STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

COUNTY OF WATAUGA

SUPERIOR COURT DIVISION

FILE NO. 11-CVS-127

BLUE RIDGE PEDIATRIC & ADOLESCENT MEDICINE, INC. a North Carolina professional corporation; A TO Z ENTERPRISES, LLC, a North Carolina limited liability company; GREGORY L. ADAMS, an individual; CLINTON B. ZIMMERMAN, JR., an individual; JOHN R. LONAS, an individual; and WESLEY SCOTT ST. CLAIR; an individual,

Plaintiffs,

v.

FIRST COLONY HEALTHCARE, LLC, a North Carolina limited liability company; FCHC - GREENWAY COMMONS LAND, LLC, a North Carolina limited liability company; FCHC - GREENWAY COMMONS INVESTORS, LLC, a North Carolina limited liability company; FCHC - GREENWAY COMMONS, LLC, a North Carolina limited liability company; FC HEALTHCARE, INC., a North Carolina corporation; FIRST COLONY HEALTHCARE HOLDINGS II, LLC, a North Carolina limited liability company; RANDY T. RUSSELL, an individual; DENNIS R. NORVET, an individual; BOBBY D. HINSON, an individual; FIRST COLONY HEALTHCARE II, LLC, a North Carolina limited liability company; FC HEALTHCARE II, INC., a North Carolina corporation; COLONY DEVELOPMENT PARTNERS, LLC, a North Carolina limited liability company; and COLONY MANAGEMENT, INC. a North Carolina corporation.

Defendants

COMPLAINT

The Plaintiffs, complaining of the Defendants, allege and say:

JURISDICTION AND PARTIES

1. The individual Plaintiffs herein, Gregory L. Adams, ("Adams") Clinton B. Zimmerman, Jr., ("Zimmerman") John R. Lonas, ("Lonas") and Wesley Scott St. Clair ("St. Clair") (sometimes collectively referred to as the "Doctors") are all citizens and residents of Watauga County, North Carolina and are all physicians licensed to practice pediatric medicine in the State of North Carolina.

2. The Plaintiff, Blue Ridge Pediatric & Adolescent Medicine, Inc. (the "Practice") is a North Carolina professional corporation organized and existing under the laws of the State of North Carolina, with its principal place of business in Boone, North Carolina. The Doctors are all the shareholders and directors of Blue Ridge.

3. The Plaintiff, A to Z Enterprises, LLC, ("A to Z") is a North Carolina limited liability company organized and existing under the laws of the State of North Carolina with its principal place of business in Boone, North Carolina. The Doctors are all the members and managers of A to Z. Collectively, the Doctors, the Practice, and A to Z may be referred to at times as "Blue Ridge."

4. The individual Defendants Randy T. Russell ("Russell") and Bobby D. Hinson ("Hinson") are citizens and residents of Mecklenburg County, North Carolina. Dennis R. Norvet ("Norvet") is a citizen and resident of Franklin, Tennessee.

5. First Colony Corporation ("First Colony") began doing business under a different name in 1973. It changed its name to First Colony Corporation in 1982 and E. Allen Brown, Jr. ("Brown") was listed as the President of the corporation at that time.

6. In 1997, First Colony Corporation moved to its present location at 4500 Cameron Valley Parkway, Suite 350 in Charlotte, North Carolina.

7. At all times relevant, First Colony Corporation, FC Healthcare, Inc., FC Healthcare II, Inc., and Colony Management, Inc. were North Carolina corporations domiciled in the State of North Carolina with their principal place of business being in Mecklenburg County, North Carolina, but also doing business in Watauga County, North Carolina.

8. At all times relevant, all of the Defendant limited liability companies, First Colony Healthcare, LLC, FCHC - Greenway Commons Land, LLC ("GCL"), FCHC - Greenway Commons Investors, LLC ("GCI"), FCHC- Greenway Commons, LLC ("GC"), First Colony Healthcare Holdings II, LLC, First Colony Healthcare II, LLC, and Colony Development Partners, LLC, were North Carolina limited liability companies domiciled in the State of North Carolina with their principal place of business being in Mecklenburg County, North Carolina, but also doing business in Watauga County, North Carolina.

9. First Colony Corporation and all of the Defendant Corporations and LLC's were 1) formed at the direction of Brown; 2) had their registered office located at the same address as that of First Colony Corporation; 3) have Brown or his daughter Cynthia D. McCrory ("McCrory") as their initial registered agent; 4) have the same physical address; 5) have the same telephone number; and 6) share common employees.

10. At all times relevant, First Colony Corporation, First Colony Healthcare, LLC, First Colony Healthcare II, LLC, First Colony Healthcare Holdings II, LLC, FC Healthcare, Inc., FC Healthcare II, Inc., GC, GCI, and GCL were affiliated companies (the "First Colony Affiliates") under the common direction and control of First Colony Corporation, and/or its officers and/or directors, Brown, McCrory, and Norvet. Collectively, for administrative ease First Colony Corporation and/or its Affiliates may be referred to herein as "First Colony".

11. At all times relevant, Colony Development Partners, LLC, and Colony Management, Inc. were affiliated companies (the "Colony Affiliates") under the common direction and control of Brown, McCrory, Hinson, Russell and Norvet.

FACTUAL BACKGROUND

12. Plaintiff Adams began practicing pediatric medicine in 1982 in the state of Texas, and was licensed in the state of North Carolina in 1986. In 1992, Adams and Zimmerman formed Boone Pediatric Center, P.A. which changed its name to Blue Ridge Pediatric & Adolescent Medicine, Inc. in 2001.

13. After practicing in the same building for a number of years, the Doctors felt that they needed a larger office building to better serve their patients. Dramatic changes had occurred in the practice of pediatric medicine in recent years, and the Doctors felt that their

patients would benefit from a new building that would include such innovations as separate well and sick entrances and waiting rooms.

14. Based on this need, in the spring of 2006, Blue Ridge put its existing office building on the market for sale, and began actively searching for a building that would accommodate their needs.

15. The Doctors soon discovered there was no available existing building to fit their needs. Accordingly, they began looking for a suitable tract of land and consulting with medical office designers and builders about the optimal size and configuration for a new office. They determined that their new office would need approximately 1.5 to 2 acres of land, preferably close to the hospital.

16. In the Doctors' search for a building site, one parcel appeared to be particularly suitable but was larger than they needed. This property was a 4.379 acre tract of land owned by Templeton Properties ("Templeton") and (the "Templeton Property"). Templeton verbally agreed to sell the property to the Plaintiffs for $650,000.00 an acre which was a very good price per acre. However, Templeton would not agree to sell less than all of the 4.379 acres.

17. Joe Joseph ("Joseph"), the representative of one of the construction companies that Blue Ridge was considering, had heard of First Colony and volunteered to contact First Colony to see if they might have interest in developing the Templeton Property.

18. In response to Joseph's inquiry, on or about September 6, 2006, Norvet, Senior Vice President with First Colony Healthcare, LLC, along with an associate came to Boone and met with the Plaintiffs to explain how First Colony might help with their particular needs.

19. As part of his sales presentation, Norvet provided various promotional materials to Plaintiffs. In its promotional materials, including the sales brochure, a copy of which is labeled Exhibit A, attached hereto and incorporated herein by reference (the "Sales Brochure"), First Colony Healthcare, LLC describes itself as a "healthcare focused affiliate of First Colony Corporation", and First Colony Corporation and First Colony Healthcare, LLC refer to themselves interchangeably as First Colony Healthcare. It should be noted that although

the Sales Brochure shows that it was prepared for Watauga Pediatrics, it was in fact prepared for First Colony's presentation to the Plaintiffs.

20. First Colony proposed to the Plaintiffs that First Colony "partner" with the Plaintiffs to develop the Templeton Property into a new medical office park. First Colony would provide its financial strength and construction/development expertise to develop the property and construct a new office building that Blue Ridge would lease from First Colony for a period of ten years.

21. In return for and in consideration of the execution of a ten year Lease by Blue Ridge and the guarantee of the Lease by the individual Doctors, the Defendants agreed and contracted among other things to provide all capital, assume all risk, and as "partners", First Colony and Plaintiffs through A to Z would each receive 50% of the profits from the sale of any part of the Templeton Property. Blue Ridge would also share in a portion of the ownership and profits from the office building that was to be constructed. To facilitate and implement the agreement of the parties, Blue Ridge would receive membership interests in several new limited liability companies to be formed by First Colony, including GCL, GCI, and GC.

22. After First Colony's initial presentation, Russell was introduced to the Plaintiffs as another principal of First Colony who would be Plaintiffs' primary contact for the proposed project. At all times relevant Russell was also a duly appointed representative of First Colony.

23. Although the Project as proposed by First Colony was appealing to the Plaintiffs, the Doctors were still reluctant because of the significant commitment of a ten year Lease, especially in light of Plaintiff Adams' approaching retirement age.

24. As they considered the proposed project, the Plaintiffs were constantly assured by Russell and others on behalf of First Colony that First Colony prided itself on being a very "open" organization and was always happy to share its records with its "partners". Plaintiffs were assured that as "partners", First Colony would make sure that its record keeping was transparent and that Plaintiffs would have ready access to all pertinent financial information so that costs and profits could be easily verified.

25. On October 26, 2006 Plaintiffs signed a contract to purchase the Templeton Property (the" Templeton Property Contract"). By reason of a recently passed local "slope ordinance" which banned building on much of the vacant land in Boone, the Templeton Property had substantially increased in value since the Plaintiffs' initial discussions with Templeton. However, because of the prior verbal commitment, Templeton honored its agreement to sell the property to the Plaintiffs for $650,000.00 an acre. A copy of the Templeton Property Contract is labeled Exhibit B attached hereto and incorporated herein by reference.

26. Upon the execution of the Templeton Property Contract, Plaintiffs were required to pay $25,000.00 earnest money deposit. If the sale did not close by December 27, 2006, this earnest money deposit would be non-refundable. As can be seen in the Templeton Property Contract, there were also very large non-refundable extension fees that would be incurred if the contract was not closed by a certain date.

27. Induced by the promises of substantial equity participation in the proposed project and by the other assurances and promises of the Defendants, the Doctors tentatively decided to accept First Colony's offer as proposed.

28. Upon learning that the Doctors had tentatively decided to accept First Colony's offer, First Colony asked Hinson to prepare the documents necessary to memorialize the agreement of the parties. These documents (the "Inducement Documents") included the Lease and Operating Agreements for three related limited liability companies, GCL, GCI, and GC (the "Greenway Companies").

29. In early January 2007, as part of their due diligence, Plaintiffs forwarded copies of the Inducement Documents to their counsel for review.

30. On January 17, 2007, counsel for Plaintiffs joined in a conference call with Laura Hardee ("Hardee"), office manager for Blue Ridge, Russell, Brown, and Hinson as counsel for First Colony, to go over the documents and discuss the proposed transaction.

31. Having been participants in the conference call of January 17, 2007 with Plaintiffs' counsel and with Hardee on behalf of the Plaintiffs, Russell, Brown, and Hinson and through them First Colony, were all aware that at least from that time on, the Plaintiffs were represented by counsel in the transaction. In spite of this knowledge, the representatives of

First Colony continued thereafter to contact the Plaintiffs directly without any notification to Plaintiff's counsel.

32. On January 18, 2007, unbeknownst to counsel for Plaintiffs, First Colony presented a proposed Letter of Intent to Blue Ridge which they represented as being non-binding. A copy of First Colony's accompanying correspondence of January 18, 2007 is labeled Exhibit C, attached hereto and incorporated herein by reference. A copy of the Letter of Intent referred to in First Colony's correspondence of January 17, 2007 is labeled Exhibit D, attached hereto and incorporated herein by reference. In spite of the knowledge that Plaintiffs were represented by counsel, neither this email nor its enclosures were sent to Plaintiffs' counsel. As can be seen, even though First Colony's accompanying letter says otherwise, the Letter of Intent was non-binding on First Colony, but was binding upon Blue Ridge.

33. Based on his review of the proposed documents and the conference call of January 17, 2007 with Russell, Brown and Hinson, Plaintiffs' counsel raised concerns that caused the Plaintiffs to reconsider the deal as proposed by the Defendants.

34. On January 22, 2007, at the request of the Plaintiffs, counsel for the Plaintiffs put those concerns in letter form that was sent to Hinson for his review. A copy of this letter from Plaintiffs' counsel is labeled Exhibit E, attached hereto and incorporated herein by reference. In response, Hinson prepared an interpretative memorandum (the "Hinson Memo") explaining among other things how First Colony intended for these documents to be interpreted. A copy of the Hinson Memo is labeled Exhibit F, attached hereto and incorporated herein by reference.

35. After Plaintiff's counsel had expressed reservations in his January 22, 2007 letter, the Plaintiffs were visited in Boone by Russell and Brown who insisted that Plaintiffs' counsel had misinterpreted the documents, and did not understand the transaction. Russell and Brown again told the Plaintiffs that the relationship between First Colony and its "physician partners" was a special relationship of trust and confidence and that as a partner, First Colony would always have the Plaintiffs' best interest at heart. Russell and Brown continued to emphasize that First Colony would bear all risk and Plaintiffs would be recouping a substantial part of the lease payments from the profits arising from their ownership of the related LLC's and particularly GCL.

36. By reason of the Hinson Memo coupled with the promises and assurances of Russell, Brown, and Norvet, the Plaintiffs decided to go forward with the deal as proposed. Although the lease payments were more per square foot than Blue Ridge had anticipated and hoped for, by sharing so significantly in the profits from the Templeton Property and also sharing in the profits from their office building, Blue Ridge would be able to offset the higher rent. Based on the all of the foregoing, the Plaintiffs decided that they would accept First Colony's offer and on or about February 10, 2007 notified First Colony that they were ready to go forward with the deal as proposed by First Colony.

37. Following the Plaintiffs' notice to First Colony that they had decided to go forward with the deal as proposed, Hardee, as office manager for Blue Ridge was led to believe by Russell that Hinson was the lawyer for the newly formed partnership between Blue Ridge and First Colony and as such there would be no further need for Blue Ridge to bear the extra expense of separate counsel.

38. On February 15, 2007 an execution copy of the Lease was prepared by Bobby Hinson and sent to Joseph and Russell.

39. On February 18, 2007, without notification to Plaintiff's counsel, the representatives of First Colony, including Russell, again met with the Plaintiffs to emphasize the equity and profit sharing and to tell the Plaintiffs that First Colony through its contacts and resources now had access to lots of "1031 exchange money" that would make the deal even better.

40. On February 22, 2007 Joseph, acting on behalf of First Colony and its related entities, forwarded a revised version of the Lease to Hardee, as office manager for Blue Ridge. A copy of the email of Joe Joseph, without the attachments, is labeled Exhibit G, attached hereto and incorporated herein by reference. In spite of the knowledge that Plaintiffs were represented by counsel, neither this email nor its enclosures were sent to Plaintiffs' counsel.

41. On February 22, 2007 Russell sent copies of the remaining transaction documents other than the Lease by email dated February 20, 2007. A copy of this email without the enclosures is labeled Exhibit H attached hereto and incorporated herein by

reference. In spite of the knowledge that Plaintiffs were represented by counsel, neither this email nor its enclosures were sent to Plaintiffs' counsel.

42. Russell's email assured Hardee that except for minor changes that had been discussed a few days earlier, the documents he was enclosing were the same as they were when reviewed by Plaintiffs' counsel. Russell further assured Hardee that the documents had been also been prepared and approved by Hinson as the lawyer for their newly formed "partnership". Based upon the assurances of Russell that there were no material changes and that as a partner Hinson would protect the Plaintiffs' interest, the documents attached to Russell's February 22, 2007 email were not sent to Plaintiffs' counsel for review.

43. In spite of the assurances by Russell that there were no material changes, there were in fact numerous material changes in the documents attached to his February 22, 2007 email.

44. The documents sent to Hardee by Joe Joseph and Russell on February 22, 2007 numbered over 280 pages in length.

45. Further, as Russell was aware, by February 22, 2007, the Templeton Property Contract earnest money deposit of $25,000.00 had become non-refundable, and two extension fees totaling $75,000.00 had been paid. To extend the contract another 30 days, the Plaintiffs would be required to pay an additional $50,000.00 extension fee by February 25, 2007. Further, as Russell was aware, during this same time period Hardee had been tasked by First Colony to provide information on behalf of the Practice pertaining to the optimal layout and specifics for the up fit and furnishing of the Practice's new office.

46. On February 28, 2007, the Lease was signed by Blue Ridge with the Doctors signing as Guarantors. The Lease was then returned to First Colony and Cynthia D. McCrory signed and dated the Lease March 7, 2007 on behalf of First Colony.

47. On March 29, 2007 the Templeton Property was conveyed to Greenway Commons Land by Deed dated March 16, 2007, and recorded in Book 1272, Page 670 of the Watauga County Registry. A copy of this Deed is labeled Exhibit J, attached hereto and incorporated herein by reference.

48. In conjunction with and in order to finance the purchase of the Templeton Property, Greenway Commons Land obtained a loan from First Tennessee National

Bank Association (the "Land Loan") in the amount of $3,866,503.00 and executed a Deed of Trust in favor of First Tennessee which was also recorded on March 29, 2007 in Book 1272, at Page 677 of the Watauga County Registry. A copy of this Deed of Trust is labeled Exhibit K attached hereto and incorporated herein by reference. Incorporated into this Deed of Trust was a Commitment Letter from First Tennessee to Greenway Commons Land (the "Commitment Letter") and a loan agreement (the "Loan Agreement"). Copies of the Commitment Letter and the Loan Agreement are labeled Exhibits L and M respectively, attached hereto and incorporated herein by reference.

49. Using the proceeds from this Land Loan, the Manager of GCL paid for improvements and services benefitting the entire Templeton Property.

50. The Templeton Property was then "condominiumized" into two building lots. The lots were delineated as Units One and Two respectively with a shared Common Area, all as shown on a plat recorded in Book UO8, Page 430 of the Watauga County Registry. A copy of this plat is labeled Exhibit N, attached hereto and incorporated herein by reference.

51. On June 25, 2007 unbeknownst to the Plaintiffs, Unit One was conveyed from GCL to FCHC-Greenway Commons, LLC, a 44.15% undivided interest, Greenway Commons TIC #1, LLC, a 5.77% undivided interest, Greenway Commons TIC #2, LLC, a 9.62% undivided interest, Greenway Commons TIC #3, LLC, a 30.96% undivided interest, Greenway Commons TIC #4, LLC, a 1.92% undivided interest, Greenway Commons TIC #5, LLC, a 3.79% undivided interest, and Greenway Commons TIC #6, LLC, a 3.79% undivided interest by Deed dated June 25, 2007, and recorded in Book 1297, Page 499 of the Watauga County Registry. A copy of this Deed is labeled Exhibit O, attached hereto and incorporated herein by reference.

52. Although the Plaintiffs through A to Z were the owners of a 50% membership interest in GCL, the Plaintiffs were never notified of the sale of Unit One by anyone from First Colony, and only learned of the sale long after the fact.

53. The office building that Blue Ridge now occupies (the "Blue Ridge Building") was thereafter built on Unit One. The portion of the Blue Ridge Building that the Practice now occupies was completed so that the Practice could move in on March 21, 2008.

54. On June 3, 2008 Colony Development Partners, LLC (CDP) was formed. The Plaintiffs are informed and believe and therefore allege that Brown is the Chairman of the Board for CDP, McCrory is the CEO, and Hinson, Norvet and Russell are all officers in CDP.

55. In the summer of 2008 the Plaintiffs were notified by Randy Russell of the changeover to CDP. The Plaintiffs understood that CDP had hired all of the former employees of First Colony and that there should be no disruption in operations. CDP would continue to maintain the same telephone number and occupy the same offices that are and were occupied by the other First Colony Affiliates.

56. Since March 21, 2008, Blue Ridge has been making payments on the Lease. Since March 21, 2008, Blue Ridge has paid in excess of $971,000.00 in rent. Further, the Practice does not occupy the entire Blue Ridge Building and another tenant, Boone Drug has paid in excess of $150,000.00 in rent to First Colony.

57. As an inducement for Blue Ridge to commit to the Lease, First Colony promised that "cash flow" would be distributed quarterly to the Plaintiffs. So in the summer of 2008, with Blue Ridge and Boone Drug each paying substantial rent for the Blue Ridge Building, Hardee, as office manager for Blue Ridge, inquired about the status of the quarterly distributions. First Colony responded that there were no profits to be distributed at that time.

58. As Plaintiffs attempted to gather information regarding the financial aspects of the Project and its profitability, it was soon discovered that contrary to the promises made by Russell and others from First Colony, the finances for the project were not open and transparent, and that it was difficult to obtain any information regarding the financial matters for the project.

59. In October 2008, Hardee, on behalf of the Plaintiffs, sought information regarding the costs of construction for the Blue Ridge Building so that the Doctors might better understand the status of the profitability of the Project. After a substantial time without responding, some information was provided by Russell. The information provided by Russell made no sense to the Plaintiffs based upon the known costs of the land and normal building costs. The discrepancies that could not be adequately explained were described as "soft costs" by Russell and the other representatives of First Colony.

60. In March of 2009, Hardee, on behalf of the Plaintiffs, again sought financial information about the Project, and again, the information that was eventually provided in response by Russell made no sense. Further, in his response, Russell told the Plaintiffs that there had been no profits on the project and that the Plaintiffs, as owners of a 50% membership interest in GCL, may be called upon to make additional capital contributions to pay the debts of GCL and GCI.

61. That on August 31, 2009 Brown and McCrory each filed voluntary petitions under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Western District of North Carolina which bankruptcy cases are still pending. First Colony Corporation is also in bankruptcy in the Western District of North Carolina. By reason thereof, Brown, McCrory, and First Colony Corporation are under the protection of the automatic stay of the Bankruptcy Code and are not named as Defendants in this lawsuit at this time.

62. In the spring of 2010 the Plaintiffs noticed apparent site work on Unit Two. The Plaintiffs then discovered that Unit Two had been conveyed away without their knowledge. Unit Two was conveyed from GCL to the Kuester-Greenway Company, LLC. This deed was dated April 30, 2010 and is recorded in Book 1508, at Page 396 of the Watauga County Registry. A copy of this deed is labeled Exhibit P, attached hereto and incorporated herein by reference.

63. Although the Plaintiffs through A to Z were owners of a 50% membership interest in GCL, the Plaintiffs were never notified of the sale of Unit Two by anyone from First Colony and only learned of it after the fact.

64. Since the Plaintiffs were supposed to receive half of the net proceeds from the sale of any part of the Templeton Property, once the Plaintiffs learned of the sale of Unit Two, they requested a copy of the closing statement for the sale. In spite of numerous requests by the Plaintiffs to Russell, the Plaintiffs were never provided a copy of the closing statement until December of 2010. When the Plaintiffs had questioned Russell about the sale of Unit Two, they were always told that there was no profit from the sale.

65. Because of the confusing financial information being provided to the Plaintiffs by Russell and other representatives of First Colony, Plaintiffs asked their counsel to investigate why they had received no profits from the project. Plaintiffs' counsel then

discovered that not only Unit Two had been sold, but that Unit One had also been sold in June of 2007. The revenue stamps on the deed for Unit One indicated a sales price of $2,578,000.00. The revenue stamps on the deed for Unit Two indicated a sales price of $1,000,000.00.

66. Even though A to Z still has a 50% ownership membership interest in GCL, all of its land including the Templeton Property has been sold off, and the Plaintiffs have received nothing from its sale. Upon information and belief, although Unit One and Unit Two have both been sold, the Defendants have failed to distribute the profits from those sales to the Plaintiffs and have instead used the profits from those sales to benefit other First Colony Affiliates that the Plaintiffs have no interest in.

67. In the course of the Plaintiffs' investigation, counsel for Plaintiffs discovered that First Colony had borrowed heavily against Unit One and had also sold numerous investment interests to third parties so the outstanding debts owed to investors and to First Tennessee far exceed the value of Unit One. As a result, there will never be any profits available to distribute to the Plaintiffs.

68. In the course of the Plaintiffs' investigation, it was also discovered that the Plaintiffs had never been provided fully executed copies of the original Inducement Documents in spite of numerous requests by the Plaintiffs for copies.

69. As a matter of course, when First Colony would have a document signed by Plaintiffs, First Colony would forward the blank document to the Plaintiffs with instructions to sign and return to First Colony. First Colony was supposed to then execute the document and return a fully executed copy to the Plaintiffs, but never had.

70. On December 11, 2010 Hardee and Plaintiffs' counsel traveled to the office of First Colony in Charlotte and met with Hinson, Russell, Betsy Good, and other representatives of First Colony. Only then were the Plaintiffs provided what the Defendants claim are copies of the executed documents for the project.

71. The Plaintiffs compared the copies of the Inducement Documents that had been provided by First Colony at the signing of the Lease to the documents that were provided on December 11, 2010 by the Defendants. It quickly became apparent to the Plaintiffs that the documents that the Defendants claim are the executed controlling documents for the

project were not those agreed to by the Plaintiffs at the inception of the deal. The versions of the documents that were provided to Plaintiffs on December 11, 2010 had been altered in a number of places, without the knowledge or consent of the Plaintiffs.

72. Unbeknownst to the Plaintiffs at the time, as soon as the Lease was signed by the Plaintiffs, upon information and belief, the representatives of First Colony began siphoning off the Plaintiffs' "partnership" profits and making unauthorized changes to the Inducement Documents in an attempt to justify their illegal actions.

73. Although there were many unauthorized alterations made to the Inducement Documents without either the knowledge or consent of the Plaintiffs, the unauthorized changes to the Operating Agreement for GCL are particularly egregious and damaging to the Plaintiffs. A copy of the altered Operating Agreement of GCL is labeled Exhibit Q, attached hereto and incorporated herein by reference.

74. In the altered Operating Agreement, the Manager of GCL also serves as the Developer of the Project. As can be seen on Page 30 of this document, McCrory signed on behalf of not only the Company but as the Manager of the Company, and on behalf of First Colony Healthcare Holdings, II, as the other 50% owner of the Company.

75. Section 3.8 of the Operating Agreement of GCI as it appears in the Inducement Documents at the time of the signing of the Lease reads as follows:

> "3.8 Development Fee. Manager shall serve as developer of the Project. For and in consideration of Manager performing its duties as developer of the Project, Manager shall be paid a development fee (the "Development Fee") of $_____ which shall be payable fifty percent upon the execution of the development agreement by and among Manager and the Company and fifty percent pro rata upon the percentage completion of the Project, unless otherwise required by the lender."

A copy of page 11 from the Operating Agreement of GCL as it appeared in the Inducement Documents at the time of the signing of the Lease is labeled Exhibit R, attached hereto and incorporated herein by reference.

76. Section 3.8 of the purported "executed" Operating Agreement of Greenway Commons Land, LLC reads as follows:

> "3.8 Development Fee. Manager shall serve as developer of the Project. For and in consideration of Manager performing its duties as developer of the Project, Manager shall be paid a development fee (the "Development Fee") of $50,000

which shall be payable fifty percent upon the execution of the development agreement by and among Manager and, the Company and fifty percent pro rata upon the percentage completion of the Project, unless otherwise required by the lender. **The Development Fee shall be payable in accordance with a Development Agreement to be entered into between the Company and the Manager as the developer of the Project, which agreement shall also provide, among other things, for the developer to complete construction of the Project for a turn-key price to be mutually agreed upon between the Company and the developer and for developer to be responsible for any cost overruns beyond such turn-key price (excluding lease-up costs) and shall be entitled to receive as additional compensation, any cost savings below such turn-key price."** (Emphasis Added)

77. This additional altered language is exceptionally detrimental to the Plaintiffs as the owners of a 50% membership interest in GCL.

78. Section 3.8 as altered gives the Developer who is also the Manager the ability to set any price it chooses by "agreement between the Manager and the Developer." Any such "agreement" is of necessity totally illusory, because the Manager and the Developer are one and the same. Since the "agreed upon" figure is an artificial figure which does not have to be tied to actual costs, First Colony as the Manager/Developer is then authorized to take from the LLC whatever the difference is between the actual costs and inflated price as "additional compensation."

79. The Plaintiffs are informed and believe and therefore allege that Section 3.8 as altered is simply another form of an illegal "flip" scheme (the "Illegal Flip") designed to permit First Colony to wrongfully siphon off all potential profits from the project.

80. Further, in the altered Operating Agreement for GCL, the "Project" is defined as the full 4.379 acres. So even though Unit One was sold in June of 2007, Section 3.8 as altered would allow First Colony to charge GCL this improper development fee for work done on Unit One after its sale that would be of no benefit to GCL.

81. The Plaintiffs are informed and believe and therefore allege that the Defendants improperly charged GCL with costs and expenses that ran to the benefit of the Defendants' other projects, and specifically but not exclusively to Unit One before and after its sale for which Greenway Commons Land was never credited.

82. By improperly charging these Unit One costs and expenses to GCL, and by using an artificially inflated cost of construction, the Defendants could ensure that there

would be no profits for the Plaintiffs because under Section 3.8 as altered the profit on a sale would be calculated on the difference between the sales price actually to be paid by a real buyer and the artificially inflated costs.

83. Section 3.8 as altered has no reasonable business purpose and is unconscionable and illegal under N.C.G.S. Section 57C-3-32 and against public policy. Section 3.8 as altered would permit First Colony to pay costs and expenses out of the funds of GCL strictly benefitting a different project and to receive an inflated, improper personal benefit that is in violation of its special fiduciary duties owed to the Plaintiffs.

84. Even though Dr. St.Clair's signature supposedly appears on page 31 of the altered Operating Agreement of GCL, this document as it has been altered was never signed by Dr. St.Clair. The terms set forth in this altered Section 3.8 were never discussed at any time. Nor would it make any sense for anyone to agree to such egregious and detrimental provisions after the Lease had been signed.

85. The formatting of all the documents in this transaction was conducive to manipulation because there are separate signature pages for the parties, no notary acknowledgements are required, and the parties do not sign or initial each page. This format easily promotes "slip sheeting."

86. From reviewing copies of the purported final executed documents, Blue Ridge discovered that there were a number of changes made to all the Inducement Documents after the Lease was executed and all of the unauthorized alterations run to the benefit of the Defendants to the detriment of the Plaintiffs.

87. The unauthorized alterations were all made while the disputed documents were in the possession and control of First Colony and could have been done through slip sheeting, or even through having signatures doctored and shifted using scanning programs like Photoshop. However the alterations were done, the documents that First Colony says are controlling do not accurately reflect the agreement of the parties and are not the documents as they existed when the Lease was signed.

88. The Plaintiffs are informed and believe and therefore allege that the aforementioned changes to Section 3.8 of the GCL Operating Agreement were made by

McCrory and Brown to present to First Tennessee so that proceeds of the initial land acquisition loan could be wrongfully taken from GLC.

89. Upon information and belief, the wrongful actions of Brown and McCrory were known to and approved by the First Colony Affiliates and their officers, principals and directors and in fact were part of a civil conspiracy to deprive the Plaintiffs of contractual rights and other benefits to which they were entitled.

90. From the Plaintiffs' investigation the Plaintiffs are informed and believe and therefore allege that the proposed project from the inception was designed as a "Bait and Switch" scheme in which the Plaintiffs were induced into the transaction by promises that were never intended to be kept.

91. When Plaintiffs decided that they would take the "bait" and notified First Colony that they were ready to sign the Lease as proposed, First Colony immediately began to make the "switch" by making changes in the Inducement Documents without notice to Plaintiffs' Counsel, and by making assurances to the Plaintiffs that there were no material changes and that Hinson as the lawyer for the "Partnership" would look out for Plaintiffs' interests.

92. Based upon the statements of Russell and the other representatives of First Colony regarding the solvency of GCL, the Plaintiffs are informed and believe and therefore allege that any potential profits to which it would have been entitled have already been wrongfully taken from the company by or at the direction of First Colony Corporation and/or Brown, McCrory, or Norvet, or with their knowledge and consent or acquiescence.

SECTION I

PLAINTIFFS' CLAIMS APPLICABLE TO THE FIRST COLONYAFFILIATES AND THEIR RESPECTIVE REPRESENTATIVES, PRINCIPALS, OFFICERS, DIRECTORS AND MANAGERS (THE "FIRST COLONY DEFENDANTS")

[ALL REFERENCES TO "DEFENDANTS" IN THIS SECTION OF THE COMPLAINT SHALL MEAN THE FIRST COLONY DEFENDANTS UNLESS SPECIFICALLY SET FORTH OTHERWISE]

First Claim for Relief
(Piercing the Corporate Veil-Instrumentality)

93. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

94. That the First Colony Affiliates and the Colony Affiliates are just several of a multitude of entities formed by the Defendants, many with names deceptively similar. That the Plaintiffs are informed, believe and therefore allege that the use of multiple entities with such similar names is designed to confuse and deceive investors and creditors, and to enable funds payable to one to be easily shifted among the various entities.

95. That the Plaintiffs are informed, believe and therefore allege that all of the First Colony Affiliates were and continue to be, mere instrumentalities and alter egos of their principals and officers, namely Brown, McCrory, and Norvet (the "First Colony Principals"). As such, at all relevant times, the First Colony Affiliates had no independent identities.

96. Specifically, but not exclusively, some or all of the First Colony Affiliates on information and belief:

a. Were/are undercapitalized;

b. Were/are noncompliant with corporate formalities;

c. Were/are the result of an excessive fragmentation by the principals and officers of the various First Colony Affiliates through forming numerous separate entities including but not limited to the First Colony Affiliates;

d. Were/are insolvent;

e. Were/are run by the same principals and officers and had interlocking directorates and management;

f. Occupy the same office space;

g. Share the same employees;

h. Share the same phone number;

i. Commingled assets and funds of their "partner" investors among the various projects;

j. Improperly allocated costs and expenses among the various projects; and

k. Were/are otherwise subject to having the corporate veil pierced as will be shown through discovery and trial.

97. That the Plaintiffs are informed, believe and therefore allege that the First Colony Affiliates and the numerous other entities formed at the direction of Brown, McCrory, and Norvet were and are operated so that they are a mere instrumentality or alter ego of Brown, McCrory, and Norvet used as a shield from the rightful claims of the Plaintiffs and others.

98. That based upon information and belief, the First Colony Principals exercised complete dominion and control over the First Colony Affiliates such that at all relevant times, the First Colony Affiliates were and continue to be, mere instrumentalities and alter egos of the First Colony Principals. As such, at all relevant times, the First Colony Affiliates had no independent identities.

99. That based upon information and belief, some or all of the First Colony Principals used that domination and control to perpetrate a wrong and/or fraud against Plaintiffs and others. As a result Plaintiffs have suffered damages, including, but not limited to, monetary losses and interest thereon, inconvenience as well as other incidental and consequential damages.

100. That by reason of the foregoing the Plaintiffs are informed, believe and therefore allege that the First Colony Affiliates, and the First Colony Principals (collectively the "First Colony Defendants") are all jointly and severally liable for the actions of each other.

Second Claim for Relief
(Breach of Contract)

101. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

102. In order to induce the Plaintiffs to sign the Lease, Russell, Brown and Norvet promised the Plaintiffs that the Plaintiffs would benefit greatly from First Colony's expertise in property management and their economy of scale so that the management costs and fees they would charge would be the same or less as if they had to handle the property management themselves.

103. In order to induce the Plaintiffs to sign the Lease, Russell, Brown and Norvet promised that their record keeping was very efficient and meticulous and would allow the Plaintiffs to easily verify their share of profits.

104. In order to induce the Plaintiffs to sign the Lease, Russell, Brown and Norvet promised that the relationship between First Colony and its "physician partners" was a special relationship of trust and confidence and that as a partner, First Colony would always have the Plaintiffs' best interest at heart.

105. In order to induce the Plaintiffs to sign the Lease, Russell, Brown and Norvet promised that there would be no redundant charges. In fact, the Defendants have subcontracted out all their management duties and have simply added another layer of costs without any additional benefit to the Plaintiffs.

In spite of the assurances that there would be no redundant charges, the Plaintiffs are informed and believe and therefore allege that the Defendants have through the use of multiple LLC's have charged the Plaintiffs multiple fees for the same services.

106. In order to induce the Plaintiffs to sign the Lease, Russell, Brown and Norvet promised that First Colony would among other things provide all capital, assume all risk, and as "partners", Plaintiffs through A to Z would be recouping a substantial part of the lease payments from the profits arising from their ownership of membership interests in the Greenway Companies. The Defendants have now in breach of their promises demanded that the Plaintiffs pay substantial sums to go toward paying the purported outstanding debts of GCL, GCI, and GC.

107. That in addition to any breaches of contract described above, the Defendants materially breached the contract with the Plaintiffs by:

a. Their failure to maintain proper control procedures to prevent the improper alteration of documents and the misappropriation of the Plaintiffs funds and property.

b. Their failure to protect and preserve Plaintiffs' share of the profits from the project and the sale of the Templeton Property. Further, the Defendants materially breached the contract with Plaintiffs by their failure to deliver Plaintiffs' share of the profits from the project and the sale of the Templeton Property in a timely manner.

c. Their taking or permitting the wrongful taking of Plaintiffs' share of the profits from the project and the development and sale of the Templeton Property

d. Their failure to provide Plaintiffs' easy access to the financial information pertaining to the proposed project and the sale of the Templeton Property so that profits could be easily verified.

e. Their failure to maintain financial records that were open and transparent.

108. Due to these material breaches of contract, Plaintiffs are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Third Claim for Relief
(Fraud in the Inducement)

109. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

110. At all times, First Colony through Brown, Norvet and Russell held itself out as a very financially strong and very fiscally responsible expert in medical park development and office building construction. It promoted itself as a company that would deliver on their promises quickly and within a strict budget. First Colony described itself as "a one-stop total solution for all healthcare needs".

111. Contrary to these prior assurances by Brown, Norvet and Russell, the Plaintiffs later discovered that at the time that the Plaintiffs were induced to sign the Lease, First Colony Corporation, Brown and McCrory were all in severe financial distress, by reason of a number of failing land development projects.

112. That on August 31, 2009 Brown and McCrory each filed voluntary petitions under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Western District of North Carolina which bankruptcy cases are still pending. First Colony Corporation is also in bankruptcy in the Western District of North Carolina. By reason thereof,

Brown, McCrory, and First Colony Corporation are under the protection of the automatic stay of the Bankruptcy Code and are not named as Defendants in this lawsuit at this time.

113. In Brown's petition in bankruptcy he lists liabilities of One Hundred Two Million, Eight Hundred Eighty-Eight Thousand, Eighty Hundred Eighty-Nine and 36/110 Dollars ($102,888,889.36). Many of these listed liabilities are debts owing to other "Equity Partners" like the Plaintiffs.

114. In McCrory's petition in bankruptcy she lists liabilities of in excess of Seventy-Two Million, Two Hundred Eighty-One Thousand, Nine Hundred Thirty-Eight and 42/100 Dollars ($72,281,938.42). Many of these listed liabilities are debts owing to other "Equity Partners" like the Plaintiffs.

115. In First Colony Corporation's petition in bankruptcy it lists liabilities of in excess of Eighty-Three Million, Nine Hundred Seventy-Four Thousand, Four Hundred Thirty-Eight and 00/100 Dollars ($83,974,438.00). Many of these listed liabilities are debts owing to other "Equity Partners" like the Plaintiffs.

116. Upon information and belief, though unbeknownst to the Plaintiffs at the time, at or about the same time that the Plaintiffs were induced to sign the Lease, the year-end bonuses to the First Colony employees were not paid by reason of financial problems of First Colony.

117. Upon information and belief, though unbeknownst to the Plaintiffs at the time, at or about the same time that the Plaintiffs were induced to sign the Lease, Brown and McCrory had formed a number of new small companies and were shifting assets to them from their other companies that were encumbered with debt.

118. Upon information and belief, though unbeknownst to the Plaintiffs at the time, the unauthorized changes to Section 3.8 of the GCL Operating Agreement were made by McCrory and Brown at the very signing of the Lease to present to First Tennessee so that proceeds from the initial land acquisition loan could be wrongfully taken from GLC.

119. Upon information and belief, the promises and representations made by Brown, Norvet and Russell as alleged above were made with knowledge on their part they were not truthful and that the promises would not or could not be fulfilled, or with reckless and wanton indifference to the truthfulness of the promises.

120. The Plaintiffs are informed and believe and therefore allege that the respective representatives, principals, officers, directors, and managers of the various First Colony Affiliates (the "First Colony Management") knew or should have known of the unauthorized alterations to the Inducement Documents, the Illegal Flip scheme and/or the improper misappropriation of funds from GCL which would mean that there could be no profits available to the Plaintiffs.

121. The Plaintiffs are informed and believe and therefore allege that the use of multiple affiliated entities was designed to deceive and to enable the First Colony Affiliates to facilitate commingling of their "partner" assets and funds entrusted to them to be used interchangeably among the numerous projects operated by and among the Defendants.

122. Upon information and belief, by controlling all of the Affiliated Companies and having holding companies so that the assets of one company are primarily interests of the another affiliate, the First Colony Management could manipulate the price of the holding company by moving assets among their various multiple entities that they control.

123. The Plaintiffs are informed and believe and therefore allege that the First Colony Management engaged in a pyramid scheme whereby assets were transferred among the various entities that they control in an attempt to get rid of debt while retaining assets.

124. Upon information and belief, the Defendants engaged in a pattern and practice in making promises and representations to prospective tenants, including the Plaintiffs of the Greenway Commons project, which promises and representations the Defendants knew at the time they were made were false and knew that they would not or could not be met, or the Defendants exhibited a reckless and wanton disregard for the truthfulness thereof, and the promises and representations made to the Plaintiffs as alleged herein were part of the pattern and practice by the Defendants.

125. Upon information and belief the Defendants' false representations to the Plaintiffs as alleged above were made to deceive the Plaintiffs and did, in fact, deceive the Plaintiffs and caused the Plaintiffs to sign the Lease with Defendants' in reliance thereon, which Lease the Plaintiffs would not have otherwise signed, but for the false promises and representations of the Defendants causing great damage to the Plaintiffs as alleged above. By

reason thereof, upon information and belief the Defendants engaged in fraud upon the Plaintiffs in the inducement of the Lease agreement.

126. The misrepresentations and concealments of the Defendants as alleged above upon information and belief wrongfully induced the Plaintiffs to enter into a long term lease at a price in excess of its fair market value.

127. The actions and inactions of the Defendants as alleged above upon information and belief constitute fraud in the inducement and common law fraud.

128. As a direct and proximate result of the fraud by the Defendants as alleged above upon information and belief, Plaintiffs have been damaged and Plaintiffs are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Fourth Claim for Relief
(Constructive Fraud -Breach of a Special Fiduciary Duty)

129. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

130. In order to fulfill their contractual duties to deliver 50% of the profits from the sale of any part of the Templeton Property and to share with the Plaintiffs a portion of the profits from the office building that was to be constructed, the Defendants formed several new limited liability companies including GCL, and GCI, in which the Plaintiffs received a direct membership interest. Further, GCI owned a membership interest in GC, so the Plaintiffs were to receive an indirect interest in GC as well.

131. By reason of the direct contractual duties owed by the Defendants to the Plaintiffs, there was and is a special fiduciary duty owed to the Plaintiffs by the Defendants and specifically including but not limited to First Colony Healthcare, LLC as manager of GCL, GCI, and GC.

132. The Defendants violated their special fiduciary duty to make a full and frank disclosure of all matters concerning the subject transaction to the Plaintiffs.

133. As alleged above, the Defendants and specifically including, but not limited to, First Colony Healthcare, LLC, have also engaged in acts, practices and courses of business that are in breach of the special fiduciary duty owed by the Defendants to the Plaintiffs.

134. The Plaintiffs are informed and believe and therefore allege that First Colony Management knew or should have known that the funds and property that rightfully belonged to the Plaintiffs were being misappropriated and wrongfully applied, contrary to the promises and assurances made by the Defendants to induce the Plaintiffs to enter into the transaction.

135. The Plaintiffs are informed and believe and therefore allege that the First Colony Management knew or should have known that there were unauthorized material alterations being made to the Inducement Documents after the Lease was signed and while in their care and custody.

136. The Plaintiffs are informed and believe and therefore allege that the First Colony Management knew or should have known that the representations that were made to induce the Plaintiffs to enter into the transaction were false and/or misleading.

137. The Plaintiffs are informed and believe and therefore allege that the First Colony Management had a duty to oversee and keep abreast of the distributions and appropriation of the Plaintiffs' entrusted funds and property.

138. As a direct and proximate result of the breach of the special fiduciary duty owed by First Colony Healthcare, LLC to A to Z, Plaintiffs have been damaged Plaintiffs are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Fifth Claim for Relief
(Intentional or Negligent Misrepresentation)

139. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

140. The actions and statements of the Defendants as set forth above made independently and/or through their duly authorized representatives were intended to mislead and, in fact, did mislead the Plaintiffs.

141. The actions and statements of the Defendants as described herein, independently and/or through their duly authorized representatives, constituted negligent misrepresentation, upon which the Plaintiffs reasonably relied and in fact, did mislead the Plaintiffs to their detriment.

142. The misrepresentations and concealments of the Defendants independently and/or through their duly authorized representatives, as alleged above, constitute intentional misrepresentations upon which Plaintiffs reasonably relied, and in fact did mislead the Plaintiffs to their detriment.

143. As a direct and proximate result of the negligent or intentional misrepresentations by the Defendants, Plaintiffs have been damaged and are entitled to an accounting from the Defendants, the return of all profits wrongfully taken by the Defendants, damages in excess of $10,000.00, and a return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Sixth Claim for Relief
(Securities Fraud; N.C.G.S. Chapter 78A)

144. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

145. The actions and inactions of the Defendants as alleged above constitute a device, scheme or artifice to defraud Plaintiffs in connection with the offer, sale or purchase of a security in violation of N.C.G.S. 78A-8(1).

146. The misrepresentations and concealments of the Defendants, as alleged above, constitute untrue statements of material facts or omissions of material facts necessary to make the statements made in the light of the circumstances under which they were made not misleading in connection with the offer, sale or purchase of a security in violation of N.C.G.S. 78A-8(2).

147. As alleged above, the Defendants have engaged in acts, practices and courses of business that operated as a fraud and deceit upon Plaintiffs, in violation of N.C.G.S. 78A-8(3).

148. As a direct and proximate result of the actions and inactions of the Defendants as alleged, Plaintiffs are entitled to recover from the Defendants jointly and severally a sum in excess of $10,000.00 by reason of the securities fraud, together with interest at the legal rate of eight percent (8%) annum from February 28, 2007 until the date of payment in full, plus costs and reasonable attorney's fees.

Seventh Claim for Relief
(Action for Rescission of Lease for Failure of Condition Precedent)

149. That the above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

150. That from the inception of the transaction, there was an integral and material link between the Lease and the Plaintiffs' promised equity ownership interest in the project and the sharing of profits upon the sale of the Templeton Property.

151. That by reason of the wrongful actions and inactions of the Defendants, a material purpose of the transaction can no longer be accomplished.

152. That the failure of the Defendants to fulfill their agreements with Plaintiffs constitutes a failure of a condition precedent material to the agreements of the parties entitling Plaintiffs to a rescission of the Lease.

153. Because of the fraud, actual, intentional, or negligent misrepresentations of the Defendants, Plaintiffs are entitled to a judgment declaring the Lease to be null and void, and that Plaintiffs have no further liability thereon. Additionally, Plaintiffs are entitled to have any proceedings to enforce said Lease enjoined.

Eighth Claim for Relief
(Action to Cancel Lease and for Rescission by Reason of Failure of Consideration)

154. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

155. The actions and inactions of the Defendants as alleged above have resulted in a total failure of consideration on their part. That because of the total failure of

consideration, the Plaintiffs are entitled to a judgment declaring the Lease to be null and void, and that Plaintiffs have no further liability thereon. Additionally, Plaintiffs are entitled to have any proceedings to enforce said Lease enjoined.

Ninth Claim for Relief
(Waiver)

156. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

157. Because of the Defendants' improper conduct in the course of the transaction, the Defendants have waived any "right" to enforce the Lease. That because of the waiver by the Defendants, the Plaintiffs are entitled to a judgment declaring the Lease to be null and void, and that Plaintiffs have no further liability thereon. Additionally, Plaintiffs are entitled to have any proceedings to enforce said Lease enjoined.

Tenth Claim for Relief
(Conflict of Interest)

158. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

159. The Defendants owe a special fiduciary duty to the Plaintiffs not to engage in activities conflicting with the interests of the Plaintiffs.

160. As alleged in the foregoing paragraphs, Defendants have engaged in activities conflicting with the interests of the Plaintiffs resulting in damage to the Plaintiffs. That further, the Plaintiffs are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Eleventh Claim for Relief
(Unjust Enrichment)

161. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

162. That the misrepresentations and/or omissions of the Defendants either independently and/or through their duly authorized representatives were willful, reckless, and negligent misrepresentations of material facts.

163. The Defendants made these representations and/or omissions, either intentionally, without knowledge of their truth or falsity, or negligently, to induce Plaintiffs to act thereon, and Plaintiffs, without knowing the truth or falsity, directly or indirectly, justifiably and reasonably acted upon said misrepresentations to their injury and detriment.

164. As a direct and proximate result of willful, reckless, negligent, or grossly negligent, misrepresentation and concealment of material facts by the Defendants either independently and/or through their duly authorized representatives, the Defendants have been unjustly enriched and Plaintiffs have been damaged in an amount in excess of $10,000.00. That further, the Plaintiffs are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Twelfth Claim for Relief
(Unfair and Deceptive Trade Practices)

165. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

166. That at all times relevant to this action, the Defendants engaged in activities affecting commerce. The transactions between Plaintiffs and the Defendants, as heretofore alleged, are acts affecting commerce as defined in N.C. Gen. Stat. § 75-1.1.

167. Furthermore, the actions of the Defendants constitute unfair and deceptive trade practices, as defined in N.C. Gen. Stat. § 75-1.1 which have resulted in damages incurred by the Plaintiffs in excess of $10,000.00

168. Pursuant to N.C. Gen. Stat. § 75-16, Plaintiffs are entitled to have any and all damages awarded against Defendants trebled by the Court.

169. Pursuant to N.C. Gen. Stat. § 75-16.1, Plaintiffs are entitled to an award of reasonable attorney's fees on the grounds that the Defendants willfully engaged in unfair and deceptive trade practices. That further, Plaintiffs are entitled to an accounting from the

Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Thirteenth Claim for Relief
(Wrongful Conversion)

170. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

171. Defendants' conduct regarding the funds of the Plaintiffs that were wrongfully taken and used by the Defendants for their own purposes as alleged above on information and belief was done by the Defendants willfully and intentionally, and in breach of the trust and confidence placed by the Plaintiffs with regard to these funds and in breach of the Defendants' fiduciary duties owed to the Plaintiffs regarding these funds.

172. The actions of the Defendants as alleged above in converting Plaintiffs' property to their own personal use constitute a wrongful conversion.

173. As a result of said conversion, the Plaintiffs are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Fourteenth Claim for Relief
(Punitive Damages)

174. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

175. Upon information and belief, the Defendants' actions were fraudulent, willful and wanton, thereby entitling the Plaintiffs are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Fifteenth Claim for Relief
(Civil Conspiracy)

176. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

177. Upon information and belief, the wrongful actions of and the misrepresentations by the members of the First Colony Management were known to and approved by each other and in fact were a part of a civil conspiracy to deprive the Plaintiffs of their contractual rights and other benefits. That by reason thereof, the Plaintiffs have been damaged and are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Sixteenth Claim for Relief
(Negligence)

178. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

179. By reason of the allegations set forth above, as set forth above, the Defendants at all times owed a duty of reasonable care to the Plaintiffs.

180. The Defendants' actions and inactions as alleged above upon information and belief were negligent and in breach of the duty of care owed to the Plaintiffs by the Defendants. By reason thereof, Plaintiffs have been damaged and are entitled to an accounting from the Defendants and are entitled to the return of all profits wrongfully taken as well as to damages, rescission of the Lease, a refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

Seventeenth Claim for Relief
(Equitable Estoppel)

181. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

182. Defendants' conduct amounted to one or more false representations or concealment of a material fact and was reasonably calculated to induce the Plaintiffs to rely on these misrepresentations and concealments when executing the Lease.

183. Defendants intended for the Plaintiffs to rely upon the Defendants' wrongful conduct.

184. Defendants knew that their conduct was wrongful and calculated to induce the Plaintiffs to rely on these misrepresentations and concealments when executing the Lease.

185. Plaintiffs lacked actual knowledge of the wrongfulness of the Defendants' conduct.

186. Plaintiffs relied on Defendants' misrepresentations and improper conduct when executing the Lease.

187. Plaintiffs' reliance on the Defendants' misrepresentations and improper conduct caused the Plaintiffs to execute the Lease.

188. Defendants are equitably estopped from enforcing the Lease and the Plaintiffs are entitled to a judgment declaring the Lease to be null and void, and that Plaintiffs have no further liability thereon. Additionally, Plaintiffs are entitled to have any proceedings to enforce said Lease enjoined.

SECTION II

PLAINTIFFS' CLAIMS APPLICABLE TO THE COLONYAFFILIATES AND THEIR RESPECTIVE REPRESENTATIVES, PRINCIPALS, OFFICERS, DIRECTORS AND MANAGERS (THE "COLONY DEFENDANTS")

[ALL REFERENCES TO "DEFENDANTS" IN THIS SECTION OF THE COMPLAINT SHALL MEAN THE COLONY DEFENDANTS UNLESS SPECIFICALLY SET FORTH OTHERWISE]

First Claim For Relief
(Incorporation of Certain Claims From Section I of the Complaint)

189. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

190. At all times relevant, Colony Development Partners, LLC, ("CDP") and Colony Management, Inc. ("CM") were affiliated companies (the "Colony Affiliates") under the common direction and control of Brown, McCrory, Hinson, Russell and Norvet.

191. In their press release of August 8, 2008, McCrory, on behalf of CDP and CM, reported that assets had been transferred from the various First Colony Affiliates to CDP and CDP had taken over the duties of the various First Colony Affiliates. As per McCrory, "In addition to its commercial development projects, the company purchased First Colony Corporation's asset management contracts and contracted to provide project and asset management services to First Colony and its affiliated Land Development, Resort and Healthcare companies." McCrory also went on to say that "Colony Development Partners hired all of the former employees of First Colony."

192. That by reason of the foregoing, the Colony Affiliates stepped into the shoes of the First Colony Affiliates and owes the same duties to the Plaintiffs as First Colony in the handling of the Plaintiffs money and property.

193. That further, Brown, McCrory, Hinson, Russell and Norvet all had been involved with Greenway Commons and knew what had been promised to the Plaintiffs to induce them to sign the Lease.

194. The Plaintiffs are informed and believe and therefore allege that the representatives, principals, officers, directors, and managers of the various Colony Affiliates (the "Colony Management Team") had a duty to oversee and keep abreast of the distributions and appropriation of the Plaintiffs' entrusted funds and property.

195. The Plaintiffs are informed and believe and therefore allege that the Colony Management Team knew or should have known that there were unauthorized material alterations being made to the Inducement Documents after the Lease was signed and while in their care and custody.

196. The Plaintiffs are informed and believe and therefore allege that the Colony Management Team knew or should have known that the funds and property that rightfully belonged to the Plaintiffs were being misappropriated and wrongfully applied, contrary to the promises and assurances made by the Defendants to induce the Plaintiffs to enter into the transaction.

197. To the extent that any of the wrongful acts or omissions complained of in Section I of the Complaint occurred or took place after the Colony Affiliates took over the management duties for the Greenway Commons project, the claims against the First Colony Defendants as set forth in Section I of the Complaint are re-alleged and incorporated herein against the applicable Colony Defendants as if set forth in their entirety.

198. To the extent that any of the wrongful acts or omissions by the First Colony Management complained of in Section I of the Complaint occurred while that member of the First Colony Management was acting in his or her capacity as a member of the Colony Management Team, the applicable claims against the First Colony Defendants as set forth in Section I of the Complaint are re-alleged and incorporated herein against the applicable Colony Defendants as if set forth in their entirety.

SECTION III

PLAINTIFFS' CLAIMS APPLICABLE TO BOTH THE FIRST COLONY AFFILIATES AND THEIR RESPECTIVE REPRESENTATIVES, PRINCIPALS, OFFICERS, DIRECTORS AND MANAGERS (THE "FIRST COLONY DEFENDANTS") AND TO THE COLONY AFFILIATES AND THEIR RESPECTIVE REPRESENTATIVES, PRINCIPALS, OFFICERS, DIRECTORS AND MANAGERS (THE "COLONY DEFENDANTS")

First Claim for Relief
(Constructive Trust)

199. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

200. As alleged above upon information and belief, some or all of the Defendants improperly and unjustly came into possession or control of Plaintiffs' funds by using their position and control as Manager of the Greenway Companies.

201. As alleged above upon information and belief, some or all of the Defendants improperly and unjustly came into possession or control of Plaintiffs' funds by breaching their fiduciary duties to Plaintiffs.

202. These Defendants would be unjustly enriched if they were permitted to retain possession or control of Plaintiffs' funds.

203. These Defendants wrongful possession and control of Plaintiffs' funds has deprived Plaintiffs of a beneficial interest in these funds, to which they are entitled.

204. Equity requires the imposition of a constructive trust on the Defendants assets which were acquired through the wrongful conduct alleged herein. The constructive trust is required to prevent the wrongful Defendants from being unjustly enriched at the expense of Plaintiffs.

Second Claim For Relief
(Request for the Appointment of an Independent Receiver)

205. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

206. That upon information and belief, the Defendants as managers of the Greenway Companies have mismanaged the Greenway Companies and have misapplied or permitted to be misapplied Plaintiffs' money and property including but not limited to a portion of the rents that Plaintiffs have paid that should have been returned to the Plaintiffs as part of the profits if the Greenway Companies had been properly managed.

207. Upon information and belief, if the Defendants are allowed to remain as the managers of the Greenway Companies, the Plaintiffs and the Greenway Companies will suffer irreparable harm by reason thereof.

208. Pursuant to N.C. Gen. Stat. § 1-502 and the Court's inherent authority to appoint a receiver, the Plaintiffs request the appointment of an independent receiver pending and during litigation to receive and distribute rents and to otherwise preserve the Greenway Companies, protect the Plaintiffs' interests, and to prevent further possible wrongful acts as described above.

Third Claim For Relief
(Request for Accountings)

209. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

210. Pursuant to the provisions of the Inducement Documents, the Plaintiffs request the opportunity to inspect and make copies of the records for all three of the Greenway Companies and further request an audit of the books of account maintained by each Company to be conducted by independent Certified Public Accountants as approved by the Court.

Fourth Claim For Relief
(Request for Declaratory Judgment NCGS 1-253)

211. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

212. An actual and ongoing dispute exists between the parties regarding the Defendants' claims for Common Area Management fees and charges under the Lease.

213. The Plaintiffs contend that the Defendants have misapplied prior payments made by the Plaintiffs, miscalculated the fees, and improperly charged costs and expenses to the Plaintiffs.

214. Plaintiffs have discussed their concerns with the Defendants to no avail.

215. Even though the Plaintiffs have timely paid all of their monthly payments on the Lease, the Defendants have sent the Plaintiffs a notice of default under the Lease and have threatened to have the Plaintiffs ejected from their office by reason of the Plaintiffs refusal to pay the disputed CAM fees.

216. Pursuant to N.C. Gen. Stat. §§ 1-253 et seq. (the North Carolina Declaratory Judgment Act), Plaintiffs seek to have the Court declare the respective rights of the parties concerning the proper charging and handling of the disputed CAM fees.

217. Plaintiffs request that the Court enter judgment in this case pursuant to N.C. Gen. Stat. §§ 1-253 et seq. ascertaining the rights and duties of the respective parties concerning the proper charging and handling of CAM fees under the Lease pending trial of the remaining matters set forth herein.

Fifth Claim For Relief
(Motion for Preliminary Injunction)

218. The above paragraphs are re-alleged and incorporated by reference as if fully set forth herein.

219. Plaintiffs have incurred substantial signage and up-fit expenses in making their Leasehold Improvements suitable for their particular practice and also have very substantial trade fixtures and built-ins that will need to be valued in place by the Court in its determination of what amount of damages the Plaintiffs may be entitled to.

220. Further, since the Doctors are some of the only pediatricians serving a very large geographical area, their patients would also be severely harmed if the Plaintiffs were required to vacate the Blue Ridge Building on short notice.

221. Pursuant to Rule 65 of the North Carolina Rules of Civil Procedure, the Court is empowered to issue a preliminary injunction to preserve the status quo until a final determination of the pending action and completion of a hearing on the merits and decision by this Court regarding the Plaintiffs' equitable and other claims.

222. Plaintiffs allege that there is a substantial likelihood that the Plaintiffs will prevail in this action and that there is a reasonable apprehension that the Plaintiffs will suffer irreparable loss unless a preliminary injunction is issued.

223. Issuance of a preliminary injunction is reasonably necessary to protect the Plaintiffs' rights during the pendency of this litigation.

224. Because the Plaintiffs have agreed to continue to pay the monthly Lease payments into the Court during the pendency of this litigation and Defendants will not suffer any costs, depreciation, interest, or other damages as a result of issuance of a preliminary injunction, the Court should exercise its discretion and not require the Plaintiffs to post any bond.

Sixth Claim For Relief
(Demand for a Jury Trial)

225. Plaintiffs hereby demand a trial by jury on all issues properly triable thereby.

WHEREFORE, Plaintiffs pray unto the Court for the following relief:

1. For a judgment declaring the Lease to be null and void, that Plaintiffs have no further liability thereon, and that any proceedings to enforce the Lease are permanently enjoined.

2. For an order requiring the Defendants to return all profits wrongfully taken from the Plaintiffs, the refund of any fees or charges paid by the Plaintiffs to any of the First Colony Defendants, and the return of all sums paid by the Plaintiffs on the Lease in excess of fair market value.

3. That the Defendants be ordered to provide Plaintiffs with full and complete information and accounting regarding all the Greenway Companies' assets and records;

4. That the Court impose a constructive trust upon all assets wrongfully withheld by the Defendants from Plaintiffs;

5. That the Court order the appointment of an independent receiver pending and during litigation to receive and distribute rents and to otherwise preserve the Greenway Companies, protect the Plaintiffs' interests, and to prevent further possible wrongful acts of the Defendants as upon information and belief alleged above.

6. That the Court enter judgment in this case pursuant to N.C. Gen. Stat. §§ 1-253 et seq. ascertaining the rights and duties of the respective parties concerning the proper charging and handling of CAM fees under the Lease pending trial of the remaining matters set forth herein.

7. That an injunction be entered against any attempted ejectment of the Plaintiffs from the Blue Ridge Building during the pendency of this litigation. Plaintiffs further request that the Court exercise its discretion and not require the Plaintiffs to post any bond.

8. For compensatory, incidental, and consequential damages for Defendants' wrongful actions and conduct as upon information and belief alleged herein, in an amount in excess of $10,000.00;

9. For treble damages and attorneys' fees for Defendants' unfair and deceptive trade practices as upon information and belief alleged herein;

10. For an award of punitive damages for the Defendants' wrongful actions and conduct as upon information and belief alleged herein;

11. For an award of interest, attorneys' fees, and all costs as permitted by law;

12. That where applicable, the Defendants be held jointly and severally liable for all damages as alleged herein;

13. For a trial by jury on all issues properly triable thereby; and

14. For any and all further relief this Court may deem just and proper.

This the 8th day of March, 2011.

Thomas M. Ward
Harris, Creech, Ward and Blackerby, P.A.
325 Pollock Street
Post Office Drawer 1168
New Bern, North Carolina 28563-1168
Telephone: (252) 638-6666
State Bar Number: 8554
Attorneys for Plaintiffs

tmw:jjw/6200