IN THE CHANCERY COURT FOR THE TWENTIETH JUDICIAL DISTRICT OF TENNESSEE, AT NASHVILLE

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COMMODORE TRUST and DAVID FREEMAN, Plaintiffs, v. PREDATORS HOLDINGS, LLC, and THOMAS G. CIGARRAN, Defendants.	Case No. 16-0674-I

COMPLAINT

Commodore Trust ("Commodore") and David Freeman (collectively, "Plaintiffs"), by and through their undersigned attorneys, Edward M. Yarbrough and J. Alex Little of Bone McAllester Norton PLLC, submit their Complaint against Predators Holdings, LLC ("Holdings"), and Thomas G. Cigarran, (collectively, the "Defendants"), and hereby allege as follows:

INTRODUCTION

1. In 2007, David Freeman and other leaders in the Nashville business, legal, and political community saved professional hockey in Nashville. By organizing a group of investors to form Holdings, putting up $36 million of capital, and navigating the acquisition process as the principal investor in Holdings, Freeman led the fight to spare Nashville hockey fans the sight of their team packing up and moving to Canada. Eight years later, certain of Holdings' owners have conspired to repay his dedication to the team and community by claiming that Commodore owns less than one percent of Holdings, by refusing to treat it as an owner, and by repudiating Hold-

ings' commitment to compensate Plaintiffs in return for tens of millions of dollars of loan guarantees that kept the Predators solvent and in Nashville.

2. The chief architect of this scheme was Thomas G. Cigarran, a fellow owner of Holdings who contributed only $4 million to the purchase of the Predators but later staged a coup to replace Freeman as Chairman of Holdings. In doing so, and afterwards, Cigarran led Holdings to breach its fiduciary obligations and contractual commitments to Freeman and Commodore. These breaches have caused Plaintiffs tens of millions of dollars in damages. This lawsuit seeks to have those damages paid.

The Parties

3. David Freeman is an individual who resides in Nashville, Tennessee.

4. Commodore Trust is a grantor trust.

5. Predators Holdings, LLC ("Holdings") is a Delaware limited liability company, having a principal office address of 501 Broadway, Nashville, Tennessee 37203.

6. Thomas G. Cigarran is an individual who resides in Nashville, Tennessee.

Freeman Succeeds in Keeping the Predators in Nashville

7. In 2007, Craig Leipold owned the Predators and wanted to sell the team due to significant and mounting operating losses. He found a potential buyer in Jim Balsillie, the founder of Blackberry. Balsillie was from Hamilton, Ontario, Canada, and planned to move the Club to Canada for the 2008-2009 NHL season. With the support of the Nashville community, as well as Governor Bredesen and NHL Commissioner Gary Bettman, Freeman stepped in to stop the move.

8. To do so, Freeman recruited four other Nashville families and two individuals from California to form Holdings, convinced Leipold and the NHL to scuttle the Balsillie trans-

action, and negotiated the purchase of the Predators by Holdings for $180 million. His efforts were extensive: Freeman (i) invested the most dollars in the transaction—over $36 million, (ii) secured $100 million in debt financing, (iii) navigated a difficult negotiating process to secure a new win-win arena lease with the Metropolitan Government of Nashville and Davison County ("Metro") to ensure the long-term presence and success of the franchise in Nashville, and (iv) negotiated sales tax incentives with the State of Tennessee for non-hockey events and various other incentives with Metro in order to transform Bridgestone Arena into the concert mecca that it is today and, in the process, create additional revenue for Holdings and additional tax revenues for Metro and the State.

9. Freeman assumed the leadership role as chairman of Holdings. In terms of original dollars, the group that purchased the Predators invested the following amounts:

- David Freeman (via Commodore), $31 million plus a short-term loan (48% of equity);
- Boots Del Biaggio and Warren Woo (via Forecheck), $25 million long-term loan;
- Herb Fritch, $15 million plus a short-term loan (23% of equity);
- Joel and Holly Dobberpuhl, $12 million (18% of equity);
- Tom and Chris Cigarran (via CigHockey Partners), $4 million plus a short-term loan (6% of equity); and
- De V and John Thompson (Hockey Cat), $3 million plus a short-term loan (5% of equity).

After the Sale, the Predators Immediately Confront Financial Difficulties

10. Soon after Freeman stepped up to serve as Chairman of Holdings, the Club faced a series of unexpected and independent financial problems. The 2008 collapse of the global financial markets, fraud by a co-owner (Boots Del Biaggio) resulting in his bankruptcy, and cross-defaults on two contractual obligations (as a result of the Del Biaggio bankruptcy) all plunged the Predators into a crisis. Once again, Freeman led the effort to ensure the survival of the Nashville Predators.

11. In early 2008, as a result of the global recession, Holdings' lender (CIT Bank) defaulted on its commitment to re-finance $16 million worth of loans that had been made to Holdings by its owners, which included Commodore's loan of $5 million. As a consequence of the lender's default, Holdings defaulted on the Commodore Trust loan; loans from the other owners of Holdings also went into default. Tensions mounted and conversations amongst the newly-formed ownership group became tense as a result of circumstance beyond their control.

12. The situation grew worse very quickly. A few months later, in summer 2008, one of Holdings' investors, Boots Del Biaggio, admitted that he committed fraud to obtain the $25 million that he and his California-based partner, Warren Woo, invested in Holdings. The impact of his admitted crime was an all-consuming distraction to Holdings' ownership, and his bankruptcy served a significant financial blow to Holdings.

13. The Del Biaggio fraud and bankruptcy resulted in two particular problems. It placed the Predators' lease of Bridgestone Arena from Metro (the "Metro Arena Lease") in jeopardy by causing a breach of Holdings's agreement with Metro Nashville, and it caused Holdings to default on its credit facility agreement with its primary lender, CIT Bank. Both Metro Nashville and CIT Bank demanded that Holdings cure these defaults immediately. To do so, and to stave off a potential bankruptcy of the company, Holdings' owners needed to step forward with significant commitments for a second time.

14. With respect to the Metro Arena Lease, both Metro and Holdings asked each of Holdings's remaining owners to execute a pro rata guarantee of the Metro Arena Lease. Each of the owners agreed to do so and, on August 18, 2008, the various guarantees were executed and delivered to Metro, and the default was cured.

15. The CIT Bank default was much more problematic. Del Biaggio's crimes and

bankruptcy caused Holdings to breach its covenants with CIT Bank. In response, to avoid foreclosing on Holdings' debt, CIT Bank requested that each of Holdings' owners execute a pro rata guarantee. Most of the owners, citing the significance of the risks, refused to provide any guarantee. Even with the real prospect that the Predators would go bankrupt, Cigarran responded, "I for one will NOT take any part of [the] guarantee." Another owner wrote that he was "prepared to accept the consequences" of default, including Holdings' bankruptcy.

16. Freeman fought just as hard (but quietly) in 2008 to save the team as he did originally in 2007, but this fight was lonelier and proved more costly from a personal perspective. After the NHL became involved in the negotiations, CIT Bank agreed to resolve Holdings' default by accepting a $40 million personal guarantee from Freeman and a $13 million personal guarantee from Fritch. The NHL was both grateful and surprised at the level of commitment from Freeman and Fritch. These guarantees were executed, and the Nashville Predators were saved for a second time, with Freeman once again leading the way.

17. The personal guarantees by Freeman and Commodore Trust to Metro and CIT Bank lie at the heart of the present lawsuit. Put simply, Freeman and Commodore Trust accepted enormous personal risk for Holdings' benefit. The even greater consequence, however, was that each sacrificed borrowing capacity once each personally guaranteed, on a joint and several basis, a collective $53 million of Holdings debt that all of the partners except Fritch refused to guarantee, even on a pro rata basis. In return for the sacrifice of his credit and borrowing capacity, Holdings agreed to compensate Plaintiffs for the benefit it received from their guarantees. Later, however, after Cigarran staged a corporate coup, Holdings reneged on this agreement and—for no reason other than the greed of the Members collectively and Cigarran's disdain for not being in command—chose to continually repudiate its annual obligations.

Cigarran Stages a Corporate Coup to Displace Freeman as Chairman

18. Cigarran is a former business executive with a history of conduct very similar to his conduct at issue here. Cigarran brought this track record with him to the Predators, where he continued to misbehave. For example, notwithstanding Freeman's contributions to the Predators and Metro, Cigarran developed a scheme in 2008 to stage a coup, fraudulently induced or leveraged his partners to appoint him as Chairman of Holdings upon completion of the coup, and then illegally excluded Plaintiff and its representatives from the business and oppressed Plaintiff in every way possible, from the substantive to the petty. Cigarran committed substantive misconduct by repeatedly flouting Holdings's Operating Agreement and systematically withholding information from Holdings's directors and owners, including Freeman.

19. Cigarran's treatment of Holdings's CEO, Jeff Cogen, demonstrates the depth of his misbehavior as an agent and representative of Holdings. Cogen was selected as the 2015 Nashville CEO of the Year for his leadership and marketing of the Predators. But, by 2015, the personal relationship between Cigarran and Cogen became so contentious and intolerable that Cogen sought an exit despite his professional success at Holdings and his personal desire to stay in Nashville. Among a multitude of instances of inappropriate and disruptive behavior, Cigarran covertly intercepted Cogen's emails and insisted that Cogen carry out retributions designed to avenge Cigarran's personal vendettas and to rehabilitate and aggrandize Cigarran's personal stature. The loss of Cogen was a loss for the Predators, and it came solely at the hands of Cigarran.

20. Because their economic interests are now intertwined, other owners are forced to support Cigarran's leadership and acquiesce in the illegal activities of Holdings and its Board. They have become co-conspirators with Cigarran in the illegal and inappropriate treatment of the

Plaintiffs. But this does not mean they are not disgusted with him. One co-owner has acknowledged that, under Cigarran's leadership, "this is not the way a business should be run" and "the more I know Cigarran—the less I want to know Cigarran." He later wrote, in a variety of emails over an extended period, that he "would like OUT of this madness," that he was "just so tired of [Cigarran] and his ways," that "[his] disdain for [Cigarran] can't grow—or can it . . . what a nimrod—sure looks like his masterstroke," and that "Herb seems like a rational man. Tom—not so."

21. The co-owner was correct that Cigarran's leadership has been corrupt and inappropriate. In the context of punishing another owner, Cigarran once admitted the he did not care about what was legally required of him. "Even if legally required to do so by the terms of [our operating agreement]," he wrote in an email, "why would we create an exec committee with two of five members being warren and a trustee? I also think I should be added [to the executive committee] . . . .Unless this happens I will vote [against my partner]." Freeman responded simply, "[b]ecause it is a legal requirement."

22. Ultimately, at Cigarran's direction, Holdings has (i) improperly repudiated its agreement to pay Plaintiffs guarantee fees (the "Metro Guaranty Fees") in exchange for providing replacement Guarantees of the Metro Arena Lease (the "Metro Guarantees") that cured the default caused by the bankruptcy of Boots Del Biaggio; (ii) improperly repudiated its commitment to pay Plaintiffs guarantee fees (the "CIT Guaranty Fees") in exchange for providing personal Guarantees of the CIT Bank Debt (the "CIT Guarantees") that cured the default caused by the bankruptcy of Boots Del Biaggio; (iii) improperly and systematically withheld any and all material information related to the business, operations, and profitability of Holdings, including its financial results and financial projections, and business prospects and opportunities, from Plaintiffs that was provided to its other owners, who then made investment decisions and

traded in Holdings' securities based on that material insider information; (iv) excluded Plaintiffs from all of their rights as a Member, Executive Committee member, and Board Member, including their right to receive ownership perquisites, to participate in management discussions and decisions, and to generally participate in the experience that is the NHL and the Predators; (v) under-reported taxable income and thereafter manipulated tax calculations to the benefit of Cigarran and certain other owners; and (vi) withheld tax distributions due to Plaintiffs under the provisions of Holdings' operating agreement.

23. These actions form the basis of the present lawsuit, specifically:

Holdings Repudiated The Guaranty Fees Owed To Plaintiffs

24. In 2008, Del Biaggio defaulted on his guarantee of the Metro Arena Lease, triggering a cross-default by Holdings of the Metro Arena Lease.

25. Metro demanded that Holdings cure the default and requested that certain individuals, including Commodore and Freeman, provide pro rata replacement guarantees acceptable to Metro to cure the default.

26. In turn, Holdings requested that these certain individuals, including Commodore and Freeman, provide pro rata replacement guarantees acceptable to Metro to cure the default.

27. Each of the "local" Members of Holdings agreed to provide the requested replacement guarantees in exchange for compensation by Holdings.

28. On July 11, 2008, the Board adopted a resolution authorizing the payment of "Replacement Consideration," which "may" be in the form of a new class of units, in exchange for the replacement guarantees.

29. On August 18, 2008, Freeman and Commodore Trust, separately and independently, executed an Amended and Restated Joint and Several Limited Guaranty with Metro in

connection with the Metro Arena Lease. In doing so, they relied upon (i) Holdings' agreement and promise to pay the Replacement Consideration, (ii) the apparent authority of Holdings' board of directors to make such an agreement and commitment, and (iii) the authority and expertise of Holdings' legal counsel in declaring the guaranty fees to be a properly and validly obligation of Holdings. Future actions and statements of Holdings' owners and directors over the following two years in acknowledging the effectiveness of Holdings' agreement and promise reinforced that reliance.

30. On September 20, 2008, Freeman advised the NHL and the bankruptcy trustee in Del Biaggio's case that the replacement Guarantees were accepted by Metro and that, consequently, Holdings' default under the Metro Arena Lease was cured.

31. Guaranty fees are "fees" (akin to legal fees, accounting fees, etc.) rather than "debt." To ensure the specific intent of Holdings to classify the Guarantee fees as "fees" rather than "debt," Holdings engaged its corporate and tax specialists. On November 2, 2008 Holdings' tax counsel modified proposed resolutions of the board approving the Metro Guaranty Fees to ensure that, for the tax treatment protection of all five local owners, such fees would not be "debt" (and, therefore, would not create imputed interest to guarantors). The modification was intentional, was specifically crafted to avoid a classification of the fees as "debt," and was for the specific tax benefit and protection of the guarantors. Upon information and belief, each guarantor filed personal tax returns accordingly.

32. On November 17, 2008, the board of directors of Holdings held a meeting to further clarify and approve the "replacement guaranty consideration" to guarantors originally approved on July 11, 2008. Board members who were present included Freeman, Cigarran, De Thompson, John Thompson, Joel Dobberpuhl, Fritch and Woo. At this November 17, 2008

meeting, Cigarran joined with a statement of his research supporting Mr. Freeman's research regarding the appropriateness of the Guaranty Fees and the amount of the fees. The meeting minutes record that "Mr. Freeman described in detail his discussions with a credit enhancement company about whether they would provide the Guarantees and if so at what charge [and] Mr. Cigarran described his similar conversations and correspondence with an investment bank."

33. On November 17, 2008, consistent with the authorization approved at the board meeting on July 11, 2008, Freeman and other local owners agreed to provide the requested replacement Guarantees in exchange for a collective fee of $1,973,750 annually, and the board of directors of Holdings voted to approve, and issued a Resolution approving, its agreement to pay the Guaranty Fees.

34. On November 20, 2008, the bankruptcy trustee acknowledged that the guaranty fees had been approved and that fees were appropriate, protesting only what he described as "lack of sufficient notice."

35. On November 22, 2008, Freeman advised NHL Commissioner Bettman and NHL General Counsel David Zimmerman that "FYI—resolutions adopted at our BOD at meeting last week. Vote was 5-2 in favor. Each director abstained with respect to approval of his own compensation. Todd and Warren voted against approval of the resolutions."

36. While Holdings' cross-default under the Metro Lease was cured on August 18, 2008, the more difficult issue of curing the CIT Credit Facility default created by the Del Biaggio bankruptcy remained. In order to cure Holdings' cross-default, CIT Bank initially requested that each owner jointly and severally guarantee the full amount of Holdings' $40,000,000 credit facility with CIT.

37. On December 6, 2008, Cigarran sent an email to De Thompson V (copying Free-

man, Fritch, and Dobberpul) stating, "Two observations, I for one will NOT take on any part of Boot's guarantee. Second, we need to calculate our damages which will increase our claims against Boots/forecheck. There is no question that we would never have agreed to the Series A terms absent this guarantee."

38. Simultaneously with Cigarran's abandonment of the Predators and his fellow investors in their time of desperation, on December 6, 2008, multiple e-mails were exchanged between the NHL, Holdings's CFO, and Freeman regarding the CIT cure negotiations.

39. On December 15, 2008, NHL General Counsel David Zimmerman wrote to Freeman: "Are Herb and you prepared to guaranty the full $40? Would you guys consider doing that?" In a follow-up telephone conversation with both Zimmerman and the Commissioner, Freeman agreed to provide the personal guarantees requested as long as he and Fritch were compensated fairly.

40. On December 30, 2008, Freeman sent an e-mail to the bankruptcy trustee outlining the significant personal burdens created by the execution of the Replacement Metro Guarantees. These burdens were understood by other investors, including Fritch, who responded to and admonished his partners that refused to execute guarantees to CIT and then scoffed at the risks borne by Freeman and Fritch. In an email on December 31, 2008, about this issue, he wrote: "if the risk is so nominal, then everyone should be willing to jump in," but they were not.

41. On January 6, 2009, minutes of the board and executive committee meeting reflect that the bankruptcy trustee, in an attempt to force Holdings to buy out Del Biaggio at a premium, informed the Board that he was negotiating the sale of Del Biaggio's stake to a re-engaged and re-energized Jim Balsillie. The Minutes reflect that, despite a statement by the Trustee that "made clear to the board and executive committee that Mr. Balsillie's intent was to move

any hockey franchise he buys to Southern Ontario," Cigarran attempted to negotiate terms of a Balsillie partnership with the trustee until Freeman interrupted and ceased the negotiation.

42. On January 14, 2009, an owner sent an email stating that he "is prepared to accept the consequences" of a Predators' bankruptcy in the event that Freeman and Fritch decline to execute the CIT Guarantees but that he would not participate.

43. On January 19, 2009, Freeman requested an opinion from Collateral Guaranty as to the fairness of a proposed 20% per annum fee in exchange for the CIT replacement Guarantees.

44. On January 20, 2009, Holdings' CFO sent an email to CIT acknowledging the accrual of the Metro Guaranty Fees. The email stated, in relevant part, "[p]er your request, I am providing you with a written explanation of our desire to obtain your permission to use accrued interest on . . . accrued fees on the Metro guarantees as part of a program for owners to purchase tickets."

45. On January 20, 2009, Holdings' CFO distributed a forecast acknowledging the accrual of Metro Guaranty Fees, including $4,706,479 of accrued Fees owed to Freeman.

46. On January 23, 2009, Cigarran's lawyer sent an email and letter acknowledging CIT Guaranty Fees and requesting a third-party fairness opinion regarding the amount of fees, and on January 25, 2009, Freeman responded agreeing to seek a third-party fairness opinion.

47. On January 29, 2009, minutes of the board and executive committee meeting state that "Board and Executive Committee deem it in the best interest of The Company to cure as promptly as possible the Del Biaggio Guaranty Default and the resulting Team Default." The minutes further state: "Chairman of The Company is directed to take such action and do all things that may appear to be reasonably necessary, in his sole discretion, to undertake, effectuate,

and carry out the foregoing resolutions, and to pay all such expenses as in his discretion appear to be necessary, proper, or advisable to carry into effect the purposes and intentions of this and each of the foregoing resolutions." These Resolutions were approved by Freeman, Fritch, Joel and Holly Dobberpuhl, Tom and Chris Cigarran, and De and John Thompson.

48. Freeman again urged his partners to join with him and Fritch in providing the CIT Guarantees but acknowledged that participation was voluntary.

49. On February 2, 2009, Freeman, acting upon the authority assigned in the January 29, 2009 resolution of the board and executive committee approved by all local investors, approved guaranty fees of 20% per annum (subject to automatic reduction if appropriate upon receipt of a fairness opinion) to any and all personal guarantors of the CIT debt. Immediately thereafter, the Replacement Guarantees were delivered to CIT by Freeman ($40,000,000), Commodore ($40,000,000) and Fritch ($13,200,000) and the CIT default was cured. The Cigarrans, Dobberpuhls, and Thompsons declined to execute guarantees.

50. On February 2, 2009, CIT and Holdings amended the CIT Credit Agreement, whereby CIT, *inter alia*, specifically consented to the accrual of up to $13,000,000 in guarantee fees per year, representing fees Holdings agreed to pay certain "Common Equity Investors" (including Freeman and Commodore) in exchange for providing replacement Guarantees of the Metro Arena Lease ($1,973,750 annually) and the CIT Credit Agreement ($10,640,000 annually).

51. On February 4, 2009, Holdings received a letter from Collateral Guaranty accepting the engagement to research and to issue a fairness opinion regarding the guaranty fees.

52. On February 19, 2009, Holdings received a letter from Collateral Guaranty concluding that a 20% per annum guaranty fee was fair.

53. On March 25, 2009, Cigarran's lawyer sent an email to Holdings' Board Members and asked Freeman "to confirm De [Thompson] and Tom [Cigarran]'s understanding that the 20% fees on the Metro guarantees are accruing only on Boots' portion of the Metro guarantee assumed by the remaining members, and not on the aggregate amount of all members' Metro guarantees." Freeman affirmed the understanding.

54. On March 27, 2009, De Thompson sent an email to Herb Fritch: "Thanks again to you and David for keeping the team alive to this point."

55. Four months later, on June 19, 2009, Cigarran acknowledged the CIT Guaranty Fees via email. "In conjunction with these transactions [admission of Wilson as a partner and conversion of Dobberpuhl to a limited partner], De [Thompson] and I would assume our pro rata shares of the CIT guarantees...in return for eliminating all fees to the team from the CIT guarantees and the city guarantees as well."

56. On June 30, 2009, Holdings' independent auditor issued an audit of Holdings with an independent auditor's report. In the notes to the consolidating financial statements, the auditor stated that "[t]he Company approved the payment of guaranty fees to each of the guarantors related to the Replacement Guarantees above. The guaranty fees were approved at a rate of 20% annually. At June 30, 2009, Holdings had a guaranty fees payable totaling $1,784,000. The guaranty fees are subordinated to the CIT Credit Agreement and the Seller Note and have been included in the Payable to Members in the accompanying consolidating balance sheet."

57. On July 17, 2009, Holdings's outside counsel acknowledged the Guaranty Fees and stated that "[a]t a meeting held on 11/18/08, the Club approved a resolution compensating each BDB [Boots Del Biaggio] replacement guarantor at a rate of 20% per annum (the fee is applicable only to the BDB replacement guarantee amount)."

58. On December 26, 2009, De Thompson V sent an email to Freeman and other owners acknowledging the Guaranty Fees. "I would be much more inclined to spend 100% of our city guarantee money instead of our interest money, if others did likewise."

59. In late 2009, the media reported that Freeman and the IRS disagreed on the outstanding balance of Freeman's 2007 personal tax obligation. Despite legal opinions from Holdings' own outside legal counsel, on both January 1, 2010, and again on February 15, 2010, concluding that Freeman's tax lien did not create a default by Freeman of his Metro Guaranty, ulterior motives turned the issue into a significant public relations distraction that became detrimental to the best interests of the club.

60. On February 24, 2010, Freeman resigned as Chairman of Holdings and Cigarran was elected Chairman.

61. On or around July 15, 2010, Holdings purchased 100% of the equity of Forecheck for $15,200,000. Forecheck had a contractual "put" right to sell this equity to Holdings for $25,000,000. Forecheck accepted the $9,800,000 discounted purchase price in exchange for a release of all claims (i.e. claims for reimbursement of the guaranty fees payable by Holdings to its guarantors) against Forecheck. Thus, in addition to the cure of defaults under the Metro Lease and the CIT Loan, Holdings also gained an additional $9,800,000 cash benefit as a result of the guarantees provided by Commodore and Freeman.

62. On or around August 17, 2010, six months after Cigarran became chairman, Holdings distributed an income statement showing $1,784,403 in Metro Guaranty Fees accrued in 2008-2009 and forecasting that $1,973,749 in Metro Guaranty Fees would accrue in 2009-2010.

63. On August 20, 2010, Freeman and Fritch, in an email exchange, discussed the

need to ensure disclosure of the Guaranty Fees to potential new lenders to Holdings and Cigarran's "blindspot" regarding proper corporate disclosures.

64. On September 30, 2010, Fritch in an email exchange with Freeman stated, "I brought up the fees at the last meeting. Tom [Cigarran]'s position was that the fees were never approved by the executive committee and therefore not an obligation of the team. I thought they were approved? Do you agree with that? Are there minutes that evidence the approval? .... They say the fees were discussed but never voted upon."

65. On October 27, 2010, two years after promising and agreeing to pay the Metro Guaranty Fees in exchange for the Replacement Metro Guarantees, and despite two years of confirming the Metro Guaranty Fees, Holdings repudiated its promise and agreement to pay the Metro Guaranty Fees. Holdings stated:

> [i]t has come to the attention of the Company that the guaranty fees related to the guaranty agreements in favor of the Metropolitan Sports Authority of Nashville and Davidson County which have been accrued on the Company's financial statements during the last two fiscal years and total $4,251,591 as of the date herewith (the "Guaranty Fees") were not effectively approved by the Executive Committee as required by Section 5.6(c)(iii) of the Company's Operating Agreement. In addition, it is clear under the Company's various agreements with the National Hockey League that the Company did not have the power to authorize such Guaranty Fees without the consent of the NHL, which consent was never sought. Moreover, the purported authorization of such Guarantee Fees was in clear contravention of the negative covenants of the Company's Credit Agreement with CIT. Consequently, on the advice of outside counsel, the Company has concluded that the Guaranty Fees are not a valid liability and/or obligation of the Company or any of the Company's affiliates and should be removed retroactively as a liability from the Company's consolidated balance sheet and from the Company's income statements for the affected periods.

66. Holdings subsequently acknowledged that CIT approved the Guarantee Fees and that the NHL was a key advisor, supporter, and participant in securing a cure of the Metro and

CIT defaults and that the NHL was fully aware of and supported the guarantee fees as the most important feature of the agreements to cure.

67. Holdings also requested that each of the owners sign a waiver of their claims against Holdings relating to the Metro Guaranty Fees. On December 1, 2010, Holdings' counsel informed Plaintiff's counsel that each of the other owners had executed waivers. Neither Freeman nor Commodore waived any rights or claims relating to the Metro Guaranty Fees.

68. On October 31, 2010, in an email exchange between Fritch and Freeman, Fritch stated that the Guaranty Fees had become an impediment to Holdings' ability to refinance its debt and that Cigarran was going to meet with (or had already met with) Commissioner Bettman to resolve the issue.

69. On December 26, 2010, Regions Bank, without explanation, reversed its prior apprehension regarding the guaranty fees and refinanced Holdings's $75,000,000 debt.

70. As part of another Cigarran-induced attempt to bully and defraud creditors, on Christmas Eve 2013, Holdings sent payment-in-full to each of the Subordinated Debt noteholders except Commodore, which it later acknowledged was short paid by at least $1,800,000. The payment-in-full to all noteholders except Commodore created a default under the Subordinated Debt, which created a cross-default under both the Metro Guaranty Fee and the CIT Guaranty Fee payable to each of Commodore and Freeman.

71. Accordingly, the facts make clear that (i) Holdings agreed to pay the Guaranty Fees; (ii) Plaintiffs guarantied the Metro Arena Lease and CIT Credit facility in exchange for the Guaranty Fees; (iii) the Guaranty Fees were properly approved by Holdings' Board of Directors; (iv) CIT consented to the Guaranty Fees; (v) Holdings, and its owners, Directors, Officers, and current Chairman repeatedly acknowledged and ratified the accrual of the Guaranty Fees over a

period of years; (vi) Holdings' outside legal counsel approved and repeatedly acknowledged the accrual of the Guaranty Fees; (vii) Holdings' independent auditors audited, acknowledged, and published the accrual of the Fees; (viii) Freeman and Commodore relied to their detriment and executed the Replacement Metro Guarantees and CIT Guarantees based on Holdings' agreement and promise to pay the Guaranty Fees; (ix) Holdings has been enriched, *inter alia*, from the Guarantees by curing its default under the Metro Arena Lease and the CIT Credit Facility, and by leveraging the cures to obtain a $9,800,000 discount on its purchase of Forecheck from the Del Biaggio bankruptcy estate; and (x) Holdings repudiated its agreement and promise to pay the Guaranty Fees more than two years after obtaining the benefit of the bargain (*i.e.*, only after it became personally advantageous to Cigarran and his co-conspirators to attempt to eliminate the Guaranty Fees to enrich themselves).

72. Holdings' agreement to pay the Guaranty Fees is a valid and binding obligation and such Guaranty Fees continue to accrue. As of June 7, 2016, Holdings owes Plaintiffs approximately $30,000,000 in accrued Guaranty Fees (Metro Guaranty Fee and CIT Guaranty Fee) and such fees will accrue at approximately $2,000,000 annually until 2028.

Holdings Improperly Withheld Material Information In An Effort To Dilute Plaintiffs' Ownership Interest

73. In late February 2010, an $8 million capital call was initiated by Holdings. Commodore did not participate and was diluted by a 3:1 ratio. Prior to dilution, Commodore owned 48% of Holdings. Post-dilution, Commodore Trust owns 38% of Holdings.

74. Thereafter, beginning on February 24, 2010 (the date Cigarran took control of Holdings as Chairman) and extending to this day, Freeman and Commodore have been excluded from any and all participation in Holdings and its hockey team; excluded from Ownership meetings. Excluded from Board meetings; excluded from Executive Committee meetings; excluded

from all conversations, meetings, and gatherings, whether financial or social, whether business or hockey related. Excluded from all team events; denied all indicia of ownership; excluded from the distribution of financial statements, audits, and any other discussion or analysis of the business or financial affairs of Holdings. All of this has occurred despite repeated protests. All of this has occurred despite the execution of multiple confidentiality agreements by Freeman. Each of these actions is clearly a "consequence" threatened and carried out by Cigarran in retaliation for Freeman's refusal to defer to Cigarran's demand for total control as to all matters.

75. Section 7.4 of Holdings's Operating Agreement mandates that "Each Member shall be provided with the following: (a) As soon as available but in any event within 30 days after the end of each Fiscal Quarter: unaudited statements of income and cash flows of Holdings for such Fiscal Quarter, and unaudited balance sheets of Holdings as of the end of such Fiscal Quarter; (b) Within 120 days after the end of each Fiscal Year, statements of income and cash flows of Holdings for such Fiscal Year, and balance sheets of Holdings as of the end of such Fiscal Year; and (c) Such further detailed financial information as is provided to the holders of the Senior Debt and/or the NHL." There are no conditions to this mandate. Holdings has intentionally, continuously, and maliciously breached its agreement in its entirety since February 24, 2010.

76. After February 24, 2010, on multiple occasions, various investors other than Freeman have traded in the securities of Holdings with access to the material insider information (including financial reports, ticket and sponsorship revenue projections, discussions with Metro officials, and valuable investment information distributed by the NHL) that they have actively denied to and concealed from Commodore and Freeman. At each juncture, Commodore and Freeman have protested and stated a desire to consider a further investment upon the receipt of the information necessary to make an informed investment decision. Since February 24, 2010,

Defendants have excluded Plaintiffs and their representatives from the receipt of any and all information necessary to evaluate Holdings' business for the purpose of making an investment decision.

77. For example, Holdings initiated a capital call in 2010 but blocked Freeman from participating in it by withholding all relevant information about Holdings' finances before an investment decision must have been made. As to this issue, on July 30, 2010, Freeman responded to an inquiry from Holdings General Counsel, stating "several weeks ago, I informed you that I have been excluded from all board, executive committee, and ownership meetings, discussions, and presentations since my resignation as chairman in February. I inquired about such basic investment considerations as projected 2009-10 financial results and a 2010-11 budget .... You replied that you did not know the answers to these questions and recorded my response as 'not enough information to make an informed decision.' To date, I have not received any further information and continue to be excluded from all data, information, discussions, and analysis. Thus, unfortunately, I am not in a position to make an informed investment decision or commitment."

78. In response, on August 1, 2010, Holdings' General Counsel wrote to Freeman, claiming that, since February 24, 2010, there had been "no meetings of the board or executive committee" (despite specific legal mandates in Holdings' Operating Agreement requiring monthly meetings) and asserting that none of the board or executive committee members had been provided any financial or other business materials, data, reports, or similar documents in advance of the capital call).

79. On August 10, 2010, Freeman wrote to Holdings' General Counsel: "As a member of the board and the executive committee, being informed of the hiring of a new CEO via the

media is unacceptable and improper. I have remained silent by choice since February but my silence should not be construed as submitting to or acquiescing to ongoing improper corporate behavior .... The club has failed to hold an owners meeting, a board meeting (as required by sec 5.3), or an executive committee meeting (as required by sec. 5.6d) since I left office in February. The club has failed to provide any communication, information, operations update, or financial data (as required by sec. 7.4) to the board, executive committee, or owners since February. Insiders are making capital calls and investment decisions based on information not available to all owners. My requests for basic financial information have been repeatedly ignored. The club has failed to provide a proposed budget for the club for the current year despite the fact we are 41 days into the new fiscal year, 41 days after the start of free agency, and weeks after the club traded away top players for 'budgetary' reasons. No budget, no proposed budget, not even a hint of any background information on which to make budget decisions despite the clear mandate of sec. 5.6(c)(i). As the club's CAO and Corporate Counsel, I request that you start insisting that the club's officers follow proper legal protocols. These procedures are for the protection of all shareholders. I ask and expect nothing more from you or from the position. Thank you."

80. In October 2010, Holdings' general counsel, at the insistence of Cigarran, requested confidentiality agreements from each board member. Specifically, on October 30, 2010, Holdings' General Counsel wrote to all Members: "All, The letter attached summarizes the obligations that Regions is requiring of each of you in connection with the refinancing of the organization's senior debt. Because I have not received signed confidentiality agreements from all of you, I have to convey that it is the organization's expectation that this information be held in strict confidence. Any breaches of confidentiality will be addressed accordingly." Freeman observed at the time, "When [the general counsel] wants my signature on something, the CA

doesn't seem so important." The confidentiality agreement demand was a ruse. Holdings' general counsel articulated the appropriate standard, warning, and process for delivering information to the board of directors and the ownership of Holding.

81. On November 7, 2010, and again on November 8, 2010, Freeman delivered executed confidentiality agreements, accepting in full the language of the requested confidentiality commitment: "The undersigned hereby acknowledges and understands that in one or more of the foregoing capacities he/she will be privy to certain confidential information regarding [Holdings] and its financial prospects, plans for future operations and other such sensitive information, the disclosure of which would be harmful to [Holdings'] ability to conduct its business in the ordinary course. In particular, it is acknowledged that the disclosure of such information could severely impact the ability of [Holdings] to negotiate the terms of those agreements which are most critical to the success of [Holdings] and its NHL franchise. Accordingly, the undersigned agrees to keep all such information regarding the Club and its NHL franchise and other financial interests in the strictest of confidence and will not disclose such information to any third party without the prior written consent of an officer of [Holdings]."

82. On November 4, 2010, Freeman wrote to General Counsel: "I demand equal, full, and appropriate disclosure of information, and a reasonable opportunity to review and analyze such information in-depth with the aid of my advisors, prior to making an investment decision regarding additional capital investments and/or personal guarantees."

83. On November 5, 2010, Freeman wrote to General Counsel: "Michelle, I remain anxious to give appropriate consideration of the Club's request. Attached, again, are my multiple requests for information that will allow me to make an informed decision and a decision with access to information that is available to other [investors]....you also continue to request that I

commit to various transactions that affect me personally while simultaneously denying me appropriate access to information to properly consider those requests. I will not be bullied into an uninformed decision. I have requested nothing of the Club other than information to which I am clearly entitled."

84. On November 6, 2010, Freeman wrote to General Counsel: "Forgive my skepticism, but the Confidentiality Agreement issue was not raised until October 8, 2010. In the interim, I was denied any and all information for 226 days. I have always been willing to execute an appropriate confidentiality agreement. I remain willing."

85. Nonetheless, Holdings' misconduct continued. On February 13, 2012, Freeman wrote to Holdings' General Counsel: "Michelle, Per the club's solicitation, I would like to consider the request for a further investment in the company. Toward that end, and to comply with federal and state securities laws, the company is required to provide me with sufficient information upon which to make an investment decision. My request is identical to my prior requests in connection with previous capital calls. Soliciting a financial investment while failing to provide adequate disclosure may constitute fraud in connection with the sale of securities and may create liability on the part of the company and any participating officers and directors. The attached notice is addressed to 'members' and begins with 'as we have discussed in recent conversations....' I have not been invited to or apprised of any meetings, formal or informal, of Members, Directors, or Executive Committee since February 2010, nor provided with materials or information delivered to other members, directors, and executive committee members. Please provide me with all relevant information, including but not limited to, the following

- any and all information that has been provided to other Members, other Directors, and other Executive Committee Members since February 2010
- detailed summary of material discussions that have taken place at formal or informal gatherings of such Members, Directors, or Executive Committee

- 2010-11 audit
- 2011-12 budget with updated forecast
- player payroll forecast for future years that reflects negotiations with our most important UFAs
- insights from NHL on a new CBA
- insight on media reports of a pending decrease in the $5MM of new funding agreed to in 2008, and
- insight on media reports that the city is attempting to divert $4-5MM of state funding from the club.

As in the past, any purported attempt to dilute Commodore Trust for failing to participate in a capital call while denying Commodore Trust the information necessary to make an investment decision will be void."

86. On March 20, 2012, Cigarran's long-time lawyer Mike Sontag wrote to Freeman and took the position that Holdings had not convened a shareholders, board, or executive committee meeting since Cigarran took office as Chairman in early 2010. A few days later, however, Cigarran gave a media interview in which he acknowledged "[w]e have meetings of the ownership group, we had one last Saturday. We go over the finances and the hockey operation, then we go over the financial status of the things."

87. On April 5, 2012, Freeman wrote to Holdings' General Counsel in response to a request from Holdings' General Counsel: "I feel obligated to abstain from voting as an executive committee member because I am not informed regarding the business of the company. Despite requests, I have been denied all information regarding the company since February 2010. Per correspondence I received from the company's outside counsel recently, the company has not held owners, members, directors, or executive committee meetings since February 2010."

88. On November 26, 2013, Freeman wrote to Holdings' General Counsel: "In addition to the below information, please provide me with all information that has been provided to other Members since March 2010 that is relevant for me to make an informed business decision

regarding the capital call."

89. As an example of the magnitude of insider information denied to Plaintiffs and traded on by Cigarran and his co-conspirators, on January 22, 2015, national media covering the NHL reported that the NHL Board of Governors (Cigarran has been Holdings' representative on the Board of Governors since February 2010) has been considering NHL expansion and expansion fees of $1,000,000,000. Cigarran, as chairman, never conveyed this information to Commodore or Freeman despite trading on such information to his own benefit.

90. As another example: on February 19, 2015, national media covering the NHL reported that the NHL Board of Governors (including Cigarran) has been engaged with a concussion lawsuit by former NHL players (a similar case against the NFL was recently settled for $1 billion). Cigarran, as chairman, never conveyed this insider information to Commodore or Freeman despite trading on such information to his own benefit.

91. On October 24, 2015, Freeman wrote: "the club has failed to call a meeting of the members, board, or executive committee of the board since 2010. The club fails to provide relevant information to its members or directors. This makes informed consent impossible. It is a violation of the company's bylaws. It is a violation of the most fundamental tenants of corporate law and governance. A select group of insiders has hijacked the company and operates it in a veil of secrecy and insider trading. Until such time as the club is willing to permit its board members and executive committee members access to information and the ability to make informed business decisions after deliberation with other board members and corporate officers, I am compelled to abstain from expressing an opinion on the proposed transaction. I do note the personal liability of the participants and the elevated professional responsibility that the legal profession has to prevent such illegal behavior, much less be an active, willing, and knowing participate in

the process."

92. During the period from February 2010 to present, Holdings has purported to sell or offer for sale securities while simultaneously refusing to provide Freeman and Commodore Trust with information, reports, and data available to Holdings' other members.

93. In short, Holdings has permitted its other members to trade on insider information while denying that same information to Freeman and Commodore.

94. Any purported dilutions of Commodore after February 24, 2010 are void *ab initio* as a result of Holdings' refusal to provide Commodore with the opportunity to make an informed investment decision with respect to the sale of securities and Holdings has engaged in securities fraud by knowingly and intentionally distributing material, confidential, insider information to certain potential investors while refusing to provide the same information to other potential investors.

95. As a further impact of these illegal dilutions, Holdings has filed tax returns with the Internal Revenue Service misallocating tens of millions of dollars in tax losses away from Commodore and to the other Members as a result of the improper purported dilution of Commodore. An exact calculation will determine the misallocated tax losses, but Commodore estimates the misallocation at $30 million to $40 million.

Defendants Have Wrongfully Excluded And Oppressed Plaintiffs

96. Since February 24, 2010 (the date that Cigarran became Chairman of Holdings), Holdings and its members, directors, executive committee, officers, and legal representatives, have purposely engaged in a scheme to exclude and oppress Plaintiffs from participation in Holdings. Defendants have excluded and denied benefits to the Plaintiffs by, *inter alia*, with-

holding any and all ownership perquisites and any and all indicia of ownership since February 2010.

97. For example, Section 7.4 of Holdings's Operating Agreement states as follows: "Each Member shall be provided with the following: (a) As soon as available but in any event within 30 days after the end of each Fiscal Quarter: unaudited statements of income and cash flows of the Company for such Fiscal Quarter, and unaudited balance sheets of the Company as of the end of such Fiscal Quarter; and (b) Within 120 days after the end of each Fiscal Year, statements of income and cash flows of the Company for such Fiscal Year, and balance sheets of the Company as of the end of such Fiscal Year. (c) Such further detailed financial information as is provided to the holders of the Senior Debt and/or the NHL."

98. During the period of February 24, 2010 to the present, Holdings has intentionally, willfully, and wrongfully withheld such financial information from Plaintiffs while providing such financial information to all other investors.

99. Thus, Holdings has intentionally, willfully, and wrongfully breached the contract evidenced by the Operating Agreement with Plaintiffs. As a direct result of Holdings' refusal to provide information upon which to base an informed investment decision, Plaintiffs have been denied the opportunity to make an informed investment decision with respect to capital calls of Holdings and have been purportedly diluted according to the records of Holdings. Plaintiffs have been damaged by the fair market value of the amount of equity dilution suffered by Plaintiffs during the period of February 24, 2010 to the present.

100. Commodore has the contractual right in section 5.2 of Holdings' Operating Agreement to appoint two (2) Directors to Holdings' Board of Directors. It has appointed Free-man.

101. Section 5.3 of Holdings' Operating Agreement requires that "Regular meetings of the Board shall be held each Fiscal Quarter on such date and at such time and at such place as shall from time to time be determined by the Board."

102. Section 5.1 of Holdings' Operating Agreement states that "(i) the Board shall conduct, direct and exercise full control over all activities of the Company, (ii) all management powers over the business and affairs of the Company shall be exclusively vested in the Board, and (iii) the Board shall have the sole power to bind or take any action on behalf of the Company, or to exercise any rights and powers (including, without limitation, the rights and powers to take certain actions, give or withhold certain consents or approvals, or make certain determinations, opinions, judgments, or other decisions) granted to the Company under this Agreement or any other agreement, instrument, or other document to which the Company is a party. Notwithstanding the generality of the foregoing, the powers of the Board shall, without limitation, include: (i) general oversight of the activities of the Executive Committee and Chairman, (ii) policy decisions with respect to the Company and the Business, (iii) strategic decisions with respect to the Company and the Business, (iv) public relations with respect to the Company and the Business and (v) appointing a new Chairman upon the resignation, death or removal of the prior Chairman."

103. Commodore has the contractual right in section 5.6(a) of Holdings' Operating Agreement to appoint one (1) member of Holdings' Executive Committee. It has appointed Freeman.

104. Section 5.6(d) of Holdings' Operating Agreement requires that "Regular meetings of the Executive Committee shall be held each calendar month on such date and at such time and at such place as shall from time to time be determined by the Executive Committee." Section

5.6(d) further provides that "Each Member, and in the case of a Member that is not an individual, the equity owners of such Member, shall have the right to receive notice of and attend all meetings of the Executive Committee."

105. Section 5.6(c) of Holdings' Operating Agreement states that "the Executive Committee shall be responsible for the following: (i) Setting and amending the Budget, including team payroll; (ii) Incurring debt other than the Senior Debt, the Leipold Note and the Subordinated Member Debt, or approval of amendments to the Senior Debt; (iii) Approval of material arena management transactions; (iv) Approval of material contracts and transactions with Metro; (v) Setting the position of the Club on collective bargaining issues within the NHL; (vi) Hiring and firing the Club's General Manager."

106. Holdings, via its officers, directors, and agents, has denied various rights, perks, access, and indicia of ownership to Commodore while granting such rights, perks, access, and indicia of ownership to all other investors of Holdings during the period of February 24, 2010 to present.

107. Holdings has intentionally, willfully, maliciously, and wrongfully breached its contract with Plaintiffs. Plaintiffs have been excluded, oppressed, and denied their rights to participate in the business and affairs of Holdings and have been denied the value of their investment in Holdings annually for the period of February 24, 2010 to the present.

Holdings Failed to Distribute Cash To Cover Payment of Taxes

108. Holdings' recent behavior has had other tax consequences.

109. According to the tax calculations of Holdings' accountant, as directed by Holdings and Cigarran, who serves as its "Tax Matters Partner," each common member of Holdings

except Commodore received a Form K-1 with a "taxable loss" for 2014. Commodore's K-1 delivered by Holdings reported taxable income.

110. Upon information and belief, Commodore's 2014 K-1 is incorrect or the result of some form of fraud and abuse by Holdings and its Tax Matters Partner (Cigarran).

111. Holdings has refused to provide Commodore or its representatives with its 2014 (or any other years) tax returns or the supporting worksheets used to determine that Commodore, and only Commodore, had "income" in 2014.

112. Holdings' Operating Agreement requires that "[t]he Company shall use its best efforts to make Distributions of Available Cash to the Common Members in amounts sufficient for the payment of taxes."

113. Consistent with its typical oppression of Freeman and Commodore Trust, Holdings, upon information and belief, did not attempt to use its "best efforts" to make the distribution to Commodore. In fact, it did not make any effort. Instead, its counsel, Michael Sontag, stated that Holdings did not have any "Available Cash," which he has later admitted was an incorrect assertion blurted out in support of, and consistent with, his long-time acquiescence to the personal demands of his decades-long client Cigarran.

114. As required in its Operating Agreement, Holdings must distribute at least $241,033 to Plaintiffs to cover the tax liability resulting from the purported "phantom income" charged to Commodore.

115. In order to accommodate the assertions of Holdings that its lenders will not consent to a tax distribution, Commodore has agreed to accept a note subordinated to the lenders. Holdings refuses to acknowledge that path to compliance with its operating agreement.

JURISDICTION AND VENUE

116. This Court has jurisdiction over the subject matter of this action pursuant to Tenn. Code Ann. § 16-11-101, *et seq.*, and for the reasons described herein.

117. Venue is proper in Davidson County pursuant to Tenn. Code Ann. § 20-4-101 because all Defendants are located in Davidson County and/or maintain offices and do business in Davidson County and, alternatively, because the causes of action arose in Davidson County.

118. On or about January 2015, Plaintiffs presented some of these grievances to the NHL for resolution pursuant to the NHL's arbitration procedures. Since that time, however, it has become clear that the NHL cannot serve as a neutral arbiter given the very nature of the claims and their potential impact on an NHL franchise that the NHL is obligated to protect. Because of this lack of neutrality, and because there is no arbitration agreement that compels the arbitration of the causes of action in this case, there is no impediment to pursuing these claims in this forum.

FIRST CAUSE OF ACTION
(Declaratory Judgment, Metro Guaranty Fees)
Defendant Predators Holdings, LLC

119. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-118 of this Complaint as if the allegations were fully set forth herein.

120. On July 11, 2008, Holdings' Board adopted a resolution authorizing the payment of "Replacement Consideration" in exchange for the Metro Guaranty from the Plaintiffs and other owners related to the Metro Arena Lease ("Metro Guaranty Promise").

121. On August 18, 2008, in reliance on this agreement, the Plaintiffs executed an Amended and Restated Joint and Several Limited Guaranty with Metro in connection with the Metro Arena Lease ("Metro Guaranty"). The Metro Guaranty provided Holdings with substantial

benefits.

122. On November 17, 2008, in exchange for the benefits conferred upon it by the Plaintiffs' guarantees, Holdings issued a resolution ("Metro Guaranty Fees Agreement") that clarified the form of the "Replacement Consideration" and specifically obligated Holdings to compensate the Plaintiffs at a rate of $1,973,750 per year ("Metro Guaranty Fees").

123. Between November 17, 2008, and October 27, 2010, Holdings and its agents repeatedly reaffirmed and adopted its agreement to pay the Metro Guaranty Fees.

124. On October 27, 2010, Holdings repudiated the Metro Guaranty Fees Agreement and asserted that it is not bound to pay Plaintiffs either the Metro Guaranty Fees that had accrued to date or any Metro Guaranty Fees that would accrue in the future.

125. A dispute therefore has arisen as to the rights and obligations of the Plaintiffs and Holdings as to the Metro Guaranty Fees Agreement.

126. Plaintiffs aver that Holdings has an obligation to pay past and future Metro Guaranty Fees according to the terms of the Metro Guaranty Fees Agreement.

127. This action is brought for a declaratory judgment pursuant to the provisions of Tenn. Code Ann. § 29-14-101 to Tenn. Code Ann. § 29-14-113.

SECOND CAUSE OF ACTION
(Breach of Contract, Metro Guaranty Fees)
Defendant Predators Holdings, LLC

128. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-127 of this Complaint as if the allegations were fully set forth herein.

129. The Metro Guaranty Promise, the Metro Guaranty Fees Agreement, and the conduct of Holdings and the Plaintiffs demonstrate the existence of an enforceable contract between Holdings and the Plaintiffs.

130. Holdings has failed to perform and breached the contract by failing to pay the Metro Guaranty Fees that have accrued to date and by repudiating its agreement to do so in the future.

131. As a result of Holdings' breach, the Plaintiffs have suffered damages, including specific and consequential damages.

THIRD CAUSE OF ACTION
(Unjust Enrichment, Metro Guaranty Fees)
Defendant Predators Holdings, LLC

132. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-131 of this Complaint as if the allegations were fully set forth herein.

133. By executing and maintaining the Metro Guaranty, the Plaintiffs conferred a benefit upon Holdings.

134. Holdings appreciated the benefit that Plaintiffs conferred upon them when Plaintiffs executed and maintained the Metro Guaranty.

135. Holdings accepted such benefit under such circumstances that it would be inequitable and unjust for it to retain the benefit without payment of the value thereof.

FOURTH CAUSE OF ACTION
(Breach of Contract, CIT Guaranty Fees)
Defendant Predators Holdings, LLC

136. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-135 of this Complaint as if the allegations were fully set forth herein.

137. On January 29, 2009, Holdings' Board adopted a resolution authorizing its Chairman to take any and all steps necessary to secure the CIT replacement guarantees. Such guarantees were necessary to cure Holdings' default on its obligations to CIT and, if secured, would therefore provide Holdings with substantial benefits.

138. On February 2, 2009, Holdings' Chairman approved the payment of guaranty fees ("CIT Guaranty Fees Agreement") in the amount of $10,640,000 annually ("CIT Guaranty Fees") to each of the Plaintiffs in exchange for their agreement to serve as replacement guarantors of the CIT Credit Agreement.

139. On February 2, 2009, in reliance on this agreement, each of the Plaintiffs executed a Guaranty Agreement with CIT in connection with the CIT Credit Agreement.

140. After February 2, 2009, Holdings and its agents repeatedly reaffirmed and adopted its agreement to pay the CIT Guaranty Fees.

141. The CIT Guaranty Fees Agreement as well as the conduct of Holdings and the Plaintiffs demonstrate the existence of an enforceable contract between Holdings and the Plaintiffs.

142. Holdings has failed to perform and breached the contract by failing to pay the CIT Guaranty Fees that have accrued to date.

143. As a result of Holdings' breach, the Plaintiffs have suffered damages, including specific and consequential damages.

FIFTH CAUSE OF ACTION
(Unjust Enrichment, CIT Guaranty Fees)
Defendant Predators Holdings, LLC

144. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-143 of this Complaint as if the allegations were fully set forth herein.

145. By executing and maintaining the CIT Guaranty, the Plaintiffs conferred a benefit upon Holdings.

146. Holdings appreciated the benefit that Plaintiffs conferred upon them when Plaintiffs executed and maintained the CIT Guaranty.

147. Holdings accepted such benefit under such circumstances that it would be inequitable and unjust for it to retain the benefit without payment of the value thereof.

SIXTH CAUSE OF ACTION
(Breach of Contract, Access to Financial Information)
Defendant Predators Holdings, LLC

148. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-147 of this Complaint as if the allegations were fully set forth herein.

149. The Operating Agreement demonstrates the existence of an enforceable contract between Holdings and the Plaintiffs as to certain responsibilities between them.

150. Holdings has failed to perform and breached the contract by failing to provide Plaintiffs with the requisite access to financial information.

151. As a result of Holdings' breach, the Plaintiffs have suffered damages, including specific and consequential damages.

SEVENTH CAUSE OF ACTION
(Breach of Contract, Participation in Company Affairs)
Defendant Predators Holdings, LLC

152. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-151 of this Complaint as if the allegations were fully set forth herein.

153. The Operating Agreement demonstrates the existence of an enforceable contract between Holdings and the Plaintiffs as to certain responsibilities between them.

154. Holdings has failed to perform and breached the contract by failing to provide Plaintiffs with the requisite participation in company affairs and decision-making.

155. As a result of Holdings' breach, the Plaintiffs have suffered damages, including specific and consequential damages.

EIGHTH CAUSE OF ACTION
(Inducement of Breach of Contract, Tenn. Code Ann. § 47-50-109)
Defendant Thomas G. Cigarran

156. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-155 of this Complaint as if the allegations were fully set forth herein.

157. The Metro Guaranty Promise, the Metro Guaranty Fees Agreement, and the conduct of Holdings and the Plaintiffs demonstrate the existence of an enforceable contract between Holdings and the Plaintiffs as to payment of the Metro Guaranty Fees. There also exists a business relationship between Holdings and the Plaintiffs

158. The Operating Agreement also demonstrates the existence of an enforceable contract between Holdings and the Plaintiffs as to access to financial information and participation by Plaintiffs in the affairs of Holdings.

159. Mr. Cigarran had knowledge and was aware of the existence of the contract and business relationship between Holdings and the Plaintiffs.

160. Through his actions, decisions, and statements, Mr. Cigarran intended to induce and procure a breach of the contract, and he did so maliciously.

161. Holdings has failed to perform and continues to breach the contract by failing to pay the Metro Guaranty Fees that have accrued to date.

162. Holdings also has failed to perform and continues to breach the contract by failing to provide Plaintiffs with Holdings' financial information nor permit Plaintiffs to participate in the affairs of Holdings..

163. Mr. Cigarran's actions, decisions, and statements were the proximate cause of Holdings' continuous breach of the contract between Holdings and the Plaintiffs.

164. As a result of Holdings' breach, the Plaintiffs have suffered damages, including

specific and consequential damages.

NINTH CAUSE OF ACTION
(Breach of Fiduciary Duty)
Defendant Thomas G. Cigarran

165. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1-134 of this Complaint as if the allegations were fully set forth herein.

166. As Chairman of Holdings, Mr. Cigarran owed a fiduciary duty to Commodore, which was a fellow shareholder of Holdings at the time that Cigarran exercised substantial control over Holdings.

167. Mr. Cigarran breached the duty he owed to Commodore Trust by excluding Plaintiffs from participation in the affairs of Holdings, by making decisions that were not in Holdings' best interest, and by denying the benefits of ownership to the Plaintiffs.

168. As a result of Mr. Cigarran's actions, Plaintiffs suffered damages, including special and consequential damages.

WHEREFORE, Plaintiffs demand judgment as follows:

PRAYER FOR RELIEF

On their claims for relief, Plaintiffs seek:

a) Declaratory relief as listed above, including specifically that the Court declare the rights and obligations of the parties pursuant to the Metro Guaranty Agreement;

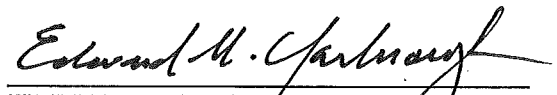
b) An award of damages against Holdings and Mr. Cigarran which includes, without limitation, reimbursement of tax losses, guarantee fees, and dilution of ownership, including treble damages on Count Eighth, for a total of not less than $250 million;

c) Statutory and mandatory interest on all sums awarded;

d) An award of costs and attorney fees; and

e) Any other relief as is proper.

PLAINTIFFS DEMAND A JURY TRIAL OF ALL ISSUES SO TRIABLE.

By: 

EDWARD M. YARBROUGH (TN BPR # 004097)
J. ALEX LITTLE (TN BPR # 029858)
Bone McAllester Norton PLLC
511 Union Street, Suite 1600
Nashville, TN 37219
Telephone: 615-238-6300
Facsimile: 615-238-6301
Email: alex.little@bonelaw.com

Counsel for David Freeman and Commodore Trust

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