

**IN THE CIRCUIT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO.: 2022-022629-CA-01

MICHAEL L. FEINSTEIN and  
MICHAEL L. FEINSTEIN, P.A.

Appellants,

v.

OLEG SEMENOV, P.A., a Florida  
Professional Association,

Plaintiff/Appellee

v.

FIRST FLORIDA INTERNATIONAL, LLC,  
a Florida Limited Liability Company,  
EDWARD GENIN, an individual, and ALEX  
GENIN, an individual,

Defendants/Appellees

\_\_\_\_\_ /

**NOTICE OF APPEAL**

**Please take notice** that MICHAEL L. FEINSTEIN and MICHAEL L. FEINSTEIN, P.A., former counsel for Defendants, EDWARD GENIN, ALEX GENIN, and FIRST FLORIDA INTERNATIONAL, LLC, appeals pursuant to Fla. R. App. 9.110, and 9.030, to the Third District Court of Appeal, State of Florida, this court's "**ORDER GRANTING FINAL JUDGMENT**" entered on May 8, 2024 (attached) which was entered after several evidentiary hearings on Plaintiff's

Motion for Show Cause Order; Motion for Sanctions, Plaintiff's Motion for Default Judgment, Plaintiff's Notice of Filing Supplemental Authority in Support of Plaintiff's Motion for Order to Show Cause and for Default Judgment, and Plaintiff's Amended Motion for Sanctions seeking sanctions and default judgment against Defendants EDWARD GENIN, ALEX GENIN, and FIRST FLORIDA INTERNATIONAL, LLC and sanctions against MICHAEL L. FEINSTEIN and MICHAEL L. FEINSTEIN, P.A. Although a timely Motion for Rehearing was filed by MICHAEL L. FEINSTEIN and MICHAEL L. FEINSTEIN, P.A. on May 21, 2024, the Court has not rendered its ruling, either granting or denying such motion. The nature of the Order is an "**ORDER GRANTING FINAL JUDGMENT**" "for bad faith, inequitable litigation conduct and violations of this Court's lawful Orders, dilatory tactics and inequitable conduct and citing violation of Kozel factors. Further, the Order requires MICHAEL L. FEINSTEIN and MICHAEL L. FEINSTEIN, P.A. to pay 50% of the Plaintiff's attorney's fees pursuant to Fla. Stat. Section 772.11, Fla. Stat. Section 57.105, due to this Court's inherent authority, and the inequitable conduct doctrine. Because the Order awards \$309,305.96 to the Plaintiff to be released from the Court's Registry immediately is an appealable as a Final Order.

Respectfully submitted,

By: /s/ Michael L. Feinstein

Michael L. Feinstein, Esq.

FBN: 650382

**MICHAEL L. FEINSTEIN, P.A.**

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished via email to: David E. Wolff, Wolff Law, P.A., at [davidwolfflaw@gmail.com](mailto:davidwolfflaw@gmail.com), Angelo A. Gasparri, Esq., KELLEY KRONENBERG, 10360 West State Road 84, Fort Lauderdale, Florida 33324, [aageservice@kelleykronenberg.com](mailto:aageservice@kelleykronenberg.com); in accordance with the Florida Rule of Judicial Administration, 2.516 and Supreme Court Administrative Order No.: AOSC13-49 through the utilization of the Florida Court E-Filing Portal on June 7, 2024.

/s/ Michael L. Feinstein

Michael L. Feinstein, Esq.

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2022-022629-CA-01

SECTION: CA05

JUDGE: Vivianne Del Rio

**OLEG SEMENOV, P.A.**

Plaintiff(s)

vs.

**FIRST FLORIDA INTERNATIONAL, LLC et al**

Defendant(s)

**ORDER GRANTING FINAL JUDGMENT**

**THIS CAUSE** having come before the Court on October 5, 2023, February 27, 2024, March 21, 2024, and April 23, 2024, for an evidentiary hearing upon Plaintiff's Motion for Show Cause Order; Motion for Sanctions, [DE # 37], Motion for Default Judgment [DE # 38], Notice of Filing Supplemental Authority in Support of Plaintiff's Motion for Order to Show Cause and for Default Judgment [DE # 44], and Plaintiff's Amended Motion for Sanctions [DE # 198] seeking sanctions and default judgment against Defendants EDWARD GENIN, ALEX GENIN, and FIRST FLORIDA INTERNATIONAL, LLC ("FFI") for bad faith, inequitable litigation conduct and violations of this Court's lawful Orders and (i) having conducted an evidentiary hearing on Plaintiff's Motions; (ii) having reviewed Defendants' responses and filings; (iii) having weighed the evidence, including all witnesses and exhibits properly presented during the hearings in this matter; (iv) having carefully reviewed the Motions and the briefing of the parties, (v) having heard argument of all counsel and (vi) and being otherwise duly advised in the premises, the Court hereby makes the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. **Nature of the Suit.** On November 29, 2022, Plaintiff filed the instant action seeking return

of \$309,305.96 in funds mistakenly wired to FIRST FLORIDA INTERNATIONAL, LLC's ("FFI") account on July 5, 2022, while attempting to close on the purchase of the real property located at 18101 Collins Avenue, Apartment 1002, Sunny Isles Beach, FL, 33160.<sup>[1]</sup> Plaintiff alleged that, *inter alia*, that Defendants EDWARD GENIN and ALEX GENIN, owners of FFI, refused to return the mistaken wire, and instead, took control of the funds with intent to deprive Plaintiff of those funds to gain leverage and an advantage in prior litigation between the parties.<sup>[2]</sup> Plaintiff further alleged that Defendant ALEX GENIN breached his fiduciary duty to Plaintiff by failing to return the mistaken wire funds when requested because, at the time, ALEX GENIN was advising Plaintiff on his investments and had access and control to the account to which Plaintiff's funds were mistakenly wired. There is no dispute of genuine fact that the \$309,305.96 in funds belong to Plaintiff.<sup>[3]</sup>

2. **Facts leading to the litigation.** Bad faith may be found not only in the actions that led to the lawsuit, but also in the conduct of the litigation." *Nedd v. Gary*, 35 So. 3d 1028, 1030 (Fla. 4th DCA 2010); *Dogherra v. Safeway Stores, Inc.*, 679 F.2d 1293, 1298 (9th Cir. 1982) (quoting *Hall v. Cole*, 412 U.S. 1, 15, 93 S.Ct. 1943, 1951, 36 L.Ed.2d 702 (1973)). The Court accepted evidence that Defendants FFI and EDWARD GENIN recorded two (2) construction liens on Plaintiff's properties – for services by their own admission they are not licensed to provide – in an aggregate amount exceeding \$350,000.<sup>[4]</sup> These liens remained encumbering Plaintiff's properties during the pendency of this litigation. Defendants FFI and EDWARD GENIN also attempted to foreclose on these liens and have Plaintiff's properties sold.<sup>[5]</sup> EDWARD GENIN testified he filed these liens to "get Plaintiff's attention." The Court accepted evidence that Defendants' counsel, MICHAEL LAURENCE FEINSTEIN, knowingly made false statements to law enforcement and third parties at the direction of Defendant EDWARD GENIN on the very core issue of this matter in order to delay and further the retention of Plaintiff's funds by the Defendants in

violation of Florida Bar Rule 4-3.3.<sup>[6]</sup> The Court accepted further evidence that Defendants and their counsel, Mr. Feinstein, filed a Complaint with the Department of Business and Professional Regulation (“DBPR”) against Plaintiff’s real estate license during this litigation without probable cause just prior to the parties’ scheduled mediation in this matter in violation of Fla. Bar. R. 4-3.4. The Court took judicial notice that in addition to the \$309,305.96 in funds that Defendants refused to return, Defendant EDWARD GENIN withheld an additional \$34,000 in real estate commissions due to Plaintiff without any evidentiary or legal basis resulting in sanctions against him personally.<sup>[7]</sup> The evidence reflects that multiple, written demands were made to Defendants to return Plaintiff’s funds, and that multiple written demands were made on Defendants’ counsel pursuant to Fla. Stat. Section 772.11, demanding return of and treble damages for the conversion and theft of Plaintiff’s Mistaken Wire Funds, notwithstanding Defendants evasion of service of process.<sup>[8]</sup> The record reflects that from July 5, 2022, to November 2022, a period of more than four (4) months, neither Defendants nor their counsel, Mr. Feinstein, made any efforts to return the Mistaken Wire to Plaintiff, requiring the initiation of this litigation. The record also reflects that multiple requests were made to Defendants’ counsel requesting a waiver of service and/or acceptance of service of this suit. However, from November 8, 2022, to March 25, 2023, Defendants could not be served, and their counsel refused to accept service and took no action.

3. **Procedural History of Dilatory Tactics and Inequitable Conduct.** Plaintiff first filed a Motion for Substitute Service or an Extension of Time to effectuate service due to Defendants’ evasion of service and their counsel’s refusal to accept service.<sup>[9]</sup> On March 8, 2023, the Court held a hearing on Plaintiff’s Motion for Substitute Service.<sup>[10]</sup> At that hearing, Mr. Feinstein represented to the Court that he did not represent Defendant, ALEX GENIN, Defendant EDWARD GENIN’S father, prompting the Court to order that ALEX GENIN be served via the Secretary of State. On March 25, 2023, Plaintiff filed a Motion for

Default attaching three (3) affidavits reflecting attempts to serve Defendants.<sup>[11]</sup> The day before the hearing on the Motion for Default, on April 11, 2023, Mr. Feinstein appeared on behalf of Defendants, EDWARD GENIN and FFI, and filed the first Motion to Dismiss.<sup>[12]</sup> On April 25, 2023, Plaintiff filed a Response in Opposition to Defendants' Motion to Dismiss.<sup>[13]</sup> On April 30, 2023, Defendants filed a Cross-Notice of Hearing for May 3, 2023, reflecting Defendants' consent to the May 3, 2023, hearing date.<sup>[14]</sup> On May 3, 2023, the Court heard and denied Defendants' Motions to Dismiss and to Strike and expressly stated that Defendants' arguments "should be raised at summary judgment and not at this stage of the proceedings."<sup>[15]</sup> The Court then explicitly ordered Defendants to file an Answer within twenty (20) days.<sup>[16]</sup> Defendants EDWARD GENIN and FFI did not comply with the Court's May 10, 2023, Order to Answer. Instead, on May 26, 2023, Defendants EDWARD GENIN and FFI filed another Motion to Dismiss, titled a "Motion for Reconsideration," arguing that Defendants were "denied due process" and that Plaintiff's counsel "manipulated the scheduling of the hearing to the detriment of Defendants" despite agreeing to the hearing date.<sup>[17]</sup> On May 30, 2023, Plaintiff served a Fla. Stat. § 57.105 Safe Harbor Letter and proposed Motion for Sanctions requesting withdrawal of Defendants' Second Motion to Dismiss/Reconsideration.<sup>[18]</sup> Neither Defendants nor their counsel responded to the 57.105 Safe Harbor Letter and Proposed Motion for Sanctions. On May 31, 2023, Plaintiff noticed Defendants' Second Motion to Dismiss/Reconsideration for hearing on June 21, 2023 consistent with this Court's procedures.<sup>[19]</sup> On or about June 6, 2023, Defendants' counsel instructed Attorney Giovanni Mesa to draft and file a Motion to Strike and Notice of Cancellation of the hearing on Defendants' Second Motion to Dismiss/Reconsideration.<sup>[20]</sup> Attorney Giovanni Mesa has never filed an appearance in this case and swore under oath he does not represent any of the Defendants in this matter.<sup>[21]</sup> On June 20, 2023, the day before the hearing on Defendants' Second Motion to Dismiss/Motion for Reconsideration, Defendants' counsel, Mr. Feinstein, instructed Attorney Giovanni Mesa

to email the Court's Judicial Assistant a Notice of Cancellation and Motion to Strike for the sole purpose of cancelling the hearing on Defendants' Second Motion to Dismiss/Motion for Reconsideration and delaying the proceedings.<sup>[22]</sup> On June 21, 2023, the day of the hearing, Defendants' counsel, Mr. Feinstein, failed to appear before the Court on Defendants' Second Motion to Dismiss/Motion for Reconsideration based upon Attorney Giovanni Mesa's submissions to the Court. Consequently, the Court was forced to reset the hearing on Defendants' Second Motion to Dismiss/Reconsideration resulting in further delay. On June 22, 2023, the day after Defendants' counsel Mr. Feinstein failed to appear before this Court at hearing on his clients' Second Motion to Dismiss/Motion for Reconsideration, Defendants and Mr. Feinstein filed a Motion for Sanctions for "Vexatious Litigation Tactics" and requested that this Court refer Plaintiff's counsel to the Florida Bar for "unilaterally sett[ing] Defendants' motions" and "appearing at the hearing knowing Defendants' counsel would not be present."<sup>[23]</sup> On July 11, 2023, in response to Defendants' Motion to Refer Plaintiff's counsel to the Florida Bar, Plaintiff filed its Motion for Sanctions, Motion for Show Cause Order, and Motion for Default Judgment.<sup>[24]</sup> On July 17, 2023, Plaintiff filed Supplemental Authority in Support of its Motions for Sanctions citing *Kozel* and its factors asking this Court to consider default judgment.<sup>[25]</sup> On August 23, 2023, the Court denied Defendants' Second Motion to Dismiss, denied Defendants' Motion for Sanctions for Vexatious Litigation Tactics and for Referral of Plaintiff's counsel to the Florida Bar, heard argument on the *Kozel* factors, and ordered Defendants to deposit the \$309,305.96 at issue into the Court registry.<sup>[26]</sup> Defendants opposed paying any of the Court's registry fees associated with this deposit, necessitating the filing of Plaintiff's Emergency Motion for Clarification and a hearing on same, which was granted by the Court on August 25, 2023.<sup>[27]</sup> The Court also ordered Defendant ALEX GENIN to respond to the Complaint by September 5, 2023.<sup>[28]</sup> Defendant ALEX GENIN did not comply with the Court's August 23, 2023 Order. On August 29, 2023, Mr. Feinstein filed on behalf of Defendant ALEX GENIN a

Motion for Extension of Time requesting another thirty (30) days to respond to the Complaint, despite previously representing to this Court on multiple occasions months earlier that he did not represent ALEX GENIN in these proceedings requiring Plaintiff to obtain substitute service and delay this matter unnecessarily.<sup>[29]</sup> On September 5, 2023, the Court granted Defendant ALEX GENIN'S Motion for Extension of Time noting the agreement of the parties, requiring a response by September 12, 2023.<sup>[30]</sup> Defendant ALEX GENIN did not comply with this Court's September 5, 2023 Order. On September 13, 2023, Defendant ALEX GENIN filed Defendants' *Third* Motion to Dismiss, copying and pasting the very same arguments previously rejected by this Court in ruling on Defendants' First and Second Motion to Dismiss.<sup>[31]</sup> Also on September 13, 2023, Defendants FFI and EDWARD GENIN filed a Counterclaim and Third-Party Complaint alleging identical causes of action previously advanced a year earlier in another proceeding - *SK Invest Group, LLC v. FFI et al.*, Case No.: 2022-004984-CA-01.<sup>[32]</sup> On October 5, 2023, this Court held an evidentiary hearing on the *Kozel* factors and heard all of Defendants' objections to the evidence. Plaintiff's counsel submitted evidence and argued and applied all of the *Kozel* factors at the hearing. After the evidence was ruled upon and submitted, the Court granted the Defendants leave to file an additional response to the Motion for Sanctions to address the *Kozel* factors. On October 30, 2023, Defendants filed a Motion to "Strike False Representations of Plaintiff's Counsel," including multiple disparaging statements against Plaintiff's counsel, and another Motion for Sanctions for "Vexatious Litigation Tactics," once again, attacking the integrity and character of Plaintiff's counsel.<sup>[33]</sup> The Defendants also filed a Motion for Case Management Conference, yet again advancing arguments of fraud on the court by Plaintiff's counsel, as well as another Motion for Reconsideration as to the Court's rulings on Defendants' Objections to the Evidence.<sup>[34]</sup> On November 27, 2023, Plaintiff filed a Response in Opposition and its 57.105 Safe Harbor Letter and Motion requesting withdrawal of these filings by Defendants.<sup>[35]</sup> Defendants and their counsel, instead of withdrawing

these filings, filed another Memorandum of Law and another Motion to Strike on December 5, 2023, reiterating the same arguments.<sup>[36]</sup> On January 4, 2024, this Court entered an order compelling the depositions of EDWARD GENIN and ALEX GENIN and an order compelling production from FFI in advance of the Court's February 16, 2024, continuation of the evidentiary hearing on the *Kozel* factors. Defendants did not comply with the Court's January 4, 2024, Orders. Defendant ALEX GENIN did not appear for his deposition as noticed, and Defendant FFI did not respond to Plaintiff's Request for Production or produce a single document. As of the date of this hearing, no Defendant has produced any documents in this case or submitted any evidence supporting the defenses advanced. On January 14, 2024, Defendants filed two (2) *more* Motions for Reconsideration of the Court's January orders, failed to comply, and then their counsel, Mr. Feinstein, moved to withdraw from this case.<sup>[37]</sup> On February 14, 2024, Defendants' new counsel, Angelo A. Gasparri, filed a Motion for Continuance of the February 16, 2024 evidentiary hearing.<sup>[38]</sup> On February 16, 2024, this Court granted Defendants' Motion for Continuance, specifically noting based on the proffer from Defendants' new counsel that Defendants no longer objected to release of the mistaken wire funds from the Court registry to Plaintiff, thus conceding Defendants complete lack of ownership to the funds. On March 21, 2024, the Court held further proceedings and Defendants provided testimony. After the March 21, 2024, hearing, Defendants and their counsel would not cooperate with the Court to continue the proceedings necessitating the Court setting a special-set solely to obtain Defendants' and their counsel's availability and appearance to conclude the proceedings.<sup>[39]</sup> These actions are a pattern in this case. At numerous hearings and scheduling conferences in this matter, Defendants and their prior counsel, Mr. Feinstein, objected to the setting of a trial date in this matter affecting the Court's ability to timely administer this matter. Moreover, this Court has had significant difficulty scheduling hearings in this matter due to Defendants, Mr. Feinstein, and his associate, JAMES H. SMITH'S intentional lack of cooperation in scheduling with this

Court's judicial assistant.

### **CONCLUSIONS OF LAW**

Under *Kozel*, there are six (6) relevant factors to be considered by this Court in determining whether default judgment is appropriate. These factors are as follows:

- 1) whether the attorney's disobedience was willful, deliberate, or contumacious, rather than an act of neglect or inexperience; 2) whether the attorney has been previously sanctioned; 3) whether the client was personally involved in the act of disobedience; 4) whether the delay prejudiced the opposing party through undue expense, loss of evidence, or in some other fashion; 5) whether the attorney offered reasonable justification for noncompliance; and 6) whether the delay created significant problems of judicial administration.

*Kozel v. Ostendorf*, 629 So. 2d 817 (Fla. 1994). A finding that all of the *Kozel* factors weigh in favor of default is not required for a trial court to exercise the "ultimate sanction..." *Ofer v. Bernstein*, 327 So. 3d 901, 902 (Fla. 3d DCA 2021) (quoting *Ham v. Dunmire*, 891 So. 2d 492, 497–500 (Fla. 2004)). In making the determination, "no magic words are required." *Ham v. Dunmire*, 891 So. 2d 492, 500 (Fla. 2004). This Court must "consciously determine" that the factors have been met and provide findings "to assist the reviewing court to the extent the record is susceptible to more than one interpretation." *Id.* The Court has carefully considered all of the evidence and heard the argument of counsel and concludes that each and every *Kozel* factor has been met, that lesser sanctions would be ineffective, and that default judgment on Plaintiff's claims is warranted, necessary and appropriate based on the dilatory tactics, extreme litigation conduct, ongoing, willful, deliberate and contumacious violations of the Rules Regulating the Florida Bar and this Court's Orders. Even if a lesser sanction would be appropriate, on the merits, there are no material facts that are genuinely in dispute. Defendants are simply not entitled to the funds at issue.

**Willfulness.** Given that Defendants' prior counsel, Mr. Feinstein, has over thirty (30) years of litigation experience, and his client, ALEX GENIN, also has over twenty (20) years of litigation

experience and has been deposed over ten (10) times, the Court concludes that the improper conduct advanced by the Defendants in this case was not the result of lack of experience or negligence - it was willful. The Court finds that Defendants and their counsel, Mr. Feinstein, engaged in inequitable litigation conduct in the form of generating a torrent of procedurally and legally frivolous motions designed solely to relitigate issues *ad nauseum*, delay the proceedings, wear Plaintiff down, and cause Plaintiff to incur needless fees and costs. The Court concludes that repeated, prior instances of sanctions and discovery misconduct in this circuit by Defendants and their counsel provide further evidence of willfulness. The evidence is overwhelming that Defendants and their counsel previously engaged in the exact same stalling and dilatory tactics as they have in this case, by filing motion after motion for reconsideration and thereafter failing to comply. Ironically, it is Defendants' and their counsel's persistent stream of Motions for Reconsideration and "Motions for Sanctions for Vexatious Litigation Tactics" that are, *per se*, vexatious, and have delayed and interfered with this Court's orderly administration of justice and Plaintiff's presentation of his claims on the merits. The Court notes that Defendants remain non-compliant with the Order Compelling Production from FFI, which goes to the heart of this matter. The misconduct by Defendants and Mr. Feinstein has delayed this matter for seventeen (17) months and caused undue burden to the Plaintiff and this Court. Neither Defendants nor Mr. Feinstein have suffered any consequences or paid any sanctions with respect to their prior episodes of misconduct. Based on the foregoing, the demeanor of the witnesses at the evidentiary hearing and the totality of the evidence in the record, the Court concludes that Defendants directly violated this Court's May 10, 2023, Order to Answer, and instead, filed meritless motion after meritless motion solely for purposes of delay. The Court concludes that the Defendants' violation of the Court's Order was willful, deliberate, and contumacious, rather than an act of neglect or inexperience. The Court further finds egregious misconduct in that Defendants and Mr. Feinstein in an effort to gain an advantage in this proceeding and reverse a ruling of this Court, filed a frivolous complaint against Plaintiff's real estate license and a baseless Motion to Refer Plaintiff's counsel to the Florida Bar

both in clear violation of Florida Bar Rule 4-3.4.<sup>[40]</sup> The Motion to Refer Plaintiff's counsel to the Florida Bar was the result of Plaintiff's counsel's attempts to set a hearing on Defendants' Motion for Reconsideration to close the pleadings and move the case forward. Defendant EDWARD GENIN testified he reviewed and approved these filings. ALEX GENIN, his father, provided vague and evasive testimony that he approved of some of these actions and filings, but not all of them.<sup>[41]</sup> The Court admitted evidence that ALEX GENIN has a history of providing false testimony, manufacturing evidence, and engaging in false financial transactions.<sup>[42]</sup> The Court also admitted evidence that ALEX GENIN wiped his phone during the evidentiary proceedings in this case.<sup>[43]</sup> The Court has reviewed the relevant dockets and notes that out of the twenty-four (24) Motions filed by Defendants and their counsel from October 2022 to June 2023 in the cases in this circuit between the parties, the *only* motion Defendants sought to set for hearing was Defendants' Motion for Sanctions for Vexatious Litigation Tactics and for Referral of Plaintiff's Counsel to the Florida Bar in this case in June 2023. Furthermore, the Court concludes that Defendants directly violated this Court's January 4, 2024, Order compelling production, and instead, yet again, filed another Motion for Reconsideration attempting to relitigate the issue and failed to comply. In concluding that the violations were willful, deliberate, and contumacious, the Court finds particularly compelling that Defendants' prior episodes of misconduct mirror the improper tactics that led to the violation of the Court's Order dated May 10, 2023, and the Court's January 4, 2024, Orders.

**Previous Sanctions.** The Court finds that Defendants and their counsel, Mr. Feinstein, have previously been sanctioned numerous times in this jurisdiction, and none of those sanctions appear to have had any effect on their behavior. Defendants testified they have not paid any of these sanctions, nor have they suffered any consequences to date.

**Client Involvement.** The Court concludes that there was client involvement in the misconduct at issue in this action. Based on the testimony of the witnesses, the Court finds that Defendants did

not offer plausible explanations for their actions leading up to the litigation and during the litigation, and that their testimony was inconsistent, unreliable, and in some cases, false or directly contradictory. ALEX GENIN has over twenty (20) years of litigation experience. ALEX GENIN'S and EDWARD GENIN'S prior counsel, Mr. Feinstein, has over thirty (30) years of litigation experience. EDWARD GENIN testified during deposition and during the evidentiary hearings that he authorized the filings in this case, including the multiple Motions for Reconsideration, the Motion to Refer Plaintiff's counsel to the Florida Bar, and the torrent of meritless filings for "sanctions for vexatious litigation conduct." During deposition, EDWARD GENIN refused to answer whether his father also approved these filings.<sup>[44]</sup> EDWARD GENIN initially lied under oath that his father, ALEX GENIN, did not have access to FFI'S account – a critical issue in the case.<sup>[45]</sup> When it became clear that EDWARD GENIN provided false testimony, his counsel stipulated to EDWARD GENIN'S deposition testimony in this case that ALEX GENIN *did* in fact have access to FFI'S account.<sup>[46]</sup> EDWARD GENIN admitted under oath he has "no physical proof" that the funds at issue were stolen as he has maintained in this litigation.<sup>[47]</sup> He admitted that he was "not aware" if he had filed a response to the January 4, 2024, order compelling production in this case.<sup>[48]</sup> He stated he "does not recall" whether Plaintiff contacted him regarding the \$309,000 in funds mistakenly wire to FFI's account in this case<sup>[49]</sup> despite clear text message evidence that Plaintiff's wife went to his office to request the funds but was "kicked out."<sup>[50]</sup> When asked if a Court order had to be entered compelling him and his father to deposit the mistaken wire funds into the court registry, he lied and said "we did it voluntarily."<sup>[51]</sup> ALEX GENIN also claimed he could "not remember" the date he became aware that \$309,000 was wired into FFI's account.<sup>[52]</sup> These lapses in memory and false testimony are *per se* bases for entering default judgment. *See Cal v. Forward Air Solutions, Inc.*, 199 So. 3d 312, 314–15 (Fla. 3d DCA 2016) (*aff'ing* dismissal of Plaintiff's complaint as sanction for giving false testimony directly related to her claims, despite stating it was simple lapse of memory); *Williams v. Miami-Dade Cnty. Public Health Trust*, 17 So. 3d 859, 859 (Fla. 3d DCA 2009) (*aff'ing* dismissal

of Plaintiff's complaint as sanction for non-disclosures, false statements, and omissions designed to interfere with the administration of justice); *Faddis v. City of Homestead*, 121 So. 3d 1134, 1134 (Fla. 3d DCA 2013) (*aff'ing* dismissal and striking of Plaintiff's pleadings, for perjury on central and material issue). Particularly on point is ALEX GENIN'S testimony under oath that he told Plaintiff – via text message (which he later deleted) – that he would not return Plaintiff's funds that are the subject of this case until and unless the prior litigations between him and his son were resolved. While ALEX GENIN testified that he did not authorize all of the filings made in this case by Mr. Feinstein, given that ALEX GENIN is EDWARD GENIN'S father and business partner, and the deposition testimony that they incorporated FFI together, the Court finds that ALEX GENIN was aware of, and a direct participant in, the evasive delay tactics and misconduct advanced in this case by his son, EDWARD GENIN. When questioned if ALEX GENIN appeared for deposition as ordered by the Court, he stated "I don't recall." When questioned if he filed an answer to the Complaint in this case, he said "I, I, I do not know." ALEX GENIN falsely testified he "produced everything" when questioned if he complied with the Court's January 4, 2024, order compelling production, which goes to the heart of the claims (what Defendants did with the mistaken wire once it was received). The Court took judicial notice of ALEX GENIN's discovery responses in a related proceeding reflecting that he changed his phone during the evidentiary proceedings in this matter and spoliated his messages with Plaintiff and his son, EDWARD GENIN.<sup>[53]</sup> According to Plaintiff's non-service return,<sup>[54]</sup> ALEX GENIN also provided a false, vacant address under oath when questioned during deposition as to where he lives<sup>[55]</sup> requiring Plaintiff to obtain substitute service via the Secretary of State.<sup>[56]</sup>

**Prejudice.** The Court concludes that the misconduct in this action has been prejudicial. The evidence reflects that Plaintiff's Motion for Sanctions arises out of a continuing, egregious pattern of dilatory and bad faith litigation conduct that has been ongoing for years. With each episode of misconduct, Defendants have been successful in delaying the case and increasing fees and expenses to all involved. At this point, the litigation has essentially grounded to a halt because Defendants

and their counsel simply refuse to engage in the discovery process or coordinate with this Court's judicial assistant to schedule hearings or a trial date to move this matter forward. Multiple special sets solely for the purpose of scheduling have been required by this Court in order to obtain Defendants' counsel's and their clients' appearance at hearings in this matter.

**Reasonable Justification.** The Court concludes that Defendants EDWARD GENIN and ALEX GENIN did not offer reasonable justification for the bad faith, dilatory litigation tactics employed in this case. The Court finds that Defendants did not offer plausible explanations for their actions leading up to the litigation and during the litigation, and that their testimony was inconsistent, unreliable, and in some cases, false or directly contradictory. Mr. Feinstein did not appear before the Court despite being noticed to offer reasonable justification for the actions he took in this case.

**Problems of Judicial Administration.** The Court concludes that the litigation misconduct described herein is part of an ongoing pattern that has caused and continues to cause problems of judicial administration. There have now been multiple hearings and multi-year delays of what the Court believes is a straightforward dispute involving a mistaken wire. The Court further concludes that Defendants and their counsel, prior and current, for months on end refused to make themselves available and coordinate with this Court's judicial assistant to allow this case to proceed and refused to allow this Court to set a trial date. The orderly administration of justice is harmed by cases like this one where a litigant refuses to conduct itself in good faith and, instead, tries to game the system to obtain delay. *Bainter v. League of Women Voters of Florida*, 150 So. 3d 1115, 1118 (Fla. 2014) ("We simply do not countenance and will not tolerate actions during litigation that are not forthright and that are designed to delay and obfuscate the discovery process"). As to delay, the Court notes that the vast bulk of litigation activity in the record has been undertaken by the Defendants who have repeatedly stymied Plaintiff's efforts to advance this matter by generating a torrent of frivolous motions. "A search for truth and justice can be accomplished only when all relevant facts are before the judicial tribunal. Those relevant facts should be the determining factor

rather than gamesmanship, surprise, or superior trial tactics.” *Binger v. King Pest Control*, 401 So. 2d 1310, 1313 (Fla. 1981) (quoting *Dodson v. Persell*, 390 So.2d 704, 707 (Fla.1980)). The type of extreme litigation conduct at issue here is the kind that was missing in *H & R Block Bank v. Perry*, 205 So. 3d 776, 780 (Fla. 2d DCA 2016), where reversal was required because “[t]he record d[id] not disclose any facts—a protracted history of abuses, significantly prejudicial misconduct, or other extreme circumstances.”

**Lesser Sanctions.** The Court has considered the availability and effectiveness of lesser sanctions, including a fine, public reprimand, or contempt order. However, the Court concludes that such lesser sanctions would be insufficient to address the egregious, repeated misconduct exhibited in the record. The Court notes that multiple fines, sanctions, and even a show cause order have already been imposed against Defendants in this circuit, and Defendants’ counsel in other circuits, yet it has had no effect on their conduct. While conduct in another forum may not be sanctionable by the Court, the Court may look to such conduct, where relevant, as evidence in determining whether conduct properly before the Court is sanctionable. *In re Lawrence*, No. 97-14687-BKC-AJC, 2000 WL 33950028, at \*5 & n. 8 (Bankr. S.D. Fla. June 2, 2000) (holding that trustee could not seek sanctions for conduct during appeal in different forum, but that such conduct was relevant evidence to document issue of "course of bad faith conduct" before the court) citing Fed. R. Evid. 401. The actions of Defendants and their counsel have caused a straightforward dispute involving a mistaken wire transfer to completely stall for a multi-year period due to tactics implemented solely to delay. The issuance of a lesser sanction would, in effect, condone the Defendants’ and their counsel’s repeated flouting of court orders, dilatory tactics, and undermine the Court’s lawful authority to control its docket and manage its cases.

**Intent:** The Court finds based on clear and convincing evidence and testimony that Defendants EDWARD GENIN and ALEX GENIN knowingly exercised dominion and control over Plaintiff’s mistaken wire funds and did so under false pretenses with intent to deprive Plaintiff of these funds.

The Defendants, father and son, by their own testimony, admitted to purposefully and wrongfully retaining Plaintiff's funds prior to retaining counsel and continued the same course of conduct after retaining counsel to leverage and extort Plaintiff into settling prior litigation between the parties. The Court finds that Defendants proffered no evidence establishing a legal basis for their entitlement to or retention of Plaintiff's mistaken wire funds, and that Defendants ultimately conceded same and consented to release of the funds on February 16, 2024, and March 6, 2024, after over a year of litigation. The Court notes this is not the first time that Defendants have withheld funds that are the clear property of the Plaintiff.<sup>[57]</sup> The Court finds that Defendants' actions were in violation of good conscience and fundamental principles of justice or equity and establish claims for civil theft and unjust enrichment. *See, e.g., State Farm Fire & Cas. Co. v. Silver Star Health and Rehab*, 739 F.3d 579, 584 (11th Cir. 2013) ("Florida courts have long recognized a cause of action for unjust enrichment "to prevent...the retention of money or property of another, in violation of good conscience and fundamental principles of justice or equity."); *see also Rajput v. City Trading, LLC*, 476 F. App'x 177, 180 (11th Cir. 2012) (finding plaintiff's complaint alleging unjust enrichment based on defendants' control of funds illicitly gained stated a cause of action).

**Attorney's Fees:** The Court finds that Defendants and their counsel filed a steady stream of meritless motions in this matter, rearguing and relitigating this Court's rulings *ad nauseum*. The Court finds the Defendants and their counsel, Mr. Feinstein, abused the system through inequitable conduct, which resulted in needless litigation and legal fees. This Court and other courts in this state have recognized that attorney's fees can be awarded in situations where one party has acted vexatiously or in bad faith. *See Florida Patient's Compensation Fund v. Rowe*, [472 So.2d 1145, 1148](#) (Fla. 1985) ("This state has recognized a limited exception to this general American Rule in situations involving inequitable conduct."); *Hilton Oil Transport v. Oil Transport Co.*, [659 So.2d 1141, 1153](#) (Fla. 3d DCA 1995); *In re Estate of DuVal*, [174 So.2d 580, 587](#) (Fla. 2d DCA 1965). In this case, the record also reflects that Plaintiff served multiple Fla. Stat. § 57.105 Safe Harbor

Letters and Motions for Sanctions on Defendants and their counsel requesting that Defendants and their counsel withdraw several of the meritless filings in this action and change their course of conduct. Defendants and their counsel did not withdraw these filings, but instead, doubled down and continued their inequitable course of conduct. Only after Defendants obtained new counsel and after the safe harbor periods expired did Defendants withdraw some of the patently meritless filings. Consequently, this Court is empowered to impose attorney's fees under Fla. Stat. § 57.105 against Defendants and their prior counsel, Mr. Feinstein, given a complete lack of good faith in this proceeding and failure to withdraw their meritless filings within the statutory periods.

**Default Judgment:** The Court finds, based on the evidence admitted and the witness testimony, serious misconduct by Defendants and their counsel, Mr. Feinstein, demonstrating deliberate callousness. While Defendants and their counsel have claimed a denial of due process in this matter, parties who engage in serious misconduct forfeit their right to participate in the proceedings, including the right to defend against an opposing party's claims. *See Metro Dade Cty. v. Martinsen*, 736 So. 2d 794, 795 (Fla. 3d DCA 1999); *see also Mercer v. Raine*, 443 So. 2d 944, 946 (Fla. 1983) (deliberate and contumacious disregard of the court's authority will justify application of this severest of sanctions, as will bad faith, willful disregard or gross indifference to an order of the court or conduct which evinces deliberate callousness). The Court finds Defendants demonstrated bad faith, deliberate and contumacious disregard for the court's inherent authority, and conduct illustrating deliberate callousness. *Harrell v. Mayberry*, 754 So. 2d 742, 744-45 (Fla. 2d DCA 2000), citing *Commonwealth Federal Savings and Loan Ass'n v. Tubero*, 569 So. 2d 1271, 1272 (Fla. 1990) (deliberate callousness justifies the ultimate sanction).

**Defendants' Counterclaim and Third-Party Complaint:** Prior to this Court's ruling, and after the Court's April 23, 2024, final evidentiary hearing, Defendants ALEX GENIN, EDWARD GENIN, and FIRST FLORIDA INTERNATIONAL, LLC voluntarily dismissed *in toto* their Counterclaim and Third-Party Complaint asserted in this action, comprised of claims for, *inter alia*,

“extortion” and “civil theft”<sup>[58]</sup> tacitly acknowledging that there was no factual or legal basis for these claims to begin with.

**Judgment:** Even if this Court were to conclude that Defendants’ and Mr. Feinstein’s misconduct does not rise to the level necessitating the ultimate sanction, on the merits, and pursuant to Fla. R. Civ. P. 1.510(f), the Court finds there is no genuine dispute of fact that Plaintiff is entitled to the mistaken wire funds. Indeed, Defendants and their new counsel conceded they no longer object to release of the funds at issue in this case.<sup>[59]</sup> The Court finds that Defendants EDWARD GENIN and ALEX GENIN made the ill-advised decision to retain and withhold Plaintiff’s funds after multiple demands were made, and after being advised on multiple occasions to turn them over in exchange for a full release. Defendants choose not to do so and engage in inequitable litigation conduct solely to oppress Plaintiff and delay his rights to redress. The Defendants, father and son, also offered conflicting, contradictory testimony concerning their ownership, access, and control over FFI’s bank accounts, while simultaneously refusing to comply with the Court’s Order to produce documentation corroborating their ownership, access, and control.<sup>[60]</sup> There is clear and convincing evidence in the record that a conversion took place and that the Defendants acted with the requisite intent. *See Heldenmuth v. Groll*, 128 So. 3d 895, 896 (Fla. 4th DCA 2013). On Plaintiff’s claim of breach of fiduciary duty, when the facts concerning an alleged fiduciary relationship are not in dispute, the issue of whether those facts establish a fiduciary relationship and whether a fiduciary duty should be imposed, are matters of law to be determined by the trial court. *See Hooper v. Barnett Bank of West Florida*, 474 So. 2d 1253,1257-1258 (Fla. 1st D.C.A. 1985). The Court finds based on ALEX GENIN’S prior deposition testimony and live testimony<sup>[61]</sup> that there existed a fiduciary duty between ALEX GENIN and the sole owner and manager of OLEG SEMENOV, P.A., OLEG SEMENOV. Fiduciary duties may be implied in law regardless of whether contractual relations or formal writings exist or a statute imposes such a duty, when one party relies on another to act on the party’s behalf and to look out for its best interests. *See Capital Bank v. MVP, Inc.*, 644 So. 2d 515, 518 (Fla. 3d DCA 1994); *Taylor Woodrow Homes Fla., Inc. v.*

*4/46-A Corp.*, 850 So. 2d 536, 540 (Fla. 5th DCA 2003); *see also Quinn v. Phipps*, 113 So. 419, 421 (Fla. 1927) (if a relationship of trust and confidence exists between the parties, then it is a fiduciary relationship). The question before this Court, therefore, is whether ALEX GENIN breached his fiduciary duty. Given ALEX GENIN'S undisputed, unlicensed status, and his testimony that he owed a duty to make sure Plaintiff's investments were "safe and sound," there exists substantial, unrefuted competent evidence supporting this Court finding that a breach of fiduciary duty occurred when ALEX GENIN, who had access to the account holding Plaintiff's mistaken wire funds,<sup>[62]</sup> refused to return those funds and retained them in order to gain an advantage in prior litigation involving him and his son. This fact is confirmed by the text messages from ALEX GENIN to Plaintiff admitted into evidence which ALEX GENIN confirmed under oath. Fiduciary expert Charles W. Ranson's un rebutted sworn declaration also confirms that ALEX GENIN'S conduct in retaining the mistaken wire constituted a "gross deviation from standard customs and practices of loyal and prudent fiduciaries."<sup>[63]</sup> The Court finds that the imposition of punitive damages is warranted based on clear and convincing evidence of ALEX GENIN'S admissions under oath, the direct text message evidence pertaining to his motivations in retaining Plaintiff's funds, his dilatory and evasive conduct in this action, as well as his intentional misconduct and gross deviation from standard customs and practices of loyal and prudent fiduciaries. *See, e.g., Palm Beach Atl. Coll., Inc. v. First United Fund, Ltd.*, 928 F.2d 1538, 1546 (11th Cir. 1991) ("Under Florida law, an award of punitive damages is proper when a defendant's conduct is characterized by willfulness, wantonness, maliciousness, gross negligence or recklessness, oppression, outrageous conduct, moral turpitude, insult, or fraud."). *See, e.g., Cutcliff v. Reuter*, No. 2:06-CV-04123-NKL, 2014 WL 229179, at \*2 (W.D. Mo. Jan. 21, 2014) (awarding punitive damages without hearing in case involving a Ponzi scheme); *see also Ensley v. Gene's Wrecker Serv., Inc.*, No. 3:16CV713-MCR-CJK, 2019 WL 1063392 (N.D. Fla. Feb. 4, 2019) (awarding punitive damages under Florida law without the need for a hearing); *Earthlink, Inc. v. Log On Am. Inc.*, No. 1:02-CV-1921-JOF, 2006 WL 1835426, at \*4 (N.D. Ga. June 30, 2006)

(noting that “[p]unitive damages are available in a default judgment” and awarding punitive damages without a hearing); *James v. Frame*, 6 F.3d 307, 309-11 (5th Cir. 1993) (holding that district court did not abuse its discretion when awarding punitive damages without a hearing); *In re Diamond Tr. u/a/d 10/28/2005*, No. 16-CV-81923, 2021 WL 2404337, at \*9 (S.D. Fla. May 10, 2021). As to the disparity factor, “Florida courts have held that single-digit multipliers are likely to comport with due process while still achieving the State’s goals of deterrence and retribution.” *See Pinnacle Fin. Grp., Inc. v. TriStar Acceptance, LLC*, No. 16-62169-CIV, 2017 WL 7355331, at \*2 (S.D. Fla. July 17, 2017). In Florida, “[i]n comparable cases, the civil penalty is often three times the compensatory award.” *See Cote v. Philip Morris USA, Inc.* 400 F. Supp. 3d 1295, 1309 (M.D. Fla. 2019) (finding a ratio of 3.3 to 1 was not excessive in a case involving fraud) (quoting *Schoeff v. R.J. Reynolds Tobacco Co.*, 232 So. 3d 294, 307 (Fla. 2017); citing Fla. Stat. § 768.73(1)(a)(1)). Florida’s residents need protection from unlicensed fiduciaries, and punitive damages are a critical part of the law’s deterrent arsenal. Over-reaching by those who are charged with managing property for others is a great problem in Florida. The combination of the current, extraordinary aggregation of wealth in Florida and Florida’s position as a leading retirement state have created the incentive and opportunity for fiduciaries to abuse positions of trust and confidence.<sup>[64]</sup> The Court finds that abusive conduct by fiduciaries in positions of trust, such as ALEX GENIN, must be discouraged in the strongest possible way.

Based on the foregoing Findings of Fact and Conclusions of Law, and this Court’s oral pronouncements on the record, it is hereby **ORDERED AND ADJUDGED:**

- i. FINAL JUDGMENT is entered in favor of Plaintiff on Count I of the Verified Complaint for conversion against FIRST FLORIDA INTERNATIONAL, LLC. Plaintiff shall recover from FIRST FLORIDA INTERNATIONAL, LLC liquidated damages in the sum of \$309,305.96,<sup>[65]</sup> that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022, through the date of this order and post-judgment interest at the prevailing

statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.

- ii. FINAL JUDGMENT is entered in favor of Plaintiff on Count II of the Verified Complaint for replevin against FIRST FLORIDA INTERNATIONAL, LLC. Plaintiff shall recover from FIRST FLORIDA INTERNATIONAL, LLC liquidated damages in the sum of \$309,305.96,<sup>[66]</sup> that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022, through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.
- iii. FINAL JUDGMENT is entered in favor of Plaintiff on Count III of the Verified Complaint for unjust enrichment against FIRST FLORIDA INTERNATIONAL, LLC. Plaintiff shall recover from FIRST FLORIDA INTERNATIONAL, LLC the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022, through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.
- iv. FINAL JUDGMENT is entered in favor of Plaintiff on Count IV of the Verified Complaint for civil theft against EDWARD GENIN. Plaintiff shall recover from EDWARD GENIN the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022, through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid. Plaintiff shall recover from EDWARD GENIN treble damages pursuant to Fla. Stat. Section 772.11 in the amount of **\$927,917.88**.
- v. FINAL JUDGMENT is entered in favor of Plaintiff on Count V of the Verified

Complaint for unjust enrichment against EDWARD GENIN. Plaintiff shall recover from EDWARD GENIN the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022 through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.

vi. FINAL JUDGMENT is entered in favor of Plaintiff on Count VI of the Verified Complaint for conversion against EDWARD GENIN. Plaintiff shall recover from EDWARD GENIN the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022 through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.

vii. FINAL JUDGMENT is entered in favor of Plaintiff on Count VII of the Verified Complaint for replevin against EDWARD GENIN. Plaintiff shall recover from EDWARD GENIN the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022 through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.

viii. FINAL JUDGMENT is entered in favor of Plaintiff on Count VIII of the Verified Complaint for civil theft against ALEX GENIN. Plaintiff shall recover from ALEX GENIN the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022 through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is

paid. Plaintiff shall recover from ALEX GENIN treble damages pursuant to Fla. Stat. Section 772.11 in the amount of **\$927,917.88**.

ix. FINAL JUDGMENT is entered in favor of Plaintiff on Count VIII of the Verified Complaint for breach of fiduciary duty against ALEX GENIN. Plaintiff shall recover from ALEX GENIN the liquidated amount of damages of \$309,305.96 that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022 through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid. The Court further orders the imposition of punitive damages against ALEX GENIN on Plaintiff's claim of breach of fiduciary duty in the amount of **\$927,917.88** stemming from his gross deviations from standard customs and practices of loyal and prudent fiduciaries and based on the findings of fiduciary expert Charles W. Ranson. *See, e.g., Mortellite v. American Tower, L.P.*, 819 So. 2d 928, 934 (Fla. 2d DCA 2002) (awarding punitive damages on breach of fiduciary duty claim irrespective of any compensatory damages). Plaintiff shall recover from ALEX GENIN punitive damages in the amount of **\$927,917.88**.<sup>[67]</sup>

x. FINAL JUDGMENT is entered in favor of Plaintiff on Count X of the Verified Complaint for conversion against ALEX GENIN. Plaintiff shall recover from ALEX GENIN the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022 through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.

xi. FINAL JUDGMENT is entered in favor of Plaintiff on Count XI of the Verified Complaint for replevin against ALEX GENIN. Plaintiff shall recover from ALEX GENIN the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the

prevailing statutory rate from July 5, 2022 through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.

xii. FINAL JUDGMENT is entered in favor of Plaintiff on Count XII of the Verified Complaint for unjust enrichment ALEX GENIN. Plaintiff shall recover from ALEX GENIN the liquidated amount of damages of \$309,305.96, that shall bear prejudgment interest at the prevailing statutory rate from July 5, 2022 through the date of this order and post-judgment interest at the prevailing statutory rate from this date to December 31 of this current year for which let execution issue. Thereafter, on January 1 of each succeeding year until judgment is paid.

xiii. The Court Orders that Plaintiff is entitled to recover 50% of its attorney's fees and costs from Defendants EDWARD GENIN, ALEX GENIN, and FIRST FLORIDA INTERNATIONAL, LLC, and 50% from their prior counsel, MICHAEL L. FEINSTEIN and MICHAEL L. FEINSTEIN, P.A., pursuant to Fla. Stat. Section 772.11, Fla. Stat. Section 57.105, this Court's inherent authority, and the inequitable conduct doctrine, and reserves jurisdiction to consider any timely-filed motions for attorneys' fees and/or court costs, and reserves jurisdiction to determine the amount of attorney's fees and costs to which Plaintiff is entitled.

xiv. The Court orders the \$309,305.96 held in the Court Registry be released to the trust account of Plaintiff's counsel, the David E. Wolff, P.A. Iota Trust Account, immediately herewith.

xv. It is further ORDERED AND ADJUDGED that Defendant EDWARD GENIN, and his spouse, and Defendant ALEX GENIN, and his spouse, shall all complete under oath Florida Rule of Civil Procedure Form 1.977(Fact Information Sheet), including all required attachments, and serve it on the Plaintiff's attorney within 45 days from the date of this final

judgment, unless the final judgment is satisfied or post-judgment discovery is stayed. Jurisdiction of this case is retained to enter further orders that are proper to compel the Defendants to complete Form 1.977, including all required attachments, and serve it on the Plaintiff's attorney.

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[\[1\]](#) Plaintiff's Verified Complaint, paragraph 12.

[\[2\]](#) Plaintiff's Verified Complaint, paragraph 26.

[\[3\]](#) Fla. R. Civ. P. 1.510(f); *see also* DE # 210.

[\[4\]](#) Book 33027, page 23; Book 33026, page 4933.

[\[5\]](#) *See* Case Nos.: 2022-004984; 2022-004987.

[\[6\]](#) *See E.I. Dupont DeNemours & Co. v. Sidran*, 140 So. 3d 620, 623 (Fla. 3d DCA 2014).

[\[7\]](#) *See Trayber Raikhelson Law Group, PLLC v. Renaissance Development, LLC, et al.*, Case No.: 2022-014689-CA-01; [DE # 53] granting Final Summary Judgment in Favor of Plaintiff and his broker.

[\[8\]](#) DE # 81.

[\[9\]](#) DE # 13.

[\[10\]](#) An order was not entered on Plaintiff's Motion for Substitute Service until May 10, 2023 [DE # 23].

[\[11\]](#) DE # 14, 15.

[\[12\]](#) DE # 17.

[\[13\]](#) DE # 19.

[\[14\]](#) DE # 20.

[\[15\]](#) DE # 27.

[\[16\]](#) DE # 22.

[\[17\]](#) DE # 24.

[\[18\]](#) DE # 33.

[\[19\]](#) DE # 25.

[\[20\]](#) DE # 26, 28, 88.

[\[21\]](#) *Id.*

[\[22\]](#) *Id.*

[\[23\]](#) DE # 31.

[\[24\]](#) DE # 37, 38.

[\[25\]](#) DE # 44.

[\[26\]](#) DE # 116.

[\[27\]](#) DE # 124.

[\[28\]](#) *Id.*

[\[29\]](#) DE # 128.

[\[30\]](#) DE # 131.

[\[31\]](#) DE # 135.

[\[32\]](#) DE # 134, 143. Defendants' later voluntarily dismissed these claims on April 25, 2024 DE # 220, 221, acknowledging these claims lacked merit.

[\[33\]](#) DE # 151.

[\[34\]](#) DE # 151, 155, 156.

[\[35\]](#) DE # 157, 158, 159.

[\[36\]](#) DE # 163, 164.

[\[37\]](#) DE # 171, 172, 174.

[\[38\]](#) DE # 186.

[\[39\]](#) DE # 215.

[\[40\]](#) *See, e.g., Florida Bar v. Rathbun*, SC19-370 (suspending attorney for three (3) years for threatening Florida Bar disciplinary proceedings against opposing counsel during active litigation to gain an advantage).

[\[41\]](#) ALEX GENIN testified that his personal email is included on the service list and he received copies of everything filed in this case.

[\[42\]](#) DE # 214.

[\[43\]](#) DE # 219.

[\[44\]](#) DE # 182.

[\[45\]](#) March 21, 2024, hearing transcript, page 30-31.

[\[46\]](#) March 21, 2024, hearing transcript, page 32.

[\[47\]](#) March 21, 2024, hearing transcript, page 39, lines 5-8.

[\[48\]](#) March 21, 2024, hearing transcript, page 33, lines 11-19.

[\[49\]](#) March 21, 2024, hearing transcript, page 29.

[\[50\]](#) DE # 218.

[\[51\]](#) Compare DE #116 (ordering deposit of the funds); with March 21, 2024, hearing transcript, page 28, lines 20-25.

[\[52\]](#) March 21, 2024, hearing transcript, page 57, lines 20-21.

[\[53\]](#) DE # 219.

[\[54\]](#) DE # 92.

[\[55\]](#) DE # 87, page 6, lines 12-17.

[\[56\]](#) DE # 67.

[\[57\]](#) See *Trayber Raikhelson Law Group, PLLC v. Renaissance Development, LLC, et al.*, Case No.: 2022-014689-CA-01; [DE # 53] granting Final Summary Judgment in Favor of Plaintiff and his broker against Defendant Edward Genin and Renaissance Development, LLC.

[\[58\]](#) DE # 220; 221.

[\[59\]](#) DE # 210

[\[60\]](#) The Court finds this is not the first time Defendant ALEX GENIN has lied under oath and concealed his ownership of companies in question. *See* DE # 214.

[\[61\]](#) There is no need for the Court to deny the admissibility of an expert report where the Court is acting as fact-finder.” *Jones Superyacht Miami, Inc. v. M/Y Waku*, 451 F. Supp. 3d 1335, 1345 (S.D. Fla. 2020) (internal quotations and citations omitted). Stated differently, “[t]here is less need for the gatekeeper to keep the gate when the gatekeeper is keeping the gate only for himself.” *United States v. Brown*, 415 F.3d 1257, 1269 (11th Cir. 2005).

[\[62\]](#) According to EDWARD GENIN’S sworn deposition testimony DE # 182, and ALEX GENIN’S live testimony.

[63] DE # 201.

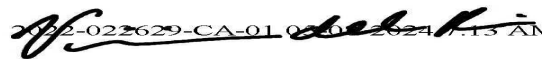
[64] <https://www.floridabar.org/the-florida-bar-journal/punitive-damages-against-fiduciaries-leaving-hoppe-behind-and-allowing-punitive-damages-where-equitable-relief-is-sought-part-ii/>

[65] See *Bowman v. Kingsland Development, Inc.* 432 So.2d 660, 662 (Fla. 5<sup>th</sup> DCA 1983) (damages are liquidated when “the proper amount to be awarded can be determined with exactness from the cause of action as pleaded...or by application of definite rules of law”).

[66] *Id.*

[67] Comprised of three (3) times the amount of compensatory damages. See *Cote*, 400 F. Supp. 3d at 1309 (finding a ratio of 3.3 to 1 was not excessive) (quoting *Schoef.*, 232 So. 3d at 307; citing Fla. Stat. § 768.73(1)(a)(1)).

**DONE and ORDERED** in Chambers at Miami-Dade County, Florida on this 8th day of May, 2024.

 2022-022629-CA-01 05-08-2024 7:13 AM

2022-022629-CA-01 05-08-2024 7:13 AM

Hon. Vivianne Del Rio

**CIRCUIT COURT JUDGE**

Electronically Signed

Final Order as to All Parties SRS #: 12 (Other)

THE COURT DISMISSES THIS CASE AGAINST ANY PARTY NOT LISTED IN THIS FINAL ORDER OR PREVIOUS ORDER(S). THIS CASE IS CLOSED AS TO ALL PARTIES.

**Electronically Served:**

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**Physically Served:**