

**IN THE CIRCUIT COURT IN  
AND FOR THE 11<sup>TH</sup> JUDICIAL  
CIRCUIT MIAMI-DADE  
COUNTY, FLORIDA**

**GENERAL JURISDICTION  
DIVISION**

**Case no.**

**1604 SUNNY ISLES, LLC, 2601 TRUMP TOWER III, LLC, 2801 TT-III, LLC, 2901 TRUMP TOWER III, LLC, VLADIMIR ABOLSKY, LETICIA ANDRADE AND LETICIA GARCIA, FEDERICO AND ISABEL AROCENA, EMMA BASKIN, LANA BELENKY AND DMITRI LERNER, BERAJA VEHASLAJA, LLC, DAVID BERKOVSKY, LEV AND GALINA BERLIN, BLAUSTEIN REALTY, INC., CECILIA BONFANTE, DONATELLA ROGERS, MIGUEL ZABALA, AND CECILIA CASTROMAN, ALEXANDER AND BELA BORTNOVSKY, ANDREI BOUBNOV, MICHAEL C. BROWN TRUST DATED JUNE 30, 2000, SALOMON HADIDA AND CHIMOL CHOCRON, ABBA COHEN, JOHN DENOBILE, ANNA AND ELLA DORFMAN, GARY ELFONT, ENTRUST ADMINISTRATION CUSTODIAN FBO ANDRE DELOJE ROTH IRA 00812R, ERIC PROPERTIES, LLC, ILYA AND INESSA ERLIKH, GREGORY FELDMAN, P.A., ROBERT FETTERMAN, FIRST FINANCIAL EQUITY, INC., RICARDO J. FLORES, GREGORY FRANK, URI FRANK, RUBIN FRENKEL AND VIKTORIYA BRENER, RAMY GALI, GREGORY GERASIMOV, ELIZABETH GITLIN, SIMY HADIDA, LALI HUBEL, EZRA HUSNEY, JOSEPH AND DROR, LLC, NICK KARDACH, ALEX KLEIN, NIKOLAY AND DINA KOMIN, YURY AND ALLA KOTLYAR, ALEX LEBEL, LRG WHOLESALE, INC., IGOR MALLER, LILIA MALLER, ALEXANDER MALYLKIN, DIANA MALYLKIN, MORDECHAI AND SARAH MARKOWICZ, SALOMON MASRI, CARLOS MEJIA, SAMIR AND SOHEIR MIKHAIL, JIMMY PFLUCKER, ITTY SADEK, BORIS AND ROMAN SHABASHKEVICH, MICHAEL AND GALINA SHUB, PAUL SIDOROVICH, TAURUS FINANCIAL GROUP C/O DAVID A. ROZINOV, LEON TAYLOR AND GALINA YUSUPOV, TDR TOWER 3509, INC., TDR TOWER II 320, LLC, THE WOODS ONE CORP., JOSEPH AND ERIN TOZZI, TRUMP III**

**1006, LLC, TRUMP TOWER 502, LLC, TRUMP TOWER I 3107  
CORP; DMITRIY VERNITSKIY, TRUMP TOWER I 607 CORP.,  
TRUMP TOWER III 2001, LLC, EDWARD AND PETER WEISS, and  
JACK C. WILLIAMS JR. AND ELHAM WILLIAMS,**

**Plaintiffs,**

**v.**

**TRG SUNNY ISLES V, LTD. (TDR TOWER I  
CONDOMINIUM), TRG SUNNY ISLES VI,  
LTD., (TDR TOWER II CONDOMINIUM),  
TRG SUNNY ISLES VII, LTD., (TDR TOWER  
III CONDOMINIUM), and CHICAGO TITLE  
INSURANCE COMPANY,**

**Defendants.**

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

**Plaintiffs 1604 SUNNY ISLES, LLC (TOWER III UNIT 1604), 2601  
TRUMP TOWER III, LLC (TOWER III UNIT 2601), 2801 TT-III,  
LLC (TOWER III UNIT 2801), 2901 TRUMP TOWER III, LLC  
(TOWER III UNIT 2901), VLADIMIR ABOLSKY (TOWER I  
UNIT 2605), LETICIA ANDRADE AND LETICIA GARCIA  
(TOWER III UNIT 2704), FEDERICO AND ISABEL AROCENA  
(TOWER III UNIT 2306), EMMA BASKIN (TOWER II UNIT 506),  
LANA BELENKY AND DMITRI LERNER (TOWER I UNIT 2405),  
BERAJA VEHASLAJA, LLC (TOWER III UNIT 604), DAVID  
BERKOVSKY (TOWER I UNIT 2304), LEV AND GALINA  
BERLIN (TOWER I UNIT 2903), BLAUSTEIN REALTY, INC.  
(TOWER III UNIT 4007), CECILIA BONFANTE, DONATELLA  
ROGERS, MIGUEL ZABALA, AND CECILIA CASTROMAN  
(TOWER III UNIT 2303), ALEXANDER AND BELA  
BORTNOVSKY (TOWER III UNIT 1901), ANDREI BOUBNOV  
(TOWER I UNIT 506), MICHAEL C. BROWN TRUST DATED  
JUNE 30, 2000, (TOWER I UNIT 406 AND TOWER II UNIT 901),  
SALOMON HADIDA AND CHIMOL CHOCRON (TOWER III**

UNIT 2305), ABBA COHEN (TOWER II UNIT 3504), JOHN DENOBILE (TOWER I UNIT 2702), ANNA AND ELLA DORFMAN (TOWER II UNIT 1806), GARY ELFONT (TOWER III UNIT 1602, TOWER II UNIT 3707, AND TOWER I UNIT 4103), ENTRUST ADMINISTRATION CUSTODIAN FBO ANDRE DELOJE ROTH IRA 00812R (TOWER III UNITS 404 AND 505), ERIC PROPERTIES, LLC (TOWER III UNIT 1704), ILYA AND INESSA ERLIKH (TOWER II UNITS 1103 AND 1104), GREGORY FELDMAN, P.A. (TOWER I UNIT 507), ROBERT FETTERMAN (TOWER I UNIT 4206 AND TOWER III UNIT 3703), FIRST FINANCIAL EQUITY, INC. (TOWER II UNITS 2203 AND 3506), RICARDO J. FLORES (TOWER I UNIT 1507), GREGORY FRANK (TOWER I UNIT 4105, TOWER II UNITS 2207 AND 2103), URI FRANK (TOWER III UNIT 1505), RUBIN FRENKEL AND VIKTORIYA BRENER (TOWER II UNIT 1503), RAMY GALI (TOWER I UNIT 1907), GREGORY GERASIMOV (TOWER I UNIT 1703), ELIZABETH GITLIN (TOWER II UNIT 2303), SIMY HADIDA (TOWER I UNIT 4005), LALI HUBEL (TOWER I UNIT 4205), EZRA HUSNEY (TOWER III UNIT 1207), JOSEPH AND DROR, LLC (TOWER II UNIT 1606), NICK KARDACH (TOWER II UNIT 3002 AND TOWER III UNIT 1907), ALEX KLEIN (TOWER II UNITS 2103 AND 2207), NIKOLAY AND DINA KOMIN (TOWER III UNIT 3301), YURY AND ALLA KOTLYAR (TOWER I UNIT 2202), ALEX LABEL (TOWER I UNITS 2607 AND 4001), LRG WHOLESALE, INC. (TOWER II UNIT 2402), IGOR MALLER (TRUMP III UNITS 2201 AND 2401), LILIA MALLER (TRUMP III UNIT 2201), ALEXANDER MALYLKIN (TRUMP I UNIT 603), DIANA MALYLKIN (TRUMP I UNIT 2903), MORDECHAI AND SARAH MARKOWICZ (TOWER I UNIT 4006), SALOMON MASRI (TOWER I UNIT 3807), CARLOS MEJIA (TOWER III UNIT 4002), SAMIR AND SOHEIR MIKHAIL (TOWER I UNIT 3302), JIMMY PFLUCKER (TOWER II UNIT 1201), ITTY SADEK (TOWER II UNITS 2201 AND 2202), BORIS AND ROMAN SHABASHKEVICH (TOWER I UNIT 1506), MICHAEL AND GALINA SHUB (TOWER III UNIT 2605), PAUL SIDOROVICH (TOWER I UNIT 2802), TAURUS FINANCIAL GROUP C/O DAVID A. ROZINOV (TOWER I UNIT 802), LEON TAYLOR AND GALINA YUSUPOV (TOWER I UNIT 3103), TDR TOWER 3509, INC. (TOWER I UNIT 3504), TDR TOWER II 320, LLC (TOWER II UNIT 3201), THE WOODS ONE

**CORP. (TOWER III UNIT 3007), JOSEPH AND ERIN TOZZI (TOWER II UNIT 505), TRUMP III 1006, LLC (TOWER III UNIT 1006), TRUMP TOWER 502, LLC (TOWER I UNIT 502), TRUMP TOWER I 3107 CORP; DMITRIY VERNITSKIY (TOWER I UNIT 3107), TRUMP TOWER I 607 CORP. (TOWER I UNIT 607), TRUMP TOWER III 2001, LLC, (TOWER III UNIT 2001), EDWARD AND PETER WEISS (TOWER II UNIT 2602), and JACK C. WILLIAMS JR. AND ELHAM WILLIAMS (TOWER III UNIT 3603) (hereinafter collectively “Plaintiffs”), file this complaint against the Defendants, TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., TRG SUNNY ISLES VII, LTD. (hereinafter the “Defendant” or “developer”) and CHICAGO TITLE INSURANCE COMPANY (hereinafter the “Defendant” or “escrow agent”).**

- 1. The causes of action alleged in this complaint arise from the purported sale of “to be” constructed condominium units in a development referred to as “TRUMP TOWERS” which is comprised of “TDR TOWER I CONDOMINIUM”, “TDR TOWER II CONDOMINIUM”, and “TDR TOWER III CONDOMINIUM” (hereinafter the “Condos”) and which are collectively subject to a Master Association.**
- 2. Defendants’ principal places of business are in Miami Dade County.**

#### **THE PARTIES**

- 3. Plaintiffs are contract purchasers of TRUMP TOWERS condominium units from TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD. (the “Trump Developer”). Copies of Plaintiffs’ contracts with the Trump**

**Developer are attached as composite Exhibit A. The first Plaintiff's contract is attached in its entirety, while the remaining contracts include only the first and last pages due to their voluminous nature.**

- 4. CHICAGO TITLE INSURANCE COMPANY is named as a Defendant solely because it is holding the Plaintiffs' deposits in escrow and is named solely so this Court will have jurisdiction to order CHICAGO TITLE INSURANCE COMPANY to return the deposits presently held plus any accrued interest to Plaintiffs. Any reference to "Defendants" in this complaint includes CHICAGO TITLE INSURANCE COMPANY only to the extent that it is holding the deposits and interest accrued thereon and may be required to remit those deposits to Plaintiffs upon order of this Court.**

#### **COMMON ALLEGATIONS**

- 5. At all times relevant hereto, the Trump Developer marketed to Plaintiffs to purchase condominium units and percentage ownership of common area facilities at TDR TOWER I CONDOMINIUM, TDR TOWER II CONDOMINIUM, and TDR TOWER III CONDOMINIUM before the building was constructed.**
- 6. Trump Developer jointly marketed and sold the development as 'TRUMP TOWERS'.**

- 7. The Trump name appears everywhere in all advertisements, on the street, on letterhead, on cover letters of every document sent to each Plaintiff.**
- 8. The defendants' press releases and marketing materials all refer the buildings as "Trump Towers"**
- 9. Plaintiffs were convinced they were buying a "Trump" building to be titled with the "Trump" flagship name, a name that according to Trumps own agents yields a 36% premium price over similar quality buildings without the Trump flagship name. See the study cited by the International Herald Tribune by the Corcoran Group (a sales agent for Trump) which found that "condominiums flying the Trump name sold at a 36 percent premium over comparable properties in 2005" attached hereto as Exhibit N.**
- 10. The Plaintiffs were convinced they were contracting to purchase condominiums in buildings to be titled Trump Tower and which would carry the Trump flagship name.**
- 11. What they Plaintiffs did not know is that they were duped. The use of the Trump flagship name was a fraudulent marketing ploy.**
- 12. The actual contents of the condominium offering documents do not make any reference to 'TRUMP TOWERS'.**

- 13. In fact the name “Trump” never actually appears in the terms of any of the offering documents - it appears only on the cover sheets.**
- 14. The offering documents make no reference to a license agreement that would allow the condominium associations to have permanent use of the names “Trump” or “Trump Towers” as the name of the condominiums.**
- 15. Each building was respectively referred to by Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD as Trump Tower I, Trump Tower II, and Trump Tower III in almost every communication with the Plaintiffs, in every advertisement and in all marketing materials. The actual name of the condominiums TDR never appears advertisement as the name of the condominium and nor in the marketing material.**
- 16. Even the cover sheets of the State and federally mandated disclosure documents state ‘Trump Towers’, but the name ‘Trump’ appears nowhere inside.**
- 17. The Defendant developers only licensed the use of the Trump name for sales purposes, and they did not obtain a license agreement for the associations or purchasers to use the Trump name.**

- 18. This means that when the developers sell their last unit, the Trump name will leave with them and the buildings will have no right to continue to be called ‘Trump Towers’.**
- 19. The developers used the same purchase agreement for each Condo Unit (the “Contract”) and all three buildings were collectively marketed.**
- 20. The Condo sales between Plaintiffs and Defendant developers are subject to the provisions and requirements of Florida Statutes Chapter 718 and 15 U.S.C. §1701 *et. seq.* and are not exempt.**
- 21. Under the Interstate Land Sales Act, these condominiums are properly joined together as parties for this complaint since the developers marketed and advertised the condominiums under the common name ‘TRUMP TOWERS’.**
- 22. Plaintiffs paid deposits to CHICAGO TITLE INSURANCE COMPANY in the amount set forth on the contracts attached as composite Exhibit A.**
- 23. Plaintiffs have retained the undersigned counsel and are obligated to pay them a reasonable fee for which Defendants developers are obligated pursuant to the statutory provisions referenced herein and the terms of the contracts.**

**24. All conditions precedent to maintain this action have been performed or have occurred.**

**COUNT I – VIOLATION OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT PURSUANT TO FLORIDA STATUTES §501.201, ET SEQ.**

**Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**25. The Defendants engaged in unfair and deceptive practices in violation of Florida Statutes §542.18 by prohibiting purchasers from advertising or marketing the units, including Internet advertising and placing the units on the Multiple Listing Service (MLS). They only allowed the units to be marketed by their own in-house Broker EXCLUSIVELY BARONOFF, LLC.**

**26. When the plaintiffs who signed contracts to purchase condominiums in Trump Tower I sought to resell their contracts (as the developer promised to do for them) they signed listing agreements at a stated sales price.**

**27. The Defendant developers and EXCLUSIVELY BARONOFF, LLC's (the "Conspirators") conspired to offer to the public Plaintiffs' the resale units at prices substantially inflated from the**

**amount in the listing agreements to support higher sales prices at “Trump” TOWER II and “Trump” Tower III.**

**28. By retaining unbridled discretion governing how, when, and at what prices TDR TOWER I CONDOMINIUM units could be advertised for sale, Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC conspired to restrict the sale of “Trump” TOWER I units and to artificially inflate the market value of the “Trump” Tower II and III units.**

**29. Further, Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD falsely advertised the development as TRUMP TOWERS in violation of Florida Statutes §718.506.**

**30. Defendant developers used the “Trump” name in marketing the development as “TRUMP TOWERS” to mislead the Plaintiffs into believing they were purchasing at a Condo named ‘Trump Towers’.**

**31. The Plaintiffs reasonably relied on the Defendant developers’ published materials that they were purchasing units in a “Trump” building when in fact the names of the buildings are TDR TOWER I CONDOMINIUM, TDR TOWER II CONDOMINIUM, and TDR TOWER III CONDOMINIUM.**

- 32. Nothing in the condominium documents gives the Condo Associations or unit owners a right to include “Trump” in the name of the buildings, and in fact the buildings are not legally named ‘TRUMP TOWERS’.**
- 33. The Associations do not have a license agreement to use the ‘Trump Towers’ name, nor is ‘Trump Towers’ a registered fictitious name in the State of Florida. See a copy of the email sent from the developers’ attorney, Betsy McCoy, to Plaintiffs’ attorney attached hereto as Exhibit B.**
- 34. Plaintiffs relied on advertisements that the developers would furnish all unit kitchens with Dellacasa luxury, high-end cabinetry, a feature which lured them to make their purchases, but instead were provided with cabinets made of inferior quality. See advertisement attached hereto as Exhibit C.**
- 35. Further, the Defendant developers advertised on their official website, [www.miamitrumptowers.com](http://www.miamitrumptowers.com), that beachfront cabanas are included as Condo amenities when in fact they were priced from \$250,000.00 and higher and thus were not amenities at all.**
- 36. The U.S. Department of Housing and Urban Development (HUD) condemns sales tactics utilized by the Defendant developers and**

**EXCLUSIVELY BARONOFF, LLC, specifically the concealment or misrepresentation of facts about current and resale value of the units and investment pitches that falsely inflate the ability to profit by “flipping” the units.**

**37. All Plaintiffs were told by the Conspirators that the Conspirators would resell the contracts for them prior to closing at a substantial profit.**

**38. These unfair and deceptive practices induced Plaintiffs to purchase units that they would otherwise not have purchased.**

**39. The Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC’s conduct including, but not limited to, falsely advertising the ‘Trump’ name in association with the Condos, falsely advertising Dellacasa cabinetry, and falsely advertising beachfront cabanas as amenities, is unfair and deceptive under FDUTPA and is therefore in violation of said act giving rise to a civil cause of action under which Plaintiffs are entitled to relief.**

**40. As a direct and proximate result of Defendants’ unfair and deceptive acts, Plaintiffs have been damaged.**

**41. Plaintiffs are each an “interested party or person” as defined by Florida Statutes §501.203(6) of the Florida Deceptive and Unfair**

**Trade Practices Act (“FDUTPA”) and are entitled to the protection and remedies afforded under the statute.**

**42. Florida Statutes §501.203(3)(c) affords Plaintiffs the right to bring a claim under FDUTPA based on “any law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices”.**

**43. Plaintiffs bring a claim under FDUTPA based on the Defendants’ violations of Florida Statutes §542.18 – ‘Restraint of trade or commerce’, and Florida Statutes §718.506 – ‘Publication of false and misleading information’.**

**WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:**

- a. Declaration that Plaintiffs’ contracts are rescinded and an order refunding Plaintiffs the deposits from the Defendant developers and CHICAGO TITLE INSURANCE COMPANY, or for an award of damages in the amount of the deposits;**
- b. Prejudgment interest at the legal rate;**
- c. An award to Plaintiffs for costs and attorney’s fees pursuant to the contract and Florida Statutes §501.2105(1);**

**d. Judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs' funds they are holding in escrow plus all interest accrued on such sums.**

**COUNT II - DEFENDANT DEVELOPERS AND EXCLUSIVELY BARONOFF, LLC RESTRAINED TRADE OR COMMERCE IN VIOLATION OF FLORIDA STATUTES §542.18**

**Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**44. Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC implemented a Resale Program for the sale of TDR TOWER I CONDOMINIUM units in which purchasers could re-list their units for sale solely through EXCLUSIVELY BARONOFF, LLC.**

**45. Defendant TRG SUNNY ISLES V, LTD. provided purchasers of TDR TOWER I CONDOMINIUM units with a letter instructing the purchasers that they were strictly prohibited from listing units on any Multiple Listing Service (MLS). See a copy an example - letter sent to Plaintiff FETTERMAN attached hereto as Exhibit D.<sup>1</sup>**

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<sup>1</sup> Defendant developers provided the same form letter to each Plaintiff who purchased at TDR TOWER I CONDOMINIUM, and therefore only Plaintiff FETTERMAN's letter need be attached to the Complaint.

- 46. Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC further prohibited the purchasers from advertising or marketing the units, including Internet advertising, and that such advertising would constitute a breach of the contract unless the purchasers first obtained the developers written consent.**
- 47. By retaining unbridled discretion governing how, when, and at what prices TDR TOWER I CONDOMINIUM units could be advertised for sale, Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC conspired to restrict the sale of TDR TOWER I CONDOMINIUM units.**
- 48. Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC therefore violated Florida Statutes §542.18, which expressly declares any contract or conspiracy in restraint of trade unlawful.**
- 49. Plaintiffs who participated in the Resale Program suffered damages since they were restricted from advertising their units on the Multiple Listing Service (MLS), Internet, or otherwise without the consent of Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC, and therefore had reduced exposure to potential purchasers of their units.**

**50. There is bona fide, actual, present practical need for declaratory relief by this Court with respect to the dispute between the parties as to whether Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC unlawfully restrained trade in violation of Florida Statutes §542.18, and whether Plaintiffs have the right to damages as a result of such violation.**

**51. The plaintiffs who purchased an "Trump" Tower I who entered into the resale program were damaged because their units were never actually resold for prices they could have been resold for at the time. The conspirators did not manipulate the prices.**

**52. The plaintiffs who purchased in "Trump" Towers II and III were damaged because they ended up overpaying as a result of the market manipulation.**

**53. The relief sought by Plaintiffs concerns a present or ascertainable state of facts or present controversy as to the stated facts set out in this Court for declaratory relief.**

**54. The rights and privileges of Plaintiffs are dependent upon the facts or the law applicable to those facts.**

**55. The parties to this action have an actual, present, adverse and antagonistic interest in the subject matter at issue either in fact or law.**

**WHEREFORE, Plaintiffs respectfully request of this Honorable Court:**

- a. Award Plaintiffs damages against Defendant developers and EXCLUSIVELY BARONOFF, LLC for restraint of trade or commerce in violation of Florida Statutes §542.18 and that Plaintiffs are entitled to treble damages pursuant to Florida Statutes §542.22;**
- b. An award of costs;**
- c. An award of attorney's fees pursuant to the contract and Florida Statutes §542.22(1).**
- d. Judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs funds they are holding in escrow plus all interest accrued on such sums.**

**COUNT III - VIOLATION OF FLORIDA STATUTES §718.506 – PUBLICATION OF FALSE AND MISLEADING INFORMATION.**

**The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

- 56. Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD falsely advertised the development as ‘TRUMP TOWERS’.**
- 57. The name ‘Trump’ is the surname of Donald Trump, a world renowned real estate developer known for his luxurious lifestyle and eponymous high-end real estate developments. ‘Trump’ is trademarked and known world wide as representing luxury real estate.**
- 58. At the time the contracts were entered into between Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD and Plaintiffs, the condominium sales brochures, sales offices, stationary and press releases referred to and advertised the condominiums as ‘TRUMP TOWERS’.**
- 59. Defendant developers used the ‘Trump’ name in marketing the development as ‘TRUMP TOWERS’ to mislead the Plaintiffs into believing they were purchasing at a Condo named ‘Trump Towers’.**
- See the July – September 2005 edition of Florida Planned Communities magazine attached hereto as Exhibit E, which the Defendant developers provided to some of the Plaintiffs, stating “The name – Trump – would be enough to launch this multi-million dollar**

**trio of luxury high rises...” and “the elegant *Trump Towers* seems to have it all: the location, the amenities and *the name*”. (Emphasis added).**

**60. The Plaintiffs reasonably relied on Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD’s published materials that they were purchasing a unit in a ‘Trump’ building when in fact the names of the buildings are TDR TOWER I CONDOMINIUM, TDR TOWER II CONDOMINIUM, and TDR TOWER III CONDOMINIUM.**

**61. Nothing in the condominium documents gives the Condo Associations or unit owners a right to include ‘Trump’ as the name of the buildings, and in fact the buildings are not legally named ‘TRUMP TOWERS’ at all.**

**62. The Associations do not have a license agreement to use the Trump Towers name, nor is ‘Trump Towers’ a registered name belonging to the associations.**

**63. Plaintiffs relied on advertisements that the developers would furnish all unit kitchens with Dellacasa luxury, high-end cabinetry, a feature which lured them to make their purchases, but instead were provided with cabinets made of inferior quality.**

- 64. Further, the Defendant developers advertised on their official website, [www.miamitrumptowers.com](http://www.miamitrumptowers.com), that beachfront cabanas were to be included as Condo amenities when in fact they were priced from \$250,000.00 and higher.**
- 65. Plaintiffs relied on the Defendant developers' misleading advertisements that beachfront cabanas were included as Condo amenities when they decided to purchase their units.**
- 66. Defendant developers advertised on their official website, [www.miamitrumptowers.com](http://www.miamitrumptowers.com), that "private elevator foyers" were included as resident features when in fact each unit does not include its own private elevator.**
- 67. Plaintiffs relied on the Defendant developers' misleading advertisements that the residences would have private elevator foyers when they decided to purchase their units.**
- 68. This false advertising induced the Plaintiffs to sign their respective contracts and pay premium prices.**
- 69. As a result of these misleading publications by Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD, the Plaintiffs have a cause of action to rescind the contracts or collect damages from Defendants TRG**

**SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD for their loss prior to the closing of the transactions, pursuant to Florida Statutes §718.506(1).**

**WHEREFORE, the Plaintiffs demand judgment against the Defendants as follows:**

- a. Judgment for damages in the amount of the deposits and an order refunding the deposits from TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD;**
- b. Prejudgment interest from the date of the breach at the statutory rate of interest;**
- c. An award to Plaintiffs for costs and attorney's fees pursuant to the contracts and §718.506(2);**
- d. Judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs' funds they are holding in escrow plus all interest accrued on such sums.**

**COUNT IV - BREACH OF CONTRACT – RESCISSION FOR MATERIAL AND ADVERSE CHANGES**

**The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**70. The agreements state:**

**THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 15 DAYS AFTER THE DATE OF RECEIPT FROM THE DEVELOPER OF ANY AMENDMENT WHICH MATERIALLY ALTERS OR MODIFIES THE OFFERING IN A MANNER THAT IS ADVERSE TO THE BUYER. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT.**

**(“15 Day Rescission Period”).**

**71. TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD implemented amendments that materially altered or modified the original offering to Plaintiffs in a manner which is both material and adverse to Plaintiffs.**

**72. The amendments include changes to the condominium common areas that replace the large resort style pool area intended to be shared by the three buildings with small individual pools and deck areas more reminiscent of traditional condominiums than a visionary resort condominium. To illustrate the point, the original common areas to be shared by the entire development were:**

- 1. Heated Pool, 3,987 ft.<sup>2</sup>, 80 persons capacity**
- 2. Pool Deck, 15,548 ft.<sup>2</sup>, 518 persons capacity**

**3. Exercise Room, 2,690 ft.<sup>2</sup>, 53 persons capacity**

**The common areas for TDR TOWER I Condominium as amended are:**

- 1. Heated Pool, 1,730 ft.<sup>2</sup>, 40 persons capacity**
- 2. Pool Deck, 7,164 ft.<sup>2</sup>, 238 persons capacity**

**73. Similarly, the common areas for TDR TOWER II Condominium as amended were decreased as follows:**

- 1. Heated Pool, 1,730 ft.<sup>2</sup>, 40 persons capacity**
- 2. Pool Deck, 6,800 ft.<sup>2</sup>, 226 persons capacity**

**74. Further, the common areas for TDR TOWER III Condominium as amended were decreased as follows:**

- 1. Heated Pool, 1,730 ft.<sup>2</sup>, 40 persons capacity**
- 2. Pool Deck, 5,500 ft.<sup>2</sup>, 183 persons capacity**

**75. In addition to substantially decreasing the pool deck square footage, Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD revised the pool deck so that access between the three condominiums through the pool deck is precluded.**

**76. Instead, residents are now required to walk through the parking garage to access the different buildings from the pool area, a material and adverse change.**

- 77. TDR TOWER I type C units were constructed only 2,084 sq. ft. instead of 2,145 sq. ft., an approximate decrease of 3% total square footage, and a material and adverse change. See the revised floor plan and letter attached hereto as Exhibit F.**
- 78. TDR TOWER III units now have a door opening to the middle of the master bedroom from the stairwell, a material and adverse change from the floor plan contained in the original Prospectus.**
- 79. The pool has been redesigned from an elliptical shape to a rectangular shape, a material and adverse change.**
- 80. TDR TOWER I was constructed such that air-borne sounds (talking, laughter, etc.) have a sound transmission class (STC) above 50 as tested under ASTM E 90 in violation of the South Florida Building Code §1207.2.**
- 81. Additionally, TDR TOWER I was constructed such that impact sounds (items dropped onto the floor, etc.) have an impact insulation class (IIC) above 50 when tested in accordance with ASTM E 492 in violation of the South Florida Building Code §1207.3.**
- 82. The installation of soundproofing material that violates the South Florida Building Code is a material and adverse change to the original offering.**

- 83. The developer built a restaurant in TDR TOWER II which occupies space that was otherwise reserved for resident use, a material and adverse change to the original Prospectus.**
- 84. TRG SUNNY ISLES VII, LTD. changed the legal description in the original Prospectus of TDR TOWER III CONDOMINIUM from a portion of Lots 83, 84, and 85 of Tatum's Ocean Beach Park to Lots 80, 81, and 82 of Tatum's Ocean Beach Park, a material and adverse.**
- 85. In December 2007, the Defendant TRG SUNNY ISLES V, LTD. sent notice to purchasers of TDR TOWER I of changes to the condominium documents.**
- 86. In response to the notice of changes, Plaintiffs VLADIMIR ABOLSKY, LANA BELENKY AND DMITRI LERNER, LEV AND GALINA BERLIN, ANDREI BOUBNOV, GARY ELFONT, GREGORY FELDMAN, P.A., ROBERT FETTERMAN, RICARDO FLORES, GREGORY FRANK, TDR TOWER 3509, INC., GREGORY GERASIMOV, YURY & ALLA KOTLYAR, ALEXANDER MALYLKIN, DIANA MALYLKIN, SARA MARKOWICZ, SAMIR & SOHEIR MIKHAIL, TAURUS FINANCIAL GROUP C/O DAVID A. ROZINOV, LEON TAYLOR AND GALINA YUSUPOV, TRUMP 502, LLC, and TRUMP**

**TOWER I 607 CORP. (the “applicable Plaintiffs”) provided timely demand to the developer for the return of the deposits pursuant to the 15 Day Rescission Period. See composite Exhibit G attached hereto.<sup>2</sup>**

**87. Defendant TRG SUNNY ISLES V, LTD refused to comply with its contractual obligation upon receipt of the notice pursuant to the 15 Day Rescission Period.**

**88. This is in violation of the contract and Florida Statutes §718.503.**

**89. Defendant TRG SUNNY ISLES V, LTD refuses to honor the cancellation of the agreements and to refund the applicable Plaintiffs the deposits.**

**90. In August 2006, the Defendant TRG SUNNY ISLES VI, LTD. sent notice to purchasers of TDR TOWER II of changes to the condominium documents.**

**91. In response, Plaintiffs GARY ELFONT, ILYA AND INESSA ERLIKH, and TDR TOWER II 320, LLC provided timely demand to the developer for the return of the deposits pursuant to the 15 Day Rescission Period. See composite Exhibit H attached hereto.**

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<sup>2</sup> Copies of the rescission letters timely sent by Plaintiffs BELENKY AND LERNER, ELFONT, and FLORES are not attached to this Complaint, but will be obtained via discovery.

**92. Defendant TRG SUNNY ISLES VI, LTD refused to comply with its contractual obligation upon receipt of the notice pursuant to the 15 Day Rescission Period.**

**93. This is in violation of the contract and Florida Statutes §718.503.**

**94. Defendant TRG SUNNY ISLES VI, LTD refuses to honor the cancellation of the agreements and to refund GARY ELFONT, ILYA AND INESSA ERLIKH, and TDR TOWER II 320, LLC the deposits.**

**95. In August 2006, the Defendant TRG SUNNY ISLES VII, LTD. sent notice of changes to the condominium documents.<sup>3</sup>**

**96. In response, Plaintiffs 2001 TRUMP TOWER III, LLC, 2601 TRUMP TOWER III, LLC, 2801 TT-III, LLC, 2901 TRUMP TOWER III, LLC, ALEXANDER AND BELA BORTNOVSKY, GARY ELFONT, ROBERT FETTERMAN, EZRA HUSNEY, NIKOLAY AND DINA KOMIN, IGOR MALLER, LILIA MALLER, and MICHAEL AND GALINA SHUB (the “applicable Plaintiffs”) provided timely demand to the developer for the return**

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<sup>3</sup> Plaintiffs BONFANTE, ROGERS, ZABALA, CASTROMAN, and MEJIA were not provided with notice from the developer of changes made to the original prospectus.

of the deposit pursuant to the 15 Day Rescission Period. See composite Exhibit I attached hereto.<sup>4</sup>

**97. Defendant TRG SUNNY ISLES VII, LTD. refused to comply with its contractual obligation upon receipt of the notice pursuant to the 15 Day Rescission Period.**

**98. This is in violation of the contract and Florida Statutes §718.503.**

**99. Defendant TRG SUNNY ISLES VII, LTD. refuses to honor the cancellation of the agreements and to refund the applicable Plaintiffs the deposits.**

**100. The following Plaintiffs did not receive notice of the changes and opportunity to rescind the contracts: ANNA AND ELLA DORFMAN, GREGORY FRANK, ALEX KLEIN, ALEX LEBEL, TDR Tower II 320, LLC, BERAJA VEHASLAJA, LLC, and EDWARD AND PETER WEISS.**

**101. Upon information and belief, there were other changes which were material and adverse to the Plaintiffs of which Defendant TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD did not give the Plaintiffs notice, including,**

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<sup>4</sup> A copy of the rescission letter timely sent by Plaintiff ELFONT is not attached to this Complaint, but will be obtained via discovery.

but not limited to, substantial decreases in the square footage of the units and balconies.

102. Plaintiffs include as additional grounds in this count any such material and adverse changes discovered during the discovery process in this case.

103. TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD refused to comply with its contractual obligation upon receipt of the notice pursuant to the 15 Day Rescission Period.

104. This is in violation of the contract and Florida Statutes §718.503.

105. TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD refuses to rescind the agreements and to refund the Plaintiffs the deposits.

106. As a result, the Plaintiffs have been damaged.

WHEREFORE, Plaintiffs demand judgment against Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD for rescission damages, attorneys' fees, prejudgment interest at the legal rate, costs, judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs' funds they are holding in escrow plus all

interest accrued on such sums, and for all other relief this Court deems just and demands trial by jury on all issues are triable.

**COUNT V – VIOLATION OF 15 U.S.C. § 1703 (a)(1)(D) –  
ADVERTISING MATERIAL INCONSISTENT WITH PROPERTY  
REPORT**

The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:

107. 15 U.S.C. §1703(a)(1)(D) states that it is unlawful “to display or deliver to prospective purchasers . . . advertising and promotional material which is inconsistent with information required to be disclosed in the property report”.

108. 24 C.F.R. § 1710.105 requires that the name of the condominium be disclosed in the property report.

109. Defendant developers delivered to the Plaintiffs advertising and promotional materials which stated that the name of the condominium development is ‘TRUMP TOWERS’. The advertising and promotional materials are therefore inconsistent with the property reports that name the property TDR TOWER I, TDR TOWER II, and TDR TOWER III.

**110. The Defendant developers' delivery of advertising and promotional materials inconsistent with the property reports violates 15 U.S.C. §1703(a)(1)(D).**

**111. The Plaintiffs have been damaged as a result of the Defendant developers' violation and require the return of their deposits.**

**WHEREFORE, the Plaintiffs demand judgment against the Defendants as follows:**

- a. Damages against defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD of the violation of 15 U.S.C. §1703(a)(1)(D) and the Plaintiffs are entitled to their deposits pursuant to 15 U.S.C. § 1709(a);**
- b. Prejudgment interest from the date of the violation at the statutory rate of interest;**
- c. An award to the Plaintiffs for costs and attorneys' fees pursuant to the contracts and/or 15 U.S.C. §1709(C);**
- d. Judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs' funds they are holding in escrow plus all interest accrued on such sums.**

**COUNT VI – VIOLATION OF 15 U.S.C. § 1703(a)(2)(A)-(C) – FRAUD**

The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:

112. The Defendant developers fraudulently advertised the development as ‘TRUMP TOWERS’.
113. The Defendant developers employed a scheme to defraud, obtained money by means of untrue and misleading statements or omissions of material fact, and engaged in transactions, practices, and a course of business which operated as a fraud and deceit upon the Plaintiffs.
114. Defendant developers marketed the development under the name ‘TRUMP TOWERS’ with the intent to charge a premium for the units. See the study cited by the International Herald Tribune by the Corcoran Group (a sales agent for Trump) which found that “condominiums flying the Trump name sold at a 36 percent premium over comparable properties in 2005” attached hereto as Exhibit N.
115. Defendant developers obtained money from the Plaintiffs by misleading the Plaintiffs with marketing materials into believing that

they were purchasing units at a development named 'TRUMP TOWERS'.

116. These misleading statements were made in order to charge premium pricing, but the Defendant developers failed to disclose that the 'Trump' name was only obtained for marketing purposes and that the Condo Associations would not own any interest in or right to use 'Trump' in the building name.

117. The marketing of the development as 'TRUMP TOWERS' operated as a fraud and deceit on the Plaintiffs who believed they were purchasing units in a building with rights to use the name 'Trump'.

118. The Plaintiffs have been damaged as a result of the Defendant developers' scheme to defraud, omission of material facts, and practices which operate as a fraud or deceit upon the purchasers.

119. The Defendant developers' actions violate 15 U.S.C. §1703(a)(2)(A)-(C) and entitle the Plaintiffs to the return of their deposits pursuant to 15 U.S.C. §1709(a).

**WHEREFORE, the Plaintiffs demand judgment against the Defendants as follows:**

- a. **Declaration that Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD violated 15 U.S.C. §1703(a)(2)(A)-(C) and Plaintiffs are entitled to the return of their deposits pursuant to 15 U.S.C. §1709(a);**
- b. **Prejudgment interest from the date of the violation at the statutory rate of interest;**
- c. **An award to the Plaintiffs for costs and attorneys' fees pursuant to the contract and/or 15 U.S.C. §1709(C);**
- d. **Judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs' funds they are holding in escrow plus all interest accrued on such sums.**

**COUNT VII – COMMON LAW FRAUD IN THE INDUCEMENT**

**The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**120. The Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD falsely stated in marketing materials that the name of the development is TRUMP**

**TOWERS when in fact the names of the buildings are TDR TOWER I, TDR TOWER II, and TDR TOWER III.**

**121. Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD knew or should have known that the representation was false because the condominium documents use TDR TOWER I, TDR TOWER II, or TDR TOWER III as the name of the Associations and the Associations have no right to use ‘Trump Towers’ for the name of the buildings.**

**122. The Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., and TRG SUNNY ISLES VII, LTD intended that representing the development as ‘TRUMP TOWERS’ would induce Plaintiffs to believe they were paying a premium for a building with international name recognition.**

**123. Additionally, Defendant developers and Defendant EXCLUSIVELY BARONOFF, LLC fraudulently induced Plaintiffs to list their units in the Resale Program by misrepresenting the prices that the units would be listed for resale.**

**124. Instead of listing the units for resale at the quoted prices selected by Plaintiffs, Defendant developers and EXCLUSIVELY**

**BARONOFF, LLC conspired to inflate the unit prices to support sales of other units in the ‘TRUMP TOWERS’ development.**

**125. The Plaintiffs have suffered damages in the amount of their deposits in justifiable reliance on the representations.**

**WHEREFORE, Plaintiffs demand judgment against Defendants for the return of their deposits, prejudgment interest at the legal rate, court costs, attorneys’ fees pursuant to the contracts, judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs’ funds they are holding in escrow plus all interest accrued on such sums, and any other relief this Court deems just and equitable.**

**COUNT VIII - DEVELOPER FAILED TO PROVIDE A DISCLOSURE SUMMARY IN VIOLATION OF FLORIDA STATUTES §720.401(1)(a)**

**Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**126. Trump Developer (the “applicable Defendants”) established a Master Association which governs the three TDR TOWERS.**

**127. Florida Statutes §720.401(1)(a) specifically provides that “A prospective parcel owner in a community must be presented a disclosure summary before executing the contract for sale.”**

**128. The applicable Defendants did not present Plaintiffs with a disclosure summary before executing the contracts for sale.**

**129. Florida Statutes §720.401(1)(c) provides:**

**“If the disclosure summary is not provided to a prospective purchaser before the purchaser executes a contract for the sale of property governed by covenants that are subject to disclosure pursuant to this section, the purchaser may void the contract by delivering to the seller or the seller's agent or representative written notice canceling the contract within 3 days after receipt of the disclosure summary or prior to closing, whichever occurs first. This right may not be waived by the purchaser but terminates at closing.”**

**130. Plaintiffs have never been provided with a disclosure summary from the applicable Defendants and have not closed on the units.**

**131. Plaintiffs have demanded cancellation of the contract and the return of their deposits and the defendant developer refuses to comply.**

**WHEREFORE, Plaintiffs respectfully request of this Honorable Court:**

- a. Enter an award of damages against the applicable Defendants for their failure to provide Plaintiffs with a disclosure summary in violation of Florida Statutes §720.401(1)(a);**

- b. An award of costs;
- c. An award of attorneys' fees pursuant to the contracts.
- d. Judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs funds they are holding in escrow plus all interest accrued on such sums.

**COUNT IX - DECLARATORY JUDGMENT – THERE IS NO ENFORCEABLE CONTRACT**

The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:

132. The contracts contain provisions in paragraph 14 affording the developer broad discretion to make whatever changes to the unit and condo as the developer sees fit.

133. Paragraph 14 of the contract contains the following provisions:

The Unit and the Condominium will be constructed in substantial accordance (*in Seller's opinion*) with the plans and specifications therefor [sic] kept in Seller's construction office, as such plans and specifications are amended from time to time. Seller may make such changes in the plans and specifications that it deems appropriate at any time, to accommodate its in the field construction needs . . . and in response to recommendations or requirements of local, state, or federal governmental or quasi-governmental agencies or applicable utility and/or insurance providers . . . *Without limiting Seller's general right to make changes*, Buyer specifically agrees that the changes described above . . .

and changes in the dimensions or rooms, patios and balconies, in the location of windows, doors, walls, partitions, utility (including but not limited to, television and telephone) lead-ins and outlets, air conditioning equipment, ducts and components, lighting fixtures and electric panel boxes, and in the general layout of the Unit and Condominium, *may be made by Seller in its discretion* . . . Buyer acknowledges and agrees that it is widely observed construction industry practice for pre-construction plans and specifications for any unit or building to be changed and adjusted from time to time in order to accommodate on-going, “in the field” construction needs. These changes and adjustments are essential in order to permit all components of the Unit and the Building to be integrated into a well-functioning and aesthetically pleasing product in an expeditious manner. Because of the foregoing, Buyer acknowledges and agrees that it is to Buyer’s benefit to allow Seller the flexibility to make such changes in the Unit and the Condominium. Buyer further acknowledges and agrees that (i) the plans and specifications for the Unit and the Condominium on file with the applicable governmental authorities may not, initially, be identical in detail to Seller’s Plans and Specifications, and (ii) because of the day-to-day nature of the changes described in this Section 14, the plans and specifications on file with applicable governmental authorities may not include some or any of these changes (there being no legal requirement to file all changes with such authorities). As a result of the foregoing, Buyer and Seller both acknowledge and agree: *The Unit and the condominium may not be constructed in accordance with the plans and specifications on file with the applicable governmental authorities.* Without limiting the generality of Section 29, Seller disclaims and Buyer waives any and all express or implied warranties that construction will be accomplished in compliance with such plans and specifications. Seller has not given and Buyer has not relied on or bargained for any such warranties. In furtherance of the foregoing, in the event of any conflict

between the actual construction of the Unit and/or Building, and that which is set forth on the plans, Buyer agrees that the actual construction shall prevail and to accept the Unit and the Building as actually constructed (in lieu of what is set forth on the plans) . . . *This paragraph does not limit the generality of Seller's rights, set out elsewhere in this Agreement, to make other changes in the Unit, the Condominium and the Condominium Documents . . .* Lastly, buyer understands and agrees that there are various methods for calculating the square footage of a Unit . . . actual square footage of the Unit may also be affected. Accordingly, during the pre-closing inspection, buyer should, among other things, review the size and dimensions of the Unit. By closing, Buyer shall be deemed to have conclusively agreed to accept the size and dimensions of the Unit. Without limiting the generality of any other provision of this agreement, *Seller does not make any representation or warranty as to the actual size, dimensions or square footage of the Unit.* (Emphasis added).

134. The provisions of the contracts quoted in the above paragraphs give Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD such broad discretion to make changes in the condominium and units that for all intents and purposes, the contracts do not provide a sufficient description of what end product the Plaintiffs will be receiving to make the contracts enforceable.

135. A contract fails for indefiniteness where the promises and performance to be rendered by a party to the contract are not reasonably certain.

**136. The promises and performance to be rendered by Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD under the contracts are not reasonably certain as Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD reserved such broad discretion to make changes to the product being sold that it cannot be said that the contracts are reasonably certain as to the Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD's obligation to perform.**

**137. Because Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD have such a broad range of discretion to change what the Plaintiffs are getting under the contracts, the Plaintiffs do not know what Plaintiffs are ultimately getting under the contracts.**

**138. Therefore, there is no meeting of the minds sufficient for a binding contract to exist.**

**139. The product being sold is not definite enough to form the basis for a contract and the contracts therefore fail for indefiniteness.**

**140. The Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD's discretion to make changes to the product being sold is so broad as to make the Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD's obligations under the contract illusory.**

**141. To further emphasize the point, the Plaintiffs could not enforce the contracts by specific performance where the contracts are susceptible to such vast changes at the discretion of the developer.**

**142. There is no way for a Court to compel specific performance where it is up to the developer in its "opinion" and/or "discretion" how it will perform the contract.**

**143. Furthermore, as a result of the vast discretion of Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD to make changes to the end product that is being sold, it would also be impossible for the Plaintiffs to be able to sue to recover damages for a breach by Trump Developer If, for example, the developer fails to complete construction of the condominium, there would be no way for the Plaintiffs to ascertain**

**the amount of the damages because it would be impossible to predict what end product the Plaintiffs failed to receive.**

**144. The law is clear that where there is an insufficient description of the quantity and/or other material characteristics of the product being sold, the contract for the sale of that product is unenforceable as being insufficient as a matter of law.**

**145. Because the Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD's discretion to make changes to the condominiums is so broad, it would be unconscionable for Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD to have the right to enforce the contracts against the Plaintiffs.**

**146. There is bona fide, actual, present practical need for declaratory relief by this Court with respect to the dispute between the parties as to whether the contracts fail for indefiniteness.**

**147. The relief sought by the Plaintiffs concerns a present or ascertainable state of facts or present controversy as to the stated facts set out in this Court for declaratory relief.**

**148. The rights and privileges of the Plaintiffs are dependent upon the facts or the law applicable to those facts.**

149. The parties to this action have an actual, present, adverse and antagonistic interest in the subject matter at issue either in fact or law.

WHEREFORE, Plaintiffs seek a declaratory judgment that the contracts between Plaintiffs and Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD fail for: (1) indefiniteness, (2) lack of meeting of the minds, (3) illusory obligation, (4) lack of mutuality of obligation and remedy, and (5) unconscionability, and that as a result, the Plaintiffs are entitled to a return of the deposits.

**COUNT X - DECLARATORY JUDGMENT – THERE IS NO ENFORCEABLE CONTRACT – DISCRETION TO CHANGE CONDOMINIUM DOCUMENTS**

The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:

150. The contracts contain provisions in paragraph 27 affording the developer broad discretion to make whatever changes to the condo documents as the developer sees fit.

151. Paragraph 27 of the contracts allows that:

*Seller may make changes in the Condominium Documents in its sole discretion by providing Buyer with all such amendments that are made, provided that, as to these changes, Buyer will*

have fifteen (15) days from the date of receipt of such changes from Seller which materially alter or modify the offering of the condominium in a manner adverse to Buyer in which to cancel this agreement (by delivering written notice to seller of such cancellation) and receive a refund of any deposits with applicable interest earned, if any. Seller will be relieved of all obligations under this Agreement when Seller refunds the deposits and interest earned, if any. *Buyer will not be permitted to prevent seller for making any changes it wishes in its sole discretion, nor to pursue any remedy other than the 15-day cancellation remedy described above* (and then only for the kind of changes that materially alter or modify the offering and a manner that is adverse to Buyer). (Emphasis added).

**152. The provisions of the contracts quoted in the above paragraphs give Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD such broad discretion to make changes in the condominium documents, while at the same time limiting the purchasers' remedy to a return of the deposits, that for all intents and purposes the contracts are illusory for lack of mutuality of remedy and obligation.**

**153. Because Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD have such a broad range of discretion to change the documents, Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG**

**SUNNY ISLES VII, LTD have the ability to make changes for the purpose of relieving itself of its contractual obligations.**

**154. Should Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD make changes that are grossly adverse to the Plaintiffs for the purpose of relieving itself of its obligations under the contract, the Plaintiffs would have no choice but to terminate the contract and would not have a right to a remedy other than a return of its deposits.**

**155. Under Florida law, the return of one's deposit is not an adequate remedy and renders the developer's obligation illusory.**

**156. To further emphasize the point, the Plaintiffs could not enforce the contracts by specific performance or damages where its remedy is limited to a return of the deposits.**

**157. Because the Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD's discretion to make changes to the condominium documents is so broad, it would be unconscionable for Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD to have the right to enforce the contracts against the Plaintiffs.**

**158. There is a bona fide, actual, present practical need for declaratory relief by this Court with respect to the dispute between the parties as to whether the contracts fail for lack of mutuality.**

**159. The relief sought by the Plaintiffs concerns a present or ascertainable state of facts or present controversy as to the stated facts set out in this Court for declaratory relief.**

**160. The rights and privileges of the Plaintiffs are dependent upon the facts or the law applicable to those facts.**

**161. The parties to this action have an actual, present, adverse and antagonistic interest in the subject matter at issue either in fact or law.**

**WHEREFORE, Plaintiffs seek a declaratory judgment that the contracts between Plaintiffs and Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD fail for: (1) illusory obligation, (2) lack of mutuality of obligation and remedy, and (3) unconscionability, and that as a result, the Plaintiffs are entitled to a return of the deposits.**

**COUNT XI – ILLUSORY PURCHASE AGREEMENT VOIDABLE –  
WHERE AGREEMENT PROHIBITS PLAINTIFFS FROM  
SEEKING SPECIFIC PERFORMANCE**

The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:

162. Under Florida case law, contracts that waive the buyer’s right to specific performance are treated as lacking a realistic obligation to construct. A limitation of the remedy of specific performance renders the contract “illusory” because the seller would be permitted to breach virtually at will. *Samara Development Corp. v. Marlow*, 556 So. 2d 1097, 1099 (Fla. 1990).

163. Defendants’ Purchase Agreement states, in paragraph 13 “Default” the following, in pertinent part:

“Buyer will have such rights as may be available under applicable law *except that Buyer may not seek specific performance of Seller’s obligations*”

(Emphasis Added)

164. Defendants’ contracts do not permit Plaintiffs to seek specific performance.

165. As a result of preventing Plaintiffs from seeking specific performance as a remedy, the contracts lack a realistic obligation to

**construct under Florida law. Therefore, the purchase agreements, by State Law, are deemed illusory and not enforceable.**

**WHEREFORE, the Plaintiffs respectfully request that the Court: enter a judgment in favor of the Plaintiffs to deem the purchase agreement illusory and unenforceable for lack of mutuality of obligation and remedy, direct the developer and CHICAGO TITLE INSURANCE COMPANY to return the deposits, award actual and compensatory damages for an amount to be determined at trial, and award the Plaintiffs judgment interest at the legal rate, costs, and attorneys' fees pursuant to the contracts together with such other relief as the Court may deem just and equitable.**

**COUNT XII - BREACH OF CONTRACT—IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

**The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**166. The covenant of good faith and fair dealing was implied in Defendant TRG SUNNY ISLES V, LTD.'s Resale Program led by Defendant EXCLUSIVELY BARONOFF, LLC and the listing agreements between Plaintiffs who listed their units for resale (the "applicable Plaintiffs") and Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC.**

**167. The applicable Plaintiffs entered into contracts for EXCLUSIVELY BARONOFF, LLC to list their units for sale in Defendant TRG SUNNY ISLES V, LTD.’s Resale Program with the expectation that Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC would “deal honestly and fairly”, “using [sic] skill, care, and diligence in the transaction”, and “disclosing [sic] all known facts that materially affect the value of the Property”. See page 4 of Plaintiff FETTERMAN’s Listing Agreement attached hereto as Exhibit J.<sup>5</sup>**

**168. Defendant developers and EXCLUSIVELY BARONOFF, LLC’s Resale Program advertised that the Property shall be listed at a purchase price specified by the Plaintiffs, “or such greater price as may be determined by Broker, *in its sole discretion*”. (Emphasis added) See page 2 of Exhibit J.**

**169. The applicable Plaintiffs had a reasonable expectation that Defendant developers and EXCLUSIVELY BARONOFF, LLC would not undermine its Resale Program by habitually listing**

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<sup>5</sup> Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC provided the same Listing Agreement form contract to each Plaintiff in the Resale Program, and therefore only Plaintiff FETTERMAN’s Listing Agreement need be attached to the Complaint to illustrate the language found on page 4 of the agreement.

**Plaintiffs' units at substantially higher prices than what applicable Plaintiffs specified on their respective Listing Agreements.**

**170. Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC breached the contract's implied covenant of good faith and fair dealing by habitually listing the applicable Plaintiffs' units at substantially higher prices than what the applicable Plaintiffs specified on their respective Listing Agreements.**

**171. In essence, Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC blatantly disregarded the price selections which applicable Plaintiffs chose and instead unilaterally selected higher prices in a concerted effort to support higher sales prices at TDR TOWER II CONDOMINIUM and TDR TOWER III CONDOMINIUM.**

**172. As a result, the applicable Plaintiffs sustained damages and lost the chance to sell its units since the units were listed at prices well in excess of both the market and units at TDR TOWER II CONDOMINIUM and TDR TOWER III CONDOMINIUM.**

**WHEREFORE, the applicable Plaintiffs pray for judgment against Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC in an amount sufficient to compensate the applicable**

**Plaintiffs for the damages caused by Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC's breach of the implied covenant of good faith and fair dealing, judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the applicable Plaintiffs' funds they are holding in escrow plus all interest accrued on such sums, and all other relief that this Court may deem just and proper.**

**COUNT XIII - BREACH OF FIDUCIARY DUTY**

**The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**173. Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC convinced Plaintiffs to purchase the units based on Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC's ability to resell Plaintiffs' units at a profit through the Resale Program.**

**174. Since Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC limited the Plaintiffs from using other methods such as other brokers listing the units in the Multiple Listing Service or using any other marketing techniques to resell the units, Defendants TRG SUNNY ISLES V, LTD. and**

**EXCLUSIVELY BARONOFF, LLC undertook a fiduciary duty to Plaintiffs to act in Plaintiffs' best interest to resell the units.**

**175. Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC placed themselves in a special position of confidence with the Plaintiffs.**

**176. Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC breached the fiduciary duty owed to Plaintiffs by, upon information and belief, listing Plaintiffs' units at prices substantially inflated than what Plaintiffs desired or that the market would bear in order to artificially inflate sales prices at TDR TOWER II CONDOMINIUM and TDR TOWER III CONDOMINIUM.**

**177. Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC breached their fiduciary duty owed to Plaintiffs intentionally inflating the asking price beyond what the market would bear in order to sell their other units instead of the plaintiffs', and thus undermining, Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC's Resale Program.**

**178. Plaintiffs suffered damages proximately caused by Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF,**

**LLC's breach of their fiduciary duty owed to Plaintiffs.**

**WHEREFORE, the Plaintiffs pray for judgment against Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC in an amount sufficient to compensate the Plaintiffs for the damages caused by Defendants TRG SUNNY ISLES V, LTD. and EXCLUSIVELY BARONOFF, LLC's breach of fiduciary duty, costs, interest at the legal rate, judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs' funds they are holding in escrow plus all interest accrued on such sums, and all other relief that this Court may deem just and proper.**

**COUNT XIV - DECLARATORY JUDGMENT THAT THE CONTRACTS ARE ILLEGAL**

**The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**179. There is bona fide, actual, present, practical need for declaratory relief by this Court with respect to the dispute between the parties as to whether the Contract is void or voidable for being illegal for failing to include the notice required pursuant to Florida Statutes §489.1425 and whether the Plaintiffs have the right to the return of their deposits as a result of the contracts being void and/or voidable for illegality.**

**180. The relief sought by the Plaintiffs concerns a present or ascertainable state of facts or present controversy as to the stated facts set out in this Count for declaratory relief.**

**181. The rights and privileges of the Plaintiffs are dependent upon the facts or the law applicable to those facts.**

**182. The parties to this action have an actual, present, adverse and antagonistic interest in the subject matter at issue either in fact or law.**

**WHEREFORE, the Plaintiffs respectfully requests from this Honorable Court:**

**a. Declaration that the contracts are void or voidable for failure to comply with the referenced law and the Plaintiffs are entitled to a refund of the deposits from Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD and their escrow agent, CHICAGO TITLE INSURANCE COMPANY.**

**b. Prejudgment interest from the date of the breach at the legal rate;**

**c. An award of costs;**

**d. An award of attorneys' fees pursuant to the contracts.**

**COUNT XV - MONEY HAD AND RECEIVED**

**The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**183. Defendants received the deposits from Plaintiffs which in equity and good conscience should be returned to Plaintiffs together with prejudgment interest at the legal rate.**

**184. It would be inequitable to permit Defendants to keep the money and not to return it in the event this Court concludes that the contracts were void and/or voidable and Plaintiffs has elected to void the contracts.**

**WHEREFORE, Plaintiffs demand judgment against Defendants for the deposits, prejudgment interest at the legal rate, and court costs.**

**COUNT XVI - BILL OF DISCOVERY - IMPROPER USE OF ESCROW DEPOSIT**

**The Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

**185. The contracts between the Plaintiffs and Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD provide that Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY**

**ISLES VII, LTD may utilize the amount of the deposits paid in excess of 10% of the purchase price for construction purposes.**

**186. Florida Statutes §718.202 provides that if the developer uses any of the deposit money for purposes other than construction purposes such as salaries, commissions of sales personnel, or advertising, that Plaintiffs are entitled to the return of the deposits.**

**187. Pursuant to Florida Statutes §718.202, Plaintiffs have the right to the return of the deposits plus interest in the event that Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD used any of the deposit money for non-construction uses.**

**188. The only way for the Plaintiffs to determine if the deposit money was used for a purpose other than construction or was commingled in an account used to pay for anything other than construction is to conduct discovery.**

**189. Plaintiffs have a good faith belief that Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD may have commingled the deposit money into accounts used for both construction and payment of non-**

construction expenses such as salaries, commissions, advertising or other non-construction uses.

WHEREFORE, Plaintiffs include this count in order to pursue their discovery rights and reserve the right to seek court approved amendment of the complaint should the discovery reveal, as expected, that the escrow deposits were improperly used in violation of the Florida Statutes.

**COUNT XVII – DECLARATORY JUDGMENT – VIOLATION OF THE MARTIN ACT § 352 – DEVELOPER SOLD REAL ESTATE TO NEW YORK RESIDENTS PRIOR TO FILING THE OFFERING STATEMENT OR PROSPECTUS WITH THE DEPARTMENT OF LAW AT ITS OFFICE IN THE CITY OF NEW YORK – As to Plaintiffs 2001 TRUMP III, LLC, LEV AND GALINA BERLIN, BLAUSTEIN REALTY, ALEXANDER AND BELA BORTNOVSKY, ELFONT, ILYA AND INESSA ERLIKH, KLEIN, YURY AND ALLA KOTLYAR, LEBEL, BORIS AND ROMAN SHABASKEVICH, TAURUS FINANCIAL GROUP C/O DAVID A. ROZINOV, and EDWARD AND PETER WEISS (“applicable Plaintiffs”).**

Applicable Plaintiffs re-allege paragraphs 1 through 24 herein.

190. At the time the contracts were entered into between the developer and applicable Plaintiffs, applicable Plaintiffs were residents of the state of New York, and therefore the condominium sale is subject to the provisions and requirements of the Martin Act, N.Y. General Business Law §§352-353.

**191. The condominium sales to applicable Plaintiffs involve a sale of interest or investment in real estate. Therefore, the condominium sales are subject to the Martin Act, N.Y. General Business Law §352-e.**

**192. The sale of condominiums in New York without registering under the Martin Act is a criminal violation of New York law.**

**193. Defendant developers not only sold condominiums to New York residents without registering under the Martin Act, but specifically targeted New York residents by providing some purchasers with articles from the June 2005 edition of Avenue, a New York-based magazine that primarily caters to New York residents, in which the Defendant developers promoted sales of the Condos. See Exhibit K attached hereto.**

**194. Gil Dezer, one of the developers of the Condos, even stated in the June 2005 edition of Avenue magazine that “Trump Towers appeals to sophisticated New Yorkers”, clearly evidencing the fact that the Defendant developers targeted New York sales of the Condos. See Exhibit K.**

**195. The developer did not first file with the department of law, prior to offering applicable Plaintiffs with a prospectus or contract for purchase, a violation of §352-e(1)(a) of the Martin Act.**

**196. The contract is thus illegal and this Court should thus declare it illegal and unenforceable as against public policy and enter judgment for applicable Plaintiffs for restitution of the deposit plus interest at the legal rate.**

**197. It is against public policy of the state of Florida to enforce any illegal contract. Since the New York contract is illegal, the Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD would be unjustly enriched if it were permitted to retain the New York Plaintiffs' deposits.**

**WHEREFORE, the applicable Plaintiffs demand judgment against Defendants, TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD as follows:**

- a. Declaration that the applicable Plaintiffs' contracts are illegal and applicable Plaintiffs are entitled to a refund of the deposits from TRG SUNNY ISLES V, LTD., TRG**

**SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII,  
LTD;**

- b. Prejudgment interest from the date of the breach at the statutory rate of interest;**
- c. An award to applicable Plaintiffs for costs.**
- d. Judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs' funds they are holding in escrow plus all interest accrued on such sums.**

**COUNT XVIII - DECLARATORY JUDGMENT THAT THE REAL ESTATE CONTRACT IS ILLEGAL FOR VIOLATING CALIFORNIA BUSINESS CODE §10249 – As to Plaintiffs ENTRUST ADMINISTRATION CUSTODIAN FBO ANDRE DELOJE ROTH IRA 00812R, ALEXANDER MALYLKIN, DIANA MALYLKIN, SIDOROVICH, and LEON TAYLOR AND GALINA YUSUPOV (“applicable Plaintiffs”).**

**Applicable Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:**

- 198. The Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD's contracts with applicable Plaintiffs failed to provide the notice required pursuant to California Business and Professions Code Section 10249.**

**The contracts therefore violate the referenced statutory provision and are therefore void and/or voidable as against public policy.**

**199. There is bona fide, actual, present practical need for declaratory relief by this Court with respect to the dispute between the parties as to whether the subject contract is void or voidable for being illegal as to applicable Plaintiffs for failing to include the notice required pursuant to California Business and Professions Code Section 10249 and whether applicable Plaintiffs have the right to the return of the deposits as a result of the contract being void and/or voidable for illegality.**

**200. The relief sought by applicable Plaintiffs concerns a present or ascertainable state of facts or present controversy as to the stated facts set out in this Count for declaratory relief.**

**201. The rights and privileges of applicable Plaintiffs are dependent upon the facts or the law applicable to those facts.**

**202. The parties to this action have an actual, present, adverse and antagonistic interest in the subject matter at issue either in fact or law.**

**WHEREFORE, applicable Plaintiffs respectfully request of this Honorable Court:**

- a. Declaration that the contracts are void or voidable for failure to comply with the referenced law and that applicable Plaintiffs are entitled to a refund of the deposits from Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD and the escrow agent CHICAGO TITLE INSURANCE COMPANY;
- b. Prejudgment interest from the date of the breach at the statutory rate of interest;
- c. An award of costs;
- d. An award of attorneys' fees pursuant to the contracts.

**COUNT XIX – VIOLATION OF THE FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT PURSUANT TO FLORIDA STATUTES §501.201, ET SEQ. – As to Plaintiffs 2001 TRUMP III, LLC, LEV AND GALINA BERLIN, BLAUSTEIN REALTY, ALEXANDER AND BELA BORTNOVSKY, ELFONT, ENTRUST ADMINISTRATION CUSTODIAN FBO ANDRE DELOJE ROTH IRA 00812R, ILYA AND INESSA ERLIKH, KLEIN, YURY AND ALLA KOTLYAR, LEBEL, ALEXANDER MALYLKIN, DIANA MALYLKIN, BORIS AND ROMAN SHABASHKEVICH, SIDOROVICH, TAURUS FINANCIAL GROUP C/O DAVID A. ROZINOV, LEON TAYLOR AND GALINA YUSUPOV, and EDWARD AND PETER WEISS (“applicable Plaintiffs”).**

Applicable Plaintiffs re-allege paragraphs 1 through 24 herein.

203. Applicable Plaintiffs are each an “interested party or person” as defined by Florida Statutes §501.203(6) of the Florida Deceptive and

**Unfair Trade Practices Act (“FDUTPA”) and are entitled to the protection and remedies afforded under the statute.**

**204. Florida Statutes §501.203(3)(c) affords applicable Plaintiffs the right to bring a claim under FDUTPA based on “any law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices”.**

**205. Applicable Plaintiffs bring a claim under FDUTPA based on Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD’s violations of Article 23-A of the New York State General Business Law (the “Martin Act”) and §352-e of New York General Business Law.**

**206. §352-e of the Martin Act is part of Article 23-A of the New York State General Business Law which is titled “Fraudulent Practices in Respect to Stocks, Bonds and Other Securities”.**

**207. Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD engaged in unfair and deceptive practices in violation of §352-e of the Martin Act by advertising condominium units to purchasers in New York without**

**first registering with the Office of the Attorney General of the State of New York.**

**208. Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD engaged in unfair and deceptive practices in violation of the California Business and Professions Code Section 10249 by advertising condominium units to purchasers in California without including the mandatory disclaimer pursuant to Section 10249.8(a).**

**209. The Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD's conduct including, but not limited to, advertising the Condos in New York without previously registering with the State of New York and transmitting Condo printed materials, literature, and advertising in California without including the mandatory disclaimer under California law is unfair and deceptive under FDUTPA and is therefore in violation of said act giving rise to a civil cause of action under which applicable Plaintiffs are entitled to relief.**

**210. As a direct and proximate result of Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY**

**ISLES VII, LTD's unfair and deceptive acts, applicable Plaintiffs have been damaged.**

**WHEREFORE, applicable Plaintiffs demand judgment against Defendants TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD as follows:**

- a. Declaration that the applicable Plaintiffs' contracts are rescinded and an order refunding the applicable Plaintiffs the deposits from TRG SUNNY ISLES V, LTD., TRG SUNNY ISLES VI, LTD., AND TRG SUNNY ISLES VII, LTD and CHICAGO TITLE INSURANCE COMPANY or for an award of damages in the amount of the deposits;**
- b. Prejudgment interest;**
- c. An award to applicable Plaintiffs for costs and attorneys' fees pursuant to the contracts and Florida Statutes §501.2105(1);**
- d. Judgment against the escrow agent CHICAGO TITLE INSURANCE COMPANY to the extent of the Plaintiffs funds they are holding in escrow plus all interest accrued on such sums.**

**COUNT XX - VIOLATION OF THE FEDERAL INTERSTATE LAND SALES ACT – 15 USC 1703(D)(1) – CONTRACT FAILS TO INCLUDE A LEGAL DESCRIPTION IN RECORDABLE FORM – As to Plaintiffs GARY ELFONT, ILYA AND INESSA ERLIKH, TDR TOWER II 320, LLC, 2001 TRUMP TOWER III, LLC, 2601 TRUMP TOWER III, LLC, 2801 TT-III, LLC, 2901 TRUMP TOWER III, LLC, ALEXANDER AND BELA BORTNOVSKY, ROBERT FETTERMAN, EZRA HUSNEY, NIKOLAY AND DINA KOMIN, IGOR MALLER, LILIA MALLER, and MICHAEL AND GALINA SHUB (the “applicable Plaintiffs”)**

The applicable Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:

211. Sales of the Condo units are being marketed, promoted and sold through means or instruments or communication in interstate commerce, or interstate through the mail, therefore Condo sales are subject to the provisions and requirements of 15 U.S.C. §1701 *et. seq.*
212. The Defendant developers are not exempt from the requirements and provisions of the Interstate Land Sales Act.
213. The Contract fails to comply with 15 U.S.C. 1703(d)(1) as the Contract does not contain a legal description of the condominium unit being sold in a form acceptable for recording under Florida law.
214. The form acceptable for recording under Florida law for a condominium is the description of the unit number of the condominium according to the declarations, together with the recording data identifying the declaration and also including the

**undivided share in the common elements of appurtenant thereto.**

**Florida Statutes § 718.109.**

**215. The recording data identifying the declaration is the book number and page number assigned by the County recorder when the Declarations are recorded.**

**216. Under Florida law, a Condominium does not come into existence until the declarations are recorded. Florida Statutes § 718.104(2).**

**217. The Contract between the Defendant developers and the applicable Plaintiffs does not contain recording data identifying the declaration.**

**218. As a result of the Contract not containing recording data identifying the declaration, the Contract does not include a legal description of the property in recordable form as required by 15 U.S.C. § 1703(d)(1).**

**219. 15 U.S.C. §1703(d)(1) provides that if a contract does not contain a legal description in recordable form, the purchaser may revoke the contract within 2 years of the date the contract is signed and becomes a binding legal obligation.**

**220. The applicable Plaintiffs timely revoked the Contract by letter within two years of the binding date of the Contract. See letters attached as composite Exhibit L.**

**221. The applicable Plaintiffs are entitled to attorneys' fees and costs pursuant to the Contract between the parties and/or 15 U.S.C. §1709(c).**

**222. The applicable Plaintiffs are entitled to return of the deposits, interest at the legal rate, court costs and reasonable attorneys' fees pursuant to 15 U.S.C. §1709.**

**WHEREFORE, the applicable Plaintiffs pursuant to 15 U.S.C. §1703(d) demand judgment revoking the Contract, an order directing the Defendant developers and its escrow agent CHICAGO TITLE INSURANCE COMPANY to return the deposits to the applicable Plaintiffs, prejudgment interest at the legal rate, attorney's fees pursuant to the contract and/or 15 U.S.C. §1709(c), costs, and for all other relief this Court deems just and proper.**

**COUNT XXI - VIOLATION OF THE FEDERAL INTERSTATE LAND SALES ACT - 15 U.S.C. § 1703(d)(2) – VIOLATION OF THE 20 DAY NOTICE AND CURE OBLIGATION - As to Plaintiffs GARY ELFONT, ILYA AND INESSA ERLIKH, TDR TOWER II 320, LLC, 2001 TRUMP TOWER III, LLC, 2601 TRUMP TOWER III, LLC, 2801 TT-III, LLC, 2901 TRUMP TOWER III, LLC, ALEXANDER AND BELA BORTNOVSKY, ROBERT FETTERMAN, EZRA HUSNEY, NIKOLAY AND DINA KOMIN, IGOR MALLER, LILIA MALLER, and MICHAEL AND GALINA SHUB (the “applicable Plaintiffs”)**

The applicable Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:

223. Sales of the condominium units are being marketed, promoted and sold through means or instruments or communication in interstate commerce, or interstate through the mail, therefore condominium sales are subject to the provisions and requirements of 15 U.S.C. §1701 *et. seq.*
224. The Defendant developers are not exempt from the requirements and provisions of the Interstate Land Sales Act.
225. 15 U.S.C. §1703(d)(2) provides that the purchasers may revoke a contract within 2 years if the contract does not contain a provision whereby the purchaser is given notice of a default and a 20 day opportunity to cure.
226. The Contract fails to comply with 15 U.S.C. §1703(d)(2). While paragraph 13 of the contract does contain a provision giving the

**Plaintiffs 20 days notice and opportunity to cure for failure to timely close on the purchase, paragraph 9 of the Contract also requires the applicable Plaintiffs to pay an extra fee and/or penalty to use that right making that “right” illusory and in violation of 15 U.S.C. §1703(d)(2).**

**227. The applicable Plaintiffs demanded revocation of the contract within two years of the date the Contract.**

**228. The applicable Plaintiffs are entitled to attorney’s fees and costs pursuant to the Contract between the parties and/or 15 U.S.C. §1709(c).**

**229. The applicable Plaintiffs are entitled to a return of the deposits, interest, court costs and reasonable attorney’s fees pursuant to 15 U.S.C. §1709.**

**WHEREFORE, the applicable Plaintiffs, pursuant to 15 U.S.C. §1703(d), demand judgment revoking the Contract, an order directing the Defendant developers and its escrow agent CHICAGO TITLE INSURANCE COMPANY to return the deposits to the applicable Plaintiffs, prejudgment interest at the legal rate, attorney fees pursuant to the Contract and/or 15 U.S.C. §1709(c), or costs, and for all other relief this Court deems just.**

**COUNT XXII - VIOLATION OF THE FEDERAL INTERSTATE LAND SALES ACT – FAILURE TO TIMELY PROVIDE PROPERTY REPORT PURSUANT TO 15 U.S.C. § 1703(C) - As to Plaintiffs GARY ELFONT, ILYA AND INESSA ERLIKH, TDR TOWER II 320, LLC, 2001 TRUMP TOWER III, LLC, 2601 TRUMP TOWER III, LLC, 2801 TT-III, LLC, 2901 TRUMP TOWER III, LLC, ALEXANDER AND BELA BORTNOVSKY, ROBERT FETTERMAN, EZRA HUSNEY, NIKOLAY AND DINA KOMIN, IGOR MALLER, LILIA MALLER, and MICHAEL AND GALINA SHUB (the “applicable Plaintiffs”)**

The applicable Plaintiffs incorporate paragraphs 1 through 24 as if fully set forth herein and further state as follows:

230. Sales of the condominium units are being marketed, promoted and sold through means or instruments or communication in interstate commerce, or interstate through the mail, therefore condominium sales are subject to the provisions and requirements of 15 U.S.C. §1701 *et. seq.*

231. The Defendant developers are not exempt from the requirements and provisions of the Interstate Land Sales Act.

232. The Defendant developers were required as developers to furnish to the applicable Plaintiffs a printed property report meeting the requirements of §1707 in advance of signing the Contract for the sale of a condominium unit.

233. The Defendant developers failed to furnish to the applicable Plaintiffs a printed property report in advance of signing the

**Contract with the applicable Plaintiffs in violation of 15 U.S.C. §1703(c).**

**234. The applicable Plaintiffs revoked the Contract within two years of the date of the Contract, and the Defendant developers refused to honor the revocation.**

**235. The applicable Plaintiffs are entitled to attorney's fees and costs pursuant to the Contract between the parties and/or 15 U.S.C. §1709(c).**

**236. The applicable Plaintiffs are entitled to return of the deposits, interest at the legal rate, court costs and reasonable attorney's fees pursuant to 15 U.S.C. §1709 and/or the Contract.**

**WHEREFORE, the applicable Plaintiffs, pursuant to 15 U.S.C. §1709(b) and §1703(c), demand judgment for rescission and/or damages revoking the Contract, an order directing the Defendant developers and its escrow agent CHICAGO TITLE INSURANCE COMPANY to return the deposits to the applicable Plaintiffs, prejudgment interest at the legal rate, costs, attorney's fees pursuant to 15 U.S.C. §1709 and/or the Contract and for all other relief this Court deems just and proper.**

**COUNT XXIII - VIOLATION OF THE FEDERAL INTERSTATE  
LAND SALES ACT – FAILURE TO TIMELY PROVIDE PROPERTY  
REPORT PURSUANT TO 15 USC 1703(a)(1)(B) - As to Plaintiffs  
GARY ELFONT, ILYA AND INESSA ERLIKH, TDR TOWER II 320,  
LLC, 2001 TRUMP TOWER III, LLC, 2601 TRUMP TOWER III, LLC,  
2801 TT-III, LLC, 2901 TRUMP TOWER III, LLC, ALEXANDER AND  
BELA BORTNOVSKY, ROBERT FETTERMAN, EZRA HUSNEY,  
NIKOLAY AND DINA KOMIN, IGOR MALLER, LILIA MALLER, and  
MICHAEL AND GALINA SHUB (the “applicable Plaintiffs”)**

The applicable Plaintiffs incorporate paragraphs 1 through 21 as if fully set forth herein and further state as follows:

237. Sales of the condominium units are being marketed, promoted and sold through means or instruments or communication in interstate commerce, or interstate through the mail, therefore condominium sales are subject to the provisions and requirements of 15 U.S.C. §1701 *et. seq.*

238. The Defendant developers are not exempt from the requirements and provisions of the Interstate Land Sales Act.

239. The Defendant developers were required as a developer to furnish to the Plaintiff a printed property report meeting the requirements of §1707 in advance of signing any Contract for the sale of the condominium unit.

**240. The Defendant developers failed to furnish to the applicable Plaintiffs a printed property report in advance of signing the subject Contract and is in violation of 15 U.S.C. §1703(a)(1)(B).**

**241. The applicable Plaintiffs revoked the Contract within two years of the date of the Contract, and the Defendant developers refused to honor the revocation.**

**242. The applicable Plaintiffs are entitled to attorney's fees and costs pursuant to the Contract between the parties and/or 15 U.S.C. §1709(c).**

**243. The applicable Plaintiffs are entitled to return of the deposits, interest at the legal rate, court costs and reasonable attorney's fees pursuant to 15 U.S.C. §1709 and/or the Contract.**

**WHEREFORE, the applicable Plaintiffs, pursuant to 15 U.S.C. §1709(b) and §1703(a)(1)(B), demand judgment for rescission and/or damages revoking the Contract, an order directing the Defendant developers and its escrow agent CHICAGO TITLE INSURANCE COMPANY to return the deposits to the applicable Plaintiffs, prejudgment interest at the legal rate, costs, attorney's fees pursuant to 15 U.S.C. §1709 and/or the Contract and for all other relief this Court deems just and proper.**

**COUNT XXIV – ALTERNATIVE RELIEF - BREACH OF  
CONTRACT- FAILURE TO PAY DEPOSIT AMOUNT OVER 15% -  
As to those purchasers from TDR Tower I Condominium (the “applicable  
Plaintiffs”)**

The applicable Plaintiffs re-allege paragraphs 1 through 24 herein.

This count is in the alternative to the other counts of this complaint.

244. The contracts provide that if the purchasers breach the contracts by not closing, the purchasers are entitled to the return of the deposit in excess of 15%.

245. The applicable Plaintiffs advised Defendant TRG SUNNY ISLES V, LTD. that the applicable Plaintiffs would not close on the contract purchases and the applicable Plaintiffs did not timely close.

246. The applicable Plaintiffs all paid 20% deposits leaving in excess of 5% of the purchase price for which Defendant TRG SUNNY ISLES V, LTD. is obligated to return to the applicable Plaintiffs.

247. Upon being declared in default by Defendant TRG SUNNY ISLES V, LTD. and/or failing to close, the applicable Plaintiffs demanded the return of the deposits in excess of 15% of the purchase price exclusive of interest. Copies of the notices are attached as composite Exhibit M.

248. Defendant TRG SUNNY ISLES V, LTD. failed to return the amount of the deposits in excess of 15% of the purchase price

**exclusive of interest to the applicable Plaintiffs, and therefore breached its contractual obligation to refund the deposit amounts in excess of 15% exclusive of interest to the applicable Plaintiffs.**

**249. As a result of the breach of contract, the applicable Plaintiffs have suffered damages.**

**WHEREFORE, the applicable Plaintiffs demand judgment against Defendants TRG SUNNY ISLES V, LTD. for damages, attorneys' fees pursuant to the terms of the agreement, an order directing TRG SUNNY ISLES V, LTD. and/or the escrow agent CHICAGO TITLE INSURANCE COMPANY to return the deposits to the applicable Plaintiffs, prejudgment interest at the legal rate,**

costs, and for all other relief this Court deems just.

**JURY TRIAL DEMAND**

The Plaintiffs request a trial by jury on all issues so triable.

Dated this \_\_\_\_ day of June, 2008.

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**Robert H. Cooper**