

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

FIFTH THIRD BANK,

an Ohio banking corporation,

Plaintiff,

v.

APOSTOLIC LIFE CATHEDRAL, A
NON-PROFIT CORPORATION, a/k/a
The Staunton Street Apostolic Church,
a/k/a The Pentecostal Church of God,
a/k/a The Apostolic Church, a/k/a Life
Cathedral, a West Virginia nonprofit
corporation, BERNARD O. CREMEANS,
individually and as Trustee of Apostolic
Life Cathedral, a/k/a The Staunton Street
Apostolic Church, a/k/a The Pentecostal
Church of God, a/k/a The Apostolic
Church, a/k/a Life Cathedral, JAMES
MAYS AND ROBERT VAUGHN, in
their capacities as Trustees of Apostolic
Life Cathedral, a/k/a The Staunton Street
Apostolic Church, a/k/a The Pentecostal
Church of God, a/k/a The Apostolic
Church, a/k/a Life Cathedral, EDWIN S.
HARPER, in his capacity as Pastor of
Apostolic Life Cathedral, a/k/a The
Staunton Street Apostolic Church, a/k/a
The Pentecostal Church of God, a/k/a The
Apostolic Church, a/k/a Life Cathedral,
JOHN DOE 1-7, as Ministering Elders of
Apostolic Life Cathedral, a/k/a The
Staunton Street Apostolic Church, a/k/a
The Pentecostal Church of God, a/k/a The
Apostolic Church, a/k/a Life Cathedral,
MARK SHANNON MANUEL,
individually, and DIGIGREETERS, LLC,
a Tennessee limited liability company,

Defendants.

Civil Action No. 3:09-cv-1309
Hon. _____, Judge

COMPLAINT

PARTIES

1. Plaintiff, Fifth Third Bank (“Fifth Third” or “Plaintiff”), is a banking corporation organized and existing under the laws of the State of Ohio with its principal place of business located in Cincinnati, Montgomery County, Ohio, and registered to do business in the State of West Virginia as a foreign corporation.

2. Defendant, Apostolic Life Cathedral, a Non-Profit Corporation, a/k/a The Staunton Street Apostolic Church, a/k/a The Pentecostal Church of God, a/k/a The Apostolic Church, a/k/a Life Cathedral, is a West Virginia nonprofit corporation having its principal place of business at 350 Staunton Street, Huntington, Cabell County, West Virginia.¹

3. Defendant, Bernard O. Cremeans (“Bernard Cremeans”), is a natural person, at various times pertinent to this Complaint, a Trustee or otherwise an agent of the Church, and upon information and belief, a resident of the State of West Virginia.

4. Defendant, James Mays, is a natural person, at various times pertinent to this Complaint, a Trustee or otherwise an agent of the Church, and upon information and belief, a resident of the State of West Virginia.

5. Defendant, Robert Vaughn, is a natural person, at various times pertinent to this Complaint, a Trustee or otherwise an agent of the Church, and upon information and belief, a resident of the State of West Virginia.

6. Defendant, Edwin S. Harper (“Pastor Harper”), is a natural person, at various times pertinent to this Complaint, the Pastor and agent of the Church, and upon information and belief, a resident of the State of West Virginia.

¹ Apostolic Life Cathedral, a Non-Profit Corporation, a/k/a The Staunton Street Apostolic Church, a/k/a The Pentecostal Church of God, a/k/a The Apostolic Church, a/k/a Life Cathedral are referred to collectively in this Complaint as the “Church”.

7. Defendants, John Doe 1-7, are or have been at various times pertinent to this Complaint, members of the Panel of Ministering Elders of the Church.

8. Defendant, Mark Shannon Manuel, is a natural person, at various times pertinent to this Complaint an agent of the Church, and upon information and belief, is a resident of the State of Tennessee.

9. Defendant, DigiGreeters, LLC, is a limited liability company organized and existing under the laws of the State of Tennessee with its principal place of business in Franklin, Williamson County, Tennessee.

10. Upon information and belief, the bylaws of the Church provide that duties of the Trustees of the Church include, *inter alia*, the duty to hold all properties belonging to the Church in trust for the Church and to make all legal acquisitions, sales or transactions which the Pastor for the congregation shall dictate.

11. Upon information and belief, the bylaws of the Church provide that the duties of the Pastor include, *inter alia*, oversight and superintendence of all interests of the Church and of all departments of its work, including finance, approval of all business of any matter pertaining to the material affairs of the Church, and control of all monies of the Church.

12. Upon information and belief, the bylaws of the Church provide that the duties of the Ministering Elders include, *inter alia*, care for the business affairs of the Church, under the direction of the Pastor.

13. The information upon which Plaintiff formed the belief set forth in paragraphs 12 through 14 above is derived from that certain document entitled "The By-Laws And Government Of Apostolic Life Cathedral, 350 Staunton Street, Huntington, WV 25702," and recorded in the Office of the Clerk of the County Commission of Cabell County, West Virginia in Church

Trustee Book 7, at page 414 on March 23, 2006. A true and accurate copy of said bylaws is attached hereto as **Exhibit A**.

14. On or about May 23, 2001, Plaintiff and the Church entered into a contract whereby Plaintiff agreed to loan money to the Church, and the Church agreed to repay the money, together with interest thereon, all pursuant to the terms and provisions contained in the Note and other loan documents.

15. The Church, by and through its then-current trustees, T.R. Wood, C.E. Black, and Bernard Cremeans, executed and delivered to Plaintiff its term promissory note dated May 23, 2001 (the "Note") as evidence of the Church's obligation to pay Plaintiff the original principal sum of \$900,000.00 plus interest thereon as set forth in the Note. A true and accurate copy of the Note is attached hereto as **Exhibit B**.

16. The Note, together with the Church's obligations thereunder, were renewed as evidenced by that certain term promissory note dated September 1, 2003, (the "September 1, 2003 Note") in the original principal amount of \$859,659.75. A true and accurate copy of the September 1, 2003 Note is attached hereto as **Exhibit C**.

17. The September 1, 2003 Note, together with the Church's obligations thereunder, were renewed as evidenced by that certain term promissory note dated August 22, 2008 (the "August 22, 2008 Note") in the original principal amount of \$709,439.89. A true and accurate copy of the August 22, 2008 note is attached hereto as **Exhibit D**.

18. The August 22, 2008 Note, together with the Church's obligations thereunder, were renewed as evidenced by that certain term promissory note dated February 22, 2009 (the "February 22, 2009 Note") in the original principal amount of \$704,396.89. A true and accurate copy of the February 22, 2009 note is attached hereto as **Exhibit E**.

19. The Church, by and through its trustees, is the owner of record of certain real property situate in Cabell County, West Virginia, having the current address of 350 Staunton Avenue, Huntington, West Virginia and which is more particularly described as follows:

PARCEL 1:

The easterly one hundred (100) feet of that certain 50 foot street known as "Hagen Street" running east and west between Staunton Street (aka Staunton Avenue) and alley east of Staunton Street (aka Staunton Avenue) running parallel to Staunton Street (aka Staunton Avenue), in the City of Huntington, Cabell County, West Virginia, as shown on the "Revised Map of The Staunton Addition of The Town of Guyandotte, Cabell County, W.Va.", of record in the Office of the Clerk of the County Commission of Cabell County, West Virginia, in Map Book No. 1, as Map 21; said Hagen Street being 50 feet wide, between Staunton Street (aka Staunton Avenue) and alley east of Staunton Street (aka Staunton Avenue) running pralel [sic] to Staunton Street (aka Stuanton Avenue), the portion of said 50 foot wide street being hereby conveyed being designated by red marking on a partial copy of said "Revised Map of The Staunton Addition of The Town of Guyandotte, Cabell COUNTY [sic], W.Va.". ehich [sic] Map is attached to deed recorded in Said Clerk's Office oin [sic] Deed Book No. 841, at page 159; RESERVING, HOWEVER, unto the City of Huntington a perpetual easement over, along, through, and under the property hereby abandoned for the purpose of laying, maintaining, operating and moving any and all sewer lines, and any and all other utilites [sic] of every kind and character, together with the right of ingress and egress by the said City of Huntington, its officers, servants, agents and employees for the aforesaid purpose and for the purpose of insection [sic] and rapair [sic], and with the further right of the City of Huntington to authorize the entering upon tht [sic] said property for any and all aforesaid purposes to any and all public utility companys [sic] their respected officers, srevants [sic], agents, and employees, and with the further right of the City of Huntington to authorize the entering over, along, upon and under said property by the issuance of permits for the opurpose [sic] of constructing sewer taps and the connections necessary to furnish service from said various utilities.

LSOT [sic]: Deed Book 841, Page 156, dated May 3rd, 1983, Office of the Clerk, Cabell County, West Virginia.

PARCEL 2:

ALL that certain piece or parcel of land situate in the City of Huntington (what was formerly the Town of Guyandotte) in the County of Cabell and State of West Virginia, and known and designated upon the revised map of the Town of Guyandotte, made by Leete & Maupin, Civil Engineer, which was filed in the office of the Clerk of the County Court of Cabell County, West Virginia, on the 9th day of January, 1906, as Lot No. Sixty-Five (65), Block (5).

LSOT [sic]: Deed Book 307, Page 199, dated February 10, 1939, Office of the Clerk, Cabell County, West Virginia.

PARCEL 3:

All that certain lot or parcel of ground, situate in the City of Huntington, Cabell County, West Virginia (formerly the Town of Guyandotte), known and designated on the Map of the Staunton Addition to said Town of Guyandotte, which map was filed in the Office of the Clerk of the County Court of Cabell County, West Virginia, on the 9th day of January, 1906, as LOT NUMBER EIGHTY-ONE (81), in Block Number Nine (9) of said Addition.

LSOT [sic]: Deed Book 781, Page 187, dated October 26, 1977, Office of the Clerk, Cabell County, West Virginia.

PARCEL 4:

All that certain lot, piece or parcel of land situate [sic] in the City of Huntington, Cabell County, West Virginia, and in that part of said City formerly known as the Town of Guyandotte, and known and designated upon a certain map entitled Revised Map of STAUNTON ADDITION OF THE TOWN OP GUYANDOTTE, made by Leete and Maupin, Civil Engineers, and filed Janury [sic] 9, 1906, in the Office of the Clerk of the County Court of Cabell County, West Virginia, in Map Book NO. 1, as Map No. 21, as LOT NUMBER EIGHTY-TWO (82), in BLOCK NUMBER NINE (9) of said Staunton Addition.

LSOT [sic]: Deed Book 850, Page 339, dated March 5, 1985, Office of the Clerk, Cabell County, West Virginia.

PARCEL 5:

All that certain lot, located in the City of Huntington, Cabell County, West Virginia, as shown and designated on the revised Map of Staunton Addition to the City of Huntington, Cabell County, West Virginia, as LOT NUMBER EIGHTY-THREE (83), BLOCK NUMBER NINE (9).

LSOT [sic]: Deed Book 827, Page 509, dated October 29, 1981, Office of the Clerk, Cabell County, West Virginia.

The real property described above is referred to hereinafter as the "Subject Property".

20. To secure the payment of the Note and all Renewals thereof, Plaintiff acquired an alienable and legally protected interest and lien in the Subject Property by virtue of that certain Deed of Trust of Real Property, Security Agreement of Personal Property and Assignment of Rents and Profits (the “Deed of Trust”) naming Dru A. Shope, a resident of Cabell County, West Virginia, as Trustee, to secure payment of the Note and the renewals thereof, payable to Plaintiff, which said Deed of Trust is recorded in the Office of the Clerk of the County Commission of Cabell County, West Virginia, in Trust Deed Book 1677, at page 87, and also in Trust Deed Book 1690, at page 609. A true and accurate copy of said Deed of Trust is attached hereto as **Exhibit F**.

21. Plaintiff is the holder and payee of the February 22, 2009 Note and all renewals thereof.

22. The February 22, 2009 Note matured on June 30, 2009.

23. On September 9, 2009, a Notice of Correction to Deed of Trust prepared by Mark-Shannon: Manuel and signed by Bernard Cremeans, was recorded in the Office of the Clerk of the County Commission of Cabell County, West Virginia, in Deed of Trust Book 2297, at page 425 (the “Notice”).

24. On October 14, 2009, a Release of Mortgage/Note prepared by DigiGreeters LLC and signed by Mark Shannon Manuel, was recorded in the Office of the Clerk of the County Commission of Cabell County, West Virginia, in Release Book 575, at page 282 (the “Release”).

JURISDICTION AND VENUE

25. This Court has subject matter jurisdiction over this civil action pursuant to 28 U.S.C. § 1332(a)(1) because there is complete diversity among the plaintiff and defendants and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

26. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to the plaintiff's claims occurred in this district and the Subject Property is situate within this district.

COUNT ONE
(Action on Note)

27. Plaintiff incorporates as if fully rewritten herein all of the allegations contain in paragraphs 1-2626 above.

28. The Church has defaulted upon the obligations required by the Note, as amended, in that, *inter alia*, there has been a failure to pay, when due, the required monthly payments of principal and interest and the amounts due and owing to Plaintiff upon the maturity of the February 22, 2009 Note.

29. Plaintiff has demanded payment of said Notes and the Church has failed and refused to pay the same.

30. As of December 1, 2009, there is due and owing to Plaintiff from the Church on the Note the principal sum of \$702,054.22, plus accrued but unpaid interest in the sum of \$36,691.94 and continuing thereafter at the rate of \$195.01 *per diem*, plus late fees in the amount of \$1,162.43.

31. Plaintiff has incurred expenses, including reasonable attorneys' fees and costs in the amount of \$13,044.79 through December 2, 2009. Moreover, these expenses are continuing and Plaintiff will incur additional fees and expenses. The amounts of future fees and expenses are not ascertainable at this time.

COUNT TWO
(Slander of Title)

32. Plaintiff incorporates as if fully rewritten herein all of the allegations contained in paragraphs 1-31 above.

33. On or about the 9th day of September, 2009, Bernard Cremeans and Mark Shannon Manuel made false and misleading statements impugning Plaintiff's lien, rights and interest in and to the Subject Property.

34. These statements, by their plain and ordinary meanings, were naturally and commonly to be interpreted as denying, disparaging and casting doubt on Plaintiff's legal rights and interests in and to the Subject Property, were so understood, were willfully and intentionally published with the intent to slander Plaintiff's lien, rights and interests to the Subject Property. The document in which the statements described in this paragraph appear is referred to hereinafter as the "Notice". A true and accurate copy of the Notice is attached hereto as **Exhibit G**.

35. On or about the 8th day of October, 2009, Mark Shannon Manuel, as purported "attorney in fact" for an undisclosed principal, and DigiGreeters, LLC, as preparer, made further false and misleading statements impugning Plaintiff's lien, rights and interest in and to the Subject Property.

36. These statements, by their plain and ordinary meanings, were naturally and commonly to be interpreted as denying, disparaging and casting doubt on Plaintiff's legal right, title and interest in and to the Subject Property, were so understood, were willfully and intentionally published with the intent to slander Plaintiff's lien, rights and interest to the Subject Property. The document in which the statements described in this paragraph appear is referred to

hereinafter as the “Release”. A true and accurate copy of the Release is attached hereto as **Exhibit H**.

37. On September 9, 2009, the Church, by and through one or more of its agents, caused the Notice to be published, communicated and disseminated to third parties by recording the same in the Office of the Clerk of the County Commission of Cabell County, West Virginia, in Deed of Trust Book 2297, at page 425.

38. On October 14, 2009, the Church, by and through one or more of its agents, caused the Release to be published, communicated and disseminated to third parties by recording the same in the Office of the Clerk of the County Commission of Cabell County, West Virginia, in Release Book 575, at page 282.

39. As a proximate result of the aforesaid conduct in making and publishing the Notice and Release, Plaintiff’s lien, rights and interest to the Subject Property has been disparaged and slandered, and there is a cloud on Plaintiff’s title.

40. As a result of such actions, Plaintiff has been damaged in an amount yet to be determined.

41. The aforesaid conduct was fraudulent, oppressive and malicious, entitling Plaintiff to an award of punitive damages in an amount sufficient to punish the Defendants for their malicious conduct and to deter such misconduct in the future.

COUNT THREE
(Fraud)

42. Plaintiff incorporates as if fully rewritten herein all of the allegations contained in paragraphs 1-41 above.

43. The aforesaid actions of the Defendants in executing and publishing the Notice and Release constitute a fraud upon the Plaintiff.

44. As a proximate result of the aforesaid conduct in making and publishing the Notice and Release, Plaintiff's lien, rights and interest to the Subject Property has been disparaged and slandered, and there is a cloud on Plaintiff's title.

45. As a further proximate result of the aforesaid conduct of the Defendants, Plaintiff has incurred expenses, including reasonable attorneys' fees and costs in the amount of \$13,044.79 through December 2, 2009. Moreover, these expenses are continuing and Plaintiff will incur additional fees and expenses. The amounts of future expenses and damages are not ascertainable at this time.

46. As a result of such actions, Plaintiff has been damaged in an amount yet to be determined.

47. The aforesaid conduct was fraudulent, oppressive and malicious, entitling Plaintiff to an award of punitive damages in an amount sufficient to punish the Defendants for their malicious conduct and to deter such misconduct in the future.

COUNT FOUR
(Unlawful and Unauthorized Practice of Law)

48. Plaintiff incorporates as if fully rewritten herein all of the allegations contained in paragraphs 1-47 above.

49. The aforesaid actions of Defendants Mark Shannon Manuel and DigiGreeters, LLC, in preparing the Notice and Release, respectively, for others to execute, deliver and record, constitute the unlawful and unauthorized practice of law.

50. As a proximate result of the aforesaid conduct of preparing the Notice and Release, Plaintiff's lien, rights and interest to the Subject Property has been disparaged and slandered, and there is a cloud on Plaintiff's title.

51. As further proximate result of the aforesaid conduct of the Defendants, Plaintiff has incurred expenses, including reasonable attorneys' fees and costs in the amount of \$13,044.79 through December 2, 2009. Moreover, these expenses are continuing and Plaintiff will incur additional fees and expenses. The amounts of future expenses and damages are not ascertainable at this time.

52. As a result of such actions, Plaintiff has been damaged in an amount yet to be determined.

53. The aforesaid conduct was intentional, willful, fraudulent, oppressive and malicious, entitling Plaintiff to an award of punitive damages in an amount sufficient to punish the Defendants for their malicious conduct and to deter such misconduct in the future.

COUNT FIVE
(Interference with Contractual Relationship)

54. Plaintiff incorporates as if fully rewritten herein all of the allegations contained in paragraphs 1-52 above.

55. On or about May 23, 2001, Plaintiff and the Church entered into a contract whereby Plaintiff agreed to loan money to the Church, and the Church agreed to repay the money, together with interest thereon, all pursuant to the terms and provisions contained in the Note.

56. The Note, together with the Church's obligations thereunder, was renewed on various occasions thereafter as set forth hereinabove.

57. The performance of the Church's obligations under the Note, as amended, including but not limited to the repayment of the sums borrowed from Plaintiff, together with interest thereon, were secured by the Deed of Trust.

58. In accordance with the terms and provisions of the Note, Plaintiff advanced to the Church all funds required to be advanced pursuant thereto.

59. Upon information and belief, at various times, Mark Shannon Manuel has wrongfully and without justification interfered with above-described contractual relationship existing between Plaintiff and the Church and intentionally induced or caused the Church to default in the performance of its obligations under the Note and Deed of Trust.

60. As a direct and proximate result of the wrongful interference with the contractual relationship between Plaintiff and the Church, Plaintiff suffered damages by virtue of the nonperformance by the Church of its obligations under the Note and Deed of Trust.

COUNT SIX
(Civil Conspiracy)

61. Plaintiff incorporates as if fully rewritten herein all of the allegations contained in paragraphs 1-60 above.

62. Beginning on a prior date presently unknown to Plaintiff and at various other times thereafter, Defendants met, joined together, planned, and conspired to prepare and record instruments for the purpose of depriving Fifth Third of sums to which it is lawfully entitled pursuant to the Note and by impugning, disparaging and otherwise denying Fifth Third's right, title and interest in and to the Subject Property by creating documents which purport to "correct" and release the Deed of Trust.

63. All of the named Defendants agreed and understood that the purpose of such meetings, agreements and methods, as described above, were unlawful and would foreseeably result in injury to Plaintiff.

64. All of the named Defendants agreed and understood that each would act in concert with the others to achieve this purpose.

65. On or about the 9th day of September, 2009, and in furtherance of the conspiracy described above, Defendant, Mark Shannon Manuel, purportedly acting as agent for the Church, prepared the Notice with knowledge of the falsity of the Notice or its reckless disregard for its truth, the effect of which was to, *inter alia*, impugn Plaintiff's right, title and interest in and to the Subject Property.

66. On or about the 9th day of September, 2009, and in furtherance of the conspiracy described above, Defendant, Bernard Cremeans, as agent for the Church, executed the Notice with knowledge of the falsity of the Notice or reckless disregard for its truth, the effect of which was to, *inter alia*, impugn Plaintiff's right, title and interest in and to the Subject Property.

67. On or about the 8th day of October, 2009, and in furtherance of the conspiracy described above, Defendant, Mark Shannon Manuel, by and through his *alter ego*, DigiGreeters, LLC, purportedly acting as attorney in fact for Bernard Cremeans and as agent for the Church, prepared the Release with knowledge of the falsity of the Release or its reckless disregard for its truth, the effect of which was to, *inter alia*, impugn Plaintiff's right, title and interest in and to the Subject Property.

68. On or about the 8th day of October, 2009, and in furtherance of the conspiracy described above, Defendant, Mark Shannon Manuel, purportedly acting as attorney-in-fact for Bernard Cremeans and as agent for the Church, executed the Release knowledge of the falsity of the Release or its reckless disregard for its truth, the effect of which was to, *inter alia*, impugn Plaintiff's right, title and interest in the Subject Property.

69. Defendants undertook such actions intentionally, willfully and with malice and intent to injure Plaintiff.

COUNT SEVEN
(Declaratory Judgment)

70. Plaintiff incorporates as if fully rewritten herein all of the allegations contained in paragraphs 1-68 above.

71. Pursuant to West Virginia Code § 55-13-2, any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status or other legal relations are affected by statute may have determined any question of construction or validity arising under the instrument, contract or statute and obtain a declaration of rights, status or other legal relations thereunder.

72. The loan underlying this Civil Action was properly made and consummated in accordance with Church polity and the law. A true and correct copy of the notice and affidavit as required by law have been recorded in the Office of the Clerk of the County Commission of Cabell County, West Virginia in Deed of Trust Book 1690, at pages 617 and 621, respectively, and are attached hereto as **Exhibit I** and **Exhibit J**, respectively.

73. The Deed of Trust, as that term is defined in this Complaint, a copy of which is attached hereto as Exhibit F, constitutes a valid and continuing lien against the Subject Property, enforceable in accordance with its terms.

74. The Notice and Release, as those terms are defined in this Complaint, copies of which are attached here to Exhibit G and Exhibit H, have absolutely no validity and are of no legal force and effect whatsoever.

WHEREFORE, Plaintiff, Fifth Third Bank, respectfully requests judgment against the Defendants as follows:

1. As to Count One, a finding of default in the repayment of the Note and all renewals thereof and judgment in favor of Fifth Third Bank against the Church upon the Note in

the principal sum of \$702,054.22, plus accrued but unpaid interest in the sum of \$36,691.94 through December 1, 2009 and continuing thereafter at the rate of \$195.01 *per diem*, late fees of \$1,162.43, reasonable attorneys' fees and costs in the amount of \$13,044.79 through December 2, 2009. These fees and costs are continuing and Plaintiff will incur additional fees and expenses. The amounts of future expenses and damages are not ascertainable at this time.

2. Additionally as to Count One, a judgment in favor of Fifth Third Bank against the Church for all late fees, fines, expenses and advances which accrue on the Note on and after December 1, 2009;

3. As to Count Two, judgment in favor of Fifth Third Bank for special and actual damages against Defendants Bernard Cremeans, Mark Shannon Manuel, DigiGreeters, LLC and the Church, jointly and severally, in an amount in excess of the jurisdictional limits of this Court;

4. Additionally as to Count Two, an award in favor of Fifth Third Bank of punitive damages in such amount as the Court may deem appropriate to penalize Defendants Bernard Cremeans, Mark Shannon Manuel, DigiGreeters, LLC and the Church, for their intentional and malicious acts of misconduct and to deter such misconduct in the future;

5. As to Count Three, judgment in favor of Fifth Third Bank for special and actual damages against Defendants Bernard Cremeans, Mark Shannon Manuel, DigiGreeters, LLC and the Church, jointly and severally, in an amount in excess of the jurisdictional limits of this Court;

6. Additionally as to Count Three, an award in favor of Fifth Third Bank of punitive damages in such amount as the Court may deem appropriate to penalize Defendants Bernard Cremeans, Mark Shannon Manuel, DigiGreeters, LLC and the Church, for their intentional and malicious acts of misconduct and to deter such misconduct in the future;

7. As to Count Four, judgment in favor of Fifth Third Bank for special and actual damages against Defendants Mark Shannon Manuel and DigiGreeters, LLC, jointly and severally, in an amount in excess of the jurisdictional limits of this Court;

8. Additional as to Count Four, an award in favor of Fifth Third Bank of punitive damages in such amount as the Court may deem appropriate to penalize Defendants Mark Shannon Manuel and DigiGreeters, LLC, for their intentional and malicious acts of misconduct and to deter such misconduct in the future;

9. As to Count Five, judgment in favor of Fifth Third Bank special and actual damages against Defendant, Mark Shannon Manuel, in an amount in excess of the jurisdictional limits of this Court;

10. Additionally as to Count Five, an award of punitive damages in favor of Fifth Third Bank in such amount as the Court may deem appropriate to penalize Defendant, Mark Shannon Manuel, for his intentional and malicious acts of misconduct and to deter such misconduct in the future.

11. As to Count Six, a finding that Defendants have engaged in a civil conspiracy to inflict injury upon Fifth Third Bank, and to therefore be jointly and severally liable for all damages awarded by the Court without allocation, apportionment or limitation of liability;

12. Additionally as to Count Six, an award of punitive damages in favor of Fifth Third Bank in such amount as the Court may deem appropriate to penalize Defendants for their intentional and malicious acts of misconduct and to deter such misconduct in the future;

13. As to Count Seven, a declaration that the Deed of Trust of record in the Office of the Clerk of the County Commission of Cabell County, West Virginia, in Deed of Trust Book1677, at page 87, and also in Trust Deed Book 1690, at page 609, a copy of which is

attached to this Complaint as Exhibit F, constitutes a valid and continuing lien against the Subject Property, as that term is defined, herein, and is enforceable in accordance with its terms;

14. Additionally as to Count Seven, a declaration that the Notice and Release, as those terms are defined in this Complaint, copies of which are attached to this Complaint as Exhibit G and Exhibit H, respectively, have no validity and are of no legal force and effect whatsoever, and that such Notice and Release be negated of record in the records of the Clerk of the County Commission of Cabell County, West Virginia;

15. An award in favor of Fifth Third Bank of costs and expenses associated with the prosecution of this civil action and any subsequent appeal, including but not limited to reasonable attorneys' fees; and

16. Such other and further relief as this Court deems just and proper.

Dated: December 7, 2009.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE.

FIFTH THIRD BANK

By: Spilman Thomas & Battle, PLLC

/s/ William T. Holmes

William T. Holmes (W.Va. State Bar No. 1771)

40 Donley Street, Suite 800 (ZIP Code 26501)

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- and -

W. Eric Gadd (W.Va. State Bar No. 9377)

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