that Mr. Palomarez had since been terminated from the Foundation based in part on Ms. Vaca's allegations, I clicked the emoji character that depicted the "wow" expression. I then posted a comment underneath the photo stating something to the effect: "Wow, how things can change in only a couple of months. This photo shows love, but now, only two months later, they are suing each other." My comment has since been removed from the photo by someone other than me, so I am unsure of its exact date and phraseology.

At 11:30 PM on the date that I posted my Facebook comment, I received a telephone call from a colleague named Yasmin Davidds, who is the President of the Latina Global Executive Leadership Institute. I knew Ms. Davidds to be a friend of Nina Vaca. Yasmin began the conversation in a friendly manner, but soon thereafter asked whether I knew Nina Vaca. Yasmin said that Nina had asked her [Yasmin] to call me with instructions to take down my comment on Elizabeth Berman's Facebook page. Yasmin's specific words to me were: "Nina called me and asked me to tell you, as a friend, to remove your comment from Elizabeth's photo." I was stunned by Yasmin's comment and asked: "really, Nina asked you to tell me that?" to which she replied, "yes."

Yasmin continued the conversation by saying: “How dare you take a position against Nina Vaca. You know who she is, right? She can do you a lot of harm or a lot of good. Nina’s influence recently allowed me [Yasmin] to travel with her and other Hispanic women on a trip overseas to represent the voice of Hispanic women in the United States.” I understood Yasmin’s comment to be a sort of bribe from Nina to me, communicated through Yasmin, that I would be in Nina’s favor for complying with her demand to delete my Facebook comment.

Yasmin then stated: “Nina also told me to tell you that she would cut off all funding from the Foundation to the Regional Hispanic Chamber of Commerce if you do not remove your Facebook comment.” I replied to Yasmin that “the Foundation does not provide funding for the Regional Hispanic Chamber of Commerce and that all our funding is derived through the sponsorships that we generate.” I continued by saying that “I don’t do what other people force me to do” and that “you and Nina are nobody to tell me to delete something at 11:30 PM.”

Exhibit CC.

78. Even on the smallest issue, Ms. Vaca would resort to intimidation and threats. For instance, Ms. Vaca was once requested by a vendor to provide some information. The vendor asked again when Ms. Vaca failed to respond. The email string involved clearly illustrates that the vendor was being professional and polite, never once conducting himself in any manner that could be considered otherwise. Ms. Vaca, however, took offense to the fact that the vendor suggested she had been unresponsive. Ms. Vaca lashed out and threatened the vendor with “consequences” should his “conduct” continue: “...You either conduct yourself in a respectful tone and manner with me or be held accountable to the **consequences** of your behavior via our code of conduct.” Exhibit SS (emphasis added).

f. The Foundation and USHCC Had Knowledge of Ms. Vaca’s Conflict of Interest and Relationship with Plaintiff

79. Moreover, the affair between Ms. Vaca and Plaintiff had previously been suspected by the USHCC in 2011. Exhibit E. On November 3, 2011, Martha Montoya, Human

Resources Committee Chair for the USHCC, authored a memorandum concerning the affair and perceived conflicts of interest. Exhibit E. The memorandum begins by stating that its purpose was to investigate the allegations of an existing affair between Plaintiff and Ms. Vaca:

“The USHCC Human Resources Committee is charged with overseeing the hiring and supervision of USHCC staff. To that end, the HR Committee has been made aware of concerns regarding an alleged conflict of interest between the USHCC Board Chair and the USHCC President. Because the Board Chair is charged with supervising the President (See USHCC Bylaws Article V, Section 3, “The President shall report to the USHCC Chairperson.”), and based on requirements of the Sarbanes-Oxley Act requiring all concerns to be investigated and handled appropriately, the USHCC Human Resources Committee respectfully submits the following motion for the Board’s consideration and action:

Resolved, that the USHCC Human Resources Committee investigate the concerns raised regarding a possible conflict of interest between the USHCC Board Chair supervising the USHCC President, provided such investigation is conducted in a manner to protect confidentiality and, pursuant to the whistleblower requirements of the Sarbanes-Oxley Act, employ mechanisms to protect staff and volunteers from any form of retaliation. The USHCC shall bring back to the Board its findings, and recommendations for action, if any.”

Exhibit E.

80. Ms. Montoya concludes that “**no person with a conflict of interest should participate in the final discussion or vote on matters in which they have a conflict of interest.**” *Id* (emphasis added). In making this determination, Ms. Montoya relied on the following:

“**Email of 10/29/2011.** Attached is an email sent to Board members on October 29, 2011 raising these concerns. These concerns also were raised by other USHCC members to the HR Committee Chair and other board members prior to our annual meeting in August.

Sarbanes-Oxley whistleblower protections. Also attached are relevant portions of a report published by BoardSource and

Independent Sector regarding the whistle-blower protection provisions of the Sarbanes-Oxley Act. This report states in relevant part, *‘Nonprofit leaders must take any employee and volunteer complaints seriously, investigate the situation, and fix any problems or justify why corrections are not necessary.’*

USHCC conflict of interest policy. USHCC has adopted a conflict of interest policy as part of its Code of Conduct included in Article XIII, Section 4 of the bylaws. The Code of Conduct and Conflict of Interest provide, in relevant parts,

(d) Conflict of Interest, (i) Board members shall refrain from voting on any issues that constitute a conflict of interest. If there is uncertainty about the existence of a conflict, Board Members should seek clarification from the USHCC Board legal counsel; (ii) Board Members shall not extend preferential treatment in relation to any official matter to family members, friends or to organizations in which they, family members or friends have an interest; (iii) Board members shall avoid any employment, activity, investment or other interest which might involve obligations that may compete with or be in conflict with the interests of the USHCC.

(g) Discrimination, (ii) No form of harassment or discrimination ... will be permitted. All allegations of harassment or discrimination will be promptly investigated. Any instances of harassment or discrimination will be eliminated, and any perpetrator penalized appropriately; (iii) No Board Member shall allow personal prejudices to affect his/her decision-making; (iv) Board Members shall ensure that no persons or groups are given preferential treatment....”

Exhibit E.

81. Ms. Vaca certainly knew of the affair, as she was a participant. She presented misleading information to the Foundation board anyway. She voted to terminate anyway, which was final. The Foundation also knew of this affair and still allowed Ms. Vaca to present, participate, and vote on the matter. However, even Ms. Vaca admits that with a conflict of interest she should not have participated in the discussion regarding Plaintiff’s termination and should have been barred from voting:

“I can only hope that the members who have personal and financial ties to Mr. Palomarez can find it within themselves to meet their fiduciary obligations and have disclosed such conflicts or appropriately removed themselves from the process if they cannot set aside those ties. This process is too important to be compromised....”⁴⁵

Exhibit QQ.

82. Specifically addressing the Foundation, there is evidence that the board members conspired to terminate Plaintiff under false pretense, as the board needed Ms. Vaca’s presence to form a quorum. Exhibit D. Moreover, if you exclude Ms. Vaca’s vote, the vote could not have passed because three (3) votes on the committee would not have been sufficient.

83. Finally, if Ms. Vaca had been banished to the hallway—eliminating her from the discussion—the vote would never have happened because there would not have been any discussion. That was the responsibility of the Foundation board members; a responsibility that the Foundation board members shirked to further their overt illegal acts.

g. Members of the Conspiracy⁴⁶

84. To wrongfully terminate Plaintiff, Ms. Vaca knew she would need help. Ms. Vaca’s pattern of practice was to “pre-sale” board member votes. Exhibit F. This essentially means that before a board meeting, Ms. Vaca would recruit board members to participate in her wrongful initiatives.⁴⁷ Don Salazar has attested to this fact:

⁴⁵ In this email, Ms. Vaca is insisting that the Chamber board remove any individual who may have a conflict of interest from the “process” of investigating and terminating Plaintiff. It is going to be difficult for Ms. Vaca to explain why the Chamber board had such “fiduciary obligations”; yet, she undoubtedly violated the same in investigating and terminating Plaintiff from the Foundation.

⁴⁶ Everything herein is imputed to all Defendants whether specifically referenced or not.

⁴⁷ This is not the first time Ms. Vaca has set up a voting process within the organization for wrongful, unethical and/or illegitimate purposes. For instance, Ms. Vaca secured board members seats in exchange for their votes on issues she supported. Exhibit F.

“Before Mrs. Vaca brought her allegations to the Board, she contacted me via phone. We had a detailed conversation. During that conversation, Mrs. Vaca presented her positions. I felt that she was soliciting my support, *i.e.*, recruiting my vote.”

Exhibit F.

85. Regarding the October 30, 2017 vote to terminate Plaintiff, Ms. Vaca had to recruit all the board members’ votes to succeed. Recall that Ms. Vaca did not present any evidence during the meeting. Recall that no questions were asked by other board members regarding the allegations of theft. Recall that the vote took merely thirty-one minutes to oust the man who built the Foundation from the ground up.

86. Thus, it seems clear that the other board members decided to join Ms. Vaca beforehand.⁴⁸ However, the evidence is more damning than simply “going along to get along.” This was an overt conspiracy to ramrod Plaintiff out of the organization and destroy his professional reputation and hope of securing other employment. Please consider the following:

) **BP, Ray Dempsey, John Minge and Jackie Minge:** Ray Dempsey initiated the vote to terminate. Exhibit C. Mr. Dempsey works for British Petroleum (BP). Exhibit TT. Mr. Dempsey is the Chief Diversity Officer of BP. *Id.* Plaintiff had previously challenged BP for its lack of hiring and advancing Hispanic-Americans. Mr. Dempsey was enraged. Mr. Dempsey felt that Plaintiff was “forcing his hand.” Mr. Dempsey reported his frustrations to his boss, John Minge, Chairman and President of BP. Mr. Minge contacted Plaintiff and requested that he “lighten up.” Plaintiff refused. Eventually, BP was forced to concede and agreed to hire more Hispanic-American contractors and small businesses. Outwardly, BP took full credit for progressively expanding its practice to hire Hispanic-Americans and their small businesses. Exhibit UU. Internally, BP was incensed. When the dispute between Ms. Vaca and Plaintiff arose, BP jumped at the opportunity for payback. Mr. Minge told his wife, Jackie Minge, he was with “Nina on this one.” It is important to note that

⁴⁸ Kathleen Martinez, a BP employee, wrote Don Salazar, Chairman of the USHCC: “I want to pass along information on BP’s VP of Operations, Aleida Rios. She is the BP leader I spoke to you about **to represent BP on the USHCC Board of Directors...**” Exhibit KKK (emphasis added). During this pre-litigation process, Defendant BP has taken the position that it has no control or involvement with its employees who sit voluntarily on various boards. However, this email shows something quite different—BP uses board seats to “represent BP” and its interests on boards and, more specifically, the USHCC and/or Foundation boards.

John and Jackie Minge have a close personal relationship with Ms. Vaca. Exhibit VV.



) Ms. Vaca exploited this relationship to get what she wanted—revenge. Ray Dempsey, John Minge and BP used this opportunity to send a message—do not mess with us on diversity issues anymore. On information and belief, Mr. Minge instructed Mr. Dempsey to vote to terminate Plaintiff. Multiple internal emails between board members illustrate clearly that “BP” was directly involved in the process of removing Plaintiff. Please consider the following:

Aleida Rios, a BP employee wrote Don Salazar, Chairman of the USHCC: “I have a call scheduled with BP America President on Saturday it would be good for me to provide him the latest direction....” Exhibit WW.

Aleida Rios, a BP employee, wrote to Alice Rodriguez, USHCC board member: “If you would like support to kick off the search for a new CEO and President we have several executive search firms we can use and I can get the BP Team kicked off on that work stream....” Exhibit XX.

Aleida Rios, a BP employee wrote Don Salazar, Chairman of the USHCC: “President of BP America has asked now twice what is the status and I keep telling him we are awaiting a meeting....” Exhibit YY.

) **HP and Brian Tippens:** Brian Tippens seconded the motion for termination. Exhibit C. Mr. Tippens is Vice President of Human Resources for Hewlett-Packard (“HP”). Exhibit ZZ. Ms. Vaca got Mr. Tippens his seat on the Foundation board over Plaintiff’s objection. Plaintiff objected because Mr. Tippens wanted to be excluded from the approximate \$100,000 yearly contribution requirement. Eventually, Mr. Tippens conceded and agreed to the requirement. As soon as Mr. Tippens was announced as a board member, Ms. Vaca reduced his yearly minimum contribution to approximately \$35,000. Plaintiff often objected to this. Mr. Tippens made his distaste for Plaintiff known. When the conflict between Ms. Vaca and Plaintiff arose, Mr. Tippens seized on the opportunity. He reported the issue to his superior. In the years before, HP found itself in a public war with Rev. Jesse Jackson. Exhibit AAA. Rev. Jackson was holding rallies up and down California insisting on better African-American representation within HP’s upper management and board of directors. HP bitterly caved. Thereafter, Plaintiff contacted HP to discuss Hispanic-American representation within HP’s upper management and board of directors. Just recovering from the previously mentioned diversity battle, HP was in no mood to listen to Plaintiff. Eventually, HP conceded and put the first Hispanic-American on HP’s board. Exhibit BBB. Nevertheless, hard feelings remained. On information and belief, HP instructed Mr. Tippens to vote to terminate Plaintiff.

h. General Counsel for the USHCC Led a Biased Investigation Against Plaintiff that Was Ultimately Disregarded

87. The investigation into whether Plaintiff embezzled or misappropriated money from the USHCC or Foundation cleared him of any wrongdoing. But, before the USHCC could clear Plaintiff, Ms. Vaca did everything she could to control the outcome of the investigation. Again, Ms. Vaca needed additional alliances. Ms. Vaca turned to Roland Juarez and the law firm Hunton Andrews Kurth, who served as USHCC General Counsel and as a personal attorney

for Ms. Vaca and/or her company.⁴⁹ Mr. Juarez also had business dealings with Ms. Vaca and her companies.

88. Mr. Juarez was initially put in charge of the investigation process.⁵⁰ However, board members determined that he was biased.⁵¹ Exhibit F. From the onset, Mr. Juarez was attempting to conclude the investigation without adequate inquiry. *Id.* He was attempting to rush the process so that the USHCC would be deprived of the truth and fire Plaintiff before the real facts were shown, as Ms. Vaca intended. *Id.* Ms. Vaca and her conspirators needed this deal signed, sealed and delivered. Thus, the USHCC needed to follow suit. To ensure that the USHCC followed suit, the true facts needed to be concealed. Mr. Juarez was Ms. Vaca and her conspirators' ticket to such.⁵²

⁴⁹ A former board member who is still a member of the USHCC has stated that Ms. Vaca introduced Mr. Juarez as her friend and personal lawyer. The witness went on to state that Mr. Juarez would always protect Ms. Vaca over the best interest of the organizations. Finally, the witness stated that he repeatedly confronted Mr. Juarez and Ms. Vaca about this conflict of interest.

⁵⁰ From the onset of Mr. Juarez's involvement as General Counsel of the USHCC, board members questioned his ethics and integrity. In one instance that occurred in 2012, former Chairman-Emeritus Elliott Rivera articulated concern as to whether Mr. Juarez was acting in the best interest of the organization or simply pushing Ms. Vaca's agenda: "The statements even by our USHCC general counsel ignore important aspects of our bylaws and do not support our current position...." Exhibit KKK.

⁵¹ "Bias" is a gentle term used to describe Mr. Juarez's conduct in relation to the investigation and firing of Plaintiff. A better term would be **collusion**. One must look no further than Mr. Juarez's own words in support of the fact that he did or, was at least accused of, colluding with Ms. Vaca to have Plaintiff fired and destroyed. Mr. Juarez wrote Don Salazar the following: "If Peter has strong opinions about the Foundation and is going to accuse me again of **colluding with Nina**, we might want to leave him off and let you coordinate with him." Exhibit CCC (emphasis added).

⁵² Mr. Juarez is, and has been, Ms. Vaca's personal lawyer and "fixer" for some time. They are also very close friends. Furthermore, it was Ms. Vaca who obtained Mr. Juarez's position as General Counsel for the USHCC. Because of this relationship, Mr. Juarez has a history of protecting Ms. Vaca within the Foundation and USHCC.

89. It seems odd that Mr. Juarez would try to fast-track the resolution of Plaintiff's investigation—if not for this relationship with Ms. Vaca.⁵³ Mr. Juarez was motivated to do so to further Ms. Vaca's cause. This is not the first time that Mr. Juarez has tried to protect Ms. Vaca when the USHCC investigated her for misconduct.

90. In 2011, Jeanette Prenger, a USHCC board member, alerted the USHCC of the affair between Plaintiff and Ms. Vaca and insisted on an "independent investigation". Exhibit DDD. Mr. Juarez then responded that:

"There is no law or by-law that would require such an investigation based on speculation. The premise of Jeannette's email, the lawyer's 'advice,' and the underlying email, is also completely wrong. No one person controls the president's employment, or controls his compensation, only the board (the entire board) has this function. The full board approved his contract, the full board approved his bonus, and the full board is responsible for his employment, and for his contract. If this board permits an investigation like this, then all of our board members are at risk of the same based on speculative allegations."

Exhibit DDD (emphasis added).

⁵³ It is likely that Mr. Juarez violated many of the ethical rules in Texas based on his conduct. For instance, Mr. Juarez acted contrary to the following ethical standards in Texas for which he should be barred from practicing in Texas in the future:

- J) Allowing his relationship with Nina Vaca to interfere with his representation of the USHCC. *See* TX ST RPC Rule 1.06(b) ("a lawyer shall not represent a person if the representation of that person... reasonably appears to be or become adversely limited by the lawyer's or law firm's responsibilities to another client or to a third person or by the lawyer's or law firm's own interests."); *see also* TX ST RPC Rule 1.12 ("A lawyer employed or retained to represent an organization represents the organization as distinct from its directors, officers, employees, members, shareholders or other constituents.")
- J) Failing to disclose his conflict of interest to the USHCC and obtain consent. *See* TX ST RPC Rule 1.06(c) ("A lawyer may represent a client in the circumstances described in (b) if... each affected or potentially affected client consents to such representation after full disclosure of the existence, nature, implications, and possible adverse consequences of the common representation and the advantages involved, if any.");
- J) Assisting the fraudulent conduct against Plaintiff. TX ST RPC Rule 1.02(c) ("A lawyer shall not assist or counsel a client to engage in conduct that the lawyer knows is criminal or fraudulent."); and
- J) Submitting false findings to his client. TX ST RPC Rule 2.01 ("In advising or otherwise representing a client, a lawyer shall exercise independent professional judgment and render candid advice.").

91. Mr. Juarez goes further to say:

“It is clear that this Board cannot stand by while any of its members are being anonymously slandered and defamed. We need to determine who sent this email which on its face admits that it contains nothing more than speculation, and zero proof, and we need to determine who is behind these allegations, particularly now that the allegations have been published to the entire Board as a group. Even the person who sent this email admits it is based on ‘speculation.’. This is more than defamatory, this represents business disparagement against this organization, its Board, Nina and Javier.”

Id.

92. Tellingly, Ms. Vaca conspired to have Plaintiff terminated based on far less and Mr. Juarez assisted her, despite having previously admitted that these types of allegations are defamatory and represent business disparagement. Suddenly when it was Ms. Vaca facing the firing squad, Mr. Juarez changed his tune and came running to her defense taking the exact opposite positions he had taken in 2011.

93. In the instance above where Ms. Vaca was accused of wrongdoing, there was at least an email making the allegation from a reliable, independent source who happened to be a USHCC board member. Here, Ms. Vaca, without a shred of evidence, simply told the Foundation’s board her position, and Plaintiff was fired on the spot. Not only did she publish such misleading information to the USHCC and Foundation boards, she published it publicly. In the *Prenger* situation, the USHCC board did not ultimately rule on the matter—mainly due to Ms. Vaca’s and Mr. Juarez’s influence and coercion.

94. Here, the USHCC board determined that Plaintiff did nothing wrong; yet, statements were still made to the public and the media. Plaintiff was fired. Mr. Juarez, in all his brilliance, establishes in his previous opinion that Plaintiff was slandered, defamed and suffered

business disparagement.⁵⁴ Exhibit DDD. Mr. Juarez’s undoing of the Foundation in this case may be comical from the perspective of intelligent lawyers because of its stupidity, but there is nothing comical about destroying a good man that was doing good things for people who deserve some good in their lives.

95. Moreover, Mr. Juarez insisted on doing his own investigation despite his obvious bias to have Plaintiff fired without justification. Recall when it came to Ms. Prenger and her “unsubstantiated” claims, they were labeled as “speculation,” “slanderous” and “defamatory”. Exhibit DDD. For Plaintiff, however, mere speculation was enough to launch an investigation and ultimately his termination.

96. Unfortunately for Mr. Juarez and Ms. Vaca, the USHCC recognized his bias against Plaintiff. Exhibit F. Because of that bias, Mr. Juarez was forbidden from participating in the investigation and was discharged as USHCC General Counsel. Exhibit F.

97. Mr. Salazar, who was the USHCC’s Chairman of the Board at the time of the investigation into Plaintiff’s conduct, made this very clear. Mr. Salazar attested to the following:

“I objected...to Mr. Juarez doing any further investigation because it was my opinion, based on the circumstances, that there could potentially be bias. Mr. Juarez was close friends with Mrs. Vaca and her husband. It was Mrs. Vaca who got him his position within the USHCC. My judgement and gut feelings about Mr. Juarez and Mrs. Vaca’s friendship later turned out to be well founded...The Board ultimately agreed, and Mr. Juarez was removed from any further involvement.”

Exhibit F.

98. The Board recommendations for terminating the services of Mr. Juarez are also insightful. The recommendations state that “the USHCC should retain new contracted General

⁵⁴ In an email to Mrs. Castillo, Mr. Salazar establishes that Plaintiff had been defamed in this very instance. Exhibit EEE. Jose Mas concurred.

Counsel immediately....Our new legal counsel must be free from perceived conflicts of interest to prevent any notion of unfair or improper advice to the Board of Directors and staff.” Exhibit EEE.

99. Former board member Marc Rodriguez confirms Mr. Juarez’s dishonest nature. Mr. Rodriguez attested to the following:⁵⁵

“In my opinion, Juarez submitted false findings to the Board regarding this “grossing up” of bonuses.

In fact, Mr. Juarez took it further. Not only did he ignore me, Mr. Juarez concealed my written input. To me, this was an intentional act driven by Mrs. Vaca’s and Mr. Juarez’s goal to get rid of and, more sinisterly, shame and smear Plaintiff’s name and reputation.

I also believe Mr. Juarez to be a dishonest person. It is my opinion based on my personal experience that he intentionally misled the Board to have Plaintiff fired and smeared. First, it is my opinion based on my experience that Mr. Juarez intentionally concealed my letter to him regarding Plaintiff’s yearly 5% raise.⁵⁶ Second, Mr. Juarez told the Board that I refused to assist him during the investigation. Mr. Juarez also told the Board that he had been unable to contact me....”

Exhibit L.

100. If Mr. Juarez had his way, then Plaintiff would have been terminated for cause related to the false embezzlement claims. Exhibit EEE. Mr. Juarez pushed his improper agenda to the very end. For example, even after Mr. Juarez was told he would be dismissed, he continued to push his position based on a sham investigation. *Id.*

⁵⁵ Mr. Rodriguez attested that he felt that Mr. Juarez was trying to intimidate him in the process. Supporting his position, Mr. Rodriguez identifies a letter sent to him from Mr. Juarez. After the letter was sent, Mr. Rodriguez was forced to retain personal counsel. Exhibit FFF.

⁵⁶ Mr. Juarez continually took the position that others were not providing him the information he needed to do a thorough investigation. This allegation was completely bogus. For example, Mr. Juarez complained that he did not have information from Mr. Rodriguez regarding Plaintiff’s compensation. In fact, Mr. Juarez did have the information and concealed it from the USHCC board. Exhibit GGG.

101. After being informed by the USHCC board that “there is no issue to be addressed...and we are making a change,” Mr. Juarez still tried to recruit other board members to vote Plaintiff out without a just investigation. *Id.* Mr. Juarez responded to the comment with “my view is that the Board first have a vote and then transition to the new GC. The Board has a reasonable basis to make this decision.”⁵⁷ *Id.* This illustrates that even after he was dismissed, Mr. Juarez had a personal interest in terminating Plaintiff. That “personal interest” was Ms. Vaca.

102. After his suggestion was dismissed, Mr. Juarez refused to help in the transition with the new general counsel to complete the investigation. Thereafter, Mr. Juarez was summarily dismissed from any further assistance whatsoever.⁵⁸

i. The USHCC’s Independent Investigation Cleared Plaintiff of Any Wrongdoing

103. After Mr. Juarez was removed, the USHCC conducted its own independent investigation. An *ad hoc* committee was formed to properly investigate the matter without any bias by the investigators. Mr. Salazar provided the following:

“As I recall, Mrs. Vaca’s specific allegations were three-fold. First, Mrs. Vaca argued that Plaintiff’s compensation bonuses were inflated because the USHCC paid his taxes. This was commonly referred to ‘grossing up’ his compensation. However, based on this investigation, this was a normal practice within the USHCC long before Plaintiff’s tenure. Mario Valdez, the USHCC’s lead accountant, offered documented evidence and confirmed to the Board that ‘this is how it was always done.’ In fact, every employee’s bonus was ‘grossed up.’ The investigation found no

⁵⁷ It is Ms. Castillo that comes to Mr. Juarez’s rescue here. Ms. Castillo, a potential co-conspirator, states: “I think it’s a waste of time and funds to retain a new law firm to redo what you and Clay so professionally have done. I am almost positive the outcome would be the same....” Ms. Castillo sent this response to all the USHCC board members—her effort to recruit votes. She was wrong. The result was not the same. Plaintiff was cleared of any wrongdoing.

⁵⁸ The reason for the disgraced dismissal was made clear in the December 6, 2017 meeting notes: Mr. Juarez’s investigation was “slanted” against Plaintiff, questioning his candor with the USHCC Board. Exhibit S.

wrongdoing in this regard. Thus, Mrs. Vaca's allegations and statements to the Board were unfounded based on the investigation findings.⁵⁹

Second, Mrs. Vaca alleged that Plaintiff had 'padded' his travel stipend and expense reimbursements. In my opinion, no evidence was ever presented to support this; nor was there any evidence that any of Plaintiff's expense reimbursement were ever inflated or improper. Mrs. Vaca's allegations and statements to the Board were yet again not substantiated by the investigation findings of the *ad hoc* committee.

Third, Mrs. Vaca alleged that Plaintiff should not have given himself a Christmas Bonus. The bonus structure for Plaintiff's compensation was outlined in his contract. In no way did his Christmas Bonus violate his contract, and certainly was not theft or embezzlement. This allegation was again not substantiated by the evidence found by the *ad hoc* committee..."

Exhibit F.

104. After the investigation, the USHCC cleared Plaintiff of any wrongdoing. A letter from the USHCC's new investigating law firm stated, "after investigation, due inquiry and interviewing Plaintiff the committee recommended that the salary paid was appropriate." Exhibit G; Exhibit T.

105. The evidence, or lack thereof, discussed above proved the following:

-) Multiple Emails: Plaintiff's bonuses were always grossed up.
-) Email from Mario Valdez to Nina Vaca dated September 27, 2017: "The bonus amount is grossed up for taxes so the amount paid will be higher by approximately 30%-40%."
-) Email from Marc Rodriguez dated November 7, 2017: "The committee agreed on the 5% adjustment as an annual bonus for five years...I also recall Nina Vaca reporting that the 5% bonus would be per year for five years...."

⁵⁹ The evidence is overwhelming that this "grossing up" issue was a non-issue. Ms. Vaca was fully aware of this and still defamed Plaintiff. Exhibit HHH.

J Email from Carmen Castillo dated January 11, 2018: “I am not referring to grossing up bonuses, that is common practice in corporate America.”

106. The USHCC provided the following findings after the investigation:

Summary of Compensation Findings:

5% Year-Over-Year Increase: Within scope of contract; Documentation from former and current Chairman.

Bonus Gross Ups: Determined as existing accounting practice for all employees.

Determination of Bonuses Based on KPI's: Within scope of contract.

Travel & Expenses: Receipts for all staff, including the President & CEO, shall be required for reimbursement in established in accordance with accounting practices. Travel and expenditures were erroneously grossed up based on presence from former CFO. These expenditures may not be grossed up and shall be returned to the organization.

Event Bonuses: These were commonly awarded to all employees at the USHCC. Nina Vaca, as Chair of the Compensation Committee, regularly participated in the practice of distributing bonus checks to all employees including Javier Palomarez.

Exhibit T.

107. As such, there is no doubt that Plaintiff did not embezzle or misappropriate any funds from the USHCC or the Foundation as claimed by Ms. Vaca and others. Ms. Vaca's conduct was intentional.

108. This is confirmed by the then-presiding Chairman of the Board:

“In arguing her points, Mrs. Vaca insisted that the ‘contract was solid’ and it could be ‘used’ to terminate Plaintiff. I disagreed. I believed the contract was arbitrary and was open to interpretation. I felt her primary motivation was clearly personal—I believed it was perfectly clear that she was doing this because Plaintiff had broken off their romantic relationship.

Mrs. Vaca was more concerned about speediness than fairness. My insistence was for a fair process that sought the truth. My insistence was that we let the truth dictate our actions. If Plaintiff was found to have acted improperly after a fair investigation, then I would have supported his removal, despite our friendship and respect for what he had accomplished for the USHCC.

Essentially, it is my belief that Mrs. Vaca led what turned out to be an unfounded charge for termination whereby the ad hoc committee never substantiated any finding of wrongdoing by Plaintiff; yet, he was still terminated because of the appearance of wrongdoing created by a person who appeared to be in part motivated by personal feelings of hurt and anger.”

Exhibit F.

109. The intentional nature of Ms. Vaca’s conduct is established through Mr. Salazar without question. However, conduct related to this lawsuit does not have to be intentional. Relevant conduct would include reckless conduct. Jose Mas, USHCC board member, articulated the following regarding the Foundation’s investigation that was initiated by Ms. Vaca singularly, **“The case made around [the Palomarez investigation by the Foundation] was flawed, careless, and in my opinion lies....”**⁶⁰ Exhibit NN.

110. The only person that was terminated for cause was Ms. Vaca. Exhibit U. It was Ms. Vaca that was accused of misconduct. The issue of terminating Ms. Vaca from the USHCC board was put to vote and subsequently passed.

111. Please consider the following from the December 6, 2017 USHCC board meeting:

“A motion was made by Peter Villegas that Nina Vaca be terminated from the Board of Directors and that her honorary title of “Chairman Emeritus” or “Director Emeritus,” under Article III Section 11, also be terminated, removed and revoked, and that Nina Vaca be removed from all USHCC engagement, communication, participation and meetings with the USHCC Board of Directors and Executive Committee and that Mrs. Vaca

⁶⁰ Confirming that the action taken against Plaintiff was reckless, Ms. Castillo wrote: “This unpleasant situation would have been prevented by addressing all matters timely during our BOD meeting.” Exhibit KKK.

be removed from all letterheads and listings and USHCC website...There is no reason to have Nina remain; she has served her time and it's time to go...Nina Vaca started this process...The vote was 8-3 in favor of the Motion.”

Exhibit U.

112. Subsequently, Ms. Vaca was terminated in writing. Exhibit C. After all the false assertions, it was Ms. Vaca that was finally proved to be a liar. It was Ms. Vaca that was “shown the door” for cause.

j. The USHCC Terminated its Contract with Plaintiff

113. Even after Plaintiff was cleared of any wrongdoing, the USHCC still terminated Plaintiff.⁶¹ Mr. Salazar has admitted under oath that such was based on Defendants’ actions:

-) “After Mr. Palomarez left, which in my opinion was not justified or warranted based upon the facts, the USHCC has suffered due to his exit...”
-) “...it is my opinion that it was not a good thing; it was a detrimental action for the USHCC and not fair with respect to Mr. Palomarez ...”
-) “...Mrs. Vaca spearheaded this wrongful attack on Mr. Palomarez that ultimately [led] to his termination from the USHCC, the Foundation, and the destruction of his good name...”
-) “...the steps I took to achieve transparency and fairness seemed irrelevant to the Board with respect to the handling of the Palomarez matter...”

Exhibit F.⁶²

114. Plaintiff, because of Defendants’ defamation, is truly un-hirable. He lost numerous speaking invitations and engagements had to be revoked. He also lost numerous seats

⁶¹ The USHCC board utilized a great deal of information to clear Plaintiff’s name. Some of the information relied upon by the USHCC board was concealed until Plaintiff was given the opportunity to disclose the true facts. Exhibit III.

⁶² Facts regarding the termination of Plaintiff’s USHCC contract are stated here only to show the damages resulting from Defendants’ tortious interference and the effects of overt acts taken in furtherance of the conspiracy. Such also illustrates damages related to the Defendants’ conduct to destroy Plaintiff’s reputation.

on various boards around the country. Finally, this episode crushed Plaintiff's dreams of becoming the next Governor of Texas, which was a very real possibility.⁶³

115. Due to the events detailed above, Plaintiff has been wrongfully disgraced and is unable to find alternate employment, causing significant and continuing damages.

VII. CAUSES OF ACTION

A. Tortious Interference with Contract Against All Defendants

116. Plaintiff re-alleges each allegation set forth above.

117. To prove tortious interference with a contract, a plaintiff must show: (a) the existence of a contract subject to interference; (b) willful and intentional interference; (c) proximate cause; and (d) damages. *Borg-Warner Acceptance Corp. v. Jesse Vinson Imps., Inc.*, No. A14-89-00721-CV, 1991 WL 4848, at *1 (Tex. App.—Houston [14th Dist.] Jan. 24, 1991), writ denied.

118. Plaintiff had a written employment contract with the USHCC. Through their actions, Defendants, including the Foundation and its board members intentionally interfered with Plaintiff's contract, which proximately caused Plaintiff's damages. Defendants interfered with Plaintiff's contract by illegal and tortious means including, but not limited to, threats, intimidation, and misrepresentation.

119. Defendants Juarez, Cardona and Vaca communicated false statements and made material misrepresentations to the USHCC Board during the *ad hoc* committee investigation and encouraged those board members to terminate Plaintiff's employment from the USHCC. This resulted in interference with Plaintiff's employment contract with the USHCC as Plaintiff was terminated due to these communications and statements along with Plaintiff's removal from the

⁶³ Plaintiff was even being supported as the next governor of Texas and was a greatly powerful political force in Texas. Exhibit JJJ.

Foundation. Defendants Cardona and Vaca communicated false statements to the media to ensure that the USHCC would terminate its contract with Plaintiff.

120. Board Members Tippens, Dempsey, Baker, and Rendon intentionally voted to remove Palomarez from the Foundation on the basis of the false claims of embezzlement, theft, and financial impropriety. Rendon voted under the instruction and edict of BP. Tippens, BP, Dempsey, Baker, and Rendon knew these allegations were false and knew such allegations were simply part of Ms. Vaca's scheme as they had agreed to vote Palomarez out prior to the actual board meeting. BP, Tippens, Dempsey, Baker, and Rendon further interfered with Plaintiff's contract with the USHCC by failing to give Plaintiff notice of the board meeting, proceeding despite Ms. Vaca's known conflict of interest, and voting without receiving any evidence or asking any questions. As Plaintiff's wrongful removal from the Foundation, and the defamatory statements associated therewith, resulted in Plaintiff's contract with the USHCC being terminated, Defendants' actions were a proximate cause of Plaintiff's damages.

121. Such intentional actions constitute tortious interference with a contract. Plaintiff has been damaged because of Defendants' interference including, but not limited to, economic damages including reputation damage and exemplary damages.

B. Defamation and Business Disparagement Against the Foundation, Vaca, and Cardona

122. Plaintiff re-alleges each and every allegation set forth above.

123. Defendants Vaca, Cardona, and the Foundation made (1) the publication of a false statement of fact to a third party; (2) that was defamatory concerning Plaintiff; (3) with negligence and with knowledge of its falsity or with reckless disregard for its truth; and (4) Plaintiff suffered damages as a result. Defendants Vaca, Cardona, and the Foundation are further liable for defamation *per se*, as they stated Plaintiff committed a crime and made statements that

adversely reflect on a person's fitness to conduct his or her business or trade which are also deemed defamatory *per se*. *In re Lipsky*, 460 S.W.3d 579, 584 (Tex. 2015).

124. Specifically, Defendants Vaca, Cardona and the Foundation stated that Plaintiff embezzled, stole, or otherwise misappropriated money from the USHCC and that Plaintiff fabricated an affair with Ms. Vaca to cover it up. Ms. Vaca and Ms. Cardona made these statements to several national media outlets. Ms. Cardona stated that Plaintiff's hand got caught in the cookie jar and published that statement to media outlets as shown above.

125. Ms. Vaca made defamatory remarks about Plaintiff—a *private individual*—to third parties in the October 30, 2017 Foundation board meeting. Specifically, Ms. Vaca stated to the four other Foundation board members that Plaintiff had taken unearned money from USHCC, which is an act that would constitute criminal conduct. Ms. Vaca's defamatory remarks were made with actual malice because Ms. Vaca was aware of its falsity or made such statements with reckless disregard for the truth. Ms. Cardona made these statements to the USHCC board as well.

126. As shown in the fact section above, Defendants Vaca, Cardona, and the Foundation knew these statements were false and recklessly disregarded the truth of same. Ms. Vaca was heavily involved in Plaintiff's employment agreement and knew the terms of same. Ms. Vaca knew that Plaintiff was only acting under the terms of this agreement and any statement otherwise was a lie. Ms. Cardona knew that Plaintiff and Ms. Vaca were engaged in an extramarital affair and that Plaintiff did not state same to "cover up his improprieties." Ms. Vaca and Ms. Cardona then falsified claims that Plaintiff harassed and sexually assaulted employees and published those statements to the USHCC Board and to media outlets as well.

127. The Foundation knew that no investigation had been made into allegations of Plaintiff's financial wrongdoing and knew that Ms. Vaca had a conflict of interest. Nevertheless, the Foundation published its defamatory and false board minutes to the media which defamed and damaged Plaintiff.

128. As a result of these statements, Plaintiff lost his contract with the USHCC and his other speaking engagements and other board seats and has been unable to secure new employment as his reputation has been destroyed. Such statements are the proximate cause of Plaintiff's damages including but not limited to economic damages including reputation damage and exemplary damages.

C. Civil Conspiracy Against All Defendants

129. Plaintiff re-alleges each and every allegation set forth above.

130. As shown above Defendants conspired together to defame and tortiously interfere with Plaintiff's contracts. BP, Tippens, Dempsey, Baker and Rendon had a meeting of the minds with Vaca, Cardona and the Foundation to defame Plaintiff and tortiously interfere with his contract with the USHCC. Tippens, Dempsey, Baker and Rendon proceeded to a vote on Plaintiff's termination without giving him notice of the meeting as required by the by-laws. Further BP, Tippens, Dempsey, Baker and Rendon allowed the vote regarding Plaintiff to proceed despite Ms. Vaca's disclosed conflict of interest. BP, Tippens, Dempsey, Baker and Rendon knew that if Plaintiff had been given notice as required and Ms. Vaca had abstained from voting as required, the Foundation would not have been able to terminate Plaintiff. Cardona had a meeting of the minds with Vaca and the Foundation to defame Plaintiff by reporting as fact that Plaintiff had embezzled and stolen from the Foundation before any investigation was undertaken and knowing such claims were false. Defendants Vaca, Cardona,

Juarez and the Foundation defamed Plaintiff and all Defendants tortiously interfered with Plaintiff's contract with the USHCC and with other organizations he held board seats on. This occurred despite knowing that Plaintiff had committed no crime and knowing that Vaca was acting out of vengeance for Plaintiff refusing to continue to engage in a sexual relationship with her. Defendants acted to remove Plaintiff from the Foundation without investigation and then destroyed him by publishing statements that he embezzled and stole from the USHCC and the Foundation. These actions all constitute unlawful, overt acts. As a result of these acts, Plaintiff lost contracts, speaking engagements, board seats and has suffered reputational damages and has not been able to find comparable employment.

131. Defendants' conspiracy was the proximate cause of Plaintiff's damages including but not limited to economic damages including reputation damage and exemplary damages.

D. Intentional Infliction of Emotional Distress Against the Foundation and Vaca

132. Plaintiff re-alleges each allegation set forth above.

133. Plaintiff incorporates the preceding paragraphs of this Petition as if set forth fully below. The elements of intentional infliction of emotional distress are: 1) the defendant acted intentionally or recklessly; 2) the conduct was extreme and outrageous; 3) the actions of the defendant caused the plaintiff emotional distress; and 4) the emotional distress suffered by the plaintiff was severe. An actor is reckless when he knows or has reason to know of facts which create a high degree of risk of harm to another, and deliberately proceeds to act, or fails to act, in conscious disregard of, or indifference to that risk. *Twyman v. Twyman*, 855 S.W.2d 619, 620 (Tex. 1993).

134. Defendants the Foundation and Vaca acted intentionally in an extreme and outrageous manner, causing Plaintiff severe emotional distress when Ms. Vaca had Plaintiff

terminated for refusing to continue participating in a sexual relationship with her. The Foundation and Ms. Vaca created a hostile work environment for Plaintiff and the Foundation and Ms. Vaca retaliated against him for refusing to continue the affair. Plaintiff suffered an adverse employment action when he was terminated due to his refusal to continue to engage in an extra-marital affair with Ms. Vaca

135. The Foundation and its Board acted intentionally when faced with knowledge of this affair and Ms. Vaca's treatment of Plaintiff once he terminated the affair. The Foundation and its board of directors voted to summarily remove Plaintiff without notice, against its own by-laws and with knowledge of Ms. Vaca's conflict of interest. Defendants' actions were the proximate cause of Plaintiff's damages including but not limited to economic damages including reputation damage and exemplary damages.

E. Vicarious and Derivative Liability

136. Plaintiff re-alleges each and every allegation set forth above.

137. The Foundation is liable under the theory of *respondeat superior* in that the individually named Defendants Vaca, Tippens, Dempsey, Baker, and Rendon were acting within the course and scope of their employment with the Foundation at the time the incident occurred. The Foundation is legally responsible to Plaintiff for the conduct of their respective vice-principals, and for the negligence of the Foundation's other respective employees, agents, servants and representatives under the legal doctrines of *respondeat superior*, agency and/or ostensible agency because the Foundation's vice principals and the Foundation's employees were at all times material hereto agents, ostensible agents, servants and/or employees of the Foundation, and were acting within the course and scope of their respective agency, servitude or

employment. As a result thereof, the Foundation is vicariously liable for all wrongful acts of their vice-principals and the Foundation's other employees, agents, servants and representatives.

138. Pleading further, and in the alternative, and without waiving the foregoing, Plaintiff would also show that, at all relevant times, the Foundation's vice-principals were engaged in the performance of non-delegable duties of the businesses of the Foundation. Further, the Foundation authorized or ratified the conduct of its vice-principals.

139. In light of the above, the Foundation is liable to Plaintiff for his damages under the doctrine of *respondeat superior*, traditional principles of agency law, "vice-principal" liability, and any other applicable theory of law. The Foundation is responsible for the acts and/or omissions of Defendants Vaca, Tippens, Dempsey, Baker, and Rendon, which proximately caused injuries and other losses as specifically set forth herein.

VIII. CONDITIONS PRECEDENT

140. All conditions precedent to Plaintiff's right to recover and to Defendants' liability have been performed or have occurred.

IX. DISCOVERY

141. Plaintiff requests Defendants' disclosure of the information or material described in Texas Rule of Civil Procedure 194.2 within 50 days of service in this Petition.

142. Pursuant to Texas Rule of Civil Procedure 196, Plaintiff requests Defendants' responses to Plaintiff's Request for Production, attached hereto, within 50 days of the service of this Petition.

143. Pursuant to Texas Rule of Civil Procedure 197, Plaintiff requests Defendants' responses to Plaintiff's Interrogatories, attached hereto, within 50 days of the service of this Petition.

144. Pursuant to Texas Rule of Civil Procedure 198, Plaintiff requests Defendants' responses to Plaintiff's Requests for Admission, attached hereto, within 50 days of the service of this Petition.

145. All discovery requests are attached hereto.

X. JURY DEMAND

146. Plaintiff demands a trial by jury.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that Defendants be cited to appear and answer herein, and that upon final trial of this case, Defendants be held liable for Plaintiff's damages of not less than \$50,000,000 and that the Court award the following relief: actual and exemplary damages; pre- and post-judgment interest; costs of court; attorney's fees; and any other relief to which he may be entitled.

Respectfully submitted,

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