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

GORDON LAWRIE, MARGARET LAWRIE, CHARLES MCKINLAY, STEPHEN FRIEZE, ELIZABETH FRIEZE, BARRY SOBEL, NAOMI BERGER, ANDREW BILLINGTON, CHARLOTTE BILLINGTON, JOHNNY MILLER, HEATHER PETTS, PHILIP BUTTON, JOHN MIGYANKA, FLORA MIGYANKA, CHRISTOPHER DELANEY, and PAUL TIPTON, individually and on behalf of all others similarly situated, Plaintiffs, v. GINN DEVELOPMENT COMPANY, LLC, GINN TITLE SERVICES, LLC, ESI LIVING, INC., LUBERT-ADLER PARTNERS, L.P., FIFTH THIRD BANCORP, FIFTH THIRD BANK (MICHIGAN), SUNTRUST MORTGAGE, INC., WACHOVIA BANK, N.A and WACHOVIA MORTGAGE CORPORATION Defendants.	)	Case No: 3:09-CV-00446-TJC-HTS

SECOND AMENDED CLASS ACTION COMPLAINT
AND DEMAND FOR JURY TRIAL

I. INTRODUCTION

Gordon Lawrie, Margaret Lawrie, Charles McKinlay, Stephen Frieze, Elizabeth Frieze, Barry Sobel, Naomi Berger, Andrew Billington, Charlotte Billington, Johnny Miller, Heather Petts, Philip Button, John Migyanka, Flora Migyanka, Christopher Delaney and Paul Tipton ("Plaintiffs") assert claims on behalf of themselves and those similarly situated against Ginn Development Company, LLC; ESI Living, Inc. (f/k/a Echelon Sales) as successor-in-interest to Resort Management Associates, LLC ("RMA"); Lubert-Adler Partners, L.P.; Fifth Third Bancorp; Fifth Third Bank (Michigan); SunTrust Mortgage, Inc.; Wachovia Bank, N.A. and Wachovia Mortgage Corporation, ("Defendants") for violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961 *et seq*. ("RICO"), and Florida common law in connection with a scheme which began in or about 1998 and continued through 2008, (or such time as will be established after a thorough review of Defendants' records). Each of the Defendants identified herein colluded to market, sell and finance real estate in residential communities developed by the Ginn and Lubert-Adler Defendants at prices that were fraudulently inflated through misrepresentations, manipulation, fraud, deceptions, omissions and unconscionable conduct, as described in detail below, in order to increase their profits at the expense of purchasers such as Plaintiffs and the other members of the Class (defined below). Defendants victimized and misled Plaintiffs and the Class as to the value of such property at time of sale through a scheme implemented by Defendants that involved every step of the real estate purchase process–from the introduction of the property at lavish "launches" and presales deceptively promoted with standardized marketing materials through the mails and wires, to the intentional manipulation of property values through misrepresentations, fraud, deception, omissions and unconscionable conduct, to the funding of mortgage loans for the properties,

based upon materially false, artificially-inflated and purposefully manipulated appraisals. Defendants developed this scheme and expanded their enterprise to include each of the Ginn communities identified herein. This scheme directly harmed the Plaintiffs and Class members who purchased property in the Ginn Communities for much more than they were worth.

II. JURISDICTION AND VENUE

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

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

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

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

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

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the Plaintiffs' claims occurred in this

district and/or or a substantial part of property that is the subject of this action is situated in this district.

III. PARTIES

A. Plaintiffs

7. Plaintiffs Gordon Lawrie and Margaret Lawrie are British citizens residing in Winter Garden, Florida. Between 2002 and 2005, the Lawries purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 163, Phase II, Parcel 1, Reunion for $215,000 (on or about 10/4/2002) financed by Federal Trust Bank; Lot 352, Bella Collina, for $544,900 (12/2/2004) financed by R-G Crown Bank; Lot 390, Bella Collina, for $5.35 million (on or about 5/20/2005) financed by R-G Crown Bank; (Gordon Lawrie with Charles McKinlay); Lot 37, Bella Collina, for $1.5 million (on or about 6/07-2005) financed by Mercantile Bank (Gordon Lawrie); Lot 207, Bella Collina West for $655,900 (on or about 7/15/2005) financed by Mercantile Bank (Gordon Lawrie with Charles McKinlay).

8. Plaintiff Charles McKinlay is a British citizen residing in Edinburgh, Scotland. Between 2004 and 2005, McKinlay purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 371, Bella Collina, for $544,900 (on or about 6/07/2004) financed by People's First Bank; Lot 337, Bella Collina for $784,900 (12/8/2004) financed by R-G Crown Bank; Lot 390, Bella Collina for $5.35 million (on or about 5/20/2005) financed by R-G Crown Bank (with Gordon Lawrie); Lot 37, Bella Collina for $1.5 million (on or about 6/07/2005) financed by Mercantile Bank and Lot 207, Bella Collina West for $655,900 (on or about 7/15/2005) financed by Mercantile Bank (with Gordon Lawrie).

9. Plaintiffs Stephen Frieze and Elizabeth Frieze are British citizens who reside in Bella Collina, Montverde, Florida. In 2004 and 2005, Plaintiffs Stephen Frieze and Elizabeth

Frieze purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 227, Reunion, $550,000 (on or about 8/20/2004) financed by R-G Crown Bank with additional financing for construction of the home in the amount of $940,000 for a total purchase price of $1.3 million and Lot 391 and house, on the "Street of Dreams" Bella Collina, for $4.6 million (on or about 1/28/2005) financed by R-G Crown Bank.

10. Plaintiff Barry Sobel is a United States citizen who resides in Boca Raton, Florida. In 2004 and 2006, Plaintiff Barry Sobel, with Plaintiff Naomi Berger, purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 24 for $314,900 and Lot 70 for $245,900 in Bella Riva, Tesoro (on or about 6/11/2004) both financed by R-G Crown Bank and Lot 132 Bella Villagio, Tesoro for $754,900 (on or about 04/18/2006) financed by SunTrust.

11. Plaintiff Naomi Berger is a United States citizen who resides in Coconut Creek, Florida. In 2004 and 2006, Plaintiff Naomi Berger, purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 24 for $314,900 and Lot 70 for $245,900 in Bella Riva, Tesoro (on or about 6/11/2004) (with Plaintiff Barry Sobel) both financed by R-G Crown Bank; Lot 132 Bella Villagio, Tesoro for $754,900 (on or about 04/18/2006) (with Plaintiff Barry Sobel) financed by SunTrust; and Lot 20 in Solomar, Tesoro for $2,718,000 (on or about 11/14/2006) financed by Chase Bank and CitiBank.

12. Plaintiffs Andrew and Charlotte Billington are British citizens who reside in Gloucestershire, England. Between 2004 and 2007, the Billingtons purchased the following Ginn properties at fraudulently inflated prices: Lot 2, Bella Collina (on or about 7/2/2004) (Andrew Billington) for $377,900 financed by R-G Crown Bank; Lot 134, Bella Collina, for $1,340,900 (on or about 7/4/2004) (Andrew Billington); Lot 331, Bella Collina (on or about

10/29/2004) for $854,900 financed by First National Bank of Florida; Lots 8, 9, 10, 54, 56, 85 in Reunion Villages (on or about 12/16/04) financed by First National Bank of Florida; Lot 330, Conservatory, for $449,900 (on or about 9/12/05) (Andrew Billington); Unit A-380, Yacht Harbor Village Condominium, for $950,000 (on or about 4/26/07) (Andrew Billington) financed by Ginn Financial Services, LLC ("Ginn Financial") and Lot 7 North Shore, Plat Four, Hammock Beach for $850,000 (on or about 5/22/07) (Andrew Billington) financed by SunTrust.

13. Plaintiff Johnny Miller is a United States citizen who resides in Orlando, Florida. Between 2004 and 2006, Plaintiff Miller purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 110, Bella Collina West, for $680,900 (on or about 6/22/2005) financed through Fifth Third Bank; Lot 50, Reunion Heritage Preserve, for $263,000 (on or about 10/30/2006) financed through People's First Bank (lot loan) and SunTrust (construction loan); Lot 101, Laurelmor, for $489,900 (on or about 11/17/2006) financed through Wachovia; Lot 386, Cobblestone for $259,900 (12/2006), financed through Wachovia; Lot 160, Fairway Ridge, Reunion for $189,900 (in or about 12/2004), financed by First National Bank of Florida; and Lot 89, Heritage Preserve, Reunion for a purchase price of $200,900 (in or about 08/2004), financed by R-G Crown Bank.

14. Plaintiffs Heather Petts and Philip Button are British citizens who reside in Essex, England. Between 2004 and 2006, Plaintiffs Petts and Button purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 26, Desert Mountain Court, Reunion for $215,900 (on or about 10/25/2004) (Button only) financed by R-G Crown Bank; Lot 78, Blanding Ridge, Cobblestone for $324,900 (on or about 12/20/2005)(Button only) financed by Fifth Third Bank; 206 Vetta Dr., Bella Collina for

$655,900.00 (on or about 8/29/2005), financed by Fifth Third Bank; and Lot 169, Briar Rose, for $200,900 (6/2006) (Petts only) financed by Wachovia.

15. Plaintiffs John and Flora Migyanka are United States citizens who reside in Plymouth, Michigan. In 2005, the Migyankas purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 8, Block 12, First Replat at River Point for $585,000 (on or about 5/13/2005), financed by Wachovia; Lot 27, Tesoro Flat No. 4 for $620,000 (on or about 7/25/2005) financed by Wachovia; and 164 SE Santa Gardenia (Lot 8, Tesoro Plat 6) for $1,332,737 (11/30/2005) (with Plaintiff Christopher Delaney) financed by R-G Crown Bank.

16. Christopher Delaney is a United States citizen who resides in Avon, Ohio. In 2005, Plaintiff Delaney purchased the following Ginn property at prices inflated as a result of the fraudulent scheme alleged herein: 164 SE Santa Gardenia (Lot 8, Tesoro Plat 6) for $1,332,737 (on or about 11/30/2005) (with Plaintiffs John and Flora Migyanka) financed by R-G Crown Bank.

17. Plaintiff Paul Tipton is a British citizen who resides in Bowdon, Cheshire. Plaintiff Paul Tipton purchased the following Ginn properties at prices inflated as a result of the fraudulent scheme alleged herein: Lot 84, Bella Collina for $1,625,000 (on or about 6/8/2005) financed by Fifth Third Bank; Lot 230, Bella Collina for $740,000 (6/8/2005) financed by Fifth Third Bank; Lot 182, Bella Collina West for $655,900 (on or about 6/30/2005) and Quail West Phase II, Block 3, Lot J86, Unit 2 for $1,320,900 (3/1/2006) financed by Ginn Financial.

18. Each of the Plaintiffs was a victim of the illegal acts alleged herein and was injured as a result, suffering substantial losses to his/her money and property, as a result of paying more

or becoming obligated to pay more for property in the Ginn communities than they were worth at the time of sale.

B. Defendants

19. Ginn Development Company, LLC, the sole member of which is The Ginn Companies, LLC, was founded in 1998 and is also known by trade names including "The Ginn Company" and "Ginn Clubs and Resorts." Ginn Development Company is a Georgia limited liability company with its principal place of business located in Palm Coast, Florida that developed and marketed high-end residential/resort communities and, with Defendant Lubert-Adler Partners, LP, conceived of the plan to market and sell real estate at fraudulently inflated prices as alleged herein. The officers, agents, employees and sales force of Ginn Development Company were spread throughout myriad locations, affiliates and subsidiaries that were under the control of the Ginn Development Company, including Ginn Financial and Ginn Real Estate, LLC ("Ginn Real Estate"), as well as partnerships formed with co-Defendant Lubert-Adler, including, without limitation: Ginn-LA, LLC; Ginn-LA Pine Island, Ltd., LLLP; Ginn-LA Orlando Ltd., LLLP; Ginn-LA Hammock Beach, Ltd., LLLP; Ginn-LA Wilderness, LLC; Ginn-LA Naples, LLC; Ginn-LA Hutchinson Island, LLC; Ginn BriarRose Holding, GP, LLC; Ginn LA-BriarRose Holdings, Ltd., LLLP; and Ginn-LA Hamlet, LLC. Each reference to "Ginn" herein refers to Ginn Development Company, LLC and its affiliates and subsidiaries. The moniker "Ginn" when used herein as a descriptive preface (i.e "Ginn salesperson") denotes that the executives, officers, employees and/or agents so described operated under Ginn's control and authority.

20. Defendant Lubert-Adler Partners, L.P., sometimes referred to as "LA," is a real estate private equity firm, domiciled in Delaware and headquartered in Philadelphia,

Pennsylvania. Lubert-Adler jointly developed and marketed the real estate properties at issue in this lawsuit, together with Ginn. The partnership between Ginn and Lubert-Adler "was structured such that the private equity firm [LA] put up all the money and took 80 percent of the profits." Geraldine Fabrikant, *It's Tee Time, Where is Everybody?,* The New York Times (October 15, 2009) (*available at*: http://travel.nytimes.com/2009/05/24/business/24golf.html). Lubert-Adler had a "hands-on" approach to its investments in the Ginn developments, including involvement in presale and marketing strategies and forging the alliances that were critical to the execution and success of the scheme alleged herein, and thereby exercising control over various aspects of the conduct alleged herein.

21. Defendant ESI Living, Inc., ("ESI Living"), is named herein as a successor-in-interest RMA. ESI Living, formerly known as Echelon Sales, Inc., is a Delaware corporation, the principals of which are James Matoska, Craig Wheeler, Wilson Greene, III, and John Pinter. ESI Living is the successor-in-interest to Resort Management Associates, LLC ("RMA"), a South Carolina limited liability company formed by James Matoska, Wilson Greene, III and Jeffrey Davis on May 26, 1998[1] and maintained its ability to continue operating in Florida through September 15, 2006, when the State of Florida revoked its authority to transact business in Florida. Craig Wheeler joined RMA in August 2000. Wilson Greene, III, James Matoska, Craig Wheeler and John Pinter formed Echelon Sales, Inc. on May 29, 2007, as a Delaware corporation and subsequently changed its name to ESI Living, Inc. on November 13, 2008. At all relevant times, since its inception, ESI Living has clearly and unequivocally held itself out to the world as the effective continuation of RMA – in other words, simply RMA with a new name. In its own advertising and public statements, ESI Living describes itself as "Echelon (known then as RMA)" (*see* Exhibit A attached hereto). Furthermore ESI Living publicly takes credit for

[1] Jeffrey Davis terminated his affiliation with RMA in May 2003.

the work performed by RMA and leverages those past successes in its own marketing materials (*see* Exhibit A). In those materials, ESI Living brags that *it* was hired by Bobby Ginn in October 1999 to market and sell the Ginn Hammock Beach property (notably eight years prior to Echelon's formation) and that thereafter, "Echelon agreed to work exclusively for the Ginn Company handling all aspects of sales and marketing for every Ginn community." It boasts of its continued success and involvement with Ginn through 2006 and claims RMA's successes as its own, thereby establishing that it is a successor-in-interest to RMA. *Id* at 18. Each reference to "ESI Living" refers to ESI Living and its predecessors-in-interest.

22. Ginn Title Services, LLC ("Ginn Title") is a Georgia corporation formed on September 21, 2005 by Richard T. Davis of Cameron, Davis & Gonzalez, P.A. ("Cameron Davis") and is the successor-in-interest to Ginn Title, LLC. Ginn Title, LLC, a Florida limited liability company was formed on May, 2003, also by Richard T. Davis of Cameron Davis. Davis (whose law firm served as closing agents for Ginn) and The Ginn Company, LLC, served as managing partners of Ginn Title, LLC. Davis and the Ginn Company, LLC voluntarily terminated Ginn Title, LLC on May 26, 2005. Subsquently, Ginn Title Services, LLC engaged in and performed the same functions as Ginn Title, LLC. Both entities were heavily involved in the scheme as they knowingly, recorded false price and sales information for properties in the Ginn communities. The false recording of purchase information was a critical aspect of the scheme alleged herein. The improperly recorded sales information was used as a basis for the fraudulent appraisals that played a significant role in the artificial inflation of property values in the Ginn communities. Ginn Title knew or should have known that the recording of false information was improper and that the improperly recorded transactions would be used to inflate the values of property in Ginn communities so that Plaintiffs and Class members paid too much

at the time of sale. Each reference to "Ginn Title" refers to Ginn Title and its predecessors-in-interest.

23. Defendant Fifth Third Bancorp is a publicly-traded Ohio corporation headquartered in Cincinnati, Ohio and Defendant Fifth Third Bank (Michigan) ("Fifth Third Bank"), a Michigan-chartered bank headquartered in Grand Rapids, Michigan, is a subsidiary thereof. Fifth Third Bank is the successor-in-interest to both First National Bank of Florida, which was merged into Fifth Third Bank following Fifth Third's January 2005 acquisition of First National Bankshares of Florida, Inc., and R-G Crown Bank, which was merged into Fifth Third Bank following the November 2007 acquisition of R-G Crown Bank Enterprises. *See* www.prnewswire.com/cgi-bin/stories_(11-05-2007). Fifth Third Bank holds itself out as the successor-in-interest to R-G Crown Bank and has specifically identified itself as such in legal proceedings including those instituted against Plaintiffs McKinlay and Gordon Lawrie in the Circuit Court for Lake County Florida (Case No. 08-CA-2685). As described in further detail herein below, Fifth Third Bank -- as R-G Crown Bank, through R-G Crown Bank's officers, including Brady Koegel, and employees, as First National Bank, and later as Fifth Third Bank -- was active in inducing Plaintiffs and members of the Class to purchase Ginn properties at inflated prices and provided financing to every one of the Plaintiffs for purchases of Ginn properties based upon appraisals that it knew, or should have known, at the time of financing, were false and grossly exaggerated the value of the properties. Each reference herein to "Fifth Third" refers to Fifth Third Bank and its predecessors-in-interest, First National Bank of Florida and R-G Crown Bank. Fifth Third Bancorp is named as a defendant herein as the ultimate parent of Fifth Third Bank and responsible for the conduct of Fifth Third Bank and its predecessors-in-interest as alleged herein.

24. Defendant SunTrust Mortgage, Inc. ("SunTrust") is a subsidiary of SunTrust Bank, a subsidiary of SunTrust Banks, Inc. As described in greater detail herein below, SunTrust was active in inducing Plaintiffs and members of the class to purchase Ginn properties at inflated prices and provided financing to Plaintiffs Barry Sobel and Naomi Berger, Andrew Billington, and Johnny Miller, for purchases of Ginn properties based upon appraisals that it knew, or should have known, at the time of financing, were false and grossly exaggerated the value of the properties.

25. Defendants Wachovia Bank, N.A. ("Wachovia Bank") and Wachovia Mortgage Corporation (collectively "Wachovia") are subsidiaries of Wells Fargo & Co. As described in greater detail herein, Wachovia provided financing to purchase land parcels used in the scheme and was active in inducing Plaintiffs and members of the class to purchase Ginn properties at inflated prices and provided financing to Plaintiffs Johnny Miller, Heather Petts, and John and Flora Migyanka, for purchases of Ginn properties based upon appraisals that it knew, or should have known, at the time of financing, were false and grossly exaggerated the value of the properties.

IV. THE FRAUDULENT SCHEME

26. Beginning in or around 1998, Ginn and Lubert-Adler partnered and purchased land for the purpose of developing and creating luxury communities and selling the properties therein, Hammock Beach being the first such community. During the development of the Hammock Beach Resort, Ginn and Lubert-Adler conceived of this scheme to exploit the hot real estate market by marketing related upscale resort community properties at inflated prices through a common fraudulent marketing and sales scheme. The scheme involved (1) developing extravagant plans and promises for a series of communities; (2) developing the communities just

far enough to give credence to the promises of future amenities and values; (3) aggressively pursuing purchasers with lies and misrepresentations; (4) selling the properties at fraudulently inflated values supported by falsely recorded sales information; (5) obtaining and relying on fraudulent appraisals with the intent to deceive; and (6) enlisting the participation of complicit lenders willing to knowingly provide and finance property sales for fraudulent inflated amounts. Ginn and Lubert-Adler implemented this scheme with the knowledge, participation and agreement of ESI Living, Ginn Title, Fifth Third, SunTrust, Wachovia, and other unnamed co-conspirators incuding their preferred and complicit appraisers and builders. The communities subject to the fraudulent scheme were:

(a) Hammock Beach in Palm Coast, Florida;

(b) Tesoro in Port St. Lucie, Florida;

(c) Tesoro Preserve in Port St. Lucie, Florida;

(d) Reunion Resort in Orlando, Florida;

(e) Bella Collina in Montverde, Florida;

(f) Yacht Harbor Village at Hammock Beach, in Palm Coast, Florida;

(g) Conservatory at Hammock Beach in Palm Coast, Florida;

(h) Quail West in Naples, Florida;

(i) Cobblestone Park in Blythewood, South Carolina;

(j) The BriarRose in Hancock County, Georgia; and

(k) Laurelmor in Boone, North Carolina;

27. Each defendant and each co-conspirator entered into the scheme to defraud knowingly and with intent and agreed to the overall objectives of the conspiracy knowing that fraudulent and illegal acts would be committed to further the objectives of the scheme.

28. Lubert-Adler provided Ginn with the funding needed to develop the Ginn properties through Ginn affiliates. http://www.lubertadler.com/portfolio/residential-resort.php. In addition, both R-G Crown Bank and Wachovia Bank provided significant funding to Ginn for the purchase of certain parcels to be used in the scheme including, specifically, the parcel for Tesoro Preserve in Port St. Lucie, Florida.

29. Lubert-Adler's business mode emphasized a "pre-selling and phasing" strategy stating that: "[t]he key to this strategy is forging strategic alliances with financially motivated, local operating partners who possess superior local knowledge and execution capabilities. (A*vailable at*: http://www.lubertadler.com/portfolio/residential-resort.php). Ginn and Lubert-Adler utilized this strategy to partner with the defendants herein to execute their fraudulent plan.

30. Consistent with this strategy, Ginn brought in co-conspirator RMA (the predecessor-in-interest to ESI Living). "Bobby Ginn hired Echelon (known then as RMA) to lead the branding, marketing and sales of his predevelopment resort…" *See* "ECHELON: Turn-key Sales and Marketing for Luxury Resort and Private Club Communities," (*see* Exhibit A). RMA became the "in house sales and marketing arm of the newly formed Ginn Company in October 1999 and ultimately handled the sales and marketing for every Ginn Community. *Id* at 18. RMA facilitated the fraudulent scheme by designing and implementing the "process" for marketing the properties in Ginn communities through which deceptions and misrepresentations about demand and value of the properties and the amenities to be included in the communities were effectively conveyed to Plaintiffs and Class members who purchased properties at inflated prices as a result. RMA's role, in its own words, was to keep the "wheels turning." "If you picture the Echelon sales and marketing system like the wheel of a bicycle, each spoke in that wheel represents a process. When you combine all the process, the system will perform at a high

level. Before we arrived at Hammock Beach, several spokes were missing and the wheel was not turning the way it should." (*see* Exhibit A, 3-4) (quoting Jim Matoska, president of operations for Echelon). RMA's tactics were successful and did induce Plaintiffs and Class members to purchase properties at inflated prices.

31. More particularly, ESI's predecessor, RMA, developed misleading marketing campaigns and "whisper campaigns" promoting the properties for sale in the Ginn communities throughout the United States and Europe using emails, websites, faxes and targeted mailings which included valuable gifts and offers of free vacations, all of which were designed induce Plaintiffs and Class members to purchase property in Ginn communities at fraudulently inflated prices.

32. In furtherance of Lubert-Adler's pre-selling and phasing strategy, RMA developed and instituted marketing and sales techniques that conveyed the impression of high demand and a false sense of limited availability beginning with launch parties, which they named "Priority Reservation Selection Events." Participants were invited through the mails and wires to attend these launch events and completed a "priority reservation form" which was mailed, emailed or faxed to them indicating which lots they wanted. Reservations were also solicited by email which included specific references to Lubert-Adler, such as one sent by Ginn salesman, Josh Estes, to Plaintiff Myganka and others on September 28, 2005 with a link to www.Lubert-Adler.com. To create the appearance of limited availability, Ginn and RMA invited far more buyers to these extravaganzas than could possibly purchase properties (for example, having 1,000 people present but offering only 300). Fifth Third, SunTrust and Wachovia, banks identified as "preferred lenders" by Ginn, also participated in the execution of the launch strategy by sending emails and faxes to prospective borrowers inviting them to attend the launch parties.

At these parties, Ginn and RMA conducted sham lotteries to select those "winners" who would be able to purchase lots.

33. More specifically, the invited prospective purchasers were led to believe by Ginn and RMA that Ginn would be conducting a legitimate lottery whereby lot winners would be selected at random at a drawing conducted during the launch party when, in reality, the lotteries were rigged. The so called "lottery" was anything but. "Winners" were not randomly selected but rather were selected by Ginn and the complicit banks including Fifth Third, SunTrust and Wachovia. The complicit banks informed Ginn and RMA who should "win" at the launches, identifying those potential purchasers who had been approved for financing. Cash purchasers were guaranteed to "win", as the following conversation between Phillipa Liddel (realtor with IPG Realty) and Ginn salesperson Bradley Douglas Smedberg, recorded on April 23, 2005, reveals:

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

34. Fifth Third, SunTrust and Wachovia did not reveal to Plaintiffs that they had participated in the lottery process and helped orchestrate the results, nor did they disclose that they were complicit in this initial phase of the deception which laid the groundwork for the execution of the remaining components of the fraudulent scheme. In contravention to normal and standard banking procedures, Fifth Third, SunTrust and Wachovia participated at the launches, providing Ginn and RMA with inside information they knew would be used to make it possible for Ginn to sell the lots to buyers who would finance their purchases with them.

35. Ginn and RMA organized and held numerous such launch events to which Plaintiffs and Class members were invited by email, fax and formal invitations sent through the U.S. mail: Hammock Beach Club – in or about April 2000; Reunion – in or about 2001; Yacht Harbor Village – in or about September 2003; Reunion – in or about March 2004; Tesoro – in or about Fall 2003; Bella Collina – in or about April 2004; Towers at Hammock Beach – in or about June 2004; Reunion Grande – in or about October 2004; Bella Collina – in or about May 2005; Villas at Reunion – in or about May 2005; Conservatory – in or about July 2005; Cobblestone – in or about September 2005; Quail West – in or about December 2005; Tesoro Preserve – in or about August 2006 and Launchmor – in or about November 2006.

36. RMA, with the knowledge and complicity of Ginn, Lubert-Adler, Fifth Third, SunTrust and Wachovia used the mails and wires to effectuate the objectives of this phase of the scheme to entice purchasers to buy lots in Ginn communities for more than they were worth.

37. The misrepresentations about limited availability and high demand initiated by Ginn, Lubert-Adler and RMA through the "whisper campaigns" and lavish launches were perpetuated throughout the sales process. Thus, when prospective purchasers visited Ginn communities, Ginn sales representatives, under the direction of RMA, used lies, misrepresentations and the dissemination of materially false and misleading information to further the deceptive plan. For instance, to create a sense of urgency and limited availability, when a salesperson showing a property requested assistance in closing the deal, Ginn's onsite sales office dispatched its own employees to the lot in question where they posed as potential buyers interested in the property. Since the employees were not potential buyers, this sales tactic was fraudulent. Ginn also made knowingly false statements regarding property sales in order to convince potential purchasers to buy property at fraudulently inflated prices. For example, in

April 2005, Bradley Douglas Smedburg, a Ginn salesperson told potential purchaser Roy Bridges that he had sold a lot for substantially more than it had in fact been purchased for. In an email sent at 6:46 PM on April 27, 2005: "fyi… homesite 109 sold that same afternoon for $1.3 million." This representation was false, as Bradley Douglas Smedburg was in a position to know. The site actually sold for $467,900 – more than $800,000 less than the price Smedburg quoted. This was not a simple mistake or understandable puffery made by an aggressive salesman. It was a lie and it was made in order to induce Mr. Bridges to pay more for the property than he would otherwise. As a result of this kind of practice, Plaintiffs and other Class members were fraudulently induced to purchase properties in haste and at inflated prices in order to ensure that they did not lose the property to phantom buyers or purchasers who were supposedly willing and ready to pay substantially more.

38. Ginn employees (who were trained and managed by RMA) would also make false promises of the amenities to be constructed at the various Ginn communities to potential purchasers in order to induce them to pay more for the subject properties than they were worth. For example, Ginn salesperson Bradley Douglas Smedberg promised private boat docks to Bella Collina purchasers, although local authorities had actually refused to grant permission for the installation of such docks. The docks were also on site maps to which the Ginn sales force referred prospective purchasers and were referenced in Ginn's standardized marketing materials. Ginn and Lubert-Adler also promised luxurious fitness facilities and amenities, such as equestrian courses, beach clubs and sports complexes that they did not construct. Both Ginn and Lubert-Adler knew or should have known that their promises and representations were false and materially misleading. For example, the Tesoro and Quail West Developments were marketed as being sites for lavish beach clubs that were never built. Bella Collina was marketed as having a

world-class equestrian center, which was never built. In fact, Lubert-Adler and Ginn only built a limited number of the promised amenities in the communities they were developing to give credence to their representations that all the amenities they promised would indeed be built. Even though Ginn and Lubert-Adler knew that they could not provide some of the amenities they promised, like docking facilities, they continued to market the amenities, including them on detailed maps posted at the onsite sales office and in promotional materials, including those sent through the mails and wires. Other amenities, they simply never intended to build. For example, Lubert-Adler and Ginn did not even break ground for the Bella Collina equestrian center, the sports complex at Bella Collina or beach clubs at Tesoro or Quail West.

39. Ginn and Lubert-Adler did not rely solely on the deceptive marketing and promotional campaign, executed by RMA (using the mails and wires) and the deceptive conduct of the Ginn sales force. They also partnered with local bankers, Jack Koegel, President of R-G Crown Bank and Brady Koegel, Vice-President of R-G Crown Bank to promote sales and lure prospective purchasers with assurances of the superior value of the properties. In this role, R-G Crown Bank ventured far beyond the expected and proper role of a bank. For example, at 11:15 AM on April 28, 2005, R-G Crown Bank's Brady Koegel sent an email to Plaintiff John Migyanka discussing the Villas at Reunion Square. Therein, Koegel stated, in part, "…I think the condos will make a great investment." Later, on the same day, in an email, Brady Koegel continued to actively market the Ginn communities lauding Ginn projects in North Carolina, St. Lucie and Naples, Florida specifically mentioning the amenities which would be provided, such as the equestrian center and marina (which were never built). Brady Koegel, adopting the role of a salesperson, also encouraged Plaintiffs Petts and Button, partners of British accounting firm Brookes & Co., to recommend that their clients purchase properties in Ginn communities.

40. Many other bankers, in addition to the Koegels, promoted sales for Ginn, While at Fifth Third Bank and First National Bank of Florida, Roy Snoeblen, taking on the persona of a real estate salesperson, even though he was a bank loan officer, like Brady Koegel, often contacted Plaintiffs Petts and Button, by telephone and email, in the United Kingdom, seeking to encourage them to purchase Ginn properties. Snoeblen urged Petts and Button to advise their clients in the United Kingdom to purchase lots in Ginn properties and participate in launches based on the superior value of the Ginn properties. Petts and Buttons purchased properties on the back of Snoeblen's advice in Ginn communities. He encouraged them to buy in Laurelmor, Reunion, Cobblestone, and Quail West. Snoeblen also actively recruited many other purchasers, with an emphasis on acquiring European clientele as purchasers for Ginn properties. While such conduct would not be problematic were it engaged in by salespersons, bankers, who may properly market their loans, are not normally in the business of hawking properties to create loan applications.

41. SunTrust also crossed the boundary between acting like a banker and performing the functions of a real estate salesperson. SunTrust aggressively pursued prospective Ginn purchasers seeking to recruit new buyers as evidenced by this email sent at 5:11 p.m. on April 2, 2007, by SunTrust loan officer Michael Knight to Ginn purchasers James C. Ramey and Mark Shipley stating, in part, "Do you guys have any fresh recruits that can take down a couple?"

42. Like SunTrust and Fifth Third, Wachovia was also actively involved in marketing Ginn communities. For example, Wachovia was involved in targeting purchasers to solicit loans in Ginn Communities. Wachovia employees and loan officers, including Roy Snoeblen, corresponded with and spoke frequently with purchasers both to urge them to purchase

additional properties in the Ginn Communities and to reassure them as to the value and profitability of their transactions.

43. Ginn knew it needed to create false records of high sales prices to effectuate the scheme to sell Ginn properties at inflated prices and to give credibility to the false statements of value disseminated through the marketing plan devised by RMA. Ginn utilized Ginn Title for this purpose. Fulfilling its assigned role, Ginn Title caused the inaccurate recording of the sales of properties in the Ginn communities knowing that the information contained within these recordings would be used in appraisals and, further, knowing that the false recordings would be used to improperly and deceptively inflate the value of property in the Ginn communities. In particular, in order to create the appearance that properties in Ginn communities had a value greater than their actual value and greater than the value for which they were, in fact, originally sold, Ginn would sell two or three properties to a single purchaser (typically a Ginn insider participating in the scheme) in a single transaction. Then, instead of recording each property for a portion of the sales price, as would be proper, Ginn Title would either cause each property to be recorded for the full purchase price of both properties or cause one of the properties to be recorded for the full price and the other for one dollar. Through this mechanism, Ginn and Ginn Title effectively caused the recorded sales price for the individual, simultaneously sold properties to be in amounts that far exceeded the properties' actual values since an accurate and non-fraudulent recording of sales prices for each property would necessarily require that some significant portion of the total multi-lot sales price be ascribed to each of the properties rather than ascribing the total sales price to one or all lots. Thereby, Ginn Title created artificially "high priced" sales for Ginn properties. For example:

(a) In Flagler County, on or about April 25, 2005, Ginn sold Lots 146 and 194, Conservatory, to Bobby Jones, an acquaintance of Bobby Ginn, for a total of

$964,800 for both lots. However, rather than allocating a portion of the total $964,800 purchase price to each lot, Ginn Title caused each lot to be recorded for the full price of $964,800 thereby creating a falsely inflated values for Lots 146 and 194 which in turn participating appraisers and banks used as comparables to support future inflated appraisal values and the knowing financing of properties with falsely inflated values in connection with sales to unsuspecting buyers.

(b) In Flagler County, on or about April 25, 2005, Ginn sold Lots 140 and Lot 147, Conservatory to Michael Adams for a total of $989,800. Again, rather than allocating a portion of the total $ 989,800 purchase price to each lot, Ginn Title caused each lot to be recorded for the entire price of $989,800, thereby creating falsely inflated values for Lots 140 and 147 for the participating appraisers and banks used as comparables to support future inflated appraisal values and the knowing financing of properties with falsely inflated values in connection with sales to unsuspecting buyers.

(c) In Lake County, Ginn sold Lots 260 and 391, Bella Collina to R.L. Vogel Homes (a Ginn insider and complicit builder) for a total of $707,800 on or about June 7, 2004. Ginn Title then knowingly falsely caused to be recorded Lot 260 as having a sales price of the entire $707,800 and Lot 391 as being sold for one dollar. Ginn Title did this to create a falsely inflated value for Lot 260 of $707,800 so that such falsely inflated value could, in turn, be used by the participating appraisers and banks to support future inflated appraisals and the knowing financing of properties with falsely inflated values in connection with sales to unsuspecting buyers. Lot 260 was used to support falsely inflated appraisals and financing knowingly based thereon within Bella Collina.

(d) In Lake County, on August 30, 2004, Ginn sold Lots 183 and 323, Bella Collina to Monty Schwartz for a total of $1,007,800. Rather than ascribe a significant portion of the total sales price to each of the properties, Ginn Title falsely caused to be recorded Lot 183 as having sold for the entire $1,007,800 and caused Lot 323 to be recorded as having sold for $1.00. Ginn Title did this to create a falsely inflated value for Lot 183 of $1,007,800 so that such falsely inflated value could, in turn, be used by the participating appraisers and banks to support future inflated appraisals and the knowing financing of properties with falsely inflated values in connection with sales to unsuspecting buyers. Lot 183 was later used as a comparable for future appraisals as having being sold for $1,007,800.

(e) In Lake County, on June 30, 2005, Ginn sold Lots 6, 13 and 45, (golf lots), Bella Collina West to Alstott Rorebeck, Marini Development & Holdings, LLC for a total of $1,817,700. Ginn Title falsely caused the recording of Lot 6 as having sold for the entire $1,817,700 and recorded Lots 13 and 45 as having sold for $1.00. Ginn Title did this to create a falsely inflated value for Lot 6 of $1,817,700 so that such falsely inflated value could, in turn, be used by the participating appraisers and banks to support future inflated appraisals and the knowing financing of properties with falsely inflated values in connection with sales to unsuspecting buyers. Lot 6 was later used as a comparable for future appraisals as having being sold for $1,817,700.

(f) In Reunion, on September 29, 2004, Ginn sold Lots 33, 34 and 155, Reunion, Phase II, Parcel III to David Purcell for a total of $546,700. Rather than ascribing a significant portion of the total sale to each of the properties, Ginn Title falsely caused each lot to be recorded as having sold for $546,700. These false selling prices were later used as comparables for future appraisals by Wachovia. For example, on or about April 26, 2005, Wachovia had Lot 143, Reunion West Villages, appraised for a loan for purchasers Ron and Marge Lanier. The appraiser, Diana David—one of Ginn's preferred appraisers—prepared an appraisal using Lot 155 as a comparable, listing it as having been sold for $546,700; and

(g) In Lake County, on or about December 14, 2004, Wilson Greene, III, purchased Lots 80 and 81, Bella Collina for $510,000 for both lots. Rather than ascribing a significant portion of the sale to each of the properties, Ginn Title caused Lot 80 to be recorded as having been sold for $510,000 and caused Lot 81 to be recorded as having been sold for one dollar. Lot 80 was later used as a comparable for future appraisals as having being sold for $510,000. For example, in March 2005, in connection with James Akouri's purchase of Lot 5, Conservatory, Hammock Beach, SunTrust officer, Jim Shaffer told Akouri, "We appraise with our own company. It will be approved, don't worry."

44. The values of the properties were thus inflated by as much as two or three times their actual price. This false recording practice is not only improper by itself, but it also furthered the scheme by establishing fraudulently inflated prices which were then used as comparables in future appraisals and affected the sales price of all properties in Ginn communities downstream of the original appraisal. This illegal and improper practice carried out by Ginn Title and used by appraisers, with the knowledge of Ginn, Fifth Third, SunTrust and Wachovia who relied on the appraisals, purposefully and illegally inflated the price of properties in Ginn communities in furtherance of the scheme and caused Plaintiffs and Class members to purchase and finance properties for much more than their true worth.

45. Another tactic employed by Ginn Title to aid in the manipulation and inflation of property values necessary to the scheme was to establish false dates for the sales of properties that were used as comparables in appraisals for sales concluded prior to sale of the property that was used as a comparable. For instance, Ginn Title caused Lot 194, Bella Collina West, to be recorded as having been sold to Godkin Developments by Ginn-LA Pine Island on May 27, 2005

for $650,900. However, the sale did not actually take place until almost a month later. Nevertheless, before the sale even took place, Lot 194 was used as a comparable as follows:

(a) On or about May 19, 2005, appraiser Bradley S. Long prepared an appraisal for Fifth Third Bank for Lot 147, Bella Collina West and used Lot 194 as a comparable;

(b) On or about May 31, 2005, appraiser Bradley S. Long prepared an appraisal for Fifth Third Mortgage for Lot 10, Bella Collina West, and used Lot 194 as a comparable; and

(c) On or about June 5, 2005, appraiser Bradley S. Long prepared an appraisal for Fifth Third Bank for Lot 110, Bella Collina West and used Lot 194 as a comparable.

This series of sales shows how the use of a sales price which was improperly recorded prior to a sale inflated subsequent appraisals. By this means, the appraiser could use this higher price as a comparable before the sale took place. The appraisals based on these false recordings were inflated and were used by Fifth Third, SunTrust, Wachovia and other complicit banks although the defect in the record and subsequent appraisals was obvious and should have been detected in routine underwriting and compliance audits conducted by these banks. Fifth Third, SunTrust and Wachovia's use of them, nevertheless, reflects their knowledge of and agreement to participate in the scheme.

46. The creation and knowing use of appraisals that misrepresented the value of the properties in Ginn Communities to unsuspecting purchasers at the time of the sale and financing of their purchases was key to the success of the scheme. Fifth Third, SunTrust and Wachovia, through their executives, loan officers and employees, each took specific steps, with the aid of complicit appraisers, to obtain the inflated appraisals needed to further the scheme. These banks carefully chose complicit appraisers:

(a) In April 2007, Wachovia loan officer, Roy Snoeblen, contacted foreign national Paul Corrigan and encouraged him to refinance his loan on the property located at 1220 Castle Pines Ct., Lot 133, Reunion West Village. Snoeblen arranged for Diana Lynne David of David Appraisals, Inc., one

of the complicit appraisers, to provide an appraisal for $1,506,000 although the property was worth substantially less.

(b) Also in April 2007, Wachovia loan officer, Roy Snoeblen, contacted foreign national Phillip Button and encouraged him to refinance his loan on the property located at 760 Desert Mountain Ct., Lot 235, Reunion West Village. Roy Snoeblen arranged for David Reynold of David Appraisals, Inc. to provide an appraisal for $1,501,000, although the property was worth substantially less.

(c) In March 2005, in connection with James Akouri's purchase of Lot 5, Conservatory, Hammock Beach, SunTrust officer, Jim Shaffer told Akouri, "We appraise with our own company. It will be approved, don't worry." SunTrust had an appraiser that it knew would get the value to where it needed to be.

(d) In June 2006, Brady Koegel, of R-G Crown Bank, in an outlandish email dated June 22, 2006, ***on which appraiser David Tremblay was copied***, stated to Plaintiff Stephen Frieze, that Frieze could simply let him know what numbers needed to appear on the appraisal and he would make it happen. Specifically, Brady Koegel stated:

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

47. The techniques used by the complicit appraisers recruited by Ginn, Fifth Third, SunTrust and Wachovia, and relied upon by them, although they knew, or should have known the appraisals did not conform to commonly accepted appraisal standards and improperly exaggerated the value of the properties, were many. They included the following:

(a) using comparables from multi-lot sales, the inaccuracy of which was, or should have been apparent to the appraiser had he/she referred to and examined the recorded sales prices of the comparables in a manner consistent with standard appraisal practices. While appraisers employing generally accepted appraisal standards would have questioned prices recorded for multi-lot sales where one lot was sold for $1 and the other(s) for hundreds of thousands of dollars, or where multiple lots under a single sales contract are each recorded as having sold at the full contract price, the complicit appraisers knowingly relied upon the exaggerated sales prices (such as Bella Collina Lots 6, 13 and 45 in ¶43(e) above) as a comparable to justify an inflated appraisal.

(b) improperly incorporating the value of leasebacks and furniture packages in the value of property in order to improperly pump up lot value for purposes of appraisals, sales and financing. For example, when Plaintiffs Lawrie and McKinlay purchased Lot 390, Bella Collina, the total purchase price under the contract was $5,349 million, including a $500,000 furniture package and a two-year leaseback from the builder. Jack Koegel, President of R-G Crown Bank, to whom the cooperating builder had referred Plaintiffs, arranged for the property to be appraised at $5.4 million and provided a mortgage loan dated May 20, 2005 and recorded on July 27, 2005, in the principal amount of $4,814,100. The value of the two-year leaseback - approximately $23,000 per month for 24 months - and the $500,000 furniture package were improperly and fraudulently included in the appraisal, as standard appraisal practices do not permit the inclusion of these items in the value of real property. The same occurred with the Frieze's purchase of Lot 391, Bella Collina. The sales agreement included a $500,000 furniture package and a two-year leaseback valued at $630,000. In each of these instances, R-G Crown Bank's reliance on the appraisal it obtained and its role in promoting the sale of the property and ensuring that the property appraised for a predetermined value based upon a contract price that included the furniture package, and the two-year the leaseback, is conduct outside that of bank engaged in normal lending practices, improper and indicative of its collusion with Ginn in the scheme alleged herein.

(c) using, without value adjustments, properties for comparables that are dissimilar in terms of objective attributes such as size or location and which are, therefore, inappropriate under commonly accepted appraisal practices. For example, the appraisal for Bella Collina, Lot 427 purchased by Alan Siegel for over $1.6 million and financed by Wachovia in a mortgage for over $1.4 million, was based upon comparables from lots that were dissimilar in size in that they were substantially larger than Lot 427. Similarly, participating appraisers used properties in Ilseworth, a well-established expensive and exclusive community, in a superior school district that is located on the very desirable Butler chain of lakes as a comparable for many Bella Colllina lots, including Lot 134, Bella Collina, purchased by Plaintiff Andrew Billington for $1,340,900 in July 2004. Bella Collina, an undeveloped community, is not located in a superior school district nor is it located on a desirable body of water, but rather on a polluted lake. These objective dissimilarities between Isleworth and Bella Collina, made the choice of comparables from Isleworth to appraise, without adjustment, Bella Collina lots plainly

improper. Moreover, Lot 134, sold based on a fraudulent appraisal using comparables from Isleworth to support the first purchase in Bella Collina for over $1 million, was then used by Ginn to fraudulently convince other buyers of the extraordinary "value" of the Bella Collina lots. For example, on or about January 12, 2005, Lot 137 was sold for $1,340,900, based on the appraisal for Lot 134.

(d) using appraisers that were not independent in order to obtain an appraisal at a value predetermined by the bank. For example, and illustrative of SunTrust's knowing participation in the scheme, when Unit C-277, Yacht Harbor Village (now known as Unit C-369) was purchased by Alan Siegel in December 27, 2006, the appraisal originally came in hundreds of thousands of dollars below the sales price. Ginn salesperson, Billy Neil, worked with Suntrust loan officer, Pepper Kinser, to arrange a different appraiser—one that was not independent and who would appraise the property for the contract price -- in order to facilitate a higher appraisal and ensure the sale of the property at an inflated price. As another example, SunTrust provided a loan to purchaser Ian Murray for the purchase of Lot 314, Bella Collina. SunTrust loan officer Celeta Ryan-Quinn, of Custom Builder Mortgage, knew that Murray needed a loan in the amount of $1,950,000. She also knew that she needed a 65% LTV ratio in order to get the deal done. SunTrust ensured that an appraisal that would provide the exact LTV ratio and loan amount needed to make the loan. As yet another example, in an email to purchaser Christopher Godkin, dated February 11, 2005, R-G Crown Bank's Brady Koegel plaintly stated that R-G Crown Bank would fraudulently arrange for the appraisal of the subject property to include the price of a $65,000 furniture package in the appraisal. Koegel wrote: "as long as the property appraises out with the furniture included, we are good to go." The banks' role in this regard and their failure to ensure that the appraisers were independent and unbiased is in contravention of guidance issued by the Office of the Comptroller of Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision and the National Credit Union (collectively referred to herein as the "Federal Banking Regulatory Agencies") on March 22, 2005, responding to frequently asked questions about appraisal regulations and the Interagency Statement on Independent Appraisal and Evaluation Functions, and well accepted home evaluation conduct codes to which banks are expected to adhere.

(e) including in the appraisal value of Ginn properties the value of promised and planned amenities which substantially and artificially increased the value of the properties in the undeveloped Ginn Communities without fully and properly disclosing, in conformance with the uniform Standards of Appraisal, that the appraisals were based upon "extraordinary

assumptions." The complicit appraiser's use of undisclosed extraordinary assumptions to inflate the appraisal value of properties in the Ginn communities was known, or should have been known, to the Banks providing financing for those purchases at exaggerated prices given the working relationship between Ginn salespeople and the Bank loan officers and employees alleged herein. For example, the Wachovia employee to whom Ginn salesperson Scott Scovill referred Alan Siegel in connection with his purchase of Lot 427 in August 2005, Craig Fairey, not only arranged the loan with Siegel as promised by Scovill but also arranged most of Wachovia's many loans in Bella Collina. As such, there can be no doubt that he was aware that Bella Collina did not contain the amenities used to improperly support the appraisals, sales prices and loans.

(f) filing to incorporate in the appraisals reductions which would take into account overbuilding in the areas where the Ginn communities were located.

48. Fifth Third, SunTrust and Wachovia knew, or should have known, that the appraisals used to induce Plaintiffs and Class members to buy and finance properties in the Ginn communities were exaggerated not only because of their active participation in procuring the flawed and inflated appraisals as described above but also because the defects in the appraisals would have been apparent had the banks properly conducted their underwriting functions and compliance reviews of the appraisals as is required both by the law and well-accepted sound lending practices. These banks' continued financing of purchases of properties based upon appraisals that they knew or should have known as a result of their compliance reviews and/or routine underwriting were false reflects knowing participation in the scheme and knowing agreement to its objectives.

49. The banks' knowing agreement is also apparent through their reliance on appraisals that they knew or should have known were inaccurate had they performed adequate underwriting practices and compliance review. For example, SunTrust provided a construction/perm loan to Andrew J.D. Murray for Lot 387, Bella Collina, in the amount of

$3,543,750. The appraisal was fraudulent, in that two of the comparables were listed at the wrong prices. Specifically, while the appraisal stated Lot 390 closed at $5,389,000 and that Lot 394 closed for $4,750,000. In reality, Lot 390 sold for $429,900; Lot 394 sold for only $449,900. The conspicuously flawed appraisal was performed by Joyce S. Powell on behalf of SunTrust.

50. The efforts of Fifth Third, SunTrust and Wachovia to influence the values of appraisals by, inter alia, seeking to ensure that appraisals came in at predetermined values as described in paragraphs 46 (d), 47(b) (Fifth Third through its predecessor R-G Crown Bank) and 46(c), 47(d) (SunTrust), and 46(a) & (b) (Wachovia) is in contravention of the best practices and home valuation code of conduct generally to which lenders are expected to adhere and is outside the realm of activities properly engaged in by bankers acting solely as like bankers. The banks' willingness to engage in such conduct and their coordination with Ginn salespersons as described above is evidence of their agreement to work in concert with the other defendants to further the objectives of the scheme.

51. The use of the fraudulently inflated appraisals was a crucial element of the scheme because it made the transactions possible. Fifth Third, SunTrust and Wachovia knowingly utilized fraudulent appraisals in order to provide purchasers with financing for overpriced property. Moreover, as a result of these practices, the appraised value of the properties purchased by Plaintiffs and Class members were fraudulently overstated at the time of purchase.

52. The purchases of participants in the scheme who could buy at actual rather than inflated values, reflect their knowledge as insiders, their agreement to the scheme and that they profited by scheme. For example, in addition to the fact that Lubert-Adler owned an 80% pecuniary interest in the Ginn developments, Dean Adler, CEO and Co-Founder of Lubert-Adler

formed a partnership with Bobby Ginn called A&G Enterprises, through which Bobby Ginn and Dean Adler purchased Ginn properties at discounted rates, then flipped them for substantial profits to unsuspecting buyers at inflated prices —**sometimes on the same day.** A&G Enterprises realized a 2.5 million profit in six months from the following transactions in Bella Collina:

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

53. Similarly, Brady Koegel, President of R-G Crown Bank and active promoter of sales and financing in the Ginn Communities at inflated prices, stated in a July 4, 2005 e-mail, "I consistently partner with Ginn execs and sales staff behind the scenes…and without each of them knowing. I know A LOT of good information" (emphasis in original). Later, in an email dated June 28, 2005, Koegel excitedly bragged that he was "buying before most of Ginn's biggest hitters can and below launch prices!" Also, in an email dated June 28, 2005, R-G Crown Bank's Brady Koegel boasted to an interested purchaser regarding such kickbacks: "I have made their families millions inside Ginn when other banks would not finance them, as well as partnered on no-brainers inside Ginn with them personally and they are now 'returning the favor.'" In yet another email to Christopher Godkin, Brady Koegel described kickbacks he received from Ginn, "just lining up a buyer to take them off my hands or a joint venture with a backside kicker."

54. R-G Crown Bank's President Jack Koegel and Vice President Brady Koegel partnered with Mark A. Keenan to form a company called Golf Frontage, LLC, in Longwood Florida. On or about June 7, 2004, Keenan purchased Lot 361, Bella Collina, for $444,900, with a $400,410 mortgage from R-G Crown Bank. Subsequently, on May 3, 2005, Lot 361, Bella Collina, was flipped to an unsuspecting buyer named Michael J. Adams for $1.49 million, with 100% financing provided by R-G Crown Bank. To facilitate the sale, R-G Crown Bank had the lot appraised as having increased in value by over $1 million in less than one year.

55. Ginn and the banks also provided kickbacks to Ginn employees and bank employees participating in the scheme through special purchase opportunities and/or sweetheart deals in order to further the overall objective of selling and financing the properties at values that were artificially inflated through false representations, deceptively-created impressions at value, scarce supply and high demand and fraudulent appraisals. Thus, employees of Ginn and the

complicit banks were given opportunities to purchase Ginn properties at "pre-launch", or un-inflated prices (often through specially formed limited liability companies or partnerships), and/or with access to financing they would not otherwise qualify for, so that they could later flip such properties at inflated prices for a profit. Described below are just a few examples of the kickbacks and special opportunities offered to employees and associates of Ginn and the banks in order to secure their cooperation and participation:

(a) Nicole Costello, who served as Ginn's closing coordinator/notary, purchased Lot 147, Bella Collina for $242,910.00 on or about December 23, 2004 and, that same day, flipped the property to a buyer named JHM Investments, LLC, for $456,500 yielding a one-day profit of approximately $213,590. Financing and the appraisal for JHM Investments, LLC, were arranged by R-G Crown Bank.

(b) SunTrust employee Bradley Robert King—who arranged financing for a significant number Ginn properties—purchased Lot 20, Tesoro Preserve for $640,900 through a partnership with Greg Ulmer, who was a Ginn salesman at Tesoro on or about March 2, 2004 . Approximately one year later, on or about June 9, 2005, King flipped the lot for $1.3 million realizing nearly 100% on the sale of the property at inflated levels.

(c) Ginn salesperson Brad Huffstetler earned over $1 million from buying and flipping properties in the Ginn communities.

(d) R-G Crown Bank officers/employees purchased at least 28 Ginn properties. KDHC, LLC was a company in the name of Rebecca Martel, wife of R-G Crown Bank's Brady Koegel. Through this company, she had four loans from R-G Brown Bank to purchase four lots in Reunion. Through flipping properties, Martel earned $541,400 in three months. Two of the resales were also financed by R-G Crown Bank.

(e) Ginn sales manager Rusty Rogers purchased Lot 256, Bella Collina for $299,000, with a $284,050 mortgage loan from SunTrust, arranged by loan officer Celeta Ryan-Quinn on or about May 20, 2005, when comparable Bella Collina lots were being sold to unsuspecting buyers for substantially, artificially inflated prices as high as $1.2 million.

56. All parties to the scheme benefited. Ginn and Lubert-Adler realized profits because properties sold at a premium. Fifth Third, SunTrust and Wachovia were ensured a stream of customers. As a result, they made money from increased volume of loans. The higher sales prices also generated higher fees and a greater return. Ginn Title benefitted because it was guaranteed a steady stream of business and the fees and profits which such business generated. RMA, ESI Living's predecessor-in-interest, profited by the substantial payments it received to act as a Ginn and Lubert-Adler's in-house sales and marketing arm and through its ability to leverage its association with Ginn to market and advertise to other potential clients and customers. Fifth Third and Wachovia had additional incentives to participate in the scheme as they had a vested interest in the sale of the properties at inflated prices having provided financing to the developers for the purchase of certain parcels upon which it located Ginn communities. Sale of the properties at artificially inflated prices helped to ensure that they would be paid back.

57. Fifth Third, SunTrust and Wachovia benefitted from the fraudulent scheme as they profited from the higher loan volume, the higher short term profits in interest, origination fees and other upfront costs, and its ability to package and sell the loans on the secondary mortgage market both as loans with higher value and loans that met the standards for securitization. The increased loan volume resulted in higher commissions to its loan officers, executives, employees and agents. By providing loans for properties with inflated values, Fifth Third, SunTrust and Wachovia were able to report to their investors more favorably about quality of its loans and report a larger total loan and collateral values.

58. Defendants actively concealed their conduct, their manipulation of property values and their concerted efforts to sell the Ginn properties at issue at amounts that were far in excess

of their true value. As a result, Plaintiffs and Class members could not have uncovered the unlawful conduct any earlier with the exercise of reasonable diligence.

V. CLASS ACTION ALLEGATIONS

59. Plaintiffs bring this action against Defendants on their own behalf and, pursuant to Rules 23(a) and (b) of the Federal Rules of Civil Procedure, as a Class action on behalf of a Class of all persons or entities that purchased real estate in Ginn developments, including but not limited to:

(a) Hammock Beach in Palm Coast, Florida;

(b) Tesoro in Port St. Lucie, Florida;

(c) Tesoro Preserve in Port St. Lucie, Florida;

(d) Reunion Resort in Orlando, Florida;

(e) Bella Collina in Montverde, Florida;

(f) Yacht Harbor Village at Hammock Beach, in Palm Coast, Florida;

(g) Conservatory at Hammock Beach in Palm Coast, Florida;

(h) Quail West in Naples, Florida;

(i) Cobblestone Park in Blythewood, South Carolina;

(j) The BriarRose in Hancock County, Georgia; and

(k) Laurelmor in Boone, North Carolina;

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

61. There are likely thousands of members of the Class. Accordingly, the Class is so numerous that joinder of all members is impracticable. Although the exact number of Class

members is not yet known, thousands of persons or entities have purchased property in the Ginn communities.

62. These customers are geographically dispersed throughout the United States and abroad. The Class members are ascertainable, as the names and addresses of all Class members can be identified in business records maintained by Defendants or from other readily accessible records.

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

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

(a) Whether Defendants have engaged in the schemes or artifices described herein to improperly and unlawfully sell property within the Ginn communities at significantly and fraudulently inflated values;

(b) Whether Defendants have engaged in mail and wire fraud;

(c) Whether Defendants have engaged in a pattern of racketeering activity;

(d) Whether the Ginn Enterprise is an "enterprise" within the meaning of 18 U.S.C. 1961(4);

(e) Whether Defendants conducted or participated in the affairs of the Ginn Enterprise through a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c);

(f) Whether the Alternative Enterprise is an "enterprise" within the meaning of 18 U.S.C. 1961(4);

(g) Whether Defendants conducted or participated in the affairs of the Alternative Enterprise through a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c);

(h) Whether Defendants conspired to violate 18 U.S.C. § 1962(c) as prohibited by 18 U.S.C. § 1962(d);

(i) Whether Defendants engaged in a civil conspiracy to defraud Plaintiffs and Class members;

(j) Whether Fifth Third, SunTrust and Wachovia failed to properly supervise the activities of its executives, loan officers, employees and agents.

(k) Whether Plaintiffs and Class members have been harmed as a result of Defendants' conduct as set forth herein;

(l) Whether, and to what extent, Defendants are liable for the conduct alleged herein;

(m) Whether Defendants fraudulently concealed their scheme;

(n) What is the measure of relief to which Plaintiffs and Class members are entitled; and

(o) What relief is due to Plaintiffs and Class members.

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

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

67. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all members of the Class is impracticable and because of the many questions of law and fact that are common to Plaintiffs' claims and those of the Class. Further, the expense and burden of individual litigation make it impossible for all the

members of the Class individually to redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

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

COUNT I

VIOLATION OF 18 U.S.C. § 1962(C) – RICO
(AS TO ALL DEFENDANTS W/R/T THE GINN ENTERPRISE)

(AS TO GINN, LUBERT-ADLER, GINN TITLE AND ESI LIVING W/R/T THE ALTERNATIVE ENTERPRISE)

69. Plaintiffs hereby incorporate by reference paragraphs 7-58 as if fully set forth herein.

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

A. Enterprise Allegations

(1) The Ginn Enterprise

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

72. Based upon Plaintiffs' current knowledge, the following persons constitute a group of individuals persons associated in fact who constitute a RICO enterprise that is referred to herein as the "Ginn Enterprise": Ginn Devevelopment Company, LLC, Lubert-Adler Partners, L.P., Ginn Title Services, LLC; ESI Living, Inc.; Fifth Third Bancorp; Fifth Third Bank

(Michigan); SunTrust Mortgage, Inc.; Wachovia Mortgage Corporation and Wachovia Bank, N.A. The Ginn Enterprise is an organization which operated in furtherance of a common purpose to defraud Plaintiffs and Class members beginning in or around 1998 and ceasing operation at a date in or around 2008 (or such other date as shall be determined from the books and records of the Defendants) and whose activities affected interstate commerce.

73. While each of the Defendants participated in and are members *an*d part of the Ginn Enterprise, they also have an existence separate and apart from the enterprise.

74. The Ginn Enterprise has an ascertainable structure separate and apart from the pattern of racketeering activity in which Defendants have engaged. This role and structure is reflected in the allegations above. In particular, Ginn and Lubert-Adler conceived of the plan and recruited RMA (ESI Living's predecessor-in-interest), to implement the common marketing and sales strategy. Ginn also brought Ginn Title in to create public records with false information that served as a foundation for the fraudulently inflated appraisals upon which the inflated sales prices were based and upon which Fifth Third, SunTrust and Wachovia based their financing. Fifth Third, SunTrust and Wachovia knowingly provided financing based on fraudulently inflated appraisals, which made the scheme possible. All of the Ginn Enterprise participants entered into this scheme in order to reap extraordinary, illegal profits and each knowingly played a part in fostering the misrepresentations, fraud, and deception necessary to the success of the scheme.

(2) Alternative Enterprise Allegations

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

76. Based upon Plaintiffs' current knowledge, the following persons constitute a group of individuals persons associated in fact who constitute a RICO enterprise that is referred to herein as the "Alternative Enterprise": Ginn Development Company, LLC, Lubert-Adler Partners, L.P., Ginn Title Services, LLC; and ESI Living, Inc. The Alternative Enterprise is an organization which operated in furtherance of a common purpose to defraud Plaintiffs and Class members beginning in or around 1998 and ceasing operations a date in or around 2008 or such other date as shall be determined from the books on record of the Defendants and whose activities affected interstate commerce.

77. While Ginn Development Company, LLC, Lubert-Adler, L.P., Ginn Title Services, LLC, and ESI Living, Inc. participated in and are members and part of the Alternative Enterprise, they also have an existence separate and apart from the enterprise.

78. The Alternative Enterprise has an ascertainable structure separate and apart from the pattern of racketeering activity in which Defendants have engaged. This role and structure is reflected in the allegations above. In particular, Ginn and Lubert-Adler conceived of the plan and recruited RMA (ESI Living's predecessor-in-interest), to implement the common marketing and sales strategy. Ginn also brought Ginn Title in to create public records with false information which served as a foundation for the fraudulently inflated appraisals upon which the inflated sales prices were based and upon which Fifth Third, SunTrust and Wachovia based their financing. All the Alternative Enterprise participants entered into this scheme in order to reap extraordinary, illegal profits and each knowingly played a part in fostering the misrepresentations, fraud, and deception necessary to the success of the scheme.

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

B. Conduct of the RICO Enterprise

(1) Conduct of the Ginn Enterprise

80. As members of the Ginn Enterprise, Ginn Development Company, LLC, Lubert-Adler, L.P., Ginn Title Services, LLC, ESI Living, Inc. (as successor-in-interest to RMA), Fifth Third Bancorp, Fifth Third Bank (Michigan), SunTrust Mortgage, Inc., Wachovia Mortgage Corporation and Wachovia Bank, N.A. engaged in the following conduct in support of the enterprise:

(a) Ginn and Lubert-Adler invested funds to secure and preliminarily develop the property to be developed for sale in lots to individual purchasers such as Plaintiffs and the Class with promises of amenities and facilities which they could not or did not intend to provide thereby inducing Plaintiffs and Class members to make purchases of property at inflated prices and with the false belief that the amenities promised would be provided.

(b) Ginn and Lubert-Adler conceived, developed and implemented a common scheme to market and sell property in Ginn communities at inflated prices designed to mislead prospective buyers.

(c) RMA, ESI Living's predecessor-in-interest, devised the deceptive and misleading marketing and sales plan which it implemented through marketing and sales events and materials and sales force training all for the purpose of inducing Plaintiffs and Class members to purchase properties in Ginn communities at fraudulently inflated prices. ESI Living is responsible for the conduct of RMA as its successor-in-interest.

(d) Ginn Title knowingly and intentionally caused the inaccurate and deceptive recording of property sales in the Ginn communities, knowing that the improperly recorded property prices would be used to further the objectives of the fraudulent scheme as those properties which were recorded with inaccurate prices would be used as "comparables" in appraisals used to fraudulently inflate the value of property in the Ginn communities.

(e) The fraudulent scheme required the active and knowing involvement of Fifth Third, SunTrust and Wachovia, as Plaintiffs and Class members were required to pay for their purchases with financing provided by these and other lenders:

1. Fifth Third knowingly participated in and exercised control over various aspects of the fraudulent scheme alleged herein by:

i. knowingly and actively participating in sales and marketing practices, described herein, designed to create a false impression of high demand and high value for properties in Ginn communities which were intended to mislead Plaintiffs and Class members and to induce them to purchase property in the Ginn communities at fraudulently inflated prices;

ii. actively promoting the sale of Ginn properties by providing sales and investment advice and recommendations in order to induce Plaintiffs to purchase properties in Ginn communities at fraudulently inflated prices;

iii. facilitating the manipulation of sales prices for properties by obtaining and using appraisals which they knew or should have known were fraudulent and thereby misrepresenting the real value of properties in Ginn communities for which they provided financing;

iv. agreeing to approve and fund loans as a "Ginn Preferred Lender" at amounts that did not correspond to the true value of the properties, but rather which were based upon inflated/manipulated values;

v. accepting and providing kickbacks and special deals to Ginn insiders and other co-conspirators and in some cases partnering with Ginn insiders and other Ginn property purchasers to capitalize and reap profits from the operation of the scheme alleged herein; and

vi. retaining inflated profits from the sale of real estate and services resulting from the conduct of the Ginn Enterprise.

2. SunTrust knowingly participated in and exercised control over various aspects of the fraudulent scheme alleged herein by:

i. knowingly and actively participating in sales and marketing practices, described herein, designed to create a false impression of high demand and high value for properties in Ginn communities which were intended to mislead Plaintiffs and Class members and to induce them to purchase property in the Ginn communities at fraudulently inflated prices;

ii. Actively promoting the sale of Ginn properties by providing sales and investment advice and

recommendations in order to induce Plaintiffs to purchase properties in Ginn communities at fraudulently inflated prices;

iii. facilitating the manipulation of sales prices for properties by obtaining and using appraisals which it knew or should have known were fraudulent and thereby misrepresenting the real value of properties in Ginn communities for which they provided financing.

iv. agreeing to approve and fund loans as a "Ginn Preferred Lender" at amounts that did not correspond to the true value of the properties, but rather which were based upon inflated/manipulated values;

v. accepting and providing kickbacks and special deals to Ginn insiders and other co-conspirators and in some cases partnering with Ginn insiders and other Ginn property purchasers to capitalize and reap profits from the operation of the scheme alleged herein; and

vi. retaining inflated profits from the sale of real estate and services resulting from the conduct of the Ginn Enterprise.

3. Wachovia knowingly participated in and exercised control over various aspects of the fraudulent scheme alleged herein by:

i. knowingly and actively participating in sales and marketing practices, described herein, designed to create a false impression of high demand and high value for properties in Ginn communities which were intended to mislead Plaintiffs and Class members and to induce them to purchase property in the Ginn communities at fraudulently inflated prices;

ii. facilitating the manipulation of sales prices for properties by obtaining and using appraisals which they knew or should have known were fraudulent and thereby misrepresenting the real value of properties in Ginn communities for which they provided financing.

iii. agreeing to approve and fund loans as a "Ginn Preferred Lender" at amounts that did not correspond to the true value of the properties, but rather which were based upon inflated/manipulated values;

iv. accepting and providing kickbacks and special deals to Ginn insiders and other co-conspirators and in some cases partnering with Ginn insiders and other Ginn property purchasers to capitalize and reap profits from the operation of the scheme alleged herein; and

v. retaining inflated profits from the sale of real estate and services resulting from the conduct of the Ginn Enterprise.

(f) agreeing to fraudulently manipulate the values of the properties through misrepresentations; and

(g) retaining inflated profits from the sale of real estate and services resulting from the conduct of the illegal enterprise.

(2) Conduct of the Alternative Enterprise

81. As members of an enterprise, Ginn, Lubert-Adler, Ginn Title and RMA (predecessor-in-interest to ESI Living) engaged in the following conduct:

(a) Ginn and Lubert-Adler invested funds to secure and preliminarily develop the property to be developed for sale in lots to individual purchasers such as Plaintiffs and the Class with promises of amenities and facilities which they could not or did not intend to provide. This induced Plaintiffs and Class members to make purchases of property at inflated prices and with the false belief that the amenities promised would be provided.

(b) Ginn and Lubert-Adler conceived, developed and implemented a common scheme to market and sell property in Ginn communities at inflated prices designed to mislead prospective buyers.

(c) RMA devised the deceptive and misleading marketing and sales plan that it implemented through marketing and sales events and materials and sales force training for the purpose of inducing Plaintiffs and Class members to purchase properties in Ginn communities at fraudulently inflated prices. ESI Living is responsible for the conduct of RMA as its successor-in-interest.

(d) Ginn Title knowingly and intentionally caused the inaccurate and deceptive recording of property sales in the Ginn Communities, knowing that improperly recorded property prices would be used to further the objectives of the fraudulent scheme as those properties which were recorded with inaccurate prices would be used as "comparables" in appraisals used to fraudulently inflate the value of property in the Ginn communities.

(e) The members of the Alternative Enterprise agreed to fraudulently manipulate the values of the properties through misrepresentations.

(f) The members of the Alternative Enterprise retained inflated profits from the sale of real estate and services resulting from the conduct of the illegal enterprise.

C. Predicate Acts Mail and Wire Fraud: 18 U.S.C. § 1341 AND 8 U.S.C. § 1343

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

83. For the purpose of executing and/or attempting to execute the above described scheme to defraud or obtain money by means of false or fraudulent pretenses, representations or promises, each of the Defendants, in violation of 18 U.S.C. § 1341, on more than two occasions, beginning in 1998 and continuing through 2008, either caused matter and things to be delivered by the Postal Service or by private or commercial interstate carriers or knew and agreed that matter and things would be delivered by the Postal Service or by private or commercial interstate carrier to carry out the objectives of the scheme.

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

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

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

86. Defendants knew or should have foreseen that the use of the mails and wires would be required to carry out the scheme.

87. Each of the Defendants sent matter and things via the Postal Service, private or commercial carrier, wire or other interstate media include, *inter alia,* as described in the foregoing incorporated paragraphs and set forth with specificity herein below.

88. Ginn, having devised, controlled and implemented the fraudulent scheme to defraud Plaintiffs and Class members used, and/or agreed to the use of, the mails and wires to execute the plan in furtherance of the scheme. Specific examples of such predicate acts agreed to by Ginn are:

(a) Inviting Plaintiffs and Class members to launch parties using the mails and wires with the intention of inducing Plaintiffs and Class members to purchase property in Ginn communities at fraudulently inflated prices and in connection therewith mailed or wired priority reservation agreements and priority selection forms to Plaintiffs and Class members for each of the following Ginn community launches:

1. The Hammock Beach Club – in or about April 2000

2. Reunion – in or about 2001;

3. Yacht Harbor Village – in or about October 2003;

4. Reunion Grande – in or about October 2003;

5. Reunion – in or about March 2004;

6. Bella Collina – in or about April 2004;

7. The Towers at Hammock Beach – in or about June 2004 ;

8. Reunion Grande – in or about October 2004

9. Tesoro – in or about Fall 2004;

10. Bella Collina – in or about April 2005;

11. Villas at Reunion – in or about May 2005;

12. Conservatory – in or about July 2005

13. Cobblestone – in or about September 2005;

14. Quail West – in or about December 2005;

15. Tesoro Preserve – in or about August 2006; and

16. Laurelmor – in or about November 2006.

(*See* Exhibit B.)

(b) Intentionally communicating false promises of amenities to be constructed at Ginn communities in emails, brochures and corrspondence sent in the mail and posted on websites, including, for example, Ginn Salesperson, Brett Campbell, sent an email on November 8, 2004 by which promised amenities in Ginn communities that Ginn never intended to construct and other incidences of the same described in paragraphs 26, 32, 35 and 38;

(c) Intentionally communicating incorrect, false and misleading information regarding the sales prices for properties in Ginn communities using the mails and wires as described in paragraph 30-32, 35 and 37;

(d) Sending correspondence and communications regarding contracts, agreements, appraisal reports, financing documents, powers of attorney and other materials which were used to advance the objectives of the fraudulent scheme using the mails and wires. The mails and wires were used in conjunction with each of the purchasers described in paragraphs 7-17; and

(e) Using the mails and wires to communicate with other Defendants to advance the objectives of the fraudulent scheme including the emails and and other communications written and sent to orchestrate fraudulent appraisals and financing for properties at inflated prices.

89. Lubert-Adler, having devised, controlled and implemented the fraudulent scheme to defraud Plaintiffs and Class members, used and/or agreed to the uses of the mails and wires to

execute the plan in furtherance of the scheme. Specific examples of such predicate acts agreed to by Lubert-Adler are:

(a) Agreeing to the use mails to invite prospective purchasers to launch parties in furtherance of the fraudulent scheme as described in paragraphs 26, 32, 35, and 38;

(b) Agreeing to the use of its name and logo side by side with that of the Ginn Company in promotional materials advertising the Ginn communities, including in flyers sent to purchasers, agents and brokers using the mail and wires at various times during the operation of the fraudulent scheme;

(c) Agreeing to the use of the mails and wires to communicate false promises of amenities to be constructed at Ginn communities transmitted by email, fax and through the U.S. mail as described in paragraph 32 and 35; and

(d) Using the mails and wires to transmit the money used to fund the purchase of the land and development costs of Ginn communities beginning from the inception of the scheme in 1998.

(e) Using the mails and wires to communicate with other Defendants to advance the objectives of the fraudulent scheme including the emails and and other communications written and sent to orchestrate fraudulent appraisals and financing for properties at inflated prices.

90. RMA, ESI Living's predecessor-in-interest, having devised, controlled and implemented the marketing plan and sales practices which played a key role in the execution of the fraudulent scheme to defraud Plaintiffs and Class members used and/or agreed to the uses of the mails and wires to execute the plan in furtherance of the scheme. Specific examples of such predicate acts agreed to by RMA are:

(a) Causing the mails and wires to be used to invite Plaintiffs and Class members to launch parties with the intention of inducing Plaintiffs and Class members to purchase property in Ginn communities at fraudulently inflated prices and in connection therewith knew that the mails and wires would be used to forward priority reservation agreements and priority selection forms to Plaintiffs and Class members for each of the Ginn community launches listed above as described in paragraphs 30-31, 35, and 37;

(b) Causing and agreeing to the use of mails and wires to disseminate advertising and sales materials used to induce purchasers to buy property

at fraudulently inflated prices as described in paragraphs 26, 30-32; and 35;

(c) Intentionally causing false information to be communicated over the wires as described in paragraphs 26, 30-32, and 35.

(d) Using the mails and wires to communicate with other Defendants to advance the objectives of the fraudulent scheme including the emails and and other communications written and sent to orchestrate fraudulent appraisals and financing for properties at inflated prices.

91. Ginn Title, having devised, controlled and implemented the fraudulent scheme to defraud Plaintiffs and Class members, used and agreed/or to the use of the mails and wires to execute the plan in furtherance of the scheme. Specific examples of such predicate acts agreed to by Ginn Title are:

(a) Using the mails and wires to transmit information containing false and inaccurate sales information knowing that the information would be used in furtherance of the scheme as described in paragraphs 43 (a)-(g) and 45;

(b) Knowingly agreeing to provide recording services such as those described in paragraphs 43(a)-(g) and 45 and in connection therewith routinely accepting orders and payments for such services over the wires and through the mail; and

(c) Agreeing to and providing false recordings as described in paragraphs 43(a)-(g) and 45 to further the objectives of the scheme with knowledge that incident to schemes' essential goal of creating and communicating inflated property the wires and mails would be used by the participants in the scheme to share recorded and appraisal information with banks, salespersons and purchasers, to communicate with purchasers, and to arrange and close the loan and purchase transactions necessary to the execution of the scheme.

(d) Using the mails and wires to communicate with other Defendants to advance the objectives of the fraudulent scheme including the emails and and other communications written and sent to orchestrate fraudulent appraisals and financing for properties at inflated prices.

92. Fifth Third, having devised, controlled and implemented the fraudulent scheme to defraud Plaintiffs and Class members, used and agreed to the use of the mails and wires to

execute the plan in furtherance of the scheme. Specific examples of such predicate acts agreed to by Fifth Third are:

(a) Using the mails and wires to send e-mails, application and loan documents and communications to purchasers regarding financing to be provided by Fifth Third for purchases of properties in Ginn communities which were essential to the scheme to sell such property at fraudulently inflated prices in regard to the sales, purchase and financing of purchases made by the Plaintiffs described in paragraph 7-17 and 39;

(b) Using the mails and wires to communicate with appraisers and orchestrate fraudulent appraisals by conveying the values needed and items to be included in appraisals as described in paragraphs 46(d), 47(d) in order to provide false justification for the extension of credit provided by Fifth Third and its predecessors to purchasers of properties in Ginn communities at fraudulently inflated prices;

(c) Using the wires to send e-mails to and make telephone calls to prospective purchasers to promote the sale of properties in Ginn communities at fraudulently inflated prices and thereby advance the objective of the scheme as described in paragraphs 39, 40;

(d) Using the mails and wires to transmit and receive funds in connection with the sale of properties at inflated prices pursuant to the scheme as described in paragraphs 7-17 and 39;

(e) Using the mails and wires to transmit the money used to fund the purchase of the land for the development of Tesoro Preserve in Port St. Lucie, Florida as described in paragraph 28; and

(f) Using the mails and wires to communicate with the other Defendants via e-mails and phones to advance the objectives of the fraudulent scheme to sell properties at inflated prices.

93. SunTrust, having devised, controlled and implemented the fraudulent scheme to defraud Plaintiffs and Class members, used and agreed/or to the use of the mails and wires to execute the plan in furtherance of the scheme. Specific examples of such predicate acts agreed to by SunTrust are:

(a) Using the mails and wires to send e-mails, application and loan documents and communications to purchasers regarding financing to be provided by SunTrust for purchases of properties in Ginn communities that was essential to the scheme to sell such property at fraudulently

inflated prices in regard to the sales, purchase and financing of purchases made by the Plaintiffs described in paragraph 10, 11, 12 and 13;

(b) Using the mails and wires to communicate with appraisers and orchestrate fraudulent appraisals by conveying the values needed and items to be included in appraisals as described in paragraph 46(c) and 47(d) in order to provide false justification for the extension of credit provided by SunTrust to purchasers of properties in Ginn communities at fraudulently inflated prices

(c) Using the wires to send e-mails to and make telephone calls to prospective purchasers to promote the sale of properties in Ginn communities at fraudulently inflated prices and thereby advance the objective of the scheme as described in paragraph 41;

(d) Using the mails and wires to transmit and receive funds in connection with the sale of properties at inflated prices pursuant to the scheme as described in paragraph 10, 11, 12 and 13;

(e) Using the mails and wires to communicate with the other Defendants via e-mails and phones to advance the objectives of the fraudulent scheme to sell properties at inflated prices.

94. Wachovia, having devised, controlled and implemented the fraudulent scheme to defraud Plaintiffs and Class members, used and agreed/or to the use of the mails and wires to execute the plan in furtherance of the scheme. Specific examples of such predicate acts agreed to by Wachovia are:

(a) Using the mails and wires to send e-mails, application and loan documents and communications to purchasers regarding financing to be provided by Wachovia for purchases of properties in Ginn communities which was essential to the scheme to sell such property at fraudulently inflated prices in regard to the sales, purchase and financing of purchases made by the Plaintiffs described in paragraph 13, 14 and 15;

(b) Using the mails and wires to communicate with appraisers and orchestrate fraudulent appraisals by conveying the values needed and items to be included in appraisals as described in Paragraph 46 (a) & (b) in order to provide false justification for the extension of credit provided by Wachovia to purchasers of properties in Ginn communities at fraudulently inflated prices

(c) Using the wires to send e-mails to and make telephone calls to prospective purchasers to promote the sale of properties in Ginn communities at

fraudulently inflated prices and thereby advance the objective of the scheme as described in paragraph 28;

(d) Using the mails and wires to transmit and receive funds in connection with the sale of properties at inflated prices pursuant to the scheme as described in paragraph 13, 14 and 15;

(e) Using the mails and wires to transmit the money used to fund the purchase of the land for the development of Tesoro Preserve in Port St. Lucie, Florida as described in paragraph 28; and

(f) Using the mails and wires to communicate with the other Defendants via emails and phones to advance the objectives of the fraudulent scheme to sell properties at inflated prices.

95. Each of the Defendants knew and agreed that these acts were done intentionally and knowingly with the specific intent to advance Defendants' scheme, or with knowledge that the use of the mails would follow in the ordinary course of business, or that such use could have been foreseen, even if not actually intended.

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

97. Defendants either knew or recklessly disregarded the fact that the misrepresentations and deceptions relating to the value and demand for Ginn properties described above were material, and Plaintiffs and the Class relied on the misrepresentations and omissions set forth above.

D. Pattern of Racketeering Activity

98. Defendants did knowingly, willfully and unlawfully engage in a "pattern of racketeering activity," within the meaning of 18 U.S.C. §§ 1961(5), by committing at least two acts of racketeering activity, *i.e.* indictable violations of 18 U.S.C. §§ 1341 and 1343 as described above, within the past four years. In fact, each of the Defendants has committed

multiple acts of racketeering activity, all of which were intended to and did advance the plan to perpetrate a fraud, through misrepresentations and deception, to convincingly market, finance and sell properties in the Ginn communities at prices that exceeded the true market value of such properties at the time they were sold. Each act of racketeering was related, had a similar purpose, involved the same or similar participants and means of commission, had similar results and impacted similar victims, including Plaintiffs and Class members.

99. The multiple acts of racketeering activity which Defendants committed and/or conspired to or aided and abetted in the commission of, were related to each other and amount to and pose a threat of continued racketeering activity, and therefore constitute a "pattern of racketeering activity" as defined in 18 U.S.C. § 1961(5). Each of the Defendants agreed to fulfill its assigned role as is evidenced by the activities undertaken by each and predicate acts performed by each as detailed herein above including, in particular, at paragraphs 88-94 and the paragraphs referred to therein.

E. Defendants' Conduct Caused Direct Injury to Plaintiffs

100. Plaintiffs and Class members suffered direct and proximate harm as a result of Defendants' misrepresentations, omissions, deceptions and acts of concealment as Plaintiffs and Class members paid more for the properties they purchased in Ginn communities than they were worth at the time they purchased them. Absent the conduct alleged herein, pursuant to which, as detailed above, the apparent value of Ginn properities was inflated as a result of fraud, manipulation, misrepresentations, deception and knowing breaches of professional recording, appraising and banking standards, Plaintiffs and Class members would have been advised of and known the true market value of the properties at the time they purchased them and would not have paid, or agreed to pay, the above-market prices that they were induced to pay or agree to pay as a result of the scheme.

101. As set forth above, Plaintiffs and Class members relied on Lubert-Adler, Ginn, ESI Living, Ginn Title, Fifth Third, SunTrust and Wachovia's deceptions, misleading conduct, fraud, omissions and misrepresentations when buying property within the Ginn communities at issue at substantially and artificially inflated prices. Absent Defendants' misrepresentations, omissions, fraud, misleading conduct, and unconscionable conduct, Plaintiffs and Class members would not have bought the property at issue or would have bought the property at a significantly reduced price.

102. As a result of Defendants' actions, Plaintiffs and Class members have suffered significant injury to their property and/or business including but not limited to the deposits and payments Plaintiffs and Class members paid for the property and closing costs and other costs and fees and because they entered into loan obligations that they would not have had if they had known the truth. Plaintiffs and Class members were also injured because the properties they purchased were significantly less valuable than represented by Defendants at the time of purchase and have become even less valuable as a result of Defendants' conduct.

103. Plaintiffs have suffered losses that are directly related to Defendants' conduct which are separate and distinct from losses resulting from the market downturn because they paid too much for properties at the time they purchased them as a consequence fraudulent overpricing that resulted from the conduct of the Ginn Enterprise and/or the Alternative Enterprise. Thus, while the real estate market in Florida and elsewhere has declined dramatically in recent years, that decline is not the cause of losses experienced and sought in this lawsuit. Rather, the premium paid at the time of purchase based upon the phantom value falsely represented to exist through the conduct alleged herein is a loss directly related to the conduct alleged herein.

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

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

106. As a direct and proximate result of Defendants' misrepresentations, manipulations, fraud and omissions as herein alleged, Plaintiffs and the members of the Class have been injured in their business and/or property by the predicate acts which make up the Defendants' pattern of racketeering activity through the Ginn Enterprise, or in the alternative, the Alternative Enterprise.

COUNT II

VIOLATION OF 18 U.S.C. § 1962(D) – RICO
(AS TO ALL DEFENDANTS)

107. Plaintiffs hereby incorporate by reference paragraphs 7-58 and 70-106 as if fully set forth herein.

108. In violation of 18 U.S.C. § 1962(d), Defendants have, as set forth above, conspired to violate 18 U.S.C. § 1962(c). The conspiracy commenced at least as early as 1998 and ceased in or about 2008 as alleged herein. The object of the conspiracy was to perpetrate a fraud, *i.e.*, to sell real estate in Ginn developments at falsely inflated prices thereby wrongfully extracting additional money from purchasers through deception, and increasing profits for Defendants.

109. As set forth above, each of the Defendants knowingly, willfully, and unlawfully agreed and combined to conduct or participate, directly or indirectly, in the conduct of the affairs and activities of the Ginn Enterprise, or in the alternative, the Alternative Enterprise through a pattern of racketeering activity, including acts indictable under 18 U.S.C. §§ 1341 and 1343 in violation of 18 U.S.C. § 1962(c) as alleged in Count 1, Paragraphs 82-99 above.

110. The agreement between and among the Defendants to act in concert to defraud Plaintiffs and the Class is evident from the conduct in which each engaged that supported and was utilized by the others to bring the fraud to fruition:

(a) Ginn and Lubert–Adler required the assistance and expertise of RMA, ESI Living's predecessor-in-interest, to effectively and convincingly market the properties in Ginn Communities as if all of the promised amenities would be built and the conduct of RMA, in devising and implementing a marketing plan that employed misrepresentations and deceptions as alleged herein to accomplish that goal reflects the agreement of these participants to the common objective;

(b) Ginn Title's willingness to falsely record property sales in a manner that created grossly inflated values as detailed herein and the use to which those false records were put by appraisers who knew, or should have known, that they were inflated and by Fifth Third, SunTrust and Wachovia, each of whom knew or should have know of their defects, in financing the sales of the properties at inflated values likewise evidences an agreement between the participants to work toward a common fraudulent purpose;

(c) The role of Fifth Third, SunTrust and Wachovia's executives, officers, employees and agents in promoting sales and recommending purchases of properties in Ginn communities, which role is outside that of a banker and attributable to each bank with respect to its own executives, officers, employees and agents, also reflects their agreement to pursue the common goal with Ginn and the other Defendants to promote, sell and finance property in Ginn communities at inflated prices;

(d) The coordinated efforts of Ginn salespersons and bank employees to structure property purchases including leasebacks and furniture packages so as to create documentation improperly and falsely representing value for financing purposes as hereinabove alleged reflects agreement between Ginn and Fifth Third, SunTrust and Wachovia to act in concert to further the objective to sell properties in Ginn communities at inflated values; and

(e) The payment and provision of kickbacks and sweetheart deals to Ginn, Lubert-Adler, RMA, and Fifth Third, SunTrust and Wachovia executives, officers, employees and agents to grease the gears of the mechanism effectuating the fraud reflects agreement of those providing, accepting and arranging such kickbacks, *i.e.*, Ginn, Fifth Third, SunTrust and Wachovia as alleged in paragraphs 53-55 above.

111. Defendants committed numerous overt acts of racketeering activity or other wrongful activity in furtherance of such conspiracy as alleged in Count 1, Paragraphs 82-99.

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

113. As a direct and proximate result of Defendants misrepresentations, manipulations, fraud and omissions as alleged herein, Plaintiffs and Class members have been injured in their business or property by the Defendants' conspiracy and by the predicate acts which make up Defendants' pattern of racketeering activity through the Ginn Enterprise, or in the alternative, the Alternative Enterprise.

COUNT III

CIVIL CONSPIRACY
(AS TO ALL DEFENDANTS)

114. The Plaintiffs hereby incorporate by reference paragraphs 7-58, 70-106, 108, 110 and 111.

115. Defendants entered into an agreement to artificially inflate the value of properties in the Ginn Communities through numerous acts of fraud and misrepresentations with intent to defraud the Plaintiffs and members of the Class.

116. Defendants were aware of and participated in the conspiracy to defraud the Plaintiffs.

117. The agreement between and among the Defendants to act in concert to defraud Plaintiffs and the Class is evident from the conduct in which each engaged that supported and was utilized by the others to bring the fraud to fruition:

(a) Ginn and Lubert–Adler required the assistance and expertise of ESI to effectively and convincingly market the properties in Ginn Communities as if all of the promised amenities would be built and the conduct of RMA, ESI Living's predecessor-in-interest, in devising and implementing marketing plan that employed misrepresentations and deceptions as alleged herein to accomplish that goal reflects the agreement of these participants to the common objective;

(b) Ginn Title's willingness to falsely caused to be recorded property sales in a manner that created grossly inflated values as detailed herein and the use to which those false records were put by appraisers who knew, or should have known, that they were inflated and by Fifth Third, SunTrust and Wachovia, each of whom knew or should have know of their defects, in financing the sales of the properties at inflated values likewise evidences an agreement to work toward a common fraudulent purpose;

(c) The role of Fifth Third, SunTrust and Wachovia's executives, officers, employees and agents in promoting sales and recommending purchases of properties in Ginn communities, which role is outside that of a banker and attributable to each bank with respect to its own executives, officers, employees and agents, also reflects their agreement to pursue the common goal with Ginn and the other Defendants;

(d) The coordinated efforts of Ginn salespersons and bank employees to structure property purchases including leasebacks and furniture packages so as to create documentation improperly and falsely representing value for financing purposes as hereinabove alleged reflects agreement between Ginn and Fifth Third, SunTrust and Wachovia to act in concert to further the objective to sell properties in Ginn communities at inflated values; and

(e) The payment and provision of kickbacks and sweetheart deals to Ginn, Lubert-Adler, ESI and Fifth Third, SunTrust and Wachovia executives, officers, employees and agents to grease the gears of the mechanism effectuating the fraud reflects agreement of those providing, accepting and arranging such kickbacks, *i.e.,* Ginn, Fifth Third, SunTrust and Wachovia as alleged in Paragraphs 52-55 above.

118. Each of the Defendants engaged in multiple overt acts in furtherance of the conspiracy to defraud purchasers of property in Ginn communities through sale and financing of

properties in Ginn communities at inflated prices, including misrepresenting the true value of the properties the Plaintiffs purchased through a variety of means including:

(a) Employing marketing strategies, representations and tactics such as those described in Paragraphs 30-35, and 37-42 herein to create the false impression of extremely high demand and value;

(b) Knowingly procuring and utilizing false records of sales and improperly exaggerated appraisal values as described in Paragraphs 43 – 51 in connection with the sale and financing of properties in the Ginn communities; and

(c) Securing the aid and assistance of officers, employees and agents through the payment of kickbacks and provisions of sweetheart deals as described in Paragraphs 49 and 52-55 and partnering with insiders to reap profits therefrom, all to knowingly mislead Plaintiffs and members of the Class about the availability and true value of properties in the Ginn communities thereby inducing them to purchase properties at inflated prices that they would not have purchased had they known the truth.

119. Defendants made or directed others to make false statements or omissions of material facts to the Plaintiffs in connection with their property dealings in the Ginn communities as hereinabove alleged in sales and promotional materials and on site interactions, in public records that they caused to be recorded, on appraisals, and the financing process and documents.

120. Plaintiffs reasonably relied to their detriment on the misrepresentations, lies, omissions and deceptive behavior of Defendants which were done in furtherance of their conspiracy.

121. Plaintiffs were damaged by Defendants' concerted effort to defraud them through misrepresentations and misleading statements, by causing them to pay, or agree to pay and finance, more for the properties in the Ginn communities at the time they were purchased, by saddling them with properties that are worth far less than represented by Defendants acting in collusion with each other and by causing them to take on more debt and obligations than they

would have absent the Defendants fraudulent and misleading behavior. Each of the Defendants benefitted as herein alleged through their participation in the conspiracy.

COUNT IV

NEGLIGENT SUPERVISION
(AS TO FIFTH THIRD)

122. Plaintiffs hereby incorporate by reference paragraphs 7-58, 80(e)1, 92, 100-104 and 115-121 as if fully set forth herein, which paragraphs describe the conduct of the executives, loan officers, agents and/or employees of Fifth Third.

123. Fifth Third engaged in a civil conspiracy to defraud the Plaintiffs and Class members of their money or property as hereinabove alleged.

124. The unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct employed by the executives, loan officers, agents and/or employees of Fifth Third and its predecessors-in-interest as alleged herein in furtherance of the alleged civil conspiracy as well as the conspiracy itself was harmful to and caused injury to Plaintiffs and members of the Class.

125. Fifth Third had a duty to act in good faith and not to pursue a civil conspiracy employing conduct that is unlawful, deceptive, fraudulent, collusive, self-dealing, misleading and harmful to their customers.

126. Fifth Third, by and through their executives, loan officers, agents and/or employees, including specifically Jack Koegel, Brady Koegel and Roy Snoeblen, as alleged in paragraphs 26, 28, 32-34, 39-40, 46(d), 47(b) and (d), 48, 50, 53-54 and 55(d), engaged in unlawful, deceptive, fraudulent, collusive, self-dealing and misleading behavior in furtherance of the civil conspiracy alleged herein.

127. Fifth Third and its predecessors-in-interest had notice that its executives, loan officers, agents and/or employees were involved in conduct that made them unfit to perform

their duties and which harmed the Plaintiffs and Class members as the conduct as alleged herein was far outside the role of bankers acting as bankers with regard to the promotional and self-dealing conduct of Jack Koegel and Brady Koegel, and Roy Snoeblen, with respect to the officers and employees who arranged loans based upon improper appraisals and accepted kickbacks as alleged in paragraphs 30-40, 46-47, and 53-54, and is plainly inconsistent with professional lending practices as was, or should have been, readily apparent through the conduct of expected underwriting procedures, appraisal audits and lending audits.

128. The manipulation of appraisal values to support the objectives of the conspiracy as alleged in Paragraphs 26, 46-48 and 50 was accomplished by the executives, loan officers, agents and/or employees of Fifth Third and its predecessors-in-interest through means that departed from accepted standards of appraisal and valuation which were, or should have been, known to Fifth Third and its predecessors-in-interest upon conducting appropriate oversight and supervision through routine examination of lending files, appraisal reports and loan documentation. Moreover, the high volume and substantial value of the mortgage loans for properties in Ginn communities that were generated by the conduct of the executives, loan officers, agents and/or employees of Fifth Third and its predecessors-in-interest, including specifically Jack Koegel, Brady Koegel, and Roy Snoeblen, should have made Fifth Third and its predecessors, aware of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of the civil conspiracy alleged herein.

129. Although Fifth Third was aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees as alleged herein, and although Fifth Third and its

predecessors, had the ability to take action to control its executives, loan officers, agents and/or employees, they did not take the steps necessary and available to prevent the conduct, such as investigation, discharge, reassignment, reprimand or referral to appropriate law enforcement authorities.

130. The failure of Fifth Third to take action to control their executives, loan officers, agents and/or employees, although they aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of a civil conspiracy as alleged herein constitutes negligent supervision and a breach of Fifth Third's duties to act in good faith and not to engage in conduct that is unlawful, deceptive, fraudulent, collusive, self-dealing, misleading and harmful to their customers.

131. The failure of Fifth Third to take action to control its executives, loan officers, agents and/or employees, although they were aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of a civil conspiracy as alleged herein caused injury to Plaintiffs and members of the Class for which the Fifth Third is liable.

COUNT V

NEGLIGENT SUPERVISION
(AS TO SUNTRUST)

132. Plaintiffs hereby incorporate by reference paragraphs 7-58, 80(e)(2), 93, 100-104 and 115-121 as if fully set forth herein, and which paragraphs describe the conduct of the executives, loan officers, agents and/or employees of SunTrust.

133. SunTrust engaged in a civil conspiracy to defraud the Plaintiffs of their money or property as hereinabove alleged.

134. The unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct employed by SunTrust's executives, loan officers, agents and/or employees as alleged herein in furtherance of the alleged civil conspiracy as well as the conspiracy itself was harmful to and caused injury to Plaintiffs and members of the Class.

135. SunTrust had a duty to act in good faith and not to pursue a civil conspiracy employing conduct that is unlawful, deceptive, fraudulent, collusive, self-dealing, misleading and harmful to their customers.

136. SunTrust, by and through its executives, loan officers, agents and/or employees, including specifically Michael Knight, Pepper Kinser, Bradley Robert King and Celeta Ryan-Quinn, as alleged in paragraphs 26, 32-34, 41, 46-47, 48-50 and 55, engaged in unlawful, deceptive, fraudulent, collusive, self-dealing and misleading behavior in furtherance of the civil conspiracy alleged herein.

137. SunTrust had notice that its executives, loan officers, agents and/or employees were involved in conduct that made them unfit to perform their duties and which harmed the Plaintiffs and Class members as the conduct as alleged herein was far outside the role of bankers acting as bankers with regard to the promotional and self-dealing conduct of Michael Knight, Pepper Kinser, Bradley Robert King and Celeta Ryan-Quinn and SunTrust employees, and, with respect to the officers and employees who arranged loans based upon improper appraisals and accepted kickbacks as alleged in paragraphs 41, 47-47, 49-50 and 55 is plainly inconsistent with professional lending practices as was, or should have been, readily apparent through the conduct of expected underwriting procedures, appraisal audits and lending audits.

138. The manipulation of appraisal values to support the objectives of the conspiracy as alleged in Paragraphs 26, 41 and 46-50 was accomplished by the executives, loan officers, agents

and/or employees through means that departed from accepted standards of appraisal and valuation which were, or should have been, known to SunTrust upon conducting appropriate oversight and supervision through routine examination of lending files, appraisal reports and loan documentation. Moreover, the high volume and substantial value of the mortgage loans for properties in Ginn communities that were generated by the conduct of the executives, loan officers, agents and/or employees of SunTrust, including specifically Michael Knight, Celeta Ryan-Quinn, Pepper Kinser and Braley Robert King, should have made SunTrust, aware of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of the civil conspiracy alleged herein.

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

140. The failure of SunTrust to take action to control its executives, loan officers, agents and/or employees, although they aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of a civil conspiracy as alleged herein constitutes negligent supervision and a breach of the SunTrust, duties to act in good faith and not to engage in conduct that is unlawful, deceptive, fraudulent, collusive, self-dealing, misleading and harmful to their customers.

141. The failure of SunTrust, to take action to control its executives, loan officers, agents and/or employees, although they aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of a civil conspiracy as alleged herein caused injury to Plaintiffs and members of the Class for which the SunTrust is liable.

COUNT VI

NEGLIGENT SUPERVISION

(as to WACHOVIA)

142. Plaintiffs hereby incorporate by reference paragraphs 7-58, 80(e)3, 94, 100-104, 106 and 115-121 as if fully set forth herein, and which paragraphs describe the conduct of the executives, loan officers, agents and/or employees of Wachovia.

143. Wachovia engaged in a civil conspiracy to defraud the Plaintiffs of their money or property as hereinabove alleged.

144. The unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct employed by the executives, loan officers, agents and/or employees Wachovia as alleged herein in furtherance of the alleged civil conspiracy as well as the conspiracy itself was harmful to and caused injury to Plaintiffs and members of the Class.

145. Wachovia had a duty to act in good faith and not to pursue a civil conspiracy employing conduct that is unlawful, deceptive, fraudulent, collusive, self-dealing, misleading and harmful to their customers.

146. Wachovia, by and through its executives, loan officers, agents and/or employees, including specifically Wachovia employee Roy Snoeblen, as alleged in paragraphs 26, 28, 30-32, 34, 42, 46-48 and 50 engaged in unlawful, deceptive, fraudulent, collusive, self-dealing and misleading behavior in furtherance of the civil conspiracy alleged herein.

147. Wachovia had notice that its executives, loan officers, agents and/or employees were involved in conduct that made them unfit to perform their duties and harmed the Plaintiffs and Class members, as the conduct as alleged herein was far outside the role of bankers acting as bankers with regard to the promotional and self-dealing conduct of Roy Snoeblen, with respect to the officers and employees who arranged loans based upon improper appraisals and accepted kickbacks as alleged in paragraph 42, plainly inconsistent with professional lending practices as was, or should have been, readily apparent through the conduct of expected underwriting procedures, appraisal audits and lending audits.

148. The manipulation of appraisal values to support the objectives of the conspiracy as alleged in Paragraphs 26, 46-48 and 50 was accomplished by the executives, loan officers, agents and/or employees through means that departed from accepted standards of appraisal and valuation which were, or should have been, known to Wachovia upon conducting appropriate oversight and supervision through routine examination of lending files, appraisal reports and loan documentation. Moreover, the high volume and substantial value of the mortgage loans for properties in Ginn communities that were generated by the conduct of the executives, loan officers, agents and/or employees of Wachovia, including specifically Roy Snoeblen and should have made Wachovia aware of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of the civil conspiracy alleged herein.

149. Although Wachovia was aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of its executives, loan officers, agents and/or employees as alleged herein, and although Wachovia had the ability to take action to control its executives, loan officers, agents and/or employees, it did not take the

steps necessary and available to prevent the conduct, such as investigation, discharge, reassignment, reprimand or referral to appropriate law enforcement authorities.

150. The failure of Wachovia, to take action to control its executives, loan officers, agents and/or employees, although they were aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of a civil conspiracy as alleged herein constitutes negligent supervision and a breach of the Wachovia, duties to act in good faith and not to engage in conduct that is unlawful, deceptive, fraudulent, collusive, self-dealing, misleading and harmful to their customers.

151. The failure of Wachovia to take action to control its executives, loan officers, agents and/or employees, although they aware, or should have been aware, of the unlawful, deceptive, fraudulent, collusive, self-dealing, and misleading conduct of their executives, loan officers, agents and/or employees in furtherance of a civil conspiracy as alleged herein caused injury to Plaintiffs and members of the Class for which the Wachovia is liable.

PRAYER FOR RELIEF

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

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

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

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

D. Find the Fifth Third, SunTrust and Wachovia liable for Negligent Supervision;

E. Find that Defendants have unlawfully engaged in a civil conspiracy to defraud the Plaintiffs and Class members;

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

G. As to Counts I and II, order Defendants to pay treble damages to Plaintiffs and Class members;

H. Award Plaintiffs and members of the Class, the costs and disbursements of this action, including reasonable attorneys' fees and the reimbursement of expenses in amounts to be determined by the Court;

I. Award pre-judgment and post-judgment interest; and

J. Grant such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiffs request a jury trial on any issue so triable.

DATED: November 5, 2010

Respectfully submitted,

By: */s/ Joseph H. Meltzer*

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