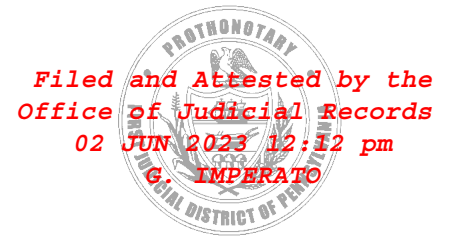


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Attorneys for Plaintiffs

George E. Norcross, III, Gregory B. Braca, and Philip A. Norcross, derivatively on behalf of Republic First Bancorp, Inc.,	:	IN THE COURT OF COMMON PLEAS
	:	OF PHILADELPHIA COUNTY
	:	
Plaintiffs,	:	
	:	CASE NO. _____
vs.	:	
	:	
Harry Madonna, Andrew B. Cohen, Lisa Jacobs, Harris Wildstein, Benjamin C. Duster, IV, and Peter B. Bartholow,	:	JURY TRIAL DEMANDED
	:	
Defendants, and	:	
	:	
Republic First Bancorp, Inc., a Pennsylvania Corporation,	:	
	:	
Nominal defendant.	:	

VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT

Plaintiffs George E. Norcross, III (“Norcross”), Gregory B. Braca, and Philip A. Norcross (collectively, “Plaintiffs”), for their Verified Derivative Complaint (“Complaint”) brought on behalf of nominal defendant Republic First Bancorp, Inc. (“Republic First” or the “Company”), a Pennsylvania corporation, against certain current members of its board of directors (“Board”), namely Harry Madonna (“Madonna”), Andrew B. Cohen (“Cohen”), Lisa Jacobs (“Jacobs”), Harris Wildstein (“Wildstein”), Benjamin C. Duster, IV (“Duster”), and Peter

B. Bartholow (“Bartholow,” and collectively with Madonna, Cohen, Jacobs, Wildstein, and Duster, the “Current Directors” or “Defendants”), for breaches of fiduciary duties, unjust enrichment, waste and other bad acts and violations of law, allege, upon personal knowledge with regard to Plaintiffs’ own acts and upon information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This is a shareholder derivative case where the members of the board of directors (the “Board”) of a Pennsylvania company, nominal defendant Republic First, have engaged in unprecedented breaches of fiduciary duties and other misconduct, including self-dealing, entrenching themselves in management, refusing to consider transactions in the best interests of the Company to protect their own self-interests, issuing false and misleading public statements, withholding critical information from shareholders, violating Pennsylvania law and egregiously mismanaging the Company, resulting in a catastrophic waste of corporate assets.

2. The Defendants’ actions have caused serious harm to the Company and all of its shareholders, with the Company’s stock price declining since early 2022 from over \$5.20 per share to a recent low of 62 cents per share. Further, the Company’s financial information reveals that the Defendants have made the same disastrous investment decisions on behalf of Republic First that led to the demise of Silicon Valley Bank and have been described by the Federal Deposit Insurance Corporation (“FDIC”) in connection with those other banks as the result of serious mismanagement and lack of board oversight. The Defendants’ actions have put a significant strain on the Company’s capital and caused additional operating losses, forcing Republic First to suspend the payment of dividends on its preferred stock and interest on its debt securities.

3. As Senator Sherrod Brown, Chair of the Senate Banking Committee, so aptly said just recently in reference to the hauntingly similar flaws that destroyed other banks: “When you put other people’s money, and our broader economy, at risk, there must be accountability for that level of mismanagement.” The Company and its shareholders are entitled to accountability from the Defendants now. Defendants must compensate the Company for the harm done to it by their egregious misconduct, breaches of fiduciary duty, and violations of law.

THE PARTIES AND RELEVANT NON-PARTIES

4. Plaintiff George E. Norcross, III is the beneficial owner of 674,572 shares of common stock of the Company. Mr. Norcross is a successful businessman and Executive Chairman of Conner Strong & Buckelew Companies LLC, one of the nation’s 30 largest insurance, risk management and employee benefits brokerage and consulting firms. Mr. Norcross is also Chairman of the Board of Trustees of Cooper University Health Care and MD Anderson Cancer Center at Cooper University Health Care. Additionally, Mr. Norcross served on the Board of Directors of Commerce Bank, a bank holding \$52 billion in assets, and while serving as lead director of Commerce Bank, negotiated the sale of the bank to TD Bank. Mr. Norcross has a long history with and deep knowledge about the banking industry and has also served in the leadership of numerous charitable organizations.

5. Plaintiff Gregory B. Braca is the beneficial owner of 462,384 shares of common stock of the Company and record owner of 100 shares. Mr. Braca has 40 years of experience in the banking industry, and served as the President, CEO and on the board of directors of TD Bank US Holding Company, one of the largest banks in the country. Mr. Braca was also the former Chair of the New York Bankers Association.

6. Plaintiff Philip A. Norcross is the beneficial owner of 450,000 shares of common stock of the Company and record owner of 100 shares. Philip Norcross is also a

trustee for the Avery Conner Capital Trust (the “Avery Trust”). Philip Norcross is a public finance lawyer and the managing shareholder and CEO of Parker McCay P.A., and has previously served on the board of a federally chartered national bank and its holding company. The Avery Trust is the beneficial owner of 4,724,662 shares of common stock of the Company.

7. Collectively, Plaintiffs and the Avery Trust are beneficial owners of approximately 9.9% of the Company’s outstanding shares. Philip Norcross has been the beneficial owner of Republic First stock continuously since November 16, 2021, and Plaintiffs George Norcross and Gregory Braca have owned Republic First stock continuously since at least January 26, 2022.

8. Nominal Defendant Republic First is a corporation incorporated under the laws of the Commonwealth of Pennsylvania, with its principal executive offices located in Two Liberty Place, in Philadelphia, Pennsylvania. Republic First is the holding company for Republic First Bank (“Republic Bank”). Republic First’s common stock is publicly traded on the Nasdaq stock exchange under the ticker symbol FRBK.

9. From at least 2017 until May 2022, the Board of Republic First had eight directors, non-parties Vernon W. Hill, II (“Hill”), Brian Tierney (“Tierney”), Barry Spevak (“Spevak”), and Theodore Flocco (“Flocco”), along with Defendants Madonna, Cohen, Jacobs, and Wildstein. In March 2022, the eight members of the Board publicly split into two equal warring factions, with Hill, Tierney, Spevak and Flocco on one side (the “Hill Faction”) and Madonna, Cohen, Jacobs, and Wildstein on the other (the “Madonna Faction”).

10. On May 10, 2022, Mr. Flocco died. After his death (and as a result of prevailing in a federal court action), the Madonna Faction took control of the Board and, within months, all

of the surviving members of the Hill Faction resigned from the Board. Immediately after obtaining control of the Board in July 2022, the Madonna Faction appointed Defendant Duster to fill Mr. Flocco's vacant Board seat. In October 2022, the Madonna Faction and Defendant Duster appointed Defendant Bartholow to fill one of the other Board seats vacated by the Hill Faction directors.

11. The members of the Board at the time of Plaintiffs' last shareholder demand were the Defendants. More recently, in December 2022, the Current Directors hired non-party Thomas X. Geisel ("Geisel") as the new CEO for the Company and appointed him to the Board.

12. Defendant Madonna is the founder of the Company and has served on the Board at all relevant times. He previously served as the Company's Chairman, CEO, interim CEO (after Hill's resignation), as well as CEO and Chairman of Republic Bank.

13. Defendant Cohen has served on the Board since June 2017 and was recently elected by the Board to serve as Chairman. Defendant Cohen is also chief investment officer and co-founder of Stamford, Connecticut-based Cohen Private Ventures LLC ("CPV"), the investment firm for New York Mets owner Steve Cohen (no relation). Defendant Cohen controls CPV, which owns 5,442,570 shares of the Company's common stock, approximately 9.15% of the outstanding shares. Defendant Cohen is also on the board of the Mets, Laureate Education and was on the advisory board of Metro Bank, a UK bank previously headed by Hill.

14. Defendant Jacobs has served on the Board since February 2017 and as its corporate secretary since May 2022. She is a partner at Stradley Ronon Stevens & Young, and previously was a partner at DLA Piper and Pepper Hamilton. On information and belief, Defendant Jacobs has been the long-time personal attorney for Defendant Madonna.

15. Defendant Wildstein was co-founder of Republic First with Defendant Madonna and has served on its Board since 1988. Defendant Wildstein is also owner and officer of pre-settlement funding organization Lifeline Funding, which has been a long time shareholder of Republic First.

16. Defendant Duster was appointed to the Board by the Madonna Faction in July 2022 to replace Mr. Flocco after his death. Defendant Duster is founder of Cormorant IV Corporation LLC, an executive management and strategic advisory consulting practice, and CFO of Mobile Tech, Inc. (MTI).

17. Defendant Bartholow was one of three director nominees proposed by activist shareholder Driver Management Company LLC and certain of its affiliates (“Driver”) in connection with a proxy contest started by Driver in late 2021. Defendant Bartholow was appointed to the Board by the Madonna Faction and Defendant Duster on October 4, 2022, as part of a settlement with Driver to end Driver’s proxy contest.

18. Non-party Vernon W. Hill, II, was an investor in and consultant for Republic First since 2008, served as a director from December 2016 until his resignation in August 2022, and as the Company’s CEO (and CEO of Republic Bank) from February 2021 until his resignation in July 2022. He was previously the Founder and Chairman of Commerce Bancorp, Inc., a retail bank headquartered in metro Philadelphia, before its sale to TD Bank in 2007.

19. Non-party Brian Tierney served as a Company director from September 2011 until his resignation in September 2022.

20. Non-party Barry Spevak served as a Company director from April 2004 until his resignation in August 2022.

21. Non-party Theodore J. Flocco, Jr., was a director of the Company from June 2008 until his death in May 2022.

22. Non-party Thomas X. Geisel was hired by Defendants to serve as Republic First's CEO in late December 2022 and was appointed to the Board by Defendants contemporaneously.

JURISDICTION AND VENUE

23. This Court has jurisdiction over each Defendant named herein. Republic First is a Pennsylvania corporation with its corporate headquarters and principal place of business in this county. Each Defendant has sufficient contacts with Philadelphia to render the exercise of jurisdiction by the Court permissible.

24. This Court has jurisdiction over this action pursuant to 42 Pa. C.S. § 931(a).

25. Venue is proper in Philadelphia County because Republic First's principal place of business and corporate headquarters is in Philadelphia County and certain of the acts giving rise to this suit took place in Philadelphia County.

SUMMARY OF THE CLAIMS

26. On December 9, 2021, Republic First announced that it had received a letter from activist shareholder Driver Management Company LLC and certain of its affiliates ("Driver") disclosing Driver's intention to nominate a slate of director candidates in connection with the Company's upcoming 2022 annual meeting of shareholders to replace the incumbent directors up for reelection at that meeting – non-parties Hill, Spevak and Flocco.

27. In early 2022, Plaintiffs, likewise, publicly announced that they intended to oppose the incumbent directors up for re-election at the 2022 annual shareholder meeting.

28. These proxy contests prompted the Board of Republic First to fracture into two equal warring factions, with non-parties Hill, Spevak, Tierney and Flocco on one side (the “Hill Faction”), and Defendants Madonna, Cohen, Jacobs and Wildstein (the “Madonna Faction”) on the other.

29. On February 24, 2022, the Compensation Committee of the Board (on which the Hill Faction held the majority) elected not to renew Defendant Madonna’s employment agreement when it expired.

30. In apparent retaliation, on March 4, 2022, the Madonna Faction, calling themselves “Concerned Directors,” issued an extraordinary press release (the “Press Release”) accusing the Hill Faction of violating their fiduciary duties to entrench Hill and support related party transactions on his behalf in violation of proper corporate governance processes. A true and correct copy of the March 4, 2022 Press Release is attached as Exhibit A.

31. Plaintiffs and Driver immediately filed suit against the Hill Faction in reliance on the Madonna Faction’s claims.

32. Also because of the Madonna Faction’s accusations, the Company’s auditors insisted that the Company engage independent counsel to conduct an investigation of those claims before the auditors would approve the Company’s financials and sign off on its annual report for 2021. The Company engaged Wilmer Cutler Pickering Hale and Dorr (“Wilmer Hale”) to conduct the investigation.

33. Then, on May 10, 2022, Mr. Flocco died. The Madonna Faction immediately sought to press their numerical advantage and call a Board meeting to replace non-party Hill with Defendant Madonna as chairman of the Board. The Hill Faction sued the Madonna Faction to prevent it from conducting Board meetings without a quorum present. During the lawsuit, the

Hill Faction accused the Madonna Faction of lying in the Press Release to wrest control of the Board from the Hill Faction. The Hill Faction also alleged that Defendant Madonna admitted that the Press Release was untrue but claimed it was merely “electioneering hyperbole.” The Hill Faction also contended that Wilmer Hale’s preliminary findings bore out their claims that the Madonna Faction’s Press Release was untrue.

34. The Madonna Faction ultimately prevailed in the litigation and took control of the Board in July 2022. Immediately after the federal court ruled in their favor, rather than allowing the shareholders to elect a new director to fill Mr. Flocco’s vacant Board seat, as Plaintiffs, Driver and the federal district court had advocated, the Madonna Faction cemented their majority control of the Board by appointing their ally Defendant Duster to the Board despite the fact that Defendant Duster did not qualify to serve on the Board based on his lack of share ownership.

35. In August, Hill and Spevak resigned from the Board. A true and correct copy of the August 8, 2022 resignation letter is attached as Exhibit B. In September, Tierney tendered his resignation as well.

36. Wilmer Hale purportedly completed its investigation by August 16, 2022, yet to this day, the Current Directors have failed to disclose (despite numerous requests from Plaintiffs) the findings of that investigation, lending credence to the Hill Faction’s claims that the Madonna Faction made knowingly false public accusations in their effort to wrest power of the Board from the Hill Faction for their own personal benefit.

37. The Madonna Faction’s public accusations, made to protect their own self-interest rather than the interests of the Company, constituted violations of law and breaches of fiduciary duties. They cost the Company dearly, not only in the expense of the Wilmer Hale investigation, but also because the Company lost credibility with its auditors and the investing public. The

Company also faced multiple lawsuits centered on the Madonna Faction's claims, including a defamation suit by Hill, all of which cost (and is costing) the Company legal fees not only to defend itself but also to indemnify members of the Board. The Madonna Faction's claims and the resulting audit committee investigation also resulted in significant delays (that continue to this day) in the Company filing required quarterly and annual reports with the SEC, leading to multiple notices from Nasdaq that the Company is in jeopardy of being delisted, and delays in scheduling the long-delayed 2022 annual meeting of shareholders and the attendant election of directors.

38. The Current Directors have also repeatedly placed their own self-interest ahead of the interests of the Company to entrench themselves on the Board, engaging in the same type of self-dealing, unjust enrichment, breaches of fiduciary duty, corporate waste and other violations of law that they accused the Hill Faction of committing.

39. First, in July 2022 after gaining majority control of the Board, the Madonna Faction and Defendant Duster appointed Defendant Madonna to serve as interim CEO and Executive Chairman of the Board. They also approved a lucrative employment agreement for Defendant Madonna that not only increased his base salary to \$500,000 per year but also provided for the payment to Madonna of over \$2.5 million in the event of a "change of control" transaction. A true and correct copy of the September 8, 2022 Form 8-K and Madonna employment agreement are attached hereto collectively as Exhibit C. The Current Directors approved this excessive severance payment for an 80-year old interim CEO, knowing that the Company imminently intended to announce a strategic review process that would potentially result in a "change of control" transaction, which it did one week later.

40. Further, based on the Company's precarious financial status, the Madonna Faction and Duster knew or should have known that the strategic review process would not result in beneficial offers for the merger or sale of the Company, but that Madonna would be incentivized to favor those types of transactions over other strategic alternatives that would not implicate a "change of control," such as offers Plaintiffs had and have continued to repeatedly make to infuse capital into the Company.

41. The Madonna Faction and Duster's actions were not in the best interests of the Company and created a perverse incentive to favor a fire sale of the Company at a time when the Company's disastrous investment decisions had resulted in a loss of over \$250 million in asset value and the Company's stock price was in free fall because of the Company's failure to file its required SEC reports, Nasdaq delisting notices, and the Company's failure to be transparent with shareholders about the Wilmer Hale investigation and other critical information about the Company.

42. The Madonna Faction and Duster have taken additional actions to entrench themselves for their own selfish interests to the detriment of the Company.

43. To avoid a challenge from Driver in a proxy contest for the election of directors, in October 2022, the Madonna Faction and Duster agreed to a scheme to appoint Defendant Bartholow to the Board in exchange for Driver's agreement to end all proxy solicitations and acquiesce to any decision of the Board majority. A true and correct copy of the October 4, 2022 Form 8-K and Driver Cooperation Agreement are attached hereto collectively as Exhibit D. Not only did the Madonna Faction and Driver agree to give a shareholder with less than a 3% stake in the Company a Board seat, they also agreed to pay Driver \$925,000 of Company money, all for the sole purpose of preserving their own positions on the Board and in management. *Id.*

44. The Current Directors have also ignored repeated requests by Plaintiffs to call a special shareholder meeting to elect directors to fill vacant Board seats, choosing to appoint directors of their choosing aligned with them or leave seats open to use as bargaining chips in other self-interested efforts to preserve their positions in the Company.

45. The Current Directors have failed to hold any annual shareholder meeting for over two years in violation of Pennsylvania law requiring that a meeting of shareholders take place every year (15 Pa. C.S. § 1755).

46. The Current Directors have also failed to ensure that the Company make timely SEC filings, resulting in numerous Nasdaq de-listing notices and a lack of transparency and a dearth of information for the Company's shareholders. Indeed, as of the date of the filing of this Complaint (June 2023), the Company still has not filed its 2022 annual report on Form 10-K, which is now over 90 days late.

47. Even more egregious, the Defendants have failed to disclose to the Company's shareholders the real reasons for their failures to hold shareholder meetings and complete SEC reporting, withholding critical information shareholders need (and are entitled to) that would reflect poorly on the Defendants and potentially result in losing their Board seats.

48. The Defendants also breached their fiduciary duties to Republic First by engaging in utterly reckless business strategies and ignoring opportunities for the Company for their own improper and self-interested motives.

49. The Defendants fatally mismanaged or failed to oversee the Company's and Bank's investment strategy, ignoring market conditions and the likelihood of rising interest rates, while undertaking a disastrous program of purchasing long-term bonds that have dropped precipitously in value with the rising interest rates and failing to hedge against that obvious risk,

resulting in the Company's securities portfolio (constituting almost half of the Company's assets), incurring losses exceeding \$400 million according to the Company's most recent financial disclosures. *See* May 1, 2023 press release, a true and correct copy of which is attached hereto as Exhibit E.

50. This bond program has caused the Company's already challenged capital ratios to decline to potentially dangerous levels, likely prompting regulatory scrutiny, particularly since similar decision-making has led to the downfall of other prominent banks. Not only have the horrible investment decisions led to losses in the Company's assets, they also have caused the Company to suffer current operating losses by tying the hands of the Company, locking in income at low interest rates without the ability to offset rising deposit costs and other expenses, also tied to interest rate increases. These operating losses will and have caused significant harm to the Company and will require dramatic cost saving adjustments, hurting Republic First's long-term growth prospects.

51. The Defendants' abysmal operation of the business resulting in significant losses in value constituted gross incompetence, failure to exercise oversight of substantial risks the Company faced in its investment and business decisions and breaches of their fiduciary duties of care and loyalty, if not intentional bad faith. They are precisely the type of investment decisions made by Silicon Valley Bank, which have been attributed by numerous authoritative sources to bad management, lack of board oversight and an utter failure in risk management practices.

52. The Defendants also refused to consider advantageous opportunities for the Company, including ones offered by Plaintiffs, to preserve their own positions in the Company or, alternatively, with the hope of effectuating a transaction that would trigger significant "change of control" payments for themselves.

53. The Defendants have conditioned any discussions with Plaintiffs on their multiple proposals to inject capital into the Company and provide much needed management and governance input, on Plaintiffs' agreement not to wage a proxy contest or seek to nominate or elect different candidates to the Board, again preferring to preserve their own positions on the Board, rather than comply with their fiduciary duties to do what is in the best interests of the Company.

54. All of the above is a direct result of Defendants' decision to eschew their responsibilities to the Company to instead favor themselves and their allies on the Board and have resulted in substantial harm to the Company.

55. In accordance with 15 Pa. C.S. § 1781, Plaintiffs delivered a pre-suit litigation demand to the Board on October 20, 2022 (the "Demand"), detailing the breaches of fiduciary duties and other misconduct identified herein and demanding that the Board appoint a special litigation committee ("SLC") to investigate these breaches and bring action against the Current Directors. A true and correct copy of the Demand is attached as Exhibit F.

56. Despite the fact that the Demand has been outstanding for more than seven months, the Current Directors have failed to respond substantively and have not even advised Plaintiffs if any SLC has been appointed to investigate the allegations in the Demand, much less the identity of the members of any SLC as required under Pennsylvania law. 15 Pa. C.S. § 1783(a) ("The corporation shall send a notice in record form to the plaintiff promptly after the appointment of a committee under this section notifying the plaintiff that a committee has been appointed and identifying by name the members of the committee.").

57. The Defendants' failure to investigate and act on the Demand within a reasonable time entitles Plaintiffs to bring this derivative action to enforce the rights of the Company under Pennsylvania law (15 Pa. C.S. § 1781(a)(1)).

58. Plaintiffs therefore file this Complaint to vindicate the rights of the Company against its wayward fiduciaries and to hold those fiduciaries responsible for the damages they have caused to the Company.

FACTUAL BACKGROUND

A. The History of Republic First

59. Republic First was organized and incorporated under the laws of the Commonwealth of Pennsylvania in 1987 and is the holding company for Republic Bank.

60. Republic Bank operates through offices and branches in Philadelphia, Bucks, Delaware, and Montgomery Counties in Pennsylvania; Atlantic, Burlington, Camden, and Gloucester Counties in New Jersey; and New York County in New York.

61. Since early December 2021, several significant investors in the Company, including Plaintiffs, publicly reported their efforts to elect a slate of directors to replace the incumbent directors up for election at the Company's 2022 annual shareholder meeting which was originally scheduled to occur by early May 2022.

62. On December 9, 2021, Republic First announced that it had received a letter from Driver disclosing Driver's intent to nominate an alternative slate of candidates as directors in connection with the Company's 2022 annual meeting. .

63. On January 31, 2022, Plaintiffs and the Avery Trust filed a Form 13D with the SEC, disclosing that they collectively beneficially owned 3,910,921 shares of common stock, or approximately 6.6% of the Company's outstanding shares. A true and correct copy of the

January 31, 2022, Form 13D is attached as Exhibit G. That Form 13D, like Driver's SEC filings, noted Plaintiffs' concerns about the direction of the Company. *Id.*

64. Through several subsequent acquisitions, as they reported in various Forms 13D/A filed with the SEC, Plaintiffs and the Avery Trust increased their beneficial ownership to approximately 9.9% of the Company's outstanding shares.

65. Plaintiffs and the Avery Trust have requested approval from the Board several times to exceed the 10% stock ownership cap in the Company's articles of incorporation. The Board has never approved those requests.

B. The Madonna Board Faction Issues a Press Release

66. With two groups of significant shareholders engaged in a proxy fight and the replacement of the three incumbent directors up for election at the 2022 annual meeting, the Board split into two equal warring factions, with non-parties Hill, Tierney, Spevak and Flocco (the "Hill Faction") on one side and the Madonna Faction on the other.

67. In February 2022, the Company announced that the Compensation Committee (controlled by the members of the Hill Faction) would not renew the employment agreement of Defendant Madonna.

68. The Madonna Faction then accused the Hill Faction of engaging in improper conduct in violation of their fiduciary duties to entrench themselves.

69. In particular, on March 4, 2022, the Madonna Faction (calling themselves the "concerned directors") issued a press release telling shareholders about proposals that were purportedly being implemented improperly by the Hill Faction to entrench themselves. Press Release, Ex. A.

70. The Press Release accused the Hill Faction of “proposing or approving actions” that were harmful to the Company, including:

- “Extension of a related party agreement providing a retainer for a company owned by Chairman and Chief Executive Officer Vernon Hill’s wife for architecture, interior design and related services;”
- “Agreements obligating the incurrence of expenses related to the opening of new branches and the renovation of existing branches;” and
- “[P]roposed amendments to certain employment contracts that would provide significantly augmented severance payments to, and risk retention of, key executives should Mr. Hill be voted off the Company’s Board at the upcoming Annual Meeting or cease to serve as CEO.”

Id.

71. The Madonna Faction also claimed that “in manipulation of proper governance processes, certain of these actions already have been approved by directors of the Company’s primary subsidiary. . . . In other instances, transactions have been approved by Board committees in order to sidestep a review by the full board.” *Id.*

72. The Press Release ended with a call to shareholders to take action. “The concerned directors urge shareholders to take full heed of ongoing company news and remain vigilant of the board’s potentially destructive actions.” *Id.*

73. In reliance on the Madonna Faction’s claims in the Press Release, Plaintiffs filed suit in this court against the Hill Faction for violating shareholder voting rights through their purported entrenchment efforts.

74. Driver likewise filed suit against the Company seeking to force the Company to hold its annual shareholder meeting so that Driver could advance its candidates for election to the Board.

75. Notably, despite their stated concern about transactions involving Hill's wife's firm, for years before the 2022 Board schism, the Madonna Faction, who had been fully aligned with Hill, had approved and acquiesced in engaging Hill's wife's firm to perform design and architectural services for the Company.

C. The Board Deadlock is Broken and Litigation Abounds

76. After the Press Release, the Board was deadlocked with four directors aligned with Hill and four directors aligned with Madonna.

77. The accusations, litigation, and unrest resulted in the Company's auditors refusing to certify the Company's financial statements and insisting on an investigation of the Board members' competing allegations by independent counsel. The Company engaged Wilmer Hale to perform that investigation. As a result, Republic First failed to timely file its required 2021 annual report on Form 10-K with the United States Securities and Exchange Commission (the "SEC") – the first of many late SEC filings.

78. The Company also failed to issue a proxy statement for the election of directors for the fast-approaching 2022 annual shareholder meeting and failed to announce the date and location of the meeting.

79. Then, on May 10, 2022, Mr. Flocco died.

80. Immediately, the Madonna Faction called a Board meeting to take advantage of its new majority. The Hill Faction refused to attend to prevent the Madonna Faction from filling Mr. Flocco's vacant Board seat and gaining a clear majority on the Board.

81. The Madonna Faction nonetheless conducted a Board meeting with only four directors attending. During that meeting, the Madonna Faction voted to replace Hill as Chairman of the Board with Defendant Madonna.

82. On May 17, 2022, the Hill Faction filed suit in the United States District Court for the Eastern District of Pennsylvania (the “Hill Lawsuit”). In the Hill Lawsuit, the Hill Faction claimed that the Madonna Faction’s efforts to replace Hill as Chairman and take other Board action were invalid because a quorum of the Board (*i.e.*, five directors) did not attend the meeting. The Hill Lawsuit also alleged that the Madonna Faction engaged in illegal, oppressive and fraudulent conduct in seeking to take over the Board and control of the Company after Mr. Flocco’s passing. The Hill Faction also alleged that the Madonna Faction had knowingly made false statements in the Press Release to gain an advantage in the Board disputes and that Defendant Madonna admitted as much, contending that the statement was “electioneering hyperbole.” *See* Ex. B. The Hill Faction also claimed that the preliminary findings by Wilmer Hale bore out their claims that the Madonna Faction had made false statements in the Press Release.

83. On May 26, 2022, the federal district court ruled that the Madonna Faction had engaged in “illegal, oppressive and fraudulent conduct” and therefore appointed a custodian to take over management of the Company and conduct a special shareholder meeting to fill Mr. Flocco’s vacant Board seat.

84. The court-appointed custodian immediately began preparations to conduct the special shareholder meeting to elect a new director to the Board, but the Madonna Faction appealed the court’s ruling.

85. Before the special election could take place, on July 6, 2022, the United States Circuit Court for the Third Circuit reversed the district court's order and ruled that the Madonna Faction had the authority under the Company's bylaws to appoint a director to fill Mr. Flocco's Board seat. The Third Circuit noted that after filling the vacant seat, the Madonna Faction (along with the new director) would constitute a clear majority and could hold meetings and ratify actions the Madonna Faction had taken after Mr. Flocco's death.

D. The Current Directors Engage in Entrenchment and Self-Dealing After Taking Control of the Board

86. After the Third Circuit ruled in the Madonna Faction's favor, they wasted no time in preventing the Company's shareholders from having a voice in the election of a new Board member and cancelled the special shareholder meeting that had been announced by the court-appointed custodian.

87. Instead, the Madonna Faction immediately appointed a new director aligned with them to fill Mr. Flocco's vacant Board seat and cement their majority control of the Board. On July 11, 2022, the Madonna Faction appointed Defendant Duster to the Board to take Mr. Flocco's place. The Madonna Faction's appointment of Defendant Duster however not only ignored the voting rights of the Company's shareholders but also violated the Company's governing documents because Defendant Duster was not a shareholder of the Company as required to be a member of the Board.

88. From July 11, 2022, the Madonna Faction and Defendant Duster exercised complete control over the direction of the Company.

89. Despite the Madonna Faction's criticism of the Hill Faction in the Press Release, the Madonna Faction along with Duster replicated the very conduct they previously denounced

(and worse) to entrench themselves and advance their own selfish interests at the expense of the Company and its shareholders.

90. First, on August 9, 2022, the Company announced that Messrs. Hill and Spevak had resigned from the Board. *See* Ex. B.¹ At the same time, the Madonna Faction and Duster appointed Madonna as executive chair of the Board and interim CEO, and Defendant Wildstein as Lead Independent Director.

91. The Madonna Faction and Duster also rescinded the non-renewal of Defendant Madonna's employment contract (announced in February 2022) and reinstated Madonna's prior employment agreement, with an increase in base salary to \$500,000. Ex. C.

92. More egregiously, the Madonna employment contract provided Madonna, the 80-year old interim CEO, with significant "severance" and "bonus" payments (amounting to over \$2.5 million) in the event the Company effected a "change of control" transaction. Ex. C (Madonna employment agreement), at § 3(d) ("Transaction Bonus. In addition to any other compensation payable to the Executive hereunder, the Executive shall be entitled to a Transaction Bonus in the event a Transaction Change of Control, which for purposes of this Section 3(d) means 'merger or sale or transfer of a majority of the stock of the Bank or Company' is consummated during Executive's employment . . . For these purposes, the Transaction Bonus shall equal to an amount determined at the discretion of the Compensation Committees; provided, however, that the ***amount so determined shall in no event be less than One Million Dollars (\$1,000,000)***") & § 5(a) ("In the event of the termination of the Executive's employment for any reason, including a merger or sale of the Company or the Bank or sale or transfer of a majority of the stock of the Bank or the Company (any one of which shall be a

¹ Defendant Tierney resigned one month later.

‘Change of Control’) . . . , as consideration for the Executive’s services to the Employers prior to the Executive’s termination, the Employers *shall pay to the Executive One Million Five Hundred Ninety Thousand Dollars (\$1,590,000) . . .*”).

93. The Madonna Faction and Duster approved reinstating this agreement, including the “change of control” payments, knowing that the Company was about to announce a strategic review process which could result in a change of control transaction, which it did one week later. See September 15, 2022 Schedule 14A, a true and correct copy of which is attached hereto as Exhibit H.

94. The Madonna Faction and Duster also knew (or should have known) that the Madonna employment agreement would provide a perverse incentive for Madonna to favor a change of control transaction over other strategic alternatives, such as the offers Plaintiffs had repeatedly made to infuse capital into the Company and provide liquidity and other benefits to the Company and its shareholders, even though the Company’s financial status would not result in beneficial offers for the merger or sale of the Company.²

95. Consistent with this improper motive, the Current Directors have failed to engage in serious discussions with Plaintiffs on their multiple proposals to inject money into the Company and provide much needed executive management (including hiring Mr. Braca as CEO), apparently preferring their self-interested motives – Madonna, to receive his transaction bonus and severance; Cohen, to benefit CPV; Jacobs, to maintain her attorney-client relationship

² Indeed, the Hill Faction had warned multiple times that Defendant Madonna was determined to sell the Company for his own personal profit motives due to the change of control provisions in his employment agreement. Further, in their August 8, 2022 resignation letter, Hill and Spevak asserted that the Current Directors were violating their fiduciary duties and engaging in self-interested transactions both for Madonna’s own benefit and also to favor an entity aligned with Cohen, Cohen Private Ventures (“CPV”). Ex. B.

with Madonna; and the other Current Directors because they are aligned with and beholden to Madonna and Cohen.

96. The Madonna Faction and Duster's efforts to entrench themselves did not stop there. As discussed above, Driver began waging a proxy contest in late 2021. The Madonna Faction and Duster chose to buy off Driver to obtain its silence and support for the Madonna Faction's chosen slate of directors and other Board action in the future.

97. Specifically, in an October 4, 2022 Form 8-K, the Company announced that it had reached agreement with Driver to appoint Defendant Bartholow to the Board and nominate him as one of the Company's proposed slate of directors at the delayed annual meeting. Ex. D. In exchange, Driver agreed to "withdraw its notice of intent to nominate director candidates for election at the 2022 Annual Meeting and cease all solicitations or proxies and other activities in connection with the 2022 Annual Meeting, subject to limited exceptions, as Driver has also agreed to certain affirmative solicitation commitments during the term of the Agreement. Driver has agreed to customary voting commitments, a general release of claims with respect to the Company and its affiliates and to voluntarily dismiss with prejudice any and all claims asserted in any actions against the Company or its affiliates in their entirety. During the term of the Agreement, the Company and Driver have agreed that they will not disparage each other. Driver has also agreed to certain customary standstill provisions prohibiting it from, among other things, (i) making certain announcements regarding the Company's transactions, (ii) soliciting proxies, (iii) advising, encouraging or intentionally influencing any person with respect to disposition of any securities of the Company, (iv) taking actions to change or influence any director or employee of the Company or the direction of certain Company matters, (v) exercising certain

shareholder rights, and (vi) acquiring beneficial ownership of more than 4.9% of the Company's outstanding common stock, in each case as further described in the Agreement." *Id.*

98. What the Company failed to report in the body of its Form 8-K or press release, but was buried in an exhibit to the Form 8-K, was that, for Driver's agreement to support the Board, in addition to giving a shareholder with less than 3% of the outstanding stock a Board seat for Defendant Bartholow, the Madonna Faction and Duster agreed to pay Driver \$925,000 from the Company's coffers. *Id.*

99. Even after appointing two directors, the Current Directors were determined to avoid facing a shareholder vote for the remaining two empty Board seats to ensure that they maintained their power over the Board.

100. The Company claimed that the Wilmer Hale investigation was completed by mid-August 2022, yet months later, the Current Directors still had not revealed the results of the Wilmer Hale investigation and delayed filing the Company's overdue annual report on Form 10-K and subsequent quarterly reports on Form 10-Q until late October 2022, all the while failing to schedule the Company's long-overdue 2022 annual shareholder meeting where the directors promoted by the Defendants could lose their seats.

101. Under Pennsylvania law, the annual meeting of shareholders must take place before the end of each year (15 Pa. C.S. § 1755(a)), but the Defendants failed to schedule the meeting within the mandated time.

102. In addition to cancelling the special shareholder meeting scheduled by the court-appointed custodian, the Defendants have also refused multiple requests from Plaintiffs and other shareholders to schedule special shareholder meetings to fill the Board seats vacated by the Hill

Faction, instead choosing to appoint directors aligned with them or use the seats as bargaining chips in other negotiations to ensure they retain their positions on the Board.

103. Rather than entertaining Plaintiffs' multiple offers to infuse much needed capital into the Company, the Defendants conditioned any discussion with Plaintiffs on their offers on Plaintiffs' agreement not to proceed with a proxy contest for the election of directors.

104. All of these actions were taken for the sole purpose of entrenching the Defendants despite the harm to the Company and its shareholders and constitute breaches of the Defendants' fiduciary duties to the Company.

105. The Defendants' conduct in entrenching themselves and protecting their own self-interest combined with their continued failure to disclose the findings of the Wilmer Hale investigation lend credence to the Hill Faction's claims that the Madonna Faction's March 4th Press Release was knowingly false and misleading "electioneering" designed to gain an advantage in the Board's internal disputes.

106. While Plaintiffs' claims are limited to the issues they raised in their Demands (addressed fully above), later wrongful conduct by the Defendants provides further evidence that they have consistently placed their own self-interest in maintaining their Board seats and control of the Company over their fiduciary duties.

107. Among other things, in late October 2022, the Company finally filed its long-delayed 2021 annual report on Form 10-K. On November 4, 2022, the Current Directors announced that the 2022 annual shareholder meeting and the election of directors to fill the three Class III Board seats would finally take place on January 26, 2023. Three days later, on November 7, 2022, the Company suddenly reversed course and announced that the Defendants had eliminated two Board seats, thus reducing the number of director positions up for election at

the upcoming 2022 annual shareholder meeting as part of their Board entrenchment scheme. Then, after Plaintiffs nominated Plaintiff Braca as a director candidate, the Defendants rejected the nomination on a technicality, again to entrench themselves and ensure they would not lose their positions on the Board in a contested election.

108. When the Plaintiffs brought suit in state court for violation of their voting and proxy contest rights, the Defendants improperly removed the case to federal court just days before an injunction hearing was scheduled to take place and after they had unsuccessfully advocated for a delay of the hearing and rejected this Court's offer to delay the hearing if the Defendants would postpone the annual meeting to ensure Plaintiffs had sufficient time to engage in a proxy contest if they prevailed.

109. After the case was remanded back to the state court based on the clearly improper removal, the Defendants failed to disclose to the Court (or to the Company's shareholders) that they could not hold the annual meeting on January 26, 2023 as scheduled because they had not filed their definitive proxy statement with the SEC, and instead attempted to use their own failures to gain an advantage in the litigation with further delay.

110. The Defendants have continued to allow the Company to miss required SEC filings, resulting in further de-listing warnings from Nasdaq.

111. And, on March 10, 2023, the Defendants announced that the Company had negotiated a transaction with Defendant Cohen's private company, CPV, and another investor that provided less capital and benefits to the Company than the transactions proposed by Plaintiffs but allowed the Current Directors to retain their Board seats.

112. On May 15, 2023, the Company announced that the capital raise with CPV was put on hold to "wait for market conditions to stabilize before identifying additional participants

to round out the capital raise on acceptable terms,” despite the Company’s critical need for a capital infusion based on the abysmal investment decisions addressed above and the fact that the contract with CPV provided for CPV and the other lead investor to buy stock from the Company at a price more than double the Company’s stock price on the day of the May 15, 2023 announcement.

113. The idea that the capital raise would be dilutive or should wait for market conditions to change was not credible, particularly when, only two weeks earlier, the Company had announced that it was “highly focused” on a “strategy to . . . improve capital levels” and had taken drastic measures “to preserve capital and liquidity,” including suspending payment of dividends on preferred stock and deferring interest payments on its debt securities. The Company’s announcement continued the Defendants’ pattern of withholding critical information from the Company’s shareholders, including information about the commitments of CPV and the other investor to consummate the transaction.

DAMAGES TO THE COMPANY

114. The breaches of fiduciary duty by Defendants described herein have caused significant damage to Republic First.

115. First, by their self-dealing, Defendants have caused the Company to incur excessive costs that have flowed into Defendants’ pockets, including excessive salary for Defendant Madonna.

116. Second, in their entrenchment efforts, Defendants made knowingly false accusations against the Hill Faction, leading Republic First’s auditors to demand an investigation before certifying the Company’s annual financial statement. This delayed the Company’s mandatory SEC filings, resulting in delisting notices from Nasdaq, and has forced the Company to incur significant costs and fees for an investigation by Wilmer Hale. Further, the accusations

resulted in several lawsuits, including one by Hill for defamation, causing the Company to incur unnecessary legal fees. Defendants' actions also hurt the Company's reputation and standing in the investment community and possibly its relationship with bank regulators and the SEC.

117. Third, Defendants' gross mismanagement and lack of oversight – adopting an investment strategy focused on long-term debt when it was known that interest rates were very likely to rise in the near future and failing to hedge against that obvious risk -- have resulted in the Company's investment portfolio suffering losses of over \$400 million and operating losses due to the mismatch in interest between its assets and its obligations to its depositors, and other harms as reflected in the Company's precipitous stock price decline.

118. Fourth, Defendants' refusal to consider offers from Plaintiffs to infuse capital into the Company or engage in other transactions that would benefit all shareholders based on their selfish personal motives to retain their positions on the Board and in management have left the Company in a precarious position with respect to its capital and liquidity, forcing it to suspend the payment of dividends on its preferred stock and interest on its debt securities.

119. Fifth, Defendants' misconduct is also likely to lead to intense regulatory scrutiny, particularly in light of the current banking environment.

120. Sixth, the Company has been forced to pay excessive compensation and benefits to corporate insiders, including Defendants, who were not fulfilling their obligations to the Company.

DEFENDANTS' BREACHES OF THEIR FIDUCIARY DUTIES

121. By reasons of their positions as directors (and Madonna as an officer as well), each of the Defendants owed and owe Republic First fiduciary duties of loyalty and care and were and are required to use their utmost ability to control and manage Republic First in a fair,

just, honest and equitable manner. The Defendants were and are required to act in the best interests of Republic First, not in their personal interest or for their personal benefit.

122. Further, under the Republic First “Code of Ethics,” “[e]ach Director, Employee or other affiliated person of a bank, company or holding company, has a fundamental duty to avoid placing him/herself in a position that creates, or which leads to or could lead to, a conflict of interest or the appearance of a conflict of interest.” A true and correct copy of the Code of Ethics printed from the Company’s website is attached hereto as Exhibit I.

123. Among other specific restrictions, the Code of Ethics states:

Actions that benefit, or appear to benefit an Employee or Director to the detriment of the Company or our customers must be avoided. We require that Employees and Directors disclose all actual or potential conflicts of interest.

Suppliers and vendors must be selected solely on the basis of the best interests of the Company.

No Employee or Director will make, approve, or modify any extension of credit, or enter into any transaction on the Company’s behalf with companies in which the Employee or Director has any financial interest or an interest as an Employee or Director, controlling person or partner, or in which any member of the Employee’s or Director’s immediate family has such an interest. . . .

The above situations are provided as examples; however, there are many other situations that would create conflicts of interest. Accordingly, Employees and Directors must consider their actions and ensure they avoid conflicts.

Id.

124. The Code of Ethics also requires that “Directors who are aware of any actual or perceived unethical or illegal conduct by other Company directors, employees, customers, suppliers or any other affiliated party, similarly have a duty to immediately report such conduct . . .” *Id.*

125. The conduct of the Defendants complained of herein involves the knowing and culpable violation of their fiduciary duties as directors (and in the case of Madonna, as an officer), lack of good faith or, at a minimum, reckless disregard for their duties to the Company, violations of the Code of Ethics, and violations of law causing serious harm to the Company.

126. In particular, Defendants breached their fiduciary duties by, among other things: (i) engaging in and approving self-dealing transactions; (ii) seeking to entrench themselves at the expense of the Company; (iii) engaging in (or authorizing) disastrous business strategies, including investment strategies, without due regard for and hedging to avoid the substantial risks to the Company from rising interests rates; (iv) refusing to entertain business opportunities, including the injection of much needed capital offered by Plaintiffs thereby harming the Company for their own personal reasons and to entrench themselves in their positions at the Company; (v) making false and misleading statements in their efforts to entrench themselves and gain control of the Board majority, resulting in the Wilmer Hale investigation and litigation for which the Company incurred significant costs, expense and reputational harm.

DERIVATIVE AND DEMAND MADE ALLEGATIONS

127. Plaintiffs bring this action derivatively in the right and for the benefit of Republic First to redress injuries suffered, and being suffered, by the Company as a direct result of the breaches of fiduciary duties, wrongful acts, violations of law and unjust enrichment specified herein. Republic First is named as a nominal defendant solely in a derivative capacity.

128. Plaintiffs were shareholders of Republic First at the time of the wrongdoing complained of herein and have been shareholders continuously since that time.

129. In accordance with 15 Pa. C.S. § 1781, Plaintiffs issued a pre-suit litigation demand to the Board on October 20, 2022. *See* Ex. F. Plaintiffs provided substantial detail regarding the Defendants' breaches of fiduciary duties owed to the Company, as alleged herein,

and demanded that the Board appoint an SLC to investigate the allegations and redress all wrongdoing, including bringing suit against the Defendants and anyone else responsible for the alleged misconduct. *Id.*

130. Over seven months have passed since the Demand, and the Board has failed to provide any substantive response or initiate actions against the culpable parties.

131. On information and belief, the Board has failed to appoint an SLC as it has not “sen[t] notice in record form to [Plaintiffs] . . . notifying [them] that a committee has been appointed and identifying by name the members of the committee” as it is required to do “promptly after the appointment of a committee” under 15 Pa. C.S. § 1783(a).

132. Even if the Board appointed an SLC in response to Plaintiffs’ Demands, the SLC has failed to act in a reasonable time, thereby foregoing its right to address the Demands and make any decision on the actions to take in the best interests of the Company.

133. Under 15 Pa. C.S. § 1781(a)(1), Plaintiffs are therefore entitled to maintain a derivative action to enforce the rights of the Company because the Board did not appoint an SLC and did not bring the action within a reasonable time.

**COUNT I:
Breach of Fiduciary Duty – Gross Mismanagement and Failure of Oversight -- Against All Defendants**

134. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth fully herein.

135. As members of the Board, each of the Defendants owed fiduciary duties of care and loyalty to Republic First.

136. As alleged herein in detail, all Defendants breached their fiduciary duties of care and loyalty to the Company by, among other things: (a) authorizing the Company to adopt and/or continue a disastrous investment strategy of purchasing long-term bonds with interest

rates expected to rise (which they did), resulting in the Company's securities portfolio, which constitutes almost 50% of its assets, now suffering losses of approximately \$400 million (including both the available for sale and held to maturity portfolios); and (b) failing to oversee the Company's risk management and investment strategies to ensure investments were properly hedged to avoid the catastrophic damages that have resulted from the debt investments made by the Company.

137. Adopting and allowing these disastrous investment strategies constituted gross incompetence and reflect an utter lack of oversight on critical risk issues for the Company and Republic Bank – the same types of flaws the FDIC has blamed for the recent collapse of other banks and attributed to clear mismanagement and failures in board oversight.

138. Defendants' actions were not taken in good faith or in the exercise of their reasonable business judgment but in disregard of their duties to the Company.

139. Defendants' actions constitute willful misconduct and recklessness for which Defendants are personally liable for monetary damage to the Company.

140. As a direct and proximate result of the Defendants' foregoing breaches of fiduciary duties, the Company has suffered significant damages as alleged herein.

**COUNT II:
Breach of Fiduciary Duty – Self-Dealing and Entrenchment-- Against the Madonna
Faction (Madonna, Cohen, Jacobs and Wildstein)**

141. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth fully herein.

142. As members of the Board, each of the Madonna Faction directors owed fiduciary duties of care and loyalty to Republic First.

143. As alleged herein in detail, Defendants Madonna, Cohen, Jacobs and Wildstein breached their fiduciary duties of care and loyalty to the Company by, among other things: (a)

failing to take advantage of business opportunities, including the infusion of capital into Republic First by Plaintiffs, based on personal animus and self-interest, including to retain their positions at the Company and in favor of potential change of control transactions that would provide personal financial benefits, without due care for the interests of Republic First; (b) issuing false and misleading public statements regarding the Hill Faction directors for the purpose of promoting their own selfish interests in wresting control of the Board from the Hill Faction rather than the interests of the Company; and (c) failing and refusing to schedule special shareholder meetings or annual meetings to elect directors, instead preferring to appoint a director aligned with them despite the failure of the director candidate to meet the qualifications for appointment under the Company's governing documents.

144. Defendants' actions were not taken in good faith or in the exercise of their reasonable business judgment but to advance their own interests over those of the Company.

145. Defendants' actions constitute self-dealing, willful misconduct and recklessness for which Defendants are personally liable for monetary damage to the Company.

146. As a direct and proximate result of the Defendants' foregoing breaches of fiduciary duties, the Company has suffered significant damages as alleged herein.

COUNT III:

Breach of Fiduciary Duty – Self-Dealing and Entrenchment -- Against All Defendants

147. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth fully herein.

148. As members of the Board, each of the Defendants owed fiduciary duties of care and loyalty to Republic First.

149. As alleged herein in detail, all Defendants breached their fiduciary duties of care and loyalty to the Company by, among other things: (a) failing to disclose and withholding

critical information from the Company's shareholders regarding the operations of the Company and its financials, including but not limited to the results of the Wilmer Hale investigation and the reasons for delays in the Company's annual and quarterly financial filings; (b) failing to ensure that the Company timely filed required SEC annual and quarterly reports and other necessary and fundamental reporting, resulting in multiple notices of potential de-listing by Nasdaq and a precipitous decline in the Company's share price; (c) engaging in and approving self-dealing transactions, including the reinstatement and expansion of Madonna's employment contract to include an increased salary and "change of control" severance and bonus payments exceeding \$2.5 million, for their own selfish interests and against the best interests of the Company; (d) engaging in a strategic review process, including potential sale or merger of the Company, at a time that the Company's financials and corporate failures would make obtaining a favorable offer unlikely but would be favored by Madonna due to the perverse incentives created by his employment agreement; (e) refusing to conduct annual or special shareholder meetings for the election of directors and otherwise manipulating director elections, thus infringing on shareholders' rights to select the custodians of their enterprise, instead preferring to appoint directors aligned with the existing Board members and use vacant Board seats as bargaining chips in potential transactions and to avoid contested elections of directors, to ensure they retain their positions on the Board; (f) paying Driver \$925,000 of Company funds to obtain its agreement not to nominate director candidates who could replace existing Board members in a shareholder election, to retain their positions at the Company without due care for the interests of Republic First; (g) failing to take advantage of business opportunities, including the infusion of capital into Republic First by Plaintiffs, based on personal animus and self-interest, including to retain their positions at the Company and to favor potential change of control transactions or

transactions with insiders that would provide personal financial benefits to Defendants, without due care for the interests of Republic First; and (h) failing to investigate and bring claims on behalf of the Company against culpable fiduciaries in response to the Demand submitted by Plaintiffs.

150. Defendants' actions were not taken in good faith or in the exercise of their reasonable business judgment but to advance their own interests over those of the Company.

151. Defendants' actions constitute self-dealing, willful misconduct and recklessness for which Defendants are personally liable for monetary damage to the Company.

152. As a direct and proximate result of the Defendants' foregoing breaches of fiduciary duties, the Company has suffered significant damages as alleged herein.

**COUNT IV:
Violations of Pennsylvania Law Against All Defendants**

153. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth fully herein.

154. As members of the Board, each of the Defendants had an obligation to comply with the law in the operation and oversight of the Company.

155. As alleged herein in detail, in addition to the breaches outlined above, Defendants violated Pennsylvania law by, among other things: (a) failing to schedule the annual meeting of shareholders within the 2022 calendar year in violation of 15 Pa. C.S. § 1755(a); (b) failing to report to Plaintiffs in record form the appointment and identity of any purported SLC to investigate Plaintiffs' Demand in violation of 15 Pa. C.S. § 1783(a); (c) failing to comply with the Company's bylaws and other governing documents in violation of 15 Pa. C.S. § 1505; (d) infringing the voting rights of the Company's shareholders in violation of 15 Pa. C.S. § 1758; (e) making false and misleading public statements regarding the operations and finances of the

Company; and (f) engaging in illegal, oppressive and fraudulent conduct in seeking to maintain their positions on the Board at significant harm to the Company.

156. Defendants' actions were not taken in good faith or in the exercise of their reasonable business judgment but to advance their own interests over those of the Company.

157. Defendants' actions constitute bad faith and violations of law for which Defendants are personally liable for monetary damage to the Company.

158. As a direct and proximate result of the Defendants' foregoing violations of law, the Company has suffered significant damages as alleged herein.

**COUNT V:
Waste of Corporate Assets Against All Defendants**

159. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth fully herein.

160. As members of the Board, each of the Defendants had an obligation not to allow the waste of corporate assets.

161. As alleged herein in detail, in addition to the breaches outlined above, Defendants permitted the waste of corporate assets by, among other things: (a) authorizing the Company to adopt a disastrous investment strategy of purchasing long-term bonds at a time when the risk of rising interest rates was well known, resulting in the Company's securities portfolio, which constitutes almost 50% of its assets, suffering losses of approximately \$400 million; (b) engaging in and approving self-dealing transactions, including the reinstatement and expansion of Madonna's employment contract to include an increased salary and "change of control" severance and bonus payments exceeding \$2.5 million, for their own selfish interests and against the best interests of the Company; and (c) paying Driver \$925,000 of Company funds to obtain its agreement not to nominate director candidates who could replace existing Board members in

a shareholder election, to retain their positions at the Company without any legitimate corporate benefit.

162. Defendants' actions were not taken in good faith or in the exercise of their reasonable business judgment but to advance their own interests over those of the Company.

163. Defendants' actions constitute self-dealing, willful misconduct and recklessness for which Defendants are personally liable for monetary damage to the Company.

164. As a direct and proximate result of the Defendants' foregoing actions, the Company has suffered significant damages as alleged herein.

**COUNT VI:
Unjust Enrichment Against All Defendants**

165. Plaintiffs incorporate by reference the foregoing paragraphs as if set forth fully herein.

166. By their wrongful acts, omissions, violations of law and breaches of fiduciary duties, all Defendants were unjustly enriched at the expense of and to the detriment of Republic First by their receipt of board fees, other compensation and perquisites during the times that they were violating their duties to the Company and entrenching themselves.

167. Plaintiffs, on behalf of Republic First, seek damages of all compensation, salary, bonuses and benefits received by Defendants from the Company while Defendants were violating their fiduciary duties and not fulfilling their obligations to the Company.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment as follows:

A. Against the Defendants and in favor of the Company for monetary damages sustained by the Company as a result of Defendants' breaches of fiduciary duties, violations of law and corporate waste in an amount to be proven at trial;

B. Awarding to Republic First restitution from all Defendants in the form of disgorgement of all compensation, salary, bonuses and benefits received while Defendants were violating their fiduciary duties and not fulfilling their obligations to the Company;

C. Awarding to Plaintiffs the costs and expenses of this action, including reasonable attorneys' fees, experts' fees, costs, and expenses; and

D. Granting such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury.

/s/ Adrian R. King, Jr.
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Dated: June 2, 2023

Attorneys for Plaintiffs

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Dated: June 2, 2023

/s/ Adrian R. King, Jr.
Adrian R. King, Jr.