

IN THE CIRCUIT COURT FOR THE TENTH JUDICIAL CIRCUIT,  
IN AND FOR POLK COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL,  
STATE OF FLORIDA DEPARTMENT OF  
LEGAL AFFAIRS,

Plaintiff,

v.

Case No.: 2018-CA-\_\_\_\_\_

THE RITZ THEATRE 100, INC.,  
a Florida Not-For-Profit Corporation, and  
STELLA C. HEATH, an individual,

Defendants.

\_\_\_\_\_ /

**COMPLAINT**

Plaintiff, the Office of the Attorney General, State of Florida Department of Legal Affairs (“Plaintiff” or “OAG”), hereby brings this action: to determine whether there is or has been an improper use of the corporate charter of Defendant The Ritz Theatre 100, Inc. (“The Ritz” or the “corporation”), a Florida not-for-profit corporation and charitable organization; to preserve the monies, assets, and property of The Ritz for the benefit of all interested persons, including the public; to have a receiver appointed to take control and custody of, and to manage, all the property, business, and affairs of The Ritz; and to obtain relief with respect to a lien recorded against the assets of The Ritz and in favor of Defendant Stella C. Heath (“Heath”).

The OAG further alleges:

## **JURISDICTION AND VENUE**

1. This Court has jurisdiction over the matter in controversy pursuant to its powers in equity and at common law, and pursuant to sections 26.012, 617.2003, 736.0201, 736.0202, and 736.0203, Florida Statutes.

2. Venue is proper pursuant to sections 47.011, 47.051, and 736.0204, Florida Statutes, because The Ritz is located and has its principal place of business in Polk County, Florida.

## **THE PARTIES**

3. The Office of the Attorney General and the Department of Legal Affairs act on behalf of the Attorney General and exercise such powers as the Attorney General authorizes or as otherwise conferred by law. The Attorney General is the chief legal officer for the State of Florida, Art. IV, § 4(b), Fla. Const.; is broadly empowered to exercise all powers incidental to her office, § 16.01, Fla. Stat.; and is the head of the Department of Legal Affairs, § 20.011, Fla. Stat., and the Office of the Attorney General. As the State's chief legal officer and head of the Department of Legal Affairs, the Attorney General is authorized, *inter alia*, to bring actions against not-for-profit corporations, including actions to prevent the improper use of a corporate charter, § 617.2003, Fla. Stat., and actions to enjoin the transaction of unauthorized business, § 617.0304(c), Fla. Stat. The Attorney General's powers

include the authority to protect the public interest in promoting charities. This authority arises both at common law, *State ex rel. Landis v. S.H. Kress & Co.*, 155 So. 823 (Fla. 1934), and under statute, §§ 617.1420, 617.1430 & 617.2003, Fla. Stat. (authority regarding not-for-profit corporations), and § 736.0110(3), Fla. Stat. (authority to assert rights of charitable beneficiaries). The Attorney General's powers at common law include the power to bring suit in equity to compel the trustees of a charitable trust to perform their duties as trustees, or to compel them to redress a breach of trust, or to appoint a receiver to take possession of trust property, or to remove the trustees and to appoint other trustees; Restatement (Second) of Trusts §§ 391 & 392 cmt. a (2017); *see also* John G. Grimsley, *Florida Law of Trusts* § 19-5 (4th ed. 1993) (Attorney General can sue to enforce charitable trust, enjoin breach of trustees' duties, or have receiver appointed); 16 *Fletcher Cyclopedia Corporations* § 7750 (2015 rev. volume) (Attorney General proper party to suit to appoint general receiver for charitable corporation).

4. The Ritz is a Florida not-for-profit corporation having its principal place of business in Winter Haven, Polk County, Florida. The Ritz is a tax-exempt corporation under 26 U.S.C. § 501(c)(3) ("501(c)(3)") and is a "charitable organization" under section 736.1201(1), Florida Statutes.

5. Stella C. Heath is Executive Director of and Consultant to The Ritz, a

position she has held since 2006. On information and belief, Heath is a resident of Polk County, Florida.

## **FACTS**

### **Formation, Articles, Bylaws, and Operation of The Ritz**

6. The Williamson Theatre was built in the 1920s at 263-267 West Central Avenue, Winter Haven, Florida. In 1932, it became the Ritz Theatre. In the 1990s, it closed. In 1996, concerned citizens joined forces and purchased the Ritz Theatre; formed The Ritz Theatre 100, Inc., as a 501(c)(3), not-for-profit corporation; and commenced efforts to restore and reopen the theatre.

7. In September 1996, the Articles of Incorporation for The Ritz (“Articles”) [attached as **Exhibit A**] were developed and filed with the Florida Department of State. The Ritz operates “exclusively for charitable, scientific, literary and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code...” to “acquire, preserve, renovate, operate and maintain ... the historic real property and improvements thereon known as the Ritz Theatre for educational, cultural and community activities...”; to “conduct programs, meetings, events, and activities; to raise funds; request and receive grants, gifts, and bequests of money and property...”; and to “make expenditures to or for the direct or indirect benefit of the Ritz Theatre....” [Articles part IV.]

8. Consistent with the requirements of Florida law, the Articles require The Ritz’s Board of Directors (“the Board”), comprised of not less than three (3) nor more than twenty-five (25) persons, to manage its property, business, and affairs. [Articles, part V; §§ 617.0803, 617.0801, Fla. Stat.] Bylaws of The Ritz are to establish the process for electing members of the Board.

9. No earnings, income, or assets of The Ritz may be distributed to or inure to the benefit of any member, director, officer, or private individual; but payment for services rendered and in furtherance of its purposes is permitted. [Articles, parts IV, VI and XII.] Articles may be amended by board resolution followed by presentation to a quorum of members for their vote as set forth in the bylaws. [Articles, part XIV.]

10. In September 1996, The Ritz adopted bylaws. Pursuant to the bylaws, as amended in 2011 (“Bylaws”) [attached as **Exhibit B**], the Board officers are the President, Vice President, Treasurer, and Secretary.<sup>1</sup> [Bylaws Article VIII.] For the time periods relevant to this Complaint, the Bylaws provided that officers could not be elected to more than one office at a time. [*Id.* at § 6.] The Bylaws also

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<sup>1</sup> References herein to the Bylaws are to the 2011 Amended Bylaws because there is no record that the membership of The Ritz ever voted to adopt any subsequent changes to the Bylaws.

contain provisions for selecting members of the Board, for holding annual meetings, and for voting and elections.

11. The Board conducts the general management of the affairs of The Ritz. Directors are elected by a majority of the membership present at the annual meeting. [Bylaws, Article VII, § 9.]

12. The President has the power to sign all contracts and other obligations on behalf of the corporation as approved by the Board. [Bylaws, Article VII, § 8.]

13. The Secretary must keep the minutes of all meetings of the membership, the Board, and the Executive Committee, and is custodian of all records and papers of The Ritz. [Bylaws, Article VIII, § 8(C).]

14. The Ritz must maintain correct and proper books and records and keep minutes of all meetings of the members and of the Board at the office of the Secretary; said books and records may be inspected at any reasonable time. [Bylaws, Article XVI.]

15. The Treasurer is responsible for keeping current financial records at all times, and for submitting reports on the financial status of the corporation at all meetings of the Board and the membership. Copies of the financial records are to be provided for the President's file. The books of the corporation shall be delivered to the Treasurer's successor immediately following the election of a new Treasurer.

[Bylaws, Article XVIII, § 8.D.]

16. Pursuant to Florida law, as a not-for-profit corporation The Ritz is responsible, *inter alia*, for maintaining accurate accounting records and copies of: articles; bylaws; minutes of all meetings and records of actions taken without meetings for the prior three (3) years; written communications to all members including annual financial statements furnished for the prior three (3) years; and the most recent sworn annual report delivered to the Florida Department of State. § 617.1601, Fla. Stat.

17. The Bylaws provide that they may be amended in whole or in part by a seventy-five (75) percent vote at any duly organized meeting of the members for which a quorum is present. A quorum is defined as the presence of twenty-five (25) percent of the members. [Bylaws, Article IX.]

18. As described below, various actions of The Ritz were inconsistent with the Articles or the Bylaws.

19. In the Annual Report filed with the Secretary of State on March 10, 2014, The Ritz listed the following officers: Kathleen (Kathy) Buldini (“Buldini”), as President; Stephanie Lane (“Lane”), as Vice President; and Nicole Clifton Culver, as both Secretary and Treasurer, contrary to Article VIII, § 6 of the Bylaws.

20. In the Annual Reports filed on February 25, 2015, and January 25,

2016, The Ritz listed the following officers: Buldini, as President; and Lane, as Vice President. No Secretary or Treasurer was listed on the 2015 and 2016 Annual Reports. On information and belief, The Ritz had no Secretary or Treasurer during those years.

21. Currently, there are two officers of The Ritz: Billie Kayworth, as both Vice President and Treasurer, contrary to Article VIII, § 6 of the Bylaws; and Rosie Varnie, as Secretary.

#### **Funding for and Renovations to the Property and the Ritz Theatre**

22. On December 20, 1996, The Ritz Theatre 100, Inc., acquired the theatre property located at 263-267 West Central Avenue, Winter Haven, Florida (the “Property”). The purchase was financed with a loan secured by a mortgage on the Property and assignment of rents in the amount of \$60,750.

23. In 1998, to complete roof work on the Ritz Theatre, the loan amount was increased to \$160,000 through a mortgage and promissory note to First Union Bank.

24. Funding for improvements to the Property and the Ritz Theater, and for operations of The Ritz and the Ritz Theatre, has come from a combination of donations, grants, and payments for events held at the Ritz Theatre.

25. In 1998, the State of Florida awarded The Ritz a grant in the amount of



\$29,450. In 1999, the State of Florida awarded The Ritz a grant of \$249,000 with restrictive covenants to maintain the Property and make modifications to help restore the Ritz Theatre.

26. In 2000, the State Historic Preservation Grant program provided \$226,400 to The Ritz, with restrictive covenants to maintain the Property and make modifications to help restore the Ritz Theatre.

27. In 2006, restoration work commenced on the Ritz Theatre. Between 2002 and 2012 or later, The Ritz continued to borrow money, through the use of loans secured by mortgages, for renovation work on the Ritz Theatre.

28. During the period of approximately 2006 through 2011, the City of Winter Haven provided grants to The Ritz totaling in excess of \$250,000, to be used primarily for capital renovations and improvements to the Property and the Ritz Theatre, for the benefit of the Winter Haven community.

29. By the end of 2011, the bulk of a \$2.4 million restoration of the Property and the Ritz Theatre was completed, allowing for on-site business meetings, children's programming, live performances, civic events, private parties, contests, pageants, religious meetings, and school-related activities. As of the beginning of 2012, The Ritz owed at least \$471,602.34 on its mortgage, with a maximum principal indebtedness of \$600,000. On information and belief, the current loan

balance of the present mortgage is less than \$600,000 but remains a significant encumbrance on the Property.

**Heath Is Retained As Executive Director and Consultant for The Ritz**

30. On September 11, 2006, Heath signed a contract (the “Contract”), purportedly with The Ritz, providing that she would serve as Executive Director and Consultant for The Ritz, for a weekly salary of \$400. Her stated responsibilities included compiling a database, attending board meetings as needed, working on a fund-raising campaign, providing construction guidance and direction for the renovations to the Property, and assisting in grant writing for The Ritz. She was to work 20 hours per week overall and have office hours of eight hours per week. The Contract further described certain expenses of hers that would be reimbursable to her, but required that such expenses must be listed in the budget and approved by the Executive Committee of the Board.

31. The Contract provided that a fund-raising campaign would result in incentives for Heath, as agreed to in advance.<sup>2</sup> The Contract further provided that, when funds were not available to pay Heath’s salary, an agreed three-percent interest

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<sup>2</sup> There is no record that the Board ever approved any such incentives as a result of fund-raising activities.

would apply to any outstanding balance for her salary. Finally, the Contract provided that, upon completion of the construction or renovation, if the Board opted to have Heath remain, she would receive an annual salary of \$50,000.

32. The Contract was never formally executed by The Ritz. However, the Board minutes dated September 11, 2006 reflect that “[t]he Executive Director (Consultant) Contract was provided and approved for extension moving forward.”

33. Thereafter, The Ritz continued to retain Heath, on a part-time basis, even after completion of the renovations. However, there is no record of the Board ever voting to increase her salary to \$50,000. For at minimum the period during which The Ritz had a bookkeeper, information reported to the Board indicated her salary to be accruing at the rate of \$400 per week.

34. Federal Returns of Private Foundation, Form 990-PFs of The Ritz, in particular for calendar years 2013 and 2014, suggest that The Ritz did not treat Heath as an employee. In both returns, reference is made to \$20,800 in management expenses for a non-employee. In 2013, this consisted of \$10,400 in program service expenses and \$10,400 in management and general expenses. In 2014, this sum reportedly consisted of \$20,800 in Program service expenses.

**Amounts Owed to Heath by The Ritz**

35. For several years, The Ritz has struggled financially. Incoming funds

have not been sufficient to allow The Ritz consistently to maintain a positive bank balance and pay all of its expenses in a timely fashion.

36. Between 2003 and December 31, 2014, Debra Whitfield (“Whitfield”) was a bookkeeper for The Ritz. Whitfield kept track of several indicators of The Ritz’s financial health through various financial reports. For example, she compiled a document showing that, as of December 31, 2014, Heath was owed \$50,800 in past consultant fees (referred to as wages) by The Ritz, with those fees accruing at a rate of \$400 per week.

37. On information and belief, Heath did not submit time records or invoices for her weekly compensation. Rather, her salary appears to have accrued on an “honor” system, and individuals familiar with her work acknowledged her efforts on behalf of The Ritz. The Ritz’s records show that, since July 20, 2012, Heath has not been consistently or timely paid by The Ritz for her work.

38. The Board has never formally approved a change in Heath’s salary to \$50,000 per year. On information and belief, Heath’s salary has continued to accrue at a rate of \$400 per week since December 31, 2014. Therefore, for the years 2015, 2016, and 2017, her salary would have been \$20,800 per annum, for a total of \$62,400.

39. An analysis of checking account records for The Ritz reflects that

between December 31, 2014 (when financial statements were last available) and August 29, 2016, The Ritz has paid Heath a total of \$9,825 for “payroll.”

40. The Ritz has had inadequate financial record-keeping. Available records suggest that Heath is owed \$103,375 for consultant fees for the period of July 20, 2012 (the first date for which The Ritz’s records show that her consultant fees were unpaid) through December 31, 2017. This total is derived from adding the amount owed to Heath (per Whitfield’s reporting as of December 31, 2014) to the annual salary due to Heath in 2015, 2016, and 2017, and then subtracting the \$9,825 that was paid to Heath for payroll in 2016.

41. While she was The Ritz’s bookkeeper, Whitfield also kept track of unreimbursed expenses paid by Heath on behalf of The Ritz. As of December 31, 2014, the total amount of money owed to Heath for expenses incurred by her on behalf of The Ritz was \$9,737.44 (covering the period of June 12, 2012 to December 1, 2014). It was Whitfield’s practice to create this report based on receipts and invoices provided by Heath.

42. From the time Whitfield ceased being The Ritz’s bookkeeper, The Ritz has ceased maintaining supporting documentation for amounts owed to Heath after December 31, 2014. The only records of amounts owed for expenses are checking account records, showing payments made to Heath and deposits for donations or

payments made by Heath to The Ritz.

43. Between February 15, 2014 and August 29, 2016, The Ritz paid Heath \$22,178, in what appear to be reimbursements for expenses.

44. In some instances, the checking account records for The Ritz reflect no reasons for payments made to Heath. The following are examples of checks which contain no information about why the payments were made:

<b>Date</b>	<b>Check Number</b>	<b>Amount</b>	<b>Memo Line Information</b>
<b>02/15/2014</b>	2837	\$711.36	None provided
<b>02/25/2014</b>	1201	\$1,484.00	None provided
<b>07/22/2015</b>	2837	\$1,647.76	None provided
<b>Total</b>		\$3,843.12	

45. In several other instances, including the following examples, payments were made for “expenses” or “reimbursement,” but no records exist to show what those expenses were or to confirm that they were in fact incurred:

<b>Date</b>	<b>Check Number</b>	<b>Amount</b>	<b>Memo Line Information</b>
<b>10/24/2015</b>	2532	\$1,000.00	Repay Expenses
<b>12/15/2015</b>	2580	\$2,500.00	Expenses
<b>05/10/2016</b>	2644	\$1,200.00	Expenses
<b>08/24/2016</b>	2670	\$500.00	Expenses
<b>08/29/2016</b>	2677	\$400.00	Reimbursement
<b>Total</b>		\$5,600.00	

46. The records described in paragraphs 44 and 45 above fail to indicate what kinds of expenses were being paid or reimbursed. In any event, the documentation maintained by The Ritz does not suggest that The Ritz owes Heath any further money for expenses.

47. Contrary to the terms of the purported Contract between Heath and The Ritz, there is no record that the Executive Committee of the Board ever approved reimbursable expenses for Heath between January 1, 2015 and December 31, 2017, except for two payments, in early 2017, in the amount of \$10,000 each for legal fees and the mortgage payment referenced above.<sup>3</sup> On information and belief, the legal fees were for Buldini and Heath for a pending criminal investigation.

48. On occasion, Heath also would lend money to The Ritz. Documents show that she made the following loans to The Ritz:

<b>Date</b>	<b><u>Amount</u></b>
<b>Undated</b>	\$2,000.00
<b>04/02/2015</b>	\$250.00
<b>05/29/2015</b>	\$3,000.00

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<sup>3</sup> The Contract provided that reimbursable expenses included office supplies, telephone, mileage, meals, seminars, and items relating to the project restoration and office management. Unadopted Bylaws from 2016 refer to the Executive Committee as consisting of the President, Vice President, Secretary, and Treasurer.

<b>02/28/2017</b>	\$10,000.00 <sup>4</sup>
<b>Total</b>	\$15,250.00

49. According to checking account records for The Ritz, \$1,000 was paid to Heath on July 21, 2015, as a loan repayment. Therefore, per the records of The Ritz, Heath is owed \$14,250 for outstanding loans.

50. Based on available documentation, it appears that The Ritz owed Heath \$62,537.44 as of the end of 2014, and approximately \$117,625 as of the end of 2017.

**A Contract and Lien Agreement Is Created Which Asserts That Heath Is Owed \$250,000 for the Period Ending December 31, 2014**

51. Contrary to The Ritz's records as described above, in June 2015, Heath and Buldini, purportedly acting as the President of the Board, executed a Contract and Lien Agreement (the "Agreement") which stated that a debt existed in the amount of \$250,000 for consultant fees, expenses, mileage, and fees owed to or paid by Heath on behalf of The Ritz on or before June 2006 through year-end December 31, 2014. [Exhibit C.] The Agreement was executed notwithstanding that it was contrary to the provisions of the Contract signed on September 11, 2006, as described in paragraphs 30 and 31 above.

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<sup>4</sup> This amount was for a mortgage installment that The Ritz was unable to pay.



52. The Ritz lacks documentation to support a debt to Heath in the amount of \$250,000, and on information and belief the Directors of the Board were never provided with such documentation.

53. To support the debt amount of \$250,000 to Heath, it appears that the Board and Heath relied upon unsupported estimates in lieu of actual documentation. For example, on August 27, 2014, at a regularly-scheduled Board meeting, there was discussion about the amount of money owed to Heath, which was estimated to be \$100,000. A request was made by Board member Greg Stewart (“Stewart”) for documentation and invoicing to support that debt as well as another debt discussed at the meeting.

54. Unaccountably, two different versions of the minutes for the August 27, 2014 Board meeting were reportedly created.<sup>5</sup> The first set of minutes was transmitted by Heath via email to then-existing members of the Board and Whitfield on August 28, 2014, the day after the Board meeting was held. Regarding debt, those minutes stated:

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<sup>5</sup> The existence of two sets of minutes was discovered during an investigation conducted by the State Attorney for the Tenth Judicial Circuit. In response to a subpoena, The Ritz produced only a copy of the second version of minutes, described further below. However, Whitfield was interviewed and produced the other version of the minutes described herein.

Financials were discussed by President Kathleen Buldini. The good news is that we are converting the mortgage to a 30 year note.

The focus of the Board of Directors thru year end would be to get donors or benefactors to pay down the mortgage so that the facility can hire staffing moving to the future. The goal was \$750,000 fundraising effort, meeting was set for September 8, 6:30 pm.

A discussion of outstanding payables for both Stella Heath and Debra Whitfield would bring the balance of the debt to near \$650,000. A motion by Greg Stewart and seconded by Meri Mass was made to accept the payable and have Kathy Buldini sign as a debt against the building, treated like the bank note as a true lien. All present approved the motion. It is estimated that Debra Whitfield's outstanding amount is close to \$25,000, Stella Heath's is approximately \$100,000; invoices and back up will be prepared as requested by the Board.

The metadata for these minutes reflect that the author was "SH"; that the minutes were created on August 27, 2014, at 6:37 p.m.; and that they were last edited on August 28, 2014, at 6:54 p.m. On information and belief, "SH" is Stella Heath. On information and belief, these minutes were forwarded to Whitfield by Heath because Whitfield was mentioned in the minutes.

55. A second version of the minutes for the August 27, 2014 Board meeting also was created. Plaintiff does not have the metadata for the second version of the minutes, but on information and belief, it was created at a later date. The second version of the minutes states:

A discussion of payables was brought to the Board's attention by request of Deborah, bookkeeper. Kathy explained that we are well

above \$850,000. A motion by Greg Stewart and seconded by Meri Mass was made to accept the payable and have Kathy sign as debt against the building, treated like the bank note as a true loan. All present approved the motion. Deborah Whitfield was requesting an additional \$25,000 for the work she had been doing as it was time sensitive and more than she had thought it would be. Questions by Greg Stewart on needing more documentation and backup before he could make a determination and would need invoices and backup. It was agreed before adding that debt, more information would be brought forward for review.

On information and belief, the second version of the minutes did not accurately reflect what was discussed at the August 27, 2014 Board meeting.

56. On September 29, 2014, a meeting of the Board was held. The minutes for that meeting, which appear to be incomplete, state:

Ritz owes well over \$250,000 as presented in prior meetings for discussion and that he felt it was time to put such a commitment into a more formal document when this group, strong as they are, comes back to push us out that The Board should pay its debt for the good job done and include it to carry forward in the future.

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. . . Discussion continued, Greg Stewart made a motion to draw up a legal document that ties The Ritz to the debt that exceeds \$250,000 for work that has been received and accruing the salaries and expenses carrying forward. The interest rate is not more than 3%. The motion is to get this done and come back with a completed signed document. Stephanie Lane seconded the motion.

57. The September 29, 2014 minutes refer to creating “a more formal document when this group, strong as they are, comes back to push us out.” The

reference to “this group” is to the Six/Ten, LLC (“Six/Ten”), a developer in downtown Winter Haven. On September 29, 2014, Six/Ten representatives Kerry Wilson and James Cooper requested to be placed immediately on the Board, and offered a sizeable contribution of \$65,000 in return for such placement. This request and offer was perceived by the Board to be a “hostile move to take over The Ritz.” *Id.*

58. Between August 27, 2014 and September 29, 2014, The Ritz’s estimate of what it owed to Heath increased by \$150,000. The only intervening circumstance during that time period appears to have been the request by Six/Ten’s representatives to join the Board.

59. On information and belief, before September 29, 2014, none of the members of the Board, including its officers, was ever provided with documentation to support indebtedness to Heath of \$100,000 or more. On information and belief, the inflating of the estimate of the amount stated as owing to Heath was part of an effort to make a hostile takeover of The Ritz by Six/Ten less attractive.

60. On January 25, 2017, the Agreement was recorded in the Official Records for Imperial Polk County, at Book 10047, Page 984. After the Agreement was recorded, it operated as a lien on the Property. On information and belief, The Ritz paid the recording fees for the Agreement.

61. At the time that the Agreement was recorded, The Ritz and its Board had no documentation to support the amount of the claimed debt. As noted further below, the recording of the Agreement appears to have been prompted by a desire to avoid another perceived “hostile takeover” of the Ritz.

62. Because The Ritz is a Florida not-for-profit corporation which receives money from private donations and State and local grants, the Board has a fiduciary duty to The Ritz that requires each Board member to pursue faithfully the interests of the organization and its nonprofit purpose, rather than his or her own financial or other interests or those of other persons or organizations. The Board and its officers must principally be concerned about the effective performance of The Ritz in furtherance of its mission to preserve, improve, and renovate the Property, including the Ritz Theatre, for educational, cultural, and community activities, as provided in its Articles.

63. Those who control a nonprofit corporation qualified as a charitable organization have a duty to advance its charitable goals and to protect its assets. Approving the existence of a debt as large as that claimed by Heath without supporting documentation is inconsistent with the fiduciary and legal duties owed to The Ritz by its Board and its officers.

### **Inadequate and Inaccurate Accounting Records**

64. From January 1, 2015 or earlier to the present, The Ritz has not maintained accurate accounting records. On information and belief, The Ritz relies principally on its checking account register to show the state of its finances.

65. Since December 31, 2014, The Ritz has not had a qualified treasurer or other employee with financial experience who would be able to prepare financial statements and other accurate accounting records.

66. The Ritz does not maintain adequate records to show what monies are owed to Heath, and has no way of reliably estimating the total amount owed to her.

67. The Ritz does not maintain receipts for monies expended by Heath on behalf of The Ritz, and does not have any financial statements, supported by receipts, detailing how any monies expended by Heath relate to the mission of The Ritz.

68. The Ritz does not have budgets approved by the Board that set forth dollar amounts which are authorized to be paid by Heath as expenses.

69. While Form 990-PF returns have been completed for The Ritz for years 2013, 2014, and 2015, the certified public accountant responsible for completion of the returns prepared them based on unaudited information provided by The Ritz.

70. In the Form 990-PF return for year 2015, which was not submitted until March 1, 2017—after the above-referenced Agreement was recorded as a lien—The

Ritz claimed that Heath was owed \$260,000 for a loan by her. In Schedule O to the Form 990-PF return, containing Supplemental Information, The Ritz claimed that this amount was for a “prior period adjustment made for board approved compensation for Executive Director that was accrued but not paid and not recorded in prior years.”

71. The Ritz had no proper documentation to support the existence of a \$260,000 loan by Heath. The only documentation was an unaudited trial balance worksheet, lacking underlying supporting documentation, which contained adjustments made as of December 31, 2015, claiming that Heath was owed three separate amounts for loans (\$4,750, \$60,000, and \$193,250) in addition to a \$2,000 loan previously listed in financial records of The Ritz. On information and belief, the trial balance worksheet was created after the Agreement was signed, and possibly after the Agreement was recorded.

### **Financial Problems of The Ritz Prompt Others to Attempt to Intervene**

72. Allegations of financial mismanagement and other problems prompted individuals to volunteer to sit on the Board. As noted above, on September 29, 2014, Six/Ten asked for seats to be immediately added to The Board for its representatives, and offered \$65,000 in exchange. The Board rejected this request, considering Six/Ten to be attempting a hostile takeover.

73. On February 19, 2016, Bob Gernert, Jr., an initial member of the Board when it was founded in 1996, wrote to Buldini, then the President of the Board, about a group of eight individuals who requested a seat on the Board so that they could help with management of The Ritz. On February 28, 2016, a meeting of the Board was held. The minutes of that meeting state:

Recap of Board of Feb 19 2016 letter from Friends of The Ritz. At no time has anyone contacted the Ritz office by phone or letter. Volunteers have NOT come forward. This seems to be part of the promise by Kerry Wilson to get the [Executive Director] out one way or the other. All agreed this is not in the best interest of the RITZ.

74. On December 20, 2016, a letter was sent to Buldini by Thomas R. Oldt, a member of an organization referred to as the “Friends of the Ritz.” The letter referenced seven individuals who expressed their willingness to donate their time to serve on the Board, with the common goal of making the Ritz Theatre a centerpiece of the Winter Haven downtown area. The letter expressed concern about the operation and governance of The Ritz, and a willingness on behalf of the listed individuals to utilize their time, influence, and expertise “to elevate the Ritz to the level where it rightfully belongs.”

75. Thereafter, the Friends of the Ritz demanded that Heath resign as Executive Director of The Ritz.

76. The above-described Agreement was recorded thereafter, presumably



for the purposes of making a perceived hostile takeover of The Ritz less attractive because of the recorded debts of The Ritz, even though the Board had never been provided with documentation to support the Agreement or its recording, and of protecting Heath's position as Executive Director and Consultant. The Agreement provided for immediate payment of the purported debt referenced by the lien if Heath were to be fired.

77. On January 26, 2017, a meeting of the Board was held concerning the aforementioned request by the Friends of the Ritz. The minutes of the Board meeting state in pertinent part:

Organization calling themselves "Friends of the Ritz" is demanding Stella Heath resign as Executive Director of the Ritz Theatre, and that 5 individuals of their choosing should be placed on the board and have voting right. This is a violation of the current bylaws of the Ritz Theatre.<sup>6</sup>

78. The Ritz continues to suffer from mismanagement and financial problems. The current Board lacks the ability to manage The Ritz appropriately and to resolve said financial problems. On information and belief, the Board has been unwilling to consider alternatives that would enable The Ritz to become a

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<sup>6</sup> The reference to the bylaws in the January 26, 2017 minutes was to unadopted bylaws which, on information and belief, were not approved by the membership of The Ritz.

financially viable entity capable of fulfilling its mission for the community it serves.

79. As a result of The Ritz’s mismanagement and financial problems, the Ritz Theatre remains underutilized. This in turn exacerbates the financial problems of The Ritz, because potential event funding for The Ritz is not appropriately sought, thereby reducing usage of the Ritz Theatre, forgoing revenues from such usage, and eroding public support for the theatre.

**The Ritz Misses Grant and Sponsorship Opportunities Because of Its Failure to Provide Necessary Documentation**

80. To seek financial support, The Ritz at various times filed applications for grants or sponsorships. As discussed below, for years The Ritz failed to provide necessary documentation or to provide such documentation in a timely fashion in support of grants or sponsorships, and did not exercise due diligence in seeking appropriate grants in support of its mission. This resulted in funds being either denied, reduced, or forgone.

81. On February 28, 2014—the date established as the deadline for submissions—The Ritz submitted an application for sponsorship for the Ritz Film Festival, for the 2014-2015 Fiscal Year, to the Polk County Tourist Development

Council (“TDC”) Arts, Culture and Heritage Committee.<sup>7</sup> The sponsorship required a one-to-one match, meaning that for every dollar paid in sponsorship funds, The Ritz would have to pay one dollar. The application reflected that the amount requested for sponsorship funds was \$100,000, but the total program cost was listed as only \$125,000. However, if the total program cost were only \$125,000, then sponsorship funds would have been limited to \$62,500. When asked about the discrepancy, Heath claimed in an email that the actual program cost was \$225,000, and that there was a typographical error in the application. To the contrary, the budget analysis provided by The Ritz as part of the application indicated that the cost of the series was only \$115,000.

82. Additionally, the application required that The Ritz provide its most recent Form 990-PF return. Instead of providing the full completed return, The Ritz provided only the first three (3) pages. The request for sponsorship for the Ritz Film Festival was denied because of the errors in the application. As a result, the Ritz failed to obtain much-needed funding for the financial health of the

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<sup>7</sup> The TDC Arts, Culture and Heritage Committee reviews applications for sponsorships submitted to it. For those applications which are approved, the Polk County Commissioners meet additionally to approve the action of the TDC Arts, Culture and Heritage Committee, following which an agreement is executed.

organization.

83. On November 13, 2014, Melony Bell, Chair of the TDC Arts, Culture and Heritage Committee, sent a letter to Buldini, President of The Ritz, notifying The Ritz that, notwithstanding the fact that it was approved to receive \$47,865.62 for six events in Fiscal Year 2013-2014, The Ritz had only submitted the appropriate post-event paperwork for one of the events.<sup>8</sup> As a result, The Ritz received only \$3,564 of the \$47,965.62 it was approved to receive for Fiscal Year 2013-2014. Again, The Ritz failed to obtain much-needed funding for the financial health of the organization. This failure also adversely impacted the ability of The Ritz to maintain financial independence, and was detrimental to its intended beneficiaries because it adversely affected the availability of the Ritz Theatre for use by and for the community.

84. Further, because The Ritz failed to follow through on post-event funding and failed to notify the TDC Arts, Culture and Heritage Committee that it would not be using the funds (thereby preventing the reallocation of funds by TDC

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<sup>8</sup> The five events for which The Ritz obtained approval for sponsorship funding, but failed to follow through with post-event paperwork, were: The Independent Film Festival (\$14,428), the Kids Film Festival (\$15,710), the Murder Mystery Dinner (\$6,954), Puttin on the Ritz (\$3,594), and Black History Month (\$3,624).

during Fiscal Year 2013-2014), these failings created the potential for adversely affecting The Ritz's ability to secure funding from the TDC in subsequent years.

85. At a TDC meeting held on or about March 19, 2015, a member recommended that no future applications be considered from The Ritz unless there were a change in its leadership because of its noncompliance with funding requirements. The same member recommended that, if any future applications were to be considered involving The Ritz, the grants should be closely monitored due to the lack of detail provided by The Ritz during the grant submission process.

86. For Fiscal Year 2014-2015, post-event paperwork submitted by The Ritz was substantially incomplete in important respects. Kris Keprios, the Tourism Sales and Marketing Manager for Visit Central Florida (a liaison with the Polk County TDC) ("Keprios"), stated the following in an October 12, 2015 email to Heath:

For the Music Series submission, honestly the best thing for you to do would be to completely resubmit that packet. Nothing is labeled, there are no clear indications of what was paid for and which event in the series it was part of, etc. I would be happy to send you a list of the changes that need to be made, but unless it is resubmitted, in a better format and clearly labeled, I cannot turn in the current packet to the county the way it is.

Keprios further stated: "At this point, your post-event reimbursement will not be able to be paid out of the prior FY (FY 14-15) since it is already the middle of

October.” For Fiscal Year 2014-2015, The Ritz forwent revenue totaling \$9,283 because of a failure to submit post-event paperwork.

87. As part of the application process for Fiscal Year 2015-2016, The Ritz was required to submit its Form 990-PF return to the TDC Arts, Culture and Heritage Committee. Initially, The Ritz submitted only the cover sheet for the return. On May 18, 2015, after being asked to furnish the full return, The Ritz submitted the requested documentation for the 2014 tax year. Attached to the return was a trial balance worksheet printed as of April 29, 2015, which showed financial data adjusted for December 31, 2014. The worksheet showed that Heath was owed only \$2,000 for a loan. The worksheet reflected no past due consultant fees or wages owed to Heath.

88. Form 990-PF returns were required to be submitted to TDC by applicants because the returns provided important information for the TDC Arts, Culture and Heritage Committee and other sponsors, grantors, or contributors about the applying organization and its leadership, its costs including salaries, the identities of its personnel, and other relevant information. For example, such information might disclose that a director or executive director of a not-for-profit organization is being paid an unreasonably high salary, or that he or she employs his or her family in the organization. Such information reflects, *inter alia*, the possibility of private

benefit or inurement, and whether the organization is being run improperly for the primary benefit of insiders instead of the beneficiaries.

89. By failing to report accurately past due salaries in its application for sponsorship, The Ritz provided potentially misleading information about its financial status. This failure was detrimental to the evaluation process conducted by TDC Arts, Culture and Heritage Committee of The Ritz's applications for sponsorship funding for various events.

90. For the grant year 2015-2016, The Ritz sought \$20,000 for funding for Black History Month and International Folk Festival events from the Polk County Tourism and Sports Marketing (PCTSM) Arts and Culture Budget. This funding request was denied, among other reasons, because "they both are events that you have applied for in the past, have been approved for and did not turn in post event paperwork."

91. Approval by the TDC Arts, Culture and Heritage Committee was given for grants totaling \$16,176 during the 2015-2016 grant period for the Murder Mystery Dinner, Ritz Music, and Independent Film Festival events at The Ritz.<sup>9</sup>

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<sup>9</sup> The grant agreement provided, in pertinent part:

However, The Ritz failed to submit timely post-event paperwork for the Ritz Music and the Independent Film Festival events. Regarding Ritz Music, the required paperwork ordinarily would have been due by July 30, 2016. With a thirty (30) day extension, the paperwork was due August 30, 2016. The paperwork for the second event, the Film Festival, was due August 30, 2016, for which an extension was given through September 30, 2016. These deadlines, even as extended, were not met.

92. Because of The Ritz's delays in submitting post-event paperwork, on November 3, 2016, the TDC Arts, Culture and Heritage Committee voted not to pay the sponsorship funds for the Film Festival or the Ritz Music events for 2015-2016.

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Recipient, in order to initiate the payment process, shall submit an original invoice, together with any post-Event paperwork deemed necessary by PCTSM, to PCTSM's offices. Recipient must submit one request for payment for processing and said request must be received within sixty (60) days of the final date of the Event and must include all backup documentation as required by PCTSM, including, without limitation, a post-Event economic report detailing, among other items, the number of room nights generated by the event.

Should Recipient not expend the funds in accordance with the Application and the Guidelines, or if Recipient does not submit its request for payment within sixty (60) days of the final date of the Event, Polk County shall have no obligation under this Agreement or otherwise to provide TDC funds to Recipient as noted above.



Consequently, The Ritz yet again lost opportunities to collect sponsorship funds, this time in amounts totaling \$10,736.

93. Shortly before the TDC Arts, Culture and Heritage Committee's action, its staff noted that "this has become an annual back and forth argument[,]" referring to the difficulties in securing timely submission of post-event paperwork from The Ritz. Records show many such fruitless efforts to secure post-event paperwork from The Ritz.

94. For Fiscal Year 2016-2017, The Ritz received approval from TDC Arts, Culture and Heritage Committee for sponsorships in the amount of \$18,501 for three events: the Ritz International Film Festival, the Puttin on the Ritz Music Series, and the Murder Mystery Season. However, The Ritz had sought \$30,000 in funding for the three events. On information and belief, the fact that The Ritz did not receive approval for the full amount requested was due in significant part to its history of submitting incomplete or untimely paperwork relating to sponsorship funds.

95. The Ritz failed to submit timely post-event paperwork for any of the events for which it obtained sponsorship approval for Fiscal Year 2016-2017. As a result, The Ritz received no funding from the TDC Arts, Culture and Heritage Committee for those events.

96. On March 2, 2017, the TDC Arts, Culture & Heritage Committee determined that The Ritz would not be eligible for sponsorship funding for Fiscal Year 2017-2018, as it had outstanding past-event paperwork deficiencies from the prior fiscal year.

97. On information and belief, during the period of approximately 2012 through 2016, The Ritz did not pursue potentially available grants or other funding from the City of Winter Haven.

98. The above examples comprise a non-exhaustive list of the significant problems with The Ritz's submissions and omissions for funding, and with its submissions and omissions of post-event paperwork necessary to obtain payment under the governing sponsorship agreements.

99. At all relevant times, the Board has had a fiduciary duty to exercise reasonable efforts to secure all available grant funding, and to provide timely information and documentation necessary to secure such funding. Meeting this duty was especially important in light of the financial problems experienced by The Ritz. From late 2014 or earlier to the present, the Board has failed to meet this fiduciary duty.

## COUNT I

### Appointment of a Receiver

100. Plaintiff realleges, adopts, and incorporates by reference paragraphs 1 through 99 above as though fully set forth herein.

101. All conditions precedent to this action have been performed, have occurred, or have been waived.

102. As noted above, the OAG has the authority to seek appointment of a receiver.

103. The Court has the inherent authority as a court of equity to appoint a receiver of all property, business, and affairs of a Florida corporation to carry on its business.

104. Considering the history of apparent misconduct and mismanagement of The Ritz, a remedy at law would not suffice to substitute for the equitable relief of appointment of a receiver.

105. The immediate appointment of a receiver is needed:

- A. To take possession of The Ritz in order to determine the debts owed by The Ritz, to locate all property and assets of The Ritz, and to pay The Ritz's creditors;
- B. To take control, custody, and management of all monies, accounts,

property, and assets of The Ritz;

- C. To provide a proper financial accounting of The Ritz's assets and liabilities, including verification of The Ritz's actual financial status, and to make proper arrangements for accounts payable and receivable and to amend, as appropriate, any tax returns of The Ritz;
- D. To preserve and receive any and all monies, rents, issues, profits, accounts, property, and assets of The Ritz;
- E. To identify and report to the Court and the OAG all business that has been conducted by the Executive Director, the membership, the Board, and the officers of The Ritz during the period 1996 to the present;
- F. To report to the Court and the OAG all steps needed to be taken to operate The Ritz properly and to utilize the Ritz Theatre fully going forward;
- G. To determine the amount of money owed to Heath by The Ritz and the nature of any such indebtedness, whether for salary, loan repayment, expenses, or otherwise;
- H. To attempt to negotiate for removal, withdrawal, or forgiveness of the aforementioned lien arising from the recording of the aforementioned Agreement;

- I. To assess the continuing viability *vel non* of The Ritz and the Ritz Theatre;
- J. To confirm whether records, meetings, actions, votes, and elections by and of members, directors, and officers were compliant with applicable Florida laws and, if not, to correct or resolve such compliance deficiencies where possible;
- K. To consider, and to report to the Court and the OAG, whether it will be necessary to hire, retain, contract with, or install a new Board, officers, Executive Director, bookkeeper, or accountant; and
- L. To consider whether to reinstitute advertising and implementation of events, and to improve grant writing and reporting, so as to revitalize the income and revenue, contribution, donation, bequest, gift, and grant stream of funds and property for the continued operation of The Ritz and the Ritz Theatre, or to seek dissolution of The Ritz because it can no longer survive financially and fulfill its mission.

WHEREFORE, the OAG respectfully requests the immediate appointment of a receiver of all property, business, and affairs of The Ritz, including the Property and the Ritz Theatre.

## **COUNT II**

### Equitable Accounting

106. Plaintiff realleges, adopts, and incorporates by reference paragraphs 1 through 99 above as though fully set forth herein.

107. The OAG sues for an equitable accounting of the fiscal accounts, assets, and liabilities of The Ritz.

108. The Ritz, though obligated to do so under Florida law, has not kept an accurate inventory of its fiscal accounts, assets, and liabilities.

109. The Ritz, acting through its directors, officers, Executive Director, employees, and contractors, has mismanaged its property, business, and affairs, thereby placing it, the Property, and the Ritz Theatre in significant financial distress.

110. Violations of The Ritz's articles and bylaws, violations of Florida law, and breaches of fiduciary duties by The Ritz's directors and officers have caused or substantially contributed to said financial distress.

111. The Ritz Theatre has failed to live up to the expectations of the community and its donors with respect to the events and programs offered to the public at the Ritz Theatre.

112. The OAG, in good faith and in the public interest, seeks and is entitled to an equitable accounting of the fiscal accounts, assets, and liabilities of The Ritz,

including any liabilities for allegedly unpaid salary, expenses, and loans of Heath.

113. Considering the history of apparent misconduct and mismanagement of The Ritz, a remedy at law would not suffice to substitute for the equitable relief of an accounting.

114. An expedited accounting is required to avoid dissipation of fiscal accounts and assets, to determine the legitimacy of Heath's lien encumbrance, to assess the fiscal status of The Ritz, to ascertain whether that status is stable or may be stabilized, and to determine whether The Ritz should be dissolved.

115. The OAG does not have an adequate remedy at law because The Ritz has control over its accounts, records, and assets, and many records either are missing, destroyed, or redacted, or were not kept.

WHEREFORE, the OAG respectfully demands judgment: for an equitable accounting of the fiscal accounts, assets, and liabilities of The Ritz; to subject the bank accounts and monies of The Ritz to Court supervision by the appointment of a receiver to manage the property, the business, and the affairs of The Ritz; and for such further relief as the interests of justice and the public shall require and the Court may deem just and proper.

### **COUNT III**

#### Injunctive Relief

116. Plaintiff realleges, adopts, and incorporates by reference paragraphs 1 through 99 above as though fully set forth herein.

117. The OAG sues The Ritz and Heath for temporary and permanent injunctions enjoining The Ritz from spending, converting, or dissipating any monies, real estate, assets, or other property in the possession and control of The Ritz, and requiring The Ritz and Heath to withdraw the lien effected by the recording of the aforementioned Agreement in the Official Records of Polk County, Florida.

118. The Ritz is in possession and control of monies, real estate, assets, or other property accumulated or received through donations, charitable contributions, grants, public funding, events, and other sources in furtherance of its mission.

119. These monies, real estate, assets, or other property accumulated or received through donations, charitable contributions, grants, public funding, events, and other sources have been acquired and utilized for the public benefit through the operation of The Ritz and the Ritz Theatre.

120. The Ritz holds such monies, real estate, assets, or other property for the operation of The Ritz and the Ritz Theatre in trust for the public benefit.

121. The Board and Heath have recorded the above-referenced Agreement



and asserted the existence of an inflated debt for improper purposes. The recording of the Agreement as a lien on the Property threatens the ability of The Ritz to carry on its charitable operations in furtherance of its mission.

122. The public, and in particular the residents of Winter Haven and Polk County, Florida, are the intended beneficiaries of The Ritz's charitable operations in furtherance of its mission. As such, the public, and in particular the residents benefitting from the operation of the Ritz Theatre in Winter Haven and Polk County, Florida, have an equitable beneficial interest in The Ritz and the Ritz Theatre.

123. Therefore, the OAG, on behalf of the residents benefitting from the operation of the Ritz Theatre in Winter Haven and Polk County, Florida, has a strong public interest in preserving the monies, real estate, assets, or other property accumulated or received by The Ritz through donations, charitable contributions, grants, public funding, events, and other sources, so that The Ritz may continue its operations and fulfill its mission.

124. The public, and in particular the residents benefitting from the operation of the Ritz Theatre in Winter Haven and Polk County, Florida, will suffer immediate and irreparable harm unless temporary and permanent injunctions are issued to remedy the improprieties identified and described above.

125. There is no adequate remedy at law.

126. Because the OAG is a governmental entity organized and existing under the laws of the State of Florida, and because the public interest is affected, any alternative legal remedy is to be ignored and irreparable harm is to be presumed.

127. Temporary and permanent injunctions will serve the public interest by preserving the monies, real estate, assets, or other property of The Ritz for use in furtherance of its mission.

WHEREFORE, the OAG respectfully demands judgment against The Ritz and Heath and requests, pursuant to Rule 1.610, Florida Rules of Civil Procedure, entry of relief in the form of temporary and permanent injunctions, on posting of a bond as the Court may deem appropriate:

- A. Enjoining The Ritz, including its directors, officers, Executive Director, employees, and contractors, from spending, converting, or dissipating any monies, real estate, assets, or other property in its custody or control except as authorized by the Court or a receiver appointed by the Court, and granting such further relief as the interests of justice and the public shall require and the Court may deem just and proper;
- B. Enjoining The Ritz, including its directors, officers, Executive Director, employees, and contractors, from violating its articles, its bylaws, and Florida law, including applicable provisions of Chapter 617, Florida

Statutes, and from engaging in conduct in violation thereof;

- C. Requiring all directors, officers, Executive Director, employees, and contractors of The Ritz to comply with its articles, its bylaws, and Florida law, including applicable provisions of Chapter 617, Florida Statutes; and
- D. Requiring The Ritz and Heath to record a document withdrawing the lien created by the recording of the aforementioned Agreement in the Official Records of Polk County, Florida.

Respectfully Submitted,

**PAMELA JO BONDI  
ATTORNEY GENERAL**

*/s/ Blaine H. Winship*

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Associate Deputy Attorney General

General Civil Litigation

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Facsimile: (850) 488-4872

*Attorneys for Plaintiff, Office of the Attorney  
General, State of Florida Department of Legal  
Affairs*

# **EXHIBIT**

**A**

PETERSON & MYERS, P.A.

196000004919

J. HARDIN PETERSON  
MICHAEL W. CRAIG

PHILIP D. ALLEN  
JACK P. BRANDT  
BEACH A. HIGGINS, JR.  
J. DAVID GONNOR  
MICHAEL B. CHAIG  
ROY A. CHAIG, JR.  
JACOB C. DYKHOORN  
DENNIS P. JOHNSON  
KEVIN C. KNOWLTON  
DOUGLAS A. LOCKWOOD III  
M. CRAIG MARBEY  
PETER J. MUNROH  
CORNELIUS B. MYERS  
CORNELIUS B. MYERS III  
ROBERT E. PUTENBAUGH  
ADEL A. PUTNAM  
THOMAS B. PUTNAM, JR.  
DEBORAH A. HUBER  
STEPHEN R. BENN  
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141 5th STREET, NW, SUITE 300  
WINTER HAVEN, FLORIDA 33881  
(841) 884-3380  
FAX 884-8488

PLEASE REPLY TO:

Winter Haven

September 19, 1996

VIA FEDERAL EXPRESS

Secretary of State  
Division of Corporations  
409 E. Gaines Street  
Tallahassee, Florida 32399

300001952603  
-09/20/96--01031--018  
\*\*\*\*122.50 \*\*\*\*122.50

RE: THE RITZ THEATRE 100, INC.

Gentlemen and Ladies:

Enclosed for filing please find the following documents:

- Articles of Incorporation of The Ritz Theatre 100, Inc.
- Certificate Designating Registered Agent and Office.

I am also enclosing a check in the amount of \$122.50 to cover the following costs:

Filing fee for Articles of Incorporation	\$ 35.00
Filing fee for Registered Agent Certificate	35.00
Certified copy of Articles	<u>52.50</u>

TOTAL \$122.50

After the Articles of Incorporation and the Certificate Designating Registered Agent and Office have been filed, please certify the enclosed extra copy of the Articles of Incorporation and return it to me in the self-addressed, stamped envelope provided.

Sincerely,

SEP 23 1996

B.S.B.

*Michael S. Craig*  
Michael S. Craig

MSC/jh  
Enclosures

FILED  
90 SEP 23 1996  
TALLAHASSEE, FLORIDA  
PR12:30

ARTICLES OF INCORPORATION  
OF  
THE RITZ THEATRE 100, INC.

FILED  
96 SEP 20 PM 12:30  
CLERK OF STATE  
TALLAHASSEE, FLORIDA

ARTICLE I

CORPORATE NAME AND PRINCIPAL OFFICE

The name of this corporation is THE RITZ THEATRE 100, INC., and the initial principal office of this corporation shall be located at 141 5th Street, N.W., Suite 300, Winter Haven, FL 33881, the same as the registered office. The mailing address is P.O. Box 32, Winter Haven, Fl. 33882-0032.

ARTICLE II

CORPORATE NATURE

This is a not for profit corporation organized solely for charitable, scientific, literary and educational purposes pursuant to the Florida Corporations Not for Profit Law set forth in Section 617 of the Florida Statutes. This corporation shall not discriminate against any person or entity based on race, age, religion, gender, disability or national origin.

ARTICLE III

DURATION

The term of existence of the corporation is perpetual.

ARTICLE IV

SPECIFIC PURPOSE

The specific and primary purpose for which this corporation is formed is as follows:

1. To operate exclusively for charitable, scientific, literary and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States Internal Revenue Law. Notwithstanding any other provisions of these Articles, this Corporation shall not carry on any other activities not permitted to be carried on by an organization exempt from Federal Income Tax under said Section 501(c)(3) or the corresponding provision of any future United States Internal Revenue Law.

2. To acquire, preserve, renovate, operate and maintain for on a not for profit basis the historic real property and improvements thereon known as the Ritz Theater for educational, cultural and community activities.

3. To conduct programs, meetings, events, and activities; raise funds; request and receive grants, gifts, and bequests of money and property; acquire, receive, hold, invest and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Ritz Theater.

4. To receive and hold by gift, bequest or purchase any real or personal property and to manage, invest and reinvest the same and to use and dispose of the same for scientific, educational, or charitable purposes, all for the advancement of the Ritz Theater and its objectives and the encouragement and continuation of its established goals and objectives; to hold, either absolutely or in trust for any of said purposes, funds and property of all kinds subject only to any limitations or conditions imposed by law or the instrument under which said property is received; to sell, lease, convey or otherwise dispose of any such property and to invest and reinvest the same or any proceeds thereof and to deal with and expand the principal and income for any of said purposes; to act as trustee; and, in general, to exercise any, all, and every power, including trust powers, which a corporation not for profit organized under the laws of the State of Florida for the foregoing purposes can be authorized to exercise.

#### ARTICLE V

##### BOARD OF DIRECTORS

A. The powers of this corporation shall be exercised, its properties controlled and its affairs conducted by a Board of Directors consisting of not less than three (3) persons and not more than twenty-five (25) persons. At all times, the number of the Board of Directors shall consist of an odd number and shall be divided as equally as the number of Directors will permit to two classes: Class One and Class Two. The term of office for all Directors shall be two years, except for the term of office of the initial Class One Directors which shall expire at the annual meeting next ensuing, and the term of office of the initial Class Two Directors shall expire one year thereafter.

The name and address of such initial members of the Board of Directors are as follows:

**SEE ATTACHED EXHIBIT "A"**

Any action required or permitted to be taken by the Board of Directors under any provision of law may be taken without a meeting, if a majority of members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board, and any such action by written consent shall have the same force and effect as if taken by vote of the



Directors. Any certificate or other document filed under any provision of law which relates to actions so taken shall state that the action was taken by written consent of the Board of Directors without a meeting. Such a statement shall be prima facie evidence of such authority. The method of election of Directors shall be as set forth in the Bylaws of the corporation.

## ARTICLE VI

### EARNINGS AND ACTIVITIES OF CORPORATION

A. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, directors, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purpose set forth in Article IV hereof.

B. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

C. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on by (a) by a corporation exempt from Federal tax under 501(c)(3) of the Internal Revenue Code of 1954 (or corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Law).

D. Notwithstanding any other provision of these Articles, this corporation shall not engage in any activities or exercise any powers that are not in furtherance of the purpose of this corporation.

E. The corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

F. The corporation shall not engage in any act of self dealing as defined in Section 4941(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

G. The corporation shall not retain any excess business holdings as defined in Section 4943(a) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

H. The corporation shall not make any investments in such a manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

I. The corporation shall not make any taxable expenditures as defined in Section 4945 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

#### **ARTICLE VII**

##### **DISTRIBUTION OF ASSETS**

Upon dissolution of the corporation, the Board of Directors shall, after paying or making provision for the payment of all the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized and operated exclusively for charitable, education, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction in the county in which the principal office of the corporation is then located, exclusively for such purposes.

#### **ARTICLE VIII**

##### **MEMBERSHIP**

The qualification for members and the manner of their admission shall be regulated by the Bylaws of the corporation.

#### **ARTICLE IX**

##### **SUBSCRIBER**

The name and address of the Subscriber of this corporation are is Michael S. Craig, 141 5th Street, N.W., Suite 300, Winter Haven, Fl. 33881.

## ARTICLE X

### DIRECTOR CONFLICT OF INTEREST

A. No contract or other transaction between the corporation and one or more of its directors, or between the corporation and any other corporation, firm, association or other entity, in which one or more of its directors are directors or officers, or are financially interested, shall be either void or voidable for this reason alone or by reason alone that such director or directors are present at the meeting of the board of directors or of a committee thereof which approves such contract or transaction or that his or their votes are counted for such purposes:

1. If the fact of such common directorship, officership or financial interest is disclosed or known to the board or committee, and the board or committee approves such contract or transaction by vote sufficient for such purpose without counting the vote or votes of such interested director or directors; or

2. if such common directorship, officership or financial interest is disclosed or known to the members entitled to vote thereon, and such contract or transaction is approved by vote of the members; or

3. if the contract or transaction is fair and reasonable as to the corporation at the time it is approved by the board, a committee or the members.

B. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or of a committee which approves such contract or transaction.

## ARTICLE XI

### AMENDMENT OF BYLAWS

Subject to the limitations contained in the Bylaws, and any limitations set forth in the Corporations Not for Profit Law of the State of Florida, concerning corporate action that must be authorized or approved by the members of the corporation, the Bylaws of this corporation may be made, altered, rescinded, added to, or new Bylaws may be adopted, either by a resolution of the Board of Directors, or by the procedure set forth therefor in the Bylaws.

**ARTICLE XII**

**DEDICATION OF ASSETS**

The property of this corporation is irrevocably dedicated to education and charitable purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof, or to the benefit of any private individual.

**ARTICLE XIII**

**REGISTERED AGENT AND OFFICE**

The address of the corporation's registered office shall be 141 5th Street, N.W., Suite 300, Winter Haven, Fl. 33881, and the name of its registered agent at said address shall be Michael S. Craig.

**ARTICLE XIV**

**AMENDMENT OF ARTICLES**

Amendments to these Articles of Incorporation may be proposed by a resolution adopted by the Board of Directors and presented to a quorum of members of their vote in the manner set forth in the Bylaws of this corporation.

We the undersigned, being the Subscriber and Incorporator of this corporation, for the purpose of forming this nonprofit corporation under the laws of the State of Florida, have executed these Articles of Incorporation, this 19th day of September, 1996.

  
\_\_\_\_\_  
Michael S. Craig

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 19th day September, 1996, by Michael S. Craig who is personally known to me.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 19th day of September, 1996.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:



EXHIBIT A

Dennis Bock  
11 5th Street, S.W.  
Winter Haven, FL 33880

Deanna Rhodes-Tanner  
311 3rd Street, N.W.  
Winter Haven, FL 33881

Bill Bowen  
279 W. Central Avenue  
Winter Haven, FL 33880

Sondra Bowen  
279 W. Central Avenue  
Winter Haven, FL 33880

Michael Craig  
P.O. Box 7608  
Winter Haven, FL 33883-7608

Marcie Dershimer  
25 5th Street, N.W.  
Winter Haven, FL 33881

Sandy Freijo  
P.O. Box 269  
Winter Haven, FL 33882-0269

Tom Freijo  
P.O. Box 9328  
Winter Haven, FL 33882-9328

Bob Gernert  
401 Avenue B, N.W.  
Winter Haven, FL 33881

Kathy Girouard  
P.O. Box 846  
Winter Haven, FL 33882-0846

Scott Girouard  
2500 Executive Road  
Winter Haven, FL 33884

Stephen Gold  
P.O. Box 2708  
Winter Haven, FL 33883-2708

Judy Kahler  
P.O. Box 7325  
Winter Haven, FL 33883-7325

Lara Plocha  
P.O. Box 9225  
Winter Haven, FL 33883-9225

CERTIFICATE DESIGNATING REGISTERED  
AGENT AND OFFICE

FILED

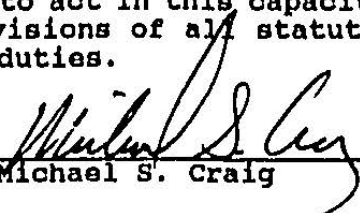
96 SEP 20 PM 12:30

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

In compliance with Sections 48.091 and 607.034, Florida Statutes,  
the following is submitted:

That THE RITZ THEATRE 100, INC., desiring to organize and qualify as a not for profit corporation under the laws of the State of Florida, with its initial registered office at 141 5th Street, N.W., Suite 300, Winter Haven, Fl. 33881 has named Michael S Craig of the same address as its Registered Agent to accept service of process within the State of Florida; and


That, having been named to accept service of process for the above-named corporation, at the place designated in this Certificate, Michael S. Craig hereby agrees to act in this capacity, and further agrees to comply with the provisions of all statutes relative to the proper performance of his duties.

  
Michael S. Craig

STATE OF FLORIDA  
COUNTY OF POLK

BEFORE ME, a Notary Public authorized to take acknowledgments in the State and County set forth above, personally appeared Michael S. Craig known by me to be the person who executed the foregoing Certificate, and he acknowledged before me that he executed same for the purposes set forth therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the State and County of aforesaid, this 19th day of September, 1996.

  
Notary Public  
State of Florida at Large

My Commission Expires:



JACKIE S. HOVERKAMP  
MY COMMISSION # CC 236381 EXPIRES  
November 19, 1998  
BONDED THRU TROY FAH INSURANCE, INC

# **EXHIBIT**

## **B**

**BYLAWS OF  
THE RITZ THEATRE 100, INC.  
A FLORIDA NOT-FOR-PROFIT CORPORATION**

**ARTICLE I**

**Name**

The name of the corporation shall be "THE RITZ THEATRE 100, INC". This is a not-for-profit corporation organized solely for charitable, scientific, literary, and educational purposes pursuant to the Florida Corporations Not for Profit Law set forth in Section 617 of the Florida Statutes. This corporation shall not discriminate against any person or entity based on race, age, religion, gender, disability, or national origin.

**ARTICLE II**

**Principal Office**

The corporate address is: Post Office Box 844, Winter Haven, Florida.

**ARTICLE III**

**Purpose**

The specific and primary purpose for which this corporation is formed is as follows:

1. To operate exclusively for charitable, scientific, literary, and educational purposes within the meaning of Section 501 ( C ) ( 3 ) of the Internal Revenue Code of 1954 or the corresponding provision of any future United States Internal Revenue Law. Notwithstanding any other provisions of these Bylaws, this Corporation shall not carry On any other activities not permitted to be carried on by an organization exempt from Federal Income Tax under said Section 501 ( C ) ( 3 ) or the corresponding provision of any future United States Internal Revenue Law.
2. To acquire, preserve, renovate, operate, and maintain on a not for profit basis the historic real property and improvements thereon known as the Ritz Theater for educational, cultural, and community activities.
3. To conduct programs, meetings, events, and activities; raise funds; request and receive grants, gifts, and bequests of money and property; acquire, receive, hold, invest and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the Ritz Theater.



4. To receive and hold by gift, bequest or purchase any real or personal property and to manage, invest and reinvest the same and to use and dispose of the same for scientific, educational, or charitable purposes, all for the advancement of the Ritz Theater and its objectives and the encouragement and continuation of its trust for any of said purposes, funds and property of all kinds subject only to any limitations or conditions imposed by law or the convey of otherwise dispose of any such property and to invest and reinvest the same or any proceeds thereof and to deal with and expend the principal and income for any of said purposes; to act as trustee; and, in general, to exercise any, all, and every power, including trust powers, which a corporation not for profit organized under the laws of the State of Florida for the foregoing purposes can be authorized to exercise.

5. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

5. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on by (a/ by corporation exempt from Federal tax under 501 ( C ) ( 3 ) of the Internal Revenue Code of 1954 (or corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under section 170 (c) (2) of the Internal Revenue Law).

## ARTICLE IV

### Membership

#### Section 1. Eligibility.

Any person or association interested in the object and purpose of this corporation and who agrees to be bound by the Articles of Incorporation and Bylaws thereof, and by such rules and regulations as may from time to time be adopted by the Board of Directors of this corporation, is eligible for membership upon approval by the Board of Directors, as hereinafter provided.

#### Section 2. Duration.

Memberships shall be renewed annually by the Board of Directors.

Section 3. Rights of Members.

The right of a member to vote and all of his or her other rights and interest in the organization shall cease on the termination of his or her membership. No member shall be entitled to share in any distribution of the corporate assets upon the dissolution of the corporation.

Section 4. Application and Memberships.

A prospective member shall be eligible for membership upon application and approval by at least 51% of the Board of Directors.

Section 5. Resignation

Any member may resign from the organization by delivering a written resignation to the President and Secretary.

**ARTICLE V**  
**Membership Meetings**

Section 1. Annual Meeting.

The membership shall hold annual meetings in the month of September each year or at such time as established by the Board of Directors, at the principal office of the corporation, or at such other place or places as may be determined by the Board of Directors. Notice of such meeting shall be given to all members, officers, and directors at their last known address at least ten (10) days prior to the date of the meeting. An agenda for such meeting shall be included in such notice.

Section 2. Special Meetings.

Special meetings of the members may be called at any time by the President or Vice President, or by any two (2) members of the Board of Directors. Such meeting must be called by the President or Vice President upon the receipt of the written request of one-third of the members. Written notice of such meeting, stating the time, place and purposes thereof shall be served by mail upon each member of the corporation not less than ten (10) nor more than thirty (30) days before such meeting, at his or her last known address.

Section 3. Quorum.

At any meeting of members, the presence of twenty-five percent (25%) of the members entitled to vote in person or by proxy shall be necessary to constitute a quorum for all purposes, and the act of a majority of those members present at which there is a quorum shall be the act of

the entire membership. In the absence of a quorum, or when a quorum is present, a meeting may be adjourned by the vote of a majority of the members present in person or by proxy without further notice to the absent members. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

#### Section 4. Voting Rights.

At every meeting of members, each member entitled to vote a membership unit, shall be notified to vote in person or by proxy duly appointed in writing which bears a date not more than eleven (11) months prior to such meeting unless such proxy provides for a longer period. The vote for directors and, upon the demand of any member, on any question before the meeting, shall be by ballot. All elections and all questions to be decided at such meeting shall be by majority vote of the membership units represented at such meeting and entitled to vote. Individual and Association Memberships shall be entitled to only vote one per individual or association. The election of directors shall be by ballot, in addition to any other issue, when deemed necessary by the President or Vice President.

#### Section 5. Order of Business.

The order of business at membership meetings, shall be as follows:

- A. Calling the roll of members
- B. Proof of notice of meeting or waiver of notice submitted
- C. Reading of minutes of previous meeting
- D. Reports of officers
- E. Reports of committees
- F. Election of Directors, Honorary Directors, and new members
- G. Unfinished business
- H. New Business

Any question concerning the priority of the business to be conducted before the meeting shall be decided by the Chairman of the meeting.

The order of business may be amended and changed at any meeting by a majority vote of the members present at such meeting.

Section 6. Inspectors of Election.

The members may at each annual meeting elect or appoint two persons, who need not be members, to act as inspectors of election for the purpose of tabulating and counting the ballots in the election of directors or the votes rendered on any other issue before the meeting.

**ARTICLE IV**

**Board of Directors**

Section 1. The general management of the affairs of the corporation shall be vested in the Board of Directors.

Section 2. Number of Directors.

The number of directors shall be not less than three (3) or more than twenty-five (25), which numbers may be changed from time to time by an amendment of these Bylaws in the manner herein provided.

Section 3. Election of Officers.

The Directors shall be elected by the members of the corporation at the annual meeting of members by a majority vote of the membership units represented at such meeting, as provided in Section 4 of Article V hereinabove.

Section 4. Term of Office.

The Directors shall be divided into two classes: Class One and Class Two. The term of office of the Class One Directors shall expire at the annual meeting that is next ensuing. The term of office of the Class Two Directors shall expire one year thereafter. At each succeeding annual election, the annual Directors elected shall be chosen for a full term of two years to succeed the ones whose terms expire.

Section 5. Duties and Powers of Directors.

The Board of Directors shall have the authority to:

- A. Hold meetings at times and places as may be deemed proper and necessary.
- B. Admit, suspend, or expel members,
- C. Appoint committees on particular subjects from members of the board or from the membership of the corporation,
- D. Audit bills and disburse the funds of the organization,

- E. Carry on correspondence and communicate with other associations with the same interests,
- F. Employ agents,
- G. Devise and carry into execution such other measures as it deems proper and expedient to promote the purposes of the corporation,
- H. Remove any or all of the officers of the corporation without due cause prior to the termination date of such office,
- I. Elect substitute directors in the event any director resigns or is removed from office prior to the termination date of such office
- J. Terminate the contract of any firm, individual or other entity employed by the organization to perform any and all nature of services to the corporation,
- K. Employ, retain, or terminate any employee of the corporation, and
- L. Establish rules and regulations governing the members use of the facilities of the corporation

Section 6. Honorary Directors

The Board of Directors, at any duly called meeting, may elect Honorary Directors of the organization by a majority vote of the Directors, after a quorum is present. Such Honorary Directors shall be exempt from all duties, liabilities, and obligations of a Director, however, Honorary Directors shall be entitled to all of the privileges of members. Honorary directorships shall be to acknowledge the support of an individual or an association given to the corporation.

**ARTICLE VII**

**Meetings of the Board of Directors**

Section 1. Annual Meetings.

The annual meeting of the Board of Directors shall be held immediately following the membership meeting at the principal office of the corporation or at such other place or places as may be determined by the President.

Section 2. Special Meetings.

Special meetings of the Board of Directors may be called by the President, or by any two members of the Board of Directors, for any specific purpose. Written notice shall be given stating the

Purpose of such meeting and shall be either delivered to each member of the Board of Directors or mailed to the last known address of such director at least five (5) days prior to the meeting date.

Section 4. Quorum, Voting.

Twenty-five percent (25%) of the Board of Directors shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the Directors present shall be considered the act of the Board of Directors at any annual, special, or regular meeting.

Section 5. Absence.

Should any member of the Board of Directors absent himself unreasonably from three (3) consecutive meetings of the Board without notifying the President or Secretary of his or her reason for doing so, or if his or her excuse should not be accepted by the members of the Board, his or her seat on the Board may be declared vacant and the Board may vote to select a substitute director to serve until the remainder of his or her term.

Section 6. Resignation

Any director may resign at any time by giving written notice of such resignation to the Board of Directors.

Section 7. Removal, Termination of Office.

Any one or more of the Directors may be removed with cause at any time by the Board of Directors in the same manner set forth for voting on any issue hereinabove.

Section 8. Delegation of Authority.

The Board of Directors may delegate authority to an Executive Committee to conduct the business of the organization in accordance with the policies prescribed by the Board of Directors from time to time.

Section 9. Election of Directors.

(a) The Directors shall be elected by a majority vote of the membership present at the annual membership meeting

Section 10. Voting of Directors.

Each member of the Board of Directors shall be entitled to one vote only at any meeting hereof on any issue or matter of business before such meeting.

Section 11. Order of Business.

The order of business at Board of Directors meetings shall be the same as provided in Section 5 of Article V, except that the election shall be for officers of the corporation and for members of the Executive Committee, if any.

Section 12. Inspectors of Election.

The Directors present at any meeting of the Board of Directors may elect or appoint two (2) persons who need not be directors to act as inspectors of election, for the purpose of tabulating and counting the ballots in the election for officers or in the voting on any other issue before such meeting.

Section 13. Compensation of Directors.

Directors shall receive no compensation for their services.

Section 14. Liability.

The directors of the corporation shall not be personally liable for its debts, liabilities or other obligations.

## ARTICLE VIII

### Officers

Section 1. Number.

The officers of the corporation shall be the President, Vice President, Secretary and Treasurer and such other officers with such powers and duties not inconsistent with these Bylaws as may be appointed and determined by the Board of Directors from time to time.

Section 2. Term of Office.

Officers shall be elected by the Board of Directors by ballot at the annual meeting of the Board of Directors immediately following the membership meeting. Officers shall serve for one year.

Section 3. Installation, Commencement of Duties.

The officers newly elected at the annual meeting of the Board of Directors shall be installed and take office on the day of the month immediately following the date of the annual meeting simultaneously with the installation of the Board of Directors.

Section 4. Election.

The officers of the corporation shall be elected annually by the Board of Directors in the following manner:

- A. the President shall appoint at least two (2) directors at the regular board meeting in December to serve as a Nominating Committee to select the officers of the Corporation to be elected at the annual meeting.
- B. The duty of the Nominating Committee shall be to select such persons believed to be best qualified for each office and to submit such names to the Board at least one week prior to the annual meeting of the Board.

Section 5. Consent to Election.

Only those persons who have signified their consent to serve if elected shall be nominated for or elected to such office.

Section 6. Multiple Offices.

A person may not be on the ballot and elected to more than one office.

Section 7. Vacancies in Office.

Should the office of the President become vacant by reason of termination or resignation during the term of office, the Vice President shall succeed to the office for the unexpired term. Vacancies in all other elected offices shall be filled for the unexpired term by the Board of Directors.

Section 8. Duties of Officers.

A. President.

It shall be the duty of the President as the chief executive officer to preside at all meetings of the members, Board of Directors, and any Executive Committee. He or she shall have the power to appoint the Chairpersons of all committees subject to the approval of the Executive Committee. He or she shall call all regular and special meetings when deemed necessary and when called for. He or she shall have the power to sign all contracts and any other obligations on behalf of the corporation approved by the



Board of Directors. He or she shall be ex-officio member of all committees. He or she, along with the Treasurer or any other officer, shall be authorized to sign checks on the corporation's bank account. In addition, he or she shall have and perform such other duties as may be deemed to him or her by the Board of Directors.

#### B. Vice President

The Vice President shall act for the President in his absence. He or she shall be empowered to sign checks on the Corporation's bank account along with any other officer. He or she shall serve on all committees in the absence of the President or in the event of the Presidents inability to serve.

#### C. Secretary

The Secretary shall take and keep the minutes of all meetings of the membership, Board of Directors and any Executive Dommittee. He or she shall furnish a copy of the minutes to the President immediately after each meeting and shall be custodian of all records and papers of the organization except those that pertain to a special committee. He or she shall receive and file all written reports and shall handle promptly all necessary correspondence of the corporation as directed by the President. He or she shall submit copies of official communications for the President's file. The Secretary shall order and maintain for the organization supplies, stationery, etc. as may be required from time to time. He or she shall mail out notices containing notice of Board of Directors and members general and other meetings.

#### D. Treasurer

The Treasurer shall receive and deposit all funds in the name of the corporation in a bank approved by the Board of Directors. He or she may sign checks for the disbursement of funds with the appropriate counter-signature. Current financial records shall be kept at all times and reports on the financial status of the corporation shall be submitted at all meetings of the Board of Directors and membership, with copies to be provided for the President's file. The books of the corporation shall be delivered to his or her successor, in good order, immediately following the termination of the office and the election of a new Treasurer.

#### E. Reports of Officers

All officers shall perform the duties prescribed in the parliamentary authority in addition to those outlined herein and those assigned to them by the President from time to time and deliver to their successor all official material not later than ten (10) days following the election and installation of their successors.

F. Compensation

The officers of the corporation shall receive no compensation for their services.

**ARTICLE IX**

**Bylaw or Charter Amendment**

The Bylaws or the Articles of Incorporation of this corporation may be amended, repealed or altered in whole or in part by a 75% vote at any duly organized meeting of the members of which a quorum shall be present. Notice of the proposed change shall be mailed to each member at his or her last know address at least ten (10) days prior to the time and date of the meeting which is to consider and vote on such change or amendment.

The proposed change or amendment to the Bylaws or the Articles of Incorporation shall, prior to notice being given of such meeting, be ratified and approved by the Board of Directors by a 75% vote of the directors present at such Board of Directors meeting. Only those directors present may cast their vote on the action before the meeting. Upon approval and ratification of such amendment to the Bylaws or Articles of the corporation by the members as above set forth, the Bylaws Committee shall thereupon proceed to prepare such amendment and see to the filing of any document with the proper governmental authority. Copies of such revised and amended Bylaws or Articles shall be given to any member upon request.

**ARTICLE X**

**Parliamentary Authority**

The Rules contained in Roberts Rules of Order as revised shall govern the Board of Directors, Officers, Chairpersons of any Committees, and the members in all cases to which they are applicable, provided, however, that they do not conflict with the Bylaws of the corporation, or with any laws in effect for the State of Florida.

**ARTICLE XI**

**Fiscal Year**

The Fiscal year of the corporation shall commence on the 1<sup>st</sup> day of January, and terminate on the 31<sup>st</sup> day of December.

**ARTICLE XII**

**Seal**

The corporation shall have a seal of such design as may be approved by the Board of Directors.

## ARTICLE XIII

### Distribution of Assets

Upon dissolution, liquidation and winding up of the corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purpose of the corporation in such manner, and to such organization or organizations organized and operated exclusively for charitable, educational, religious or scientific purposes, as shall at the time qualify as an exempt organization under Section 501 (C) (3) of the Internal Revenue Code of 1954, as amended, as the Board of Directors may determine. Any assets not so disposed of shall be disposed of by a court of competent jurisdiction in the county in which the principal office of the corporation is then located, exclusively for such purposes, or to such organization or organizations as such Court shall determine.

## ARTICLE XIV

### Indemnification

The corporation is empowered to indemnify any officer or director, by a majority vote of a quorum of directors, or by a majority vote of a quorum of members who were not parties to such action, suite or proceeding, in the manner provided in Section 617.028 of the Florida Statutes, as amended. If such indemnification is authorized by the directors or shareholders, or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding in the manner described in Section 607.014 of the Florida Statutes, as amended, upon receipt of any undertaking by or on behalf of the director, officer, employee, or agent to repay such amount unless he or she is found to be entitled to such indemnifications.

## ARTICLE XV

### Contracts, Checks, Deposits

#### Section 1. Contracts.

The Board of Directors may authorize any officer or agent of the corporation to enter into any contract or to execute and deliver any instrument or document on behalf of the corporation, which authority may be general or specific.

#### Section 2. Deposits.

All funds received by the corporation shall be deposited to the credit of the corporation in such banks or other depositories

As may be approved and authorized by the Board of Directors.

Section 3. Checks.

All checks, drafts, or any authorization for the payment of any notes, sums of money, or other evidence of debt issued in the name of the corporation shall be signed by such officers or agents as shall from time to time be designated and determined by the Board of Directors.

**ARTICLE XVI**

**Records**

The corporation shall maintain correct and proper books and records and shall keep minutes of all the meetings of the members and Board of Directors, at the office of the Secretary. All such records may be inspected by any Director, member, or the agent or attorney of either, or any property person, at any reasonable time.

DATE & ADOPTED

September 19, 1996.

THE RITZ THEATRE 100, INC.

Kathy Girouard, Secretary  
Seal

**Ritz Theatre 100, Inc.**  
**Addendum To Original By-Laws**

**Term Limits**

One and Three Year Terms

Terms are to be staggering for fluctuating expiration dates of members of the Board.

**Annual Membership Dues**

Annual Membership dues are to be assessed on monthly basis at a rate of \$25 per member. Quarterly payments are accepted, if pre-arranged with the Treasurer. When necessary, it is appropriate to "pre-arrange with the Treasurer" to bill members Companies for such fees, however, if unpaid by the respected company, the member is still responsible for payment and will loose voting rights until said dues are brought current. If at any time a member becomes late, they forfeit their right to vote. It is the duty and the discretion of the Treasurer to enforce the rules and regulations. Arrangements for payment are to be made directly to the Treasurer for protection and privacy.

**Annual Meeting**

The Annual Meeting Date will be on or before November 25 each year. Notification of said meeting must be noticed to all paid members of the organization. Voting is allowed only by current "paid members". At said Annual Meeting nominations can be taken into consideration.

**Calendar of Events**

A "Calendar of Events" is to be published of upcoming events for the following year. All current "paid" members are to be noticed and events calendar approved as submitted.

Changes are submitted as presented.

Stella Heath, Executive Director

# **EXHIBIT**

**C**

Contract Agreement between **Stella C. Heath**, Executive Director (known as **The Consultant**) and **The Ritz Theatre 100, Inc. Board of Directors** (known as **The Ritz**).

**The Ritz** agrees that this document was put into motion, following months of discussion, and approved in minutes of the meeting held in October 2014 with a quorum and by unanimous approval. The motion instructed Kathleen Buldini, President of the Ritz Theatre 100, Inc. Board of Directors and Stella C. Heath, **The Consultant** to draw up a Lien Agreement approving the debt of \$250,000 for wages, expenses, mileage, and fees owed to or paid by **The Consultant** on behalf of **The Ritz** dating on or before June 2006 thru year end December 31, 2014.

**The Ritz** recognized the outstanding debt owed to **The Consultant** and directed Kathleen Buldini to oversee the execution of a formal Contract/Lien Agreement for confirmation of the debt and purposes of being recorded in the records of Polk County, Florida as an obligation by **The Ritz** and owed to **The Consultant**.

**The Ritz** agrees that the wages, expenses, and fees owed to **The Consultant** will continue accruing past the date of December 31, 2014, with an interest rate on the unpaid balance of not more than 3%, until the amount has been satisfied and paid in full to **The Consultant** and or the Estate of **The Consultant**, documented in writing that the debt has been satisfied.

**The Ritz** agrees that the note and all outstanding fees and accrued interest will be called *due immediately* should one/any or all of the following occur:

- 1) **Termination of Employment of *The Consultant*,**
- 2) **Refinancing of the mortgage or any portion thereof,**
- 3) **Satisfaction of Mortgage, by any party, entity, be it private or governmental, for means of reorganization or new direction will call this note, and any additional fees accrued and owed to *The Consultant*, or *The Ritz* cannot proceed until the debt has been satisfied**
- 4) **Dissolution of the Ritz Theatre 100, Inc.**
- 5) **Dissolution of *The Ritz* Board of Directors**
- 6) **Sale of The Ritz Theatre 100, Inc. Building, 501C-3, or any of its Assets**



INSTR # 2017015187  
BK 10047 Pgs 984-985 Pg(s)2  
RECORDED 01/25/2017 02:29:11 PM  
STACY H. BUTTERFIELD,  
CLERK OF COURT POLK COUNTY  
RECORDING FEES \$18.50  
RECORDED BY monitell

Agreed and approved to be recorded in the Public Records of Imperial Polk County, Polk County, Florida on June 8, 2015.

Stella C. Heath  
Stella C. Heath, Consultant

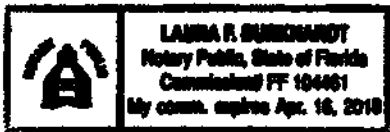
Kathleen Buldini  
Kathleen Buldini, President  
Ritz Theatre 100, Inc. Board of Directors

State of: Florida

County of: Polk

I, Laura F. Burkhardt, a Notary of Public of the County and State aforesaid, certify that **Kathleen Buldini** personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this a 8<sup>th</sup> day of June, 2015.



Laura F. Burkhardt

Notary Public

Commission Expiration

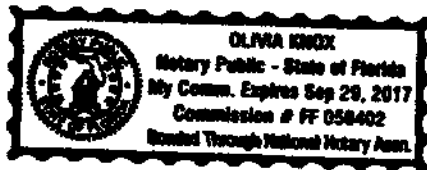
(NOTARY SEAL)

State of: Florida

County of: Polk

I, Olivia Knox, a Notary of Public of the County and State aforesaid, certify that **Stella C. Heath** personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this a 15 day of June, 2015.



Olivia Knox

Notary Public Olivia Knox

Commission Expiration Sep 29, 2017