

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CHANCERY DIVISION**

FILIPINO AMERICAN COUNCIL OF GREATER)
CHICAGO, INC. BY ITS CHAIRMAN OF THE)
BOARD OF DIRECTORS, JERRY CLARITO,)

Plaintiff,)

v.)

Case No. 2017 CH 6725

FILIPINO AMERICAN COUNCIL OF GREATER)
CHICAGO, INC. BY ITS CHAIRMAN OF THE)
BOARD OF DIRECTORS, ALEXANDER)
GONZALES and ELAINE LEHMAN,)

Defendants.)

MEMORANDUM ORDER AND OPINION

This matter comes for ruling following a bench trial involving a dispute as to the proper governing board of the Filipino American Council of Greater Chicago, Inc. ("FACGC"). Plaintiff is one faction of the FACGC, represented by its chairman of the Board of Directors, Jerry Clarito ("Clarito Faction"). Defendant is another faction of the FACGC, represented by its now-deceased Chairman of the Board of Directors, Alexander Gonzales ("Gonzales Faction"). Defendant Elaine Lehman is part of the Gonzales Faction and purports to be the Executive Director of the FACGC. After five days of trial and review of the entire record and transcripts, the parties' post-trial briefs and relevant precedent, the Court finds in favor of Plaintiff and against Defendants on Counts I, II, IV and V of Plaintiff's Second Amended Complaint. The Court finds in favor of Defendants and against Plaintiff on Count III.

PROCEDURAL HISTORY

The most recent complaint, Plaintiff's Second Amended Complaint for Declaratory

Judgment and Other Relief, contains five counts:¹ Count I for Declaratory Relief seeking a declaration that Lehman was not validly appointed as “Executive Director” of the FACGC, all actions taken by Defendants from January 27, 2017 to the present were invalid and in contravention of, at minimum, the FACGC’s 2016 Constitution and By-Laws, and that Plaintiff is the “true and legitimate” Board of Directors of the FACGC with Clarito as its chairman; Count II, seeking injunctive relief; Count III, Conversion; Count IV, Breach of Fiduciary Duty; and Count V, Unjust Enrichment against Lehman only. Defendants filed a counterclaim, but voluntarily dismissed it on May 6, 2022. Defendants filed Amended Affirmative Defenses on May 11, 2022.

The Court held a bench trial, in person, on May 16, 17, 18, 19 and 20, 2022. The Court took the matter under advisement pending receipt of the parties’ post-trial briefs and trial transcripts, which were filed on August 1 and 2, 2022. Based on the testimonial and documentary evidence, the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

The FACGC is a not-for-profit organization originally incorporated in 1953. The FACGC’s purpose is to unite the Filipino community and organizations with an objective to work together to achieve community unity and enrichment of cultural heritage. The Rizal Heritage Center (“RHC”), located at 1332 W. Irving Park Road in Chicago, is the organization’s community center.

FACGC’s 2007 Constitution

The FACGC was governed by its 2007 Constitution and By-Laws, which established three governing branches: the Board of Directors (policy making body), the Board of Trustees, and the Community Assembly (deliberative body). Among other duties, the Board of Directors could enact or amend by-laws, the Board of Trustees recommended amendments to the Constitution, and

¹ The Second Amended Complaint also named Ari Lehman, Elaine’s husband, as a defendant. Plaintiff voluntarily dismissed Mr. Lehman on April 18, 2022.

the Community Assembly (with a minimum of 55 members) ratified amendments. The Board of Directors was composed of between 33 and 37 members, including the president, vice-president and immediate past president. Thirty of these directors were elected. To be an officer or on the Board, an individual had to have some significant prior involvement in the FACGC. The elected members of the Board of Directors served four-year terms beginning on July 1 immediately following their elections. The quorum of directors necessary to transact official business was 18. A majority vote of those present was required to approve any action taken. A two-third majority of the Board of Directors was needed to amend or approve the by-laws. Elections for officer and director positions “shall be” conducted every four years, consistent with a commitment to the democratic process.

2016 Constitution and By-Laws

In 2016, as a result of a decrease in the Filipino-American population in Chicago as people moved to the suburbs, the FACGC’s member involvement decreased. The three different governing branches had been consolidated into one branch—the Board of Directors. Due to dwindling participation, including having only 21 Board members, the FACGC needed to streamline its organization. On May 20, 2016, the Board of Directors amended the 2007 Constitution and By-Laws. It was “physically impossible” to have 55 member organizations of the Community Assembly ratify the new documents because there was no Community Assembly at that time. The Board ratified the 2016 Constitution and By-Laws with 15 votes. Dr. Ruffino Crisostomo, President, and Sally Richmond, Secretary, signed the 2016 Constitution and By-Laws.

Jerry Clarito, an accountant by profession, had significant involvement volunteering for several non-profit organizations. He received several community service awards for his work in the Filipino-American community. Clarito first began hosting youth engagement activities at the

RHC in the early 1980's. He organized a group of Filipino World War II veterans in the 1990's and used the RHC for those activities.

Clarito was appointed to the FACGC's Board in July 2016 when Al Bascos stepped down. The Board consisted of 21 members and was operating under the 2016 Constitution and By-Laws. Clarito inherited the remainder of Al Bascos's term, which ran until the next election, scheduled for June 2018.

From July 2016 to January 2017, no one objected to the 2016 Constitution and By-Laws or complained that the Board did not follow the proper procedures or the prior Constitution to enact those documents. Clarito testified that everyone on the Board understood that it was not possible to comport with the 2007 requirements.

Under the 2016 Constitution and By-Laws, and reflecting the then-current state of the organization, the governing body became solely the Board of Trustees, which was composed of 21 trustees. The Board could propose amendments to the Constitution and By-Laws by a vote of two-thirds of the current trustees, approved by a majority vote of the member organizations. The only officers were the Chair and Vice-Chair, elected from among the trustees. Officers were to be elected every three years, with the first election occurring on the last Sunday of June 2018 (consistent with the four-year terms set forth in the 2007 Constitution and correlating with the prior 2014 election).

The 2016 By-Laws created an Executive Trustee position. The Executive Trustee was appointed from among the trustees. The Executive Trustee's duties were to "execute the policies and programs" of the FACGC and "oversee and supervise the day to day operations" of the organization. The Executive Trustee had "charge of the proper maintenance of all physical facilities" of the RHC and coordinated all activities within the RHC.

The offices of Recording Secretary, Corresponding Secretary and Treasurer were also filled from among the members of the Board. A quorum of nine trustees could transact official business and a two-thirds majority of the current Board could amend or approve by-laws. The Chair, or at least three trustees, could call a special meeting. The meeting notice had to specify the agenda, time and place of meeting. The type of notice and name of trustees had to be noted in the meeting minutes.

Elaine Lehman's involvement in the FACGC

Prior to January 2017, Lehman was not a member of the Board, an officer, a member of the organization, a volunteer for the FACGC or otherwise involved in the FACGC. She had no knowledge of the Board's activities prior to 2017.

Previously, Lehman worked in international real estate and luxury properties in New York City for 10 years, working with diplomats, dignitaries, and the United Nations. She returned to Chicago in 2003 to help her mother and became an executive assistant for a dean at Loyola University, and then held various other positions at Loyola, including handling grants and funding proposals and organizing events. After she left Loyola in 2013, she helped her husband, Ari, manage his acting and musician business and held various contracted, temporary positions. She was unemployed in January 2017. The first time she became involved with the FACGC was January 2017.

Lehman previously approached an organization Clarito was working for, the Alliance of Filipinos for Immigrant Rights and Empowerment, seeking assistance with grant writing. Clarito invited Lehman to attend a FACGC Board development workshop on January 15, 2017 and speak about fundraising. Clarito did not invite Lehman to the January 27, 2017 Board of Trustees' meeting. On January 22, 2017, Clarito left for the Philippines to receive an award.

Dr. Crisostomo, then Chair of the Board, invited Lehman to the Board's January 27, 2017 meeting. Prior to that meeting, Lehman met personally with Dr. Crisostomo.

Two days before the meeting, despite not having any position with the FACGC, Lehman emailed the Recording Secretary, Sally Richmond, stating that "we" reviewed the 2016 By-Laws and "it looks like" the Vice-President position was eliminated. Lehman stated that this would be part of the New Business discussion at the upcoming Board meeting and that they would also discuss the Board members' fiduciary duties.

Lehman created the agenda for the January 27, 2017 meeting. The meeting agenda did not indicate that Lehman would be appointed as Executive Director even though she knew, in advance, that Dr. Crisostomo would present that issue to the Board. The agenda indicated that certain trustees, including Marina Alban, Thelma Bascos, Mila Bensing, Rev. Paul Fermin, Mae Lant and Nita Orla, were at the end of their terms, despite the fact that their terms did not expire until June 2018.

January 27, 2017 Meeting

At trial, Lehman agreed that, as of January 27, 2017, the FACGC was operating under the 2016 Constitution and By-Laws, although she did not believe those documents were valid. She also agreed that if the 2016 Constitution and By-Laws were somehow not applicable, the organization would revert to the 2007 Constitution and By-Laws.

Although not a Board member, Lehman prepared the minutes of the January 27, 2017 meeting. She prepared three separate versions of the minutes, one dated nearly two months later. One version of Lehman's purported meeting minutes reflected that nine trustees were present, but she emailed this version to only eight trustees. In another version of these minutes, created by Lehman after Clarito questioned whether the Board had a quorum at that meeting, Lehman listed

10 directors as present. She testified the second version was accurate. At another point in her testimony, she testified that the third version was accurate. The third version lists 11 Board members as being present. Lehman claimed to have made a mistake in earlier versions of these minutes.

Norberto (“Bobby”) Luna was the FACGC administrator beginning in 2008 or 2009 and was responsible for building and maintenance oversight. He was elected a FACGC Board member in 2010, and re-elected in 2014. His term would expire in 2018. He served as the Board’s Executive Trustee, which had responsibilities similar to the administrator position he previously held.

Luna attended the January 27, 2017 Board meeting and testified that only eight, not nine as stated in Lehman’s minutes, directors attended the meeting. Luna did not believe Willie Buhay attended the meeting, as noted in one version of Lehman’s minutes. Had Luna understood that there was no quorum that day, he would not have participated in any decisions.

Under Section 13 of the 2016 By-Laws, generally, a trustee’s term could end early only if they were absent for four consecutive meetings without a valid excuse and a quorum of the Board at a regularly-scheduled meeting voted to terminate the trustee after determining whether the excuse was valid. However, at the January 27 meeting, Lehman terminated several Board members, reasoning that they were serving for a long time and it was time for them to go. The Board members’ terms were not scheduled to end until June 2018. When Luna questioned Lehman about this, she told him that he would also be termed off the Board and threatened to report him to the Attorney General’s office for purported wrongdoing. Luna then resigned because he did not want to be “part of this chaos” due to Lehman’s harassment and threats. But for Lehman’s actions, Luna would have continued serving out his term until June 2018. After this meeting, Lehman

borrowed Luna's keys to the RHC, but never returned them. He did not ask for the keys back because he assumed she would return them.

Mae Lant became the FACGC Vice-President and a Board member in 2014. Her term would expire in 2018. On January 27, 2017, Dr. Crisostomo texted her and said she was terminated from the Board. Her termination violated both the 2007 and the 2016 Constitution and By-Laws. She later learned that Lehman was involved in her termination. Lant intended to serve out the rest of her term, but felt she had no choice and that it was an insult and embarrassment to be terminated so she resigned.

Lehman Claims to be Appointed Executive Director

Lehman testified the Board appointed her as Executive Director at the January 27, 2017 meeting, although she admitted that she was not present for the vote. An executive director is typically a paid position that oversees the day-to-day operations and manages the affairs of an organization. The FACGC already had an unpaid Executive Trustee, Bobby Luna. This position was set forth in the 2016 Constitution and By-Laws and was required to be filled by a trustee.

Lehman agreed that there was no position for Executive Director in either the 2007 or the 2016 Constitution and By-Laws. The FACGC never had an executive director. Under both the 2007 and the 2016 Constitutions and By-Laws, only elected board members could have leadership positions within the FACGC. Lehman did not hold any elected position, had never attended any FACGC Board meeting, and was not even a member of the FACGC organization.

Lehman testified that, as Executive Director, she had responsibilities such as executing the policies and programs of the FACGC, overseeing day-to-day operations, reporting to the Board, overseeing maintenance of the facility, seeking grants, renting and leasing the RHC, and coordinating activities, all the same responsibilities of the current Executive Trustee, Luna.

At the January 2017 meeting, Luna participated in the Board's discussion about Lehman, outside of Lehman's presence, and testified that the "only reason" the Board appointed her as Executive Director was to handle the FACGC's registration with the Attorney General's office. Luna testified, credibly, that no one provided any other powers to Lehman. Despite not being present for the discussion, Lehman prepared the meeting minutes and wrote that she had been appointed Executive Director, with all "responsibilities for such office," and did not note that her role was limited solely to dealing with the Attorney General's office. Luna was the Executive Trustee so there was no need for an Executive Director with similar responsibilities.

Several members of the Board, including Lant and Clarito, believed that Lehman was not validly appointed as Executive Director because no such position existed in the 2016 Constitution and By-Laws, there was no quorum present at the meeting at which she claimed to be appointed and such appointment was not listed in the meeting agenda.

Lehman Introduced a 2017 Constitution and By-Laws

The January 27, 2017 meeting minutes, prepared by Lehman, noted that the Board voted to consolidate and redraft the Constitution and By-Laws, despite the fact that they had been redrafted only a few months earlier and this item was not on the agenda. Although a two-thirds vote of the 21 member Board was required to propose amendments to the Constitution, 14 Board members were not present at that meeting.

Lehman's amendments, which she helped draft, reduced the Board from 21 members to between three and eight members, in an attempt to take away democratic qualities and consolidate power in the Board. Lehman's amendment required only one-third of the amended three to eight member Board to be present for a quorum. An additional proposed amendment included the Board having the sole power to review and amend the Constitution and By-Laws. Lehman also created

an Executive Director position, a role to which she claimed to be previously appointed, stating that the Executive Director would be the Chief Executive and Operating Officer of the FACGC, subject to direction and under the supervision of the Board with “general charge” of the business affairs and property of the FACGC. In these amendments, Lehman removed the Executive Trustee position.

February 3, 2017 Meeting

A few days later, Lehman called a “special meeting” for February 3, 2017, which violated the 2016 Constitution and By-Laws because there was no mention in the minutes as to how notice of this meeting was provided. Lehman prepared these meeting minutes as “Temporary Secretary,” despite no such position existing within the FACGC. In her minutes, prepared after the meeting, Lehman noted there was a quorum, but there were only seven trustees present, less than the nine required for a quorum and the 14 required to propose and approve amendments to the Constitution. Lehman’s minutes noted that the Board voted to meet again on February 17, 2017 to approve the 2017 Constitution and By-Laws. Her minutes also noted that Jimmy Alban and Cora Sopena resigned from the Board and the Board discharged Thelma Bascos, despite the fact that her term was not up until June 2018 and there was no quorum present. Bascos and her husband protested her discharge at the meeting.

February 17, 2017 Meeting

At the February 17, 2017 “special meeting,” there were only seven trustees present. In violation of the 2016 Constitution and By-Laws, there is no mention in the minutes as to how notice was provided. Lehman testified the Board “unanimously” voted to accept the 2017 Constitution and By-Laws. However, several other witnesses present at that meeting, including Dennis Cruz and Sally Richmond, testified that there was no such vote. The Court accepts the

testimony of Cruz and Richmond over Lehman as they were more credible witnesses.

Richmond became involved with the FACGC in the 1990's. She was elected to the Board in 2014 and appointed Recording Secretary in 2016. Her term did not expire until the next election in 2018. Richmond attended the February 17, 2017 meeting. She objected to Lehman attempting to propose amendments to the 2016 Constitution and By-Laws at that meeting because Lehman did not follow the right process and the Board had just amended those documents. Richmond did not vote on an amended Constitution or By-Laws and does not recall there even being a vote. Although she was Recording Secretary, Richmond did not submit the minutes from this meeting, contrary to Lehman's testimony. Lehman tried to tell Richmond what to write in the minutes, but Richmond refused and did not prepare the minutes because she was upset. Richmond did not agree with the portion of Lehman's minutes which stated that the Board unanimously voted to accept the redrafted, consolidated Constitution and By-Laws.

Richmond testified that Lehman later produced minutes from the meeting which she attributed to Richmond, but these minutes did not accurately reflect what occurred. After Richmond refused to submit the incorrect minutes, Lehman told Richmond she was "off" the Board. Richmond intended to serve out the rest of her term, but she was so upset, humiliated and angry by Lehman's actions that she resigned.

Dennis Cruz, a Board member since 2012 or 2013, also attended the February 17, 2017 meeting. Cruz recalled Lehman attempting to amend the 2016 Constitution and By-Laws, but he did not believe she was following the proper procedures from the 2016 Constitution and By-Laws. Cruz objected to the amendments and did not vote on them. Four days after voicing his objections, Lehman emailed Cruz and told him he was being termed off the Board as of April 30, 2017, asserting that his "two year term" had expired. Cruz had no intention of resigning or ending his

term, but felt he had no choice. When Cruz later saw Lehman's minutes, he told Lehman they were not correct because the 2017 Constitution and By-Laws had not been unanimously approved and that he did not vote on them.

In her testimony, Lehman agreed that the 2016 and 2007 Constitutions and By-Laws called for four-year terms for Board members to end at the next scheduled election in June 2018. She agreed that these documents did not provide that a trustee's term was up as of January 27, 2017 or April 30, 2017. Lehman denied "termining out" various Board members. Lehman testified that as of March 2017, the Board was operating under the 2017 Constitution and By-Laws, yet she did not have an opinion as to which Constitution and By-Laws were currently in effect.

Alexander Gonzales² became chairman of the Gonzales Faction of the Board in June 2017. Gonzalez believed he was operating under the 2017 Constitution and By-Laws. He further contended the Board only had eight members as of January or February 2017. He believed he only needed a quorum of five to act under the 2017 Constitution. He could not state whether he was acting with proper authority.

Alfredo Barranco is a member of the Gonzales Faction of the Board. He became a Board member in 2013 and chair in 2018. Dr. Crisostomo served as a mentor and a father figure to him and recommended he join the Board. Barranco understood that Dr. Crisostomo wanted Lehman to handle some business at the RHC which is why she came to a meeting. Barranco testified that, in January 2017, he and his Board followed the rules, but he did not know which Constitution and By-Laws applied at that time. He testified that he and Lehman are currently acting under the 2017 Constitution and By-Laws. Barranco testified he was appointed in 2013 and had a three-year term, but was not "termed off" the Board in 2016. He did not know if there was a quorum of the Board

² Gonzales is now deceased. The parties agreed to admit portions of his discovery deposition, taken on April 26, 2018, at trial.

at the February 17 meeting.

Clarito Faction's April 22, 2017 Meeting Removing Lehman as Executive Director

When Clarito returned from the Philippines and learned of these events, he objected to the new Constitution and By-Laws and the improper termination of his fellow Board members. Clarito considered Lehman's actions to be invalid because they violated the 2016 Constitution and By-Laws.

Dr. Crisostomo, who supported Lehman, refused to respond to several Board members' phone calls and multiple requests to meet with him or hold a meeting. On April 19, 2017, Clarito, at the direction of three members of the Board, called a special Board meeting, inviting the 21 Board members whose terms did not expire until June 2018. Fifteen board members (exceeding the nine required for a quorum) appeared at the April 22, 2017 meeting. Lehman was not entitled to notice of this meeting because she was not validly appointed or a member of the Board.

At that meeting, the Board introduced, voted on, and approved three resolutions: (1) removing Lehman as Executive Director (to the extent that was necessary considering that she was never validly appointed), (2) reinstating any trustees who had been improperly terminated before their terms expired, and (3) reaffirming the service term for all trustees to the last Sunday of June 2018.

Dr. Crisostomo did not abide by the April 22, 2017 resolutions, in contravention of his duties and the 2016 Constitution and By-Laws. Because he failed to discharge his duties as Board chair, the Board members appointed Clarito as temporary chair.

Carlota Gronke testified, on behalf of Defendants, that she signed the resolution to remove Lehman on April 22, 2017. She knew, when she signed the resolution, that she was signing to oust Lehman. She testified that was the reason for the protests outside the RHC that day—because

“we” wanted Lehman out. Lehman did not accept the resolutions and refused to step down or move out of the RHC.

After Dr. Crisostomo failed to discharge his duties, Plaintiff, acting through its temporary chair, Clarito, filed this lawsuit because of Defendants’ violations of the FACGC Constitution and By-Laws.

Gonzales Faction’s April 28, 2017 meeting

In response to the Board’s actions, Lehman held a meeting with only three Board members and no quorum on April 28, 2017. Lehman purported to: (1) bar Clarito from entering the RHC; (2) contend Clarito removed himself from the Board by his actions of April 22, 2017; (3) remove Carmen Estacio (who voted to remove Lehman) as a signatory on the FACGC bank accounts and gave herself power to disburse payments if the signatories were not available; (4) “formalize[] the executive director’s role” as registered agent to allow Lehman to communicate with the Secretary of State; and (5) postpone all future elections.

When Lehman learned that the Clarito Faction may file a lawsuit, Lehman amended the purported 2017 Constitution to indemnify all officers and directors of the FACGC, as well as volunteers, agents and employees, including herself.

The elections scheduled for June 2018 did not occur. No elections have occurred since 2014. Neither Plaintiff nor Clarito have had any knowledge of the FACGC’s finances since 2017.

Lehman Moved Into the RHC in June 2017

Lehman and her husband moved into the RHC in June 2017 and continue to reside there. No individual had ever resided in the building and it is not zoned for residential living. Lehman and her husband do not pay rent, utilities or insurance. After she moved in, Lehman did not allow groups to access the RHC, including organizations and senior community members, who

previously used the facility for committee and organizational events and activities. Lehman and her husband have a living quarters on the third floor with a kitchen, living area, bedroom and bathroom and have access to the entire facility. They also placed barriers within the RHC to prevent people from going upstairs.

Lehman testified that the Board appointed her "Resident Manager" on June 3, 2017 and formalized that appointment on July 1, 2017, but no minutes from either meeting were admitted. Lehman believes the Board appointed her to this position pursuant to authority under the 2017 Constitution and By-Laws. Barranco believed Dr. Crisostomo suggested Lehman move into the RHC. He testified that the Board was required to approve anyone living at the RHC and his Board drew authority from the 2017 Constitution and By-Laws to approve Lehman's residency.

Plaintiff's Claimed Damages

Donald Pactol is a licensed real estate agent working at Coldwell Banker on Chicago's north side. Pactol performed a market analysis in January 2021 for one bedroom, one bath rentals in the half-mile radius around the RHC. Between March 2019 and March 2020, such rentals were, on average, \$1,257 per month. Rents have increased since that time.

Defendants retained attorney Jonathan Strauss to defend them in this case. Initially, Strauss was retained only to represent the Gonzales Faction of the Board. Although Lehman claimed the attorneys represented only the Gonzales Faction and not her individually, the scope of representation was amended to include defending Lehman and her husband individually. Lehman signed the amended engagement letter in her individual capacity.

FACGC funds were used to pay Strauss, including his \$530 retainer and \$30,030 in fees. There is an outstanding balance owed of \$19,588.87. After Strauss withdrew, Defendants used FACGC funds to pay Defendants' current counsel. Both the 2007 and the 2016 Constitutions

required a majority of the Board to approve expenditures in excess of \$5,000.

Credibility Determinations

The Court finds Clarito, Luna, Richmond, Cruz and Lant to be credible witnesses. Their testimonies were consistent and corroborated. They appeared sincere and honest in their testimonies and had no motive to lie.

However, the Court finds Lehman not credible. Upon questioning from her attorney, she testified confidently at length about a variety of subjects, yet claimed not to understand many of Plaintiff's counsel's questions on the very same subjects. Her answers to questions were often evasive, insincere, unresponsive and argumentative. She appeared, at times, to be acting during her testimony. Her testimony was inconsistent, contradictory and for the most part, unsupported by any corroborating evidence, even from her own witnesses. Lehman had much to gain from her testimony as she could lose her position as Executive Director and housing.

Although she had little background or knowledge about non-profit corporations, no prior experience as an Executive Director of a non-profit and no prior involvement in the FACGC, Lehman frequently opined as to the meaning and validity of the FACGC's various Constitutions and By-Laws when it suited her testimony, but never presented any evidence as to how she had such knowledge.

It is undisputed that Lehman had never been involved in FACGC until January 2017, either as an officer, director or even a member of the organization and never attended any Board meetings. At her second FACGC event and first Board meeting, on January 27, 2017, she suddenly was appointed to a position (Executive Director) that did not exist within any of the FACGC's governing documents and whose duties were already being performed by another person in a position specifically provided for within the FACGC's governing documents (Executive Trustee),

Bobby Luna, a Board member who was very involved in the FACGC. Once installed in the organization, she quickly terminated Luna, changed the governing documents to benefit her by adding the Executive Director position, consolidated power in a smaller group of people and added an indemnification clause to protect her from Plaintiff's anticipated lawsuit. Lehman terminated Board members who did not agree with her, changed meeting minutes to retroactively show a quorum of members present to provide her with the necessary authority, and limited members' access to the RHC. She claimed to be appointed "Resident Director" at a June 2017 Board meeting and that her apportionment was formalized in July, but tellingly, had no meeting minutes or other support for her testimony. She also had no support for her claim that the Board agreed to pay for the attorney representing Lehman individually in this suit. Lehman denied terming out any of the Board members, but her denial was not credible in light of the testimony of all of the other witnesses. Based on Lehman's testimony and all of the other evidence adduced at trial, the Court finds Lehman not to be a credible witness.

CONCLUSIONS OF LAW

I. Count I—Declaratory Judgment

In Count I, Plaintiff asks the Court to construe the FACGC's 2016 Constitution and By-Laws, and the 2007 Constitution and By-Laws, and make a binding declaration that Lehman was not validly appointed as "Executive Director" of the FACGC, all actions taken by both Defendants (Gonzales Faction and Lehman) from January 27, 2017 to the present were invalid and in contravention of the 2016 By-Laws and Constitution, and Plaintiff is the true and legitimate Board with Clarito as its chairman.

Under the declaratory judgment statute, "[t]he court may, in cases of actual controversy, make binding declarations of rights, having the force of final judgments, whether or not any

consequential relief is or could be claimed, including the determination... of the construction of any statute, municipal ordinance, or other governmental regulation, or of any deed, will, contract or other written instrument, and a declaration of the rights of the parties interested.” 735 ILCS 5/2-701(a). The elements of a claim for declaratory judgment are (1) the plaintiff has a tangible legal interest; (2) the defendant has an opposing interest; (3) and the parties have an actual controversy about their interests. *Beahringer v. Page*, 204 Ill. 2d 363, 372 (2003).

The only issue raised in this claim is whether the actions taken by the Gonzales Faction and Lehman in and after January 2017 (including appointing Lehman as Executive Director and purporting to amend the FACGC’s governing documents) were invalid because they were taken in violation of the FACGC’s governing documents, the 2016 Constitution and By-Laws. Plaintiff bore the burden at trial to prove, by a preponderance of the evidence, that Defendants’ actions were invalid such that Plaintiff was the true and legitimate Board.

Although Defendants filed a counterclaim seeking a declaration that the Gonzales Faction was the proper Board, the proper governing documents were the 2017 Constitution and By-Laws, and Plaintiff was an “illegitimate splinter group,” Defendants voluntarily dismissed that counterclaim before trial. As discussed in detail below, Defendants also withdrew their affirmative defense of Plaintiff’s lack of standing. Accordingly, neither of these issues was the subject of the trial.

In their post-trial brief, Defendants attempt to shift the focus away from this sole issue and argue that Plaintiff’s actions in April 2017 were invalid. However, Plaintiff’s later actions are not relevant to the only issue presented at trial—whether Defendants violated the governing documents, the 2016 Constitution and By-Laws, with their actions from January 2017 onward. Thus, the Court need not address Defendants’ arguments.

As set forth below, the Court finds that Plaintiff proved, by a preponderance of the evidence established at trial, that Lehman was not validly appointed as Executive Director of the FACGC and all actions taken by Lehman and the Gonzales Faction from January 27, 2017 to the present were invalid and in contravention of the 2016 Constitution and By-Laws in effect at that time and thus, Plaintiff, the Clarito Faction, is the true and legitimate Board of the FACGC.

First, Plaintiff established that the FACGC Board amended its Constitution and By-Laws in May 2016. Clarito testified at length to the situation facing the Board in 2016 due to a reduction in membership within the FACGC organization and on the Board itself caused by a decrease in the Filipino-American population in Chicago. The FACGC Board had only 21 members and needed to streamline its organization. Clarito testified, credibly, that everyone on the Board understood that it was impossible to comport with the 2007 requirements. In May 2016, the Board ratified the 2016 Constitution and By-Laws and President, Dr. Crisostomo, and Sally Richmond, Secretary, signed them. From July 2016 to January 2017, no one objected to the 2016 Constitution and By-Laws or complained that the Board did not follow the proper procedures or the prior Constitution in enacting those documents.

As of January 27, 2017, the Board operated under the 2016 Constitution and By-Laws. Lehman agreed that the Board was operating under the 2016 Constitution and By-Laws at that time, even though she believed those documents were invalid. As discussed in great detail in the Findings of Fact set forth above, Defendants took actions at the January 27, 2017 meeting to: (1) terminate several Board members, despite the fact that their terms were not up until the next scheduled election in June 2018; (2) appoint Lehman as Executive Director, a role not authorized by either the 2016 or the 2007 Constitution and By-Laws; (3) voted to consolidate and redraft the 2016 Constitution and By-Laws to reduce the Board from 21 members to between three and eight

members and require only one-third of the amended Board to be present for a quorum, despite the fact that those documents had been redrafted just a few months earlier; (4) create an Executive Director position within the new 2017 Constitution and By-Laws, stating that the Executive Director would be the Chief Executive and Operating Officer of the FACGC and thus, carving out an exception for herself to assume a position not previously available to non-trustees; and (5) remove the Executive Trustee position.

Defendants' actions violated the 2016 Constitution and By-Laws. Those governing documents required a quorum of nine trustees to transact official business and a two-thirds vote of the 21 member board to propose amendments to the Constitution. Despite not being a member of the Board or even a member of the FACGC organization, Lehman prepared the minutes of this meeting. She prepared three separate versions of minutes, providing that there were nine, ten or even eleven Board members present. At trial, Lehman could not remember how many Board members were present that day and stated that was only the second time she had met the Board members. Luna testified, credibly, that there were only eight members present at that meeting. Although Luna also testified that the Board later approved the January 27 meeting minutes, it is unclear from the record to which version of the minutes he was referring, particularly because one version of Lehman's minutes was sent to the Board members nearly two months later, or when such approval occurred. No meeting minutes admitted into evidence show that any version of these minutes was approved. The Court finds that Plaintiff established that there was no quorum of the Board present at the January 27, 2017 meeting, as was required by the 2016 Constitution and By-Laws.

All actions taken by Defendants in violation of the 2016 Constitution and By-Laws, including at meetings without required quorums such as the January 27, 2017 meeting, are invalid

and void. *See Rotary Club of Chicago v. Harry F. Shea & Co.*, 120 Ill.App.3d 988, 997-998 (1st Dist. 1983) (bylaws are binding on the members and officers of the organization and are in the nature of a contract between the corporation and its members).

The undisputed testimony established that there were only seven trustees present at the February 3, 2017 meeting and thus, any action taken by the Board at that meeting was also invalid. Similarly, at the February 17, 2017 “special meeting,” there were only seven trustees present. Despite Lehman’s testimony that the Board “unanimously” voted to accept the 2017 Constitution and By-Laws, there was no quorum of the Board present to take such a vote. Several other witnesses present at that meeting, including Dennis Cruz and Sally Richmond, testified that there was no vote to adopt the 2017 documents. The Court accepts the testimony of Cruz and Richmond over Lehman as they were more credible witnesses. Additionally, the evidence established that there was no quorum at Defendants’ April 28, 2017 meeting and thus, any and all actions taken by Defendants on that date were also invalid.

Because Lehman was never validly appointed as Executive Director, she had no authority to reside at the RHC. Further, it was not necessary for Plaintiff to take any action to remove her from that position. Plaintiff took that action anyway, out of an abundance of caution, in late April 2017 by passing a resolution to remove Lehman as Executive Director, but she refused to abide by Plaintiff’s resolution. Although Lehman claimed to be appointed “Resident Manager” by the Gonzales Faction in June 2017, the Gonzales Faction was not the proper Board at that time and any such appointment or other actions purportedly taken by that Board are also not valid.

Even if the 2016 Constitution and By-Laws were not validly enacted, as Defendants contend, the parties agree that, in that situation, the 2007 Constitution and By-Laws would apply. The evidence at trial established that Defendants did not follow the 2007 Constitution and By-

Laws from January 2017 onward either. The 2007 Constitution and By-Laws required 18 directors to constitute a quorum. There was not a quorum of 18 Board members at the January 27, February 3 or February 17, 2017 meetings, no matter which version of Lehman's meeting minutes is accurate. Accordingly, Plaintiff established that none of the Gonzales Faction's actions at any of these meetings were valid.

Accordingly, the Court finds that Plaintiff proved, by a preponderance of the evidence established at trial, that Lehman was not validly appointed as Executive Director of the FACGC and all actions taken by Lehman and the Gonzales Faction from January 27, 2017 to the present were invalid and in contravention of the 2016 Constitution and By-Laws in effect at that time and thus, Plaintiff, the Clarito Faction, is the true and legitimate Board of Directors of the FACGC.

II. Count III—Conversion

In this count, Plaintiff seeks the return of monies from both Defendants, jointly and severally, that they used to pay attorney's fees in this lawsuit. In its post-trial brief, Plaintiff seeks \$30,560 in FACGC funds paid to Defendants' prior attorney, Strauss.

Conversion is any unauthorized act that deprives a person of their property permanently or for an indefinite amount of time. *In re Thebus*, 108 Ill.2d 255, 259 (1985); *Wei Quan v. Arcotech Uniexpat, Inc.*, 2018 IL App (1st) 180227, ¶12. To state a claim for conversion, a plaintiff must establish: (1) he has a right to the property; (2) he has an absolute and unconditional right to the immediate possession of the property; (3) he made a demand for possession; and (4) the defendant wrongfully and without authorization assumed control, dominion, or ownership over the property. *Cirrincone v. Johnson*, 184 Ill. 2d 109, 114 (1998); *Mayle v. Urban Realty Works, LLC*, 2022 IL App (1st) 210470, ¶77.

Plaintiff presented no evidence that it, or anyone acting on its behalf, made a demand of

Defendants for possession of the property Plaintiff now seeks—the money wrongfully paid by Defendants from FACGC funds to their first attorney, Jonathan Strauss. There was no testimony from any witness that they made a demand on either the Gonzales Faction or Lehman personally to return the funds the Gonzales Faction and Lehman paid to their former attorney. Therefore, this Court enters judgment in favor of Defendants and against Plaintiff on Count III of Plaintiff's Second Amended Complaint.

III. Count IV—Breach of Fiduciary Duty

With this claim, Plaintiff argues that both the Gonzales Faction and Lehman individually breached their fiduciary duties to Plaintiff. To succeed on a breach of fiduciary duty claim, a plaintiff must plead and prove (1) a fiduciary duty was owed by the defendant, (2) the defendant breached its duty, (3) the plaintiff suffered damages, and (4) the defendant's breach of fiduciary duty proximately caused those damages. *Gearhart v. Gearhart*, 2020 IL App (1st) 190042, ¶144. Whether a legal duty exists is a question of law to be determined by the court. *In re Estate of Powell*, 2014 IL 115997, ¶14. The party seeking damages must supply a reasonable basis for the computation of those damages. *Levy v. Markal Sales Corp.*, 268 Ill.App.3d 355, 372 (1st Dist. 1994). Officers and directors of a not-for-profit organization stand in a fiduciary relationship to the members of the association. *Kelley v. Astor Investors, Inc.*, 123 Ill.App.3d 593, 597 (2nd Dist. 1984). Individual liability does not attach absent sufficient evidence of active participation or either substantial control over the corporation or disregard of corporate formalities. *Kelley*, 123 Ill.App.3d at 597.

The Court finds that the Board members of the Gonzales Faction, in their capacity as alleged Board members, owed a fiduciary duty to the FACGC and all members of the organization. As for Lehman, the Court finds that Lehman stood in a fiduciary relationship to Plaintiff and the

members of the FACGC. Plaintiff presented sufficient evidence that Lehman acted as an officer of the FACGC, and not just an unpaid volunteer, as she claimed, and that she actively participated in all forms of the Board of her faction. Lehman herself testified that she was the Executive Director of the FACGC, in charge of executing the policies and programs of the FACGC, overseeing day-to-day operations, reporting to the Board, overseeing maintenance of the facility, seeking grants, renting and leasing the facility, and coordinating activities. She was the only person to sign the first engagement letter with Defendants' former attorney and signed as Executive Director on behalf of the FACGC.

Further, Lehman's testimony established that she prepared agendas and meeting minutes, determined what issues would be raised at meetings (including a discussion of the Board's fiduciary duties), assisted in drafting an entirely new, consolidated Constitution and By-Laws, drafted amendments to such documents, prematurely terminated various Board members' terms, signed legal documents on behalf of the FACGC, gave herself power to disburse payments on behalf of the FACGC if the signatories were not available, acted as the FACGC's registered agent and communicated with the Secretary of State, signed meeting minutes as "Temporary Secretary" and "Acting Corporate Secretary," and lived in, and controlled members' access to, the RHC. Based on all of this evidence, the Court finds that Lehman was an officer of the FACGC or at the very least, that Plaintiff proved sufficient evidence of Lehman's active participation in and substantial control over the FACGC such that she owed a fiduciary duty to Plaintiff, the members of the FACGC. *See Kelley*, 123 Ill.App.3d at 597.

The Court further finds, as set forth in detail above, that Plaintiff proved all elements of its breach of fiduciary duty claim—that both the Gonzales Faction and Lehman breached their fiduciary duties to Plaintiff by taking actions in violation of the 2016 Constitution and By-Laws

and using organizational funds for attorney's fees to defend this lawsuit which proximately caused damage to Plaintiff.

It is within the court's equitable discretion to decide the proper remedy for a breach of fiduciary duty. *Grove v. Morton Cmty. Bank*, 2022 IL App (3d) 210177, ¶37. Here, Plaintiff established its damages of \$30,560 in FACGC funds which Defendants used to pay their former attorney. The Court enters judgment in favor of Plaintiff and against both Defendants on this count in the amount of \$30,560. The Court also holds that the outstanding debt of \$19,588.87 owed by Defendants to Strauss cannot be paid from FACGC funds.

IV. Count II—Injunctive Relief

In this Count, Plaintiff seeks an injunction precluding Defendants from acting in contravention of the 2016 Constitution and By-Laws, precluding Lehman from continuing to reside at the RHC and precluding Lehman from using FACGC funds for her personal use. A permanent injunction is not a separate cause of action, but an equitable remedy a court can order when the plaintiff succeeds on the underlying cause of action, but the available legal remedy would not be adequate. *Town of Cicero v. Metro. Water Reclamation Dist.*, 2012 IL App (1st) 112164, ¶46. A party seeking a permanent injunction must demonstrate a clear and ascertainable right in need of protection, irreparable harm if injunctive relief is not granted and no adequate remedy at law. *Constantinou v. Global Fin. Credit, LLC*, 2021 IL App (1st) 192325, ¶40.

Here, Plaintiff prevailed on its claim for breach of fiduciary duty against both Defendants. This Court will grant Plaintiff's request for a permanent injunction as a remedy for Defendants' breaches. As set forth in the Court's Findings of Fact and analysis in the prior section, Plaintiff established a clear and ascertainable, protected right in membership of the Board as the Court has held that Plaintiff is the true and legitimate Board of the FACGC. Plaintiff also established

irreparable harm incurring to the Board due to its loss of control over the organization, its funds and its community center, the RHC, if injunctive relief is not granted. As for the third element, while money damages can remedy some of the harm suffered by Plaintiff from Defendants' actions, money cannot remedy the harm caused to Plaintiff from Lehman continuing to live in the RHC or continuing to assert control over the organization without any authority to do so.

Accordingly, this Court finds that Plaintiff has established all elements necessary to obtain a permanent injunction. The Court, therefore, enters a permanent injunction enjoining Defendants from acting in contravention of the 2016 Constitution and By-Laws, enjoining Lehman from continuing to reside at the RHC and enjoining Lehman from using FACGC funds for her personal use.

V. Count V—Unjust Enrichment

In this count, Plaintiff seeks damages from Lehman only for the benefits she received from living rent-free, and without valid Board approval, at the RHC from June 2017 to the present. To prove a claim for unjust enrichment, a plaintiff must prove that the defendant has unjustly retained a benefit to the plaintiff's detriment and that the defendant's retention of the benefit violates fundamental principles of justice, equity, and good conscience. *HPI Health Care Services, Inc. v. Mt. Vernon Hospital, Inc.*, 131 Ill. 2d 145, 160 (1989).

The Court finds that Plaintiff established these elements by a preponderance of the evidence. Specifically, Plaintiff established that Lehman personally profited from residing at the RHC since June 2017 without paying rent, utilities or insurance. As discussed at length above, Lehman did not have valid Board authority to allow her or her husband to live at the facility. Lehman unjustly received and retained a benefit, living for free at the RHC without authority, to the detriment of Plaintiff. Based on all of the facts set forth above, Lehman's retention of that

benefit would violate the principles of justice, equity and good conscience when she had no legal authority to do so.

No one had previously resided at the RHC. The undisputed testimony at trial established that Lehman and her husband live in a living quarters on the third floor with a kitchen, living area, bedroom and bathroom. They also have access to the entire facility. Plaintiff's expert testified, un rebutted, that a one bedroom, one bathroom apartment in that neighborhood, in March 2019-March 2020, rented for an average of \$1,257 per month. He also testified that rents have only increased since that time frame. Lehman did not offer any contradictory evidence as to the value of the residential space or seek a set-off of any amounts claimed were due to her. Lehman and her husband have resided at the facility since June 2017. Accordingly, this Court enters judgment in favor of Plaintiff and against Lehman in the amount of \$75,420 for 60 months of living at the RHC at Plaintiff's expense.

VI. Defendants' Affirmative Defenses

Defendants pled only two affirmative defenses. See Defendants' Amended Affirmative Defenses filed on May 11, 2022. First, they raised the affirmative defense of unclean hands. The defendant bears the burden of establishing an affirmative defense by a preponderance of the evidence. *Kay v. Prolix Packaging, Inc.*, 2013 IL App (1st) 112455, ¶77. Defendants failed to make any argument in their post-trial brief as to this affirmative defense, let alone argue how they proved it by a preponderance of the evidence. Even if Defendants do intend to proceed on this affirmative defense, the Court finds Defendants failed to meet their burden of proof.

The misconduct of a party will preclude recovery under the doctrine of "unclean hands." *Carlyle v. Jaskiewicz*, 124 Ill.App.3d 487, 498 (1st Dist. 1984). The purpose of the doctrine is to protect courts of equity in keeping with the policy that equity should not aid a wrongdoer; it is not

to protect the party asserting it as a defense. *Id.* The unclean hands doctrine precludes a party from taking advantage of his own wrong. “The doctrine applies if the party seeking equitable relief is guilty of misconduct, fraud or bad faith toward the party against whom relief is sought if that misconduct is connected with the transaction at issue.” *Tufo v. Tufo*, 2021 IL App (1st) 192521, ¶70. The unclean hands doctrine, however, operates only to bar equitable remedies and does not affect legal rights. *Am. Nat’l Bank & Trust Co. v. Levy*, 83 Ill.App.3d 933, 936 (1st Dist. 1980).

The declaratory action in Count I is neither legal nor equitable. *See Gouker v. Winnebago*, 37 Ill.2d 473, 477 (1967). Count I merely declares the rights of the parties under the organization’s governing documents and does not prescribe a remedy independently. Accordingly, this affirmative defense does not apply to Count I.

As for Counts II, IV and V, equitable claims to which this affirmative defense could apply, Defendants alleged that Plaintiff’s actions in April 2017 to call a meeting on April 22, remove Lehman as Executive Director and reconstitute the FACGC Board, all pursuant to the 2016 Constitution and By-Laws, were invalid and thus, barred Plaintiff’s claims under the doctrine of unclean hands.

For this affirmative defense to apply, the misconduct on the part of a plaintiff must have been “fraud or bad faith directed toward the defendant in the very transaction being considered.” *Jaffe Commercial Finance Co. v. Harris*, 119 Ill.App.3d 136, 140 (1st Dist. 1983). The “very transaction[s] being considered” in this case, and which are the subject of Counts I, IV and V, are the actions of Defendants in and after January 2017 and whether they adhered to the applicable governance documents of the FACGC in attempting to appoint Lehman as Executive Director and make changes to the Board and its governing documents. Defendants’ affirmative defense of unclean hands, however, is not directed to this transaction—rather, Defendants attack actions

Plaintiff took after Defendants' invalid actions. Accordingly, this affirmative defense does not apply to these claims. Further, even if this affirmative defense could apply to these claims, this Court finds that Defendants failed to meet their burden of proof and failed to present sufficient evidence of misconduct, fraud or bad faith on the part of Plaintiff.

At the conclusion of the trial, Defendants asked the Court to take judicial notice of Defendants' Exhibit 14 and the Court reserved ruling. The document at issue is a two-page form entitled "Statement of Change of Registered Agent and/or Registered Office" from the Illinois Secretary of State with handwritten answers. The document bears a stamp stating: "tendered Chicago Corp. Department April 21, 2017" in the top right corner. Although this Court may take judicial notice of records from the Illinois Secretary of State, (*Maldonado v. Creative Woodworking Concepts*, 296 Ill.App.3d 935, 938 (3d Dist. 1998)), the Court finds that Defendants did not provide the Court with the necessary information from which it could take judicial notice of this document. See Ill. R. Evid. 201(d). The stamp also states "Acceptance and 'filed' date established only after review," indicating that an additional stamp or notation would be needed to show that the document was reviewed, accepted and filed. There is no indication anywhere on the document that the Secretary of State actually accepted or filed this document. Accordingly, the Court declines to take judicial notice of Defendants' Exhibit 14. Even if this Court did take judicial notice of this document, it would not help Defendants to prove their affirmative defense of unclean hands as it relates solely to actions taken by Plaintiff after the transaction at issue in this case.

Second, Defendants pled the affirmative defense of judicial estoppel, but failed to make any arguments as to this affirmative defense in their post-trial brief. Even if Defendants intended to preserve this affirmative defense, the Court finds that it does not apply in this case. ^f

Defendants alleged that Plaintiff should be judicially estopped from taking the position that

the 2016 Constitution and By-Laws are valid because Plaintiff previously admitted in a motion for summary judgment filed in this case, that those documents were never ratified by the Community Assembly. Judicial estoppel is an equitable doctrine that may be invoked when a litigant took a position in one judicial proceeding, benefited from that position, and then seeks to assert a contrary position in a later proceeding. The party seeking to invoke judicial estoppel must prove it by clear and convincing evidence. *Muhammad v. Abbott Lab'ys, Inc.*, 2022 IL App (1st) 210478, ¶24.

Here, Defendants alleged that Plaintiff took a different position *within this same lawsuit* and not in a separate proceeding, and thus, judicial estoppel does not apply. Additionally, Defendants presented no evidence at trial to support this affirmative defense.

In their post-trial brief, Defendants now argue that Plaintiff “failed to establish that Jerry Clarito had authority to sue Elaine Lehman on behalf of the” FACGC and that the Clarito Faction is not a legal entity and it lacked standing to bring this lawsuit. However, lack of standing is an affirmative defense that must be pleaded and proved by the defendant, not the plaintiff. *Amos Fin., LLC v. Szydlowski*, 2022 IL App (1st) 210046, ¶44. Affirmative defenses must be raised at or before the time to answer the complaint or they are forfeited. *Fox v. Glenn Seiden, Glenn Seiden & Assocs., P.C.*, 2016 IL App (1st) 141984, ¶51.

Here, although Defendants initially raised lack of standing as Affirmative Defense No. 1 in their Answer and Affirmative Defenses to the Second Amended Complaint, filed on December 27, 2021, they withdrew that affirmative defense in an order entered on April 18, 2022. Defendants then filed Amended Affirmative Defenses a few days before trial, but did not assert lack of standing. Accordingly, Defendants have forfeited this affirmative defense and this Court need not address it.

CONCLUSION

Therefore, this Court finds:

1. As to Count I: This Court enters judgment in favor of Plaintiff and against Defendants. The Court enters a declaration that Lehman was not validly appointed as Executive Director of the FACGC, all actions taken by Lehman and the Gonzales Faction from January 27, 2017 to the present were invalid and in contravention of the 2016 Constitution and By-Laws in effect at that time and Plaintiff, the Clarito Faction, is the true and legitimate Board of Directors of the FACGC.
2. As to Count II:
 - a. This Court enters a permanent injunction in favor of Plaintiff and against both Defendants enjoining Defendants from acting in contravention of the 2016 Constitution and By-Laws. This Court also enters a permanent injunction in favor of Plaintiff and against Lehman enjoining Lehman from using FACGC funds for her personal use. The injunction entered by this paragraph shall be effective immediately.
 - b. This Court enters a permanent injunction in favor of Plaintiff and against Lehman enjoining Lehman from continuing to reside at the Rizal Heritage Center. This injunction shall be effective on September 12, 2022.
3. As to Count III: The Court enters judgment in favor of Defendant and against Plaintiff.
4. As to Count IV: The Court enters judgment in favor of Plaintiff and against both Defendants in the amount of \$30,560. The Court also holds that the outstanding debt of \$19,588.87 owed by Defendants to Strauss cannot be paid from FACGC funds.
5. As to Count V: This Court enters judgment in favor of Plaintiff and against Lehman

only in the amount of \$75,420.

6. This is a final and appealable order. Case disposed.

Entered:

Judge Clare J. Quish
August 19, 2022

Judge Clare J. Quish
AUG 19 2022
Circuit Court - 2160