UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

REGIONS BANK, an Alabama banking corporation,

Plaintiff,

v. CASE NO. 8:12-CV-1837-T-17MAP

MARVIN I. KAPLAN, an individual; R1A PALMS, LLC, a Florida limited liability company; LIGHTHOUSE POINTE, LLC, a Florida limited liability company; WELLS FARGO, BANK, N.A., a national banking association, as successor by merger with Wachovia Bank, N.A., TRIPLE NET EXCHANGE, LLC, a Delaware limited liability company; MK INVESTING, LLC, a Florida limited liability company; BNK SMITH, LLC, a Florida limited liability company; and SMITH ADVERTISING & ASSOCIATES, INC., a North Carolina corporation.

Defendants.

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AMENDED FINAL JUDGMENT IN A CIVIL CASE

Decision by Court. This action came before the Court and a decision has been rendered.

Dkt. 671 Corrected Second Amended Complaint of Regions Bank
Dkt. 190 Second Amended Complaint of Regions Bank

Count I — Breach of Deposit Agreement against R1A Palms, LLC

A decision was rendered on Count I on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against R1A Palms LLC in the amount of $3,366,007.52, plus prejudgment interest of $942,400.31 until November 9, 2017, and prejudgment interest of $493.66 daily until entry of final judgment, and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to determine entitlement to attorney's fees and costs (Dkt. 851), and to consider all pending, and any other appropriate, post-judgment motions.

Count II — Obligation of Reimbursement against R1A Palms. LLC under Sec. 674.207(2), Fla. Stat.

A decision was rendered on Count II on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against R1A Palms LLC in the amount of $3,366,007.52, plus prejudgment interest of $942,400.31 until November 9, 2017, and prejudgment interest of $493.66 daily until entry of final judgment, and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue Jurisdiction is reserved to determine entitlement to expenses (Dkt. 851), and to consider all pending, and any other appropriate, post-judgment motions.

Count III — Obligation of Refund against R1A Palms, LLC under Sec. 674.2141(1), Fla. Stat.

A decision was rendered on Count III on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against R1A Palms LLC in the amount of $3,366,007.52, plus prejudgment interest of $942,400.31 until November 9, 2017, and prejudgment interest of $493.66 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is

reserved to consider all pending, and any other appropriate, post-judgment motions

Count IV Obligation of Indorser against R1A Palms, LLC under Sec. 673.4151.(1), Fla. Stat.

A decision was rendered on Count IV on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against R1A Palms LLC in the amount of $3,366,007.52, plus prejudgment interest of $942,400.31 until November 9, 2017, and prejudgment interest of $493.66 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions

Count V Conversion against R1A Palms, LLC

A decision was rendered on Count V on April 18, 2016 (Dkt. 654). It is hereby **ordered** that final judgment is entered in favor of R1A Palms, LLC and against Regions Bank. Regions Bank shall take nothing and R1A Palms LLC shall go hence without day.

Count VI Fraudulent Concealment against R1A Palms, LLC

A decision was rendered on Count VI on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of R1A Palms, LLC and against Regions Bank. Regions Bank shall take nothing and R1A Palms LLC shall go hence without day.

Count VII Aiding/Abetting against R1A Palms, LLC

A decision was rendered on Count VII on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of R1A Palms, LLC and against Regions Bank. Regions Bank shall take nothing and R1A Palms, LLC shall go hence without day.

Count VIII Breach of Deposit Agreement against Triple Net Exchange, LLC

A decision was rendered on Count VIII on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against Triple Net Exchange LLC in the amount of $1,689,590.03, plus prejudgment interest in the amount of $467,513.70 until November 9, 2017, and prejudgment interest of $247.65 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to determine entitlement to attorney's fees and costs, and to consider all pending, and any other appropriate, post-judgment motions.

Count IX Obligation of Reimbursement against Triple Net Exchange, LLC under Sec. 674.207(2), Fla. Stat.

A decision was rendered on Count IX on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against Triple Net Exchange LLC in the amount of $1,689,590.03, plus prejudgment interest in the amount of $467,513.70 until November 9, 2017, and prejudgment interest of $247.65 daily until entry of final judgment (Dkt. 851) and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to determine entitlement to expenses, and to consider all pending, and any other appropriate, post-judgment motions.

Count X Obligation of Refund against Triple Net Exchange, LLC under Sec. 674.2141(1), Fla. Stat.

A decision was rendered on Count X on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against Triple Net Exchange LLC in the amount of $1,689,590.03, plus prejudgment interest in the amount of $467,513.70 until November 9, 2017, and prejudgment interest of $247.65 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum

execution shall issue. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions

Count XI Obligation of Indorser against Triple Net Exchange, LLC under Sec. 673.4151.(1), Fla. Stat.

A decision was rendered on Count XI on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against Triple Net Exchange LLC in the amount of $1,689,590.03, plus prejudgment interest in the amount of $467,513.70 until November 9, 2017, and prejudgment interest of $247.65 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions

Count XII Conversion against Triple Net Exchange, LLC

A decision was rendered on Count XII on April 18, 2016 (Dkt. 654). It is hereby **ordered** that final judgment is entered in favor of Triple Net Exchange, LLC and against Regions Bank. Regions Bank shall take nothing and Triple Net Exchange, LLC shall go hence without day.

Count XIII Fraudulent Concealment against Triple Net Exchange, LLC

A decision was rendered on Count XIII on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of Triple Net Exchange, LLC and against Regions Bank. Regions Bank shall take nothing and Triple Net Exchange, LLC shall go hence without day.

Count XIV Aiding/Abetting against Triple Net Exchange, LLC

A decision was rendered on Count XIV on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of Triple Net Exchange, LLC and against Regions Bank. Regions Bank shall take nothing and Triple Net Exchange, LLC shall go hence without day.

Count XV Breach of Deposit Agreement against MK Investing, LLC

A decision was rendered on Count XV on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against MK Investing, LLC in the amount of $1,178, 923.79 plus prejudgment interest of $326,222.14 to November 9, 2017, and prejudgment interest of $173.00 daily until entry of final judgment, and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to determine entitlement to attorney's fees and costs (Dkt. 851), and to consider all pending, and any other appropriate, post-judgment motions.

Count XVI Obligation of Reimbursement against MK Investing, LLC under Sec. 674.207(2), Fla. Stat.

A decision was rendered on Count XVI on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against MK Investing, LLC in the amount of $1,178, 923.79 plus prejudgment interest of $326,222.14 to November 9, 2017, and prejudgment interest of $173.00 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to determine entitlement to expenses, and to consider all pending, and any other appropriate, post-judgment motions.

Count XVII Obligation of Refund against MK Investing, LLC under Sec. 674.2141(1), Fla. Stat.

A decision was rendered on Count XVII on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against MK Investing, LLC in the amount of $1,178, 923.79 plus prejudgment interest of $326,222.14 to November 9, 2017, and prejudgment interest of $173.00 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XVIII Obligation of Indorser against MK Investing, LLC under Sec. 673.4151.(1), Fla. Stat.

A decision was rendered on Count XVIII on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank, and against MK Investing, LLC in the amount of $1,178, 923.79 plus prejudgment interest of $326,222.14 to November 9, 2017, and prejudgment interest of $173.00 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XIX Conversion against MK Investing, LLC

A decision was rendered on Count XIX on April 18, 2016 (Dkt. 654). It is hereby **ordered** that final judgment is entered in favor of MK Investing, LLC and against Regions Bank. Regions Bank shall take nothing and MK Investing, LLC shall go hence without day.

Count XX Fraudulent Concealment against MK Investing, LLC

A decision was rendered on Count XX on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of MK Investing, LLC and against Regions Bank. Regions Bank shall take nothing and MK Investing, LLC shall go hence without day.

Count XXI Aiding/Abetting against MK Investing, LLC

A decision was rendered on Count XXI on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of MK Investing, LLC and against Regions Bank. Regions Bank shall take nothing and MK Investing, LLC shall go hence without day.

Count XXII Breach of Deposit Agreement against BNK Smith, LLC

A decision was rendered on Count XXII on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank and against BNK Smith, LLC in the amount of $164,379.01 plus prejudgment interest of $48,485.23 to November 9, 2017 and prejudgment interest of $24.12 daily until entry of final judgment, and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to determine entitlement to attorney's fees and costs (Dkt. 851), and to consider all pending, and any other appropriate, post-judgment motions.

Count XXIII Obligation of Reimbursement against BNK Smith, LLC under Sec. 674.207(2), Fla. Stat.

A decision was rendered on Count XXIII on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank and against BNK Smith, LLC in the amount of $164,379.01 plus prejudgment interest of $48,485.23 to November 9, 2017 and prejudgment interest of $24.12 daily until entry of final judgment, and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to determine entitlement to expenses (Dkt. 851), and to consider all pending, and any other appropriate, post-judgment motions.

Count XXIV Obligation of Refund against BNK Smith, LLC under Sec. 674.2141(1), Fla. Stat.

A decision was rendered on Count XXIV on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank and against BNK Smith, LLC in the amount of $164,379.01 plus prejudgment interest of $48,485.23 to November 9, 2017 and prejudgment interest of $24.12 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XXV Obligation of Indorser against BNK Smith, LLC under Sec. 673.4151.(1), Fla. Stat.

A decision was rendered on Count XXV on April 18, 2016 (Dkt. 652). It is hereby **ordered** that final judgment is entered in favor of Regions Bank and against BNK Smith, LLC in the amount of $164,379.01 plus prejudgment interest of $48,485.23 to November 9, 2017 and prejudgment interest of $24.12 daily until entry of final judgment (Dkt. 851), and post-judgment interest pursuant to 28 U.S.C. Sec. 1961 to accrue from the date of final judgment, for which sum execution shall issue. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XXVI Conversion against BNK Smith, LLC

A decision was rendered on Count XXVI on April 18, 2016 (Dkt. 654). It is hereby **ordered** that final judgment is entered in favor of BNK Smith, LLC and against Regions Bank. Regions Bank shall take nothing and BNK Smith, LLC shall go hence without day.

Count XXVII Fraudulent Concealment against BNK Smith, LLC

A decision was rendered on Count XXVII on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of BNK Smith, LLC and against Regions Bank. Regions Bank shall take nothing and BNK Smith, LLC shall go hence without day.

Count XXVIII Aiding/Abetting against BNK Smith, LLC

A decision was rendered on Count XXVIII on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of BNK Smith, LLC and against Regions Bank. Regions Bank shall take nothing and BNK Smith, LLC shall go hence without day.

Count XXIX Fraudulent Concealment against Marvin I. Kaplan

A decision was rendered on Count XXIX on June 23, 2017 (Dkt. 826). It is hereby **ordered** that final judgment is entered in favor of Marvin I. Kaplan and against Regions Bank. Regions Bank shall take nothing and Marvin I. Kaplan shall go hence without day.

Count XXX Aiding/Abetting Conversion against Marvin I. Kaplan

A decision was rendered on Count XXX on April 18, 2016 (Dkt. 654). It is hereby **ordered** that final judgment is entered in favor of Marvin I. Kaplan and against Regions Bank. Regions Bank shall take nothing and Marvin I. Kaplan shall go hence without day.

Count XXXI Conversion against Marvin I. Kaplan

A decision was rendered on Count XXXI on April 18, 2016 (Dkt. 654). It is hereby **ordered** that final judgment is entered in favor of Marvin I. Kaplan and against Regions Bank. Regions Bank shall take nothing and Marvin I. Kaplan shall go hence without day.

Count XXXII Civil Conspiracy against Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, BNK Smith, LLC

A decision was rendered on Count XXXII on June 23, 2017 (Dkt. 826). The decision designated Count XXXII as Count XXXIII in error. It is hereby **ordered** that final judgment is entered in favor of Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC and against Regions Bank. Regions Bank shall take nothing, and Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall go hence without day.

Dkt. 93 Amended Counterclaim and Crossclaims of Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, BNK Smith, LLC

Count I Fraud against Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith and Smith Advertising & Associates, Inc.

A decision was rendered on Count I on March 22, 2013 (Dkt. 84) and on March 31, 2014 (Dkt. 244) as to Charles L. Starr, III a/k/a Larry Starr. A decision was rendered on November 7, 2017 as to G. Todd Smith a/k/a Todd Smith and Smith Advertising & Associates, Inc. (Dkt. 848). It is hereby **ordered** that a final judgment dismissing Count I with prejudice is entered in favor of Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith, a/k/a Todd Smith and Smith Advertising & Associates, Inc., and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing and Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith and Smith Advertising & Associates, Inc. shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count II Conspiracy to Defraud against Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, Bridgeview Bank Group and Smith Advertising & Associates, Inc.

A decision was rendered on Count II on April 19, 2016 (Dkt. 657) as to Charles L. Starr, III, a/k/a Larry Starr. A decision was rendered on Count II on April 18, 2016 as to Defendant Bridgeview Bank Group (Dkt. 655). A decision was rendered on Count II on November 7, 2017 as to G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count II with prejudice is entered in favor of Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc.,

and against R1A Palms. LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing and Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count III — Negligent Misrepresentation against Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith and Smith Advertising & Associates, Inc.

A decision was rendered on Count III on March 22, 2013 (Dkt. 84) and on March 31, 2014 (Dkt. 244) as to Charles L. Starr, III, a/k/a Larry Starr. A decision was rendered on November 7, 2017 as to G. Todd Smith a/k/a Todd Smith and Smith Advertising & Associates, Inc. (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count III with prejudice is entered in favor of Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith, and Smith Advertising & Associates, Inc., and against R1A Palms. LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange LLC, MK Investing, LLC, and BNK Smith, LLC shall take nothing, and Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith, and Smith Advertising & Associates, Inc. shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count IV — Violation of 18 U.S.C. Secs. 1962(c) and 1964 against Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, Bridgeview Bank Group and Smith Advertising & Associates, Inc.

A decision was rendered on Count IV on March 30, 2015 (Dkt. 351) as to Charles L. Starr, a/k/a Larry Starr. A decision was rendered on Count IV on May 14, 2015 (Dkt. 378) as to Bridgeview Bank Group. A decision was rendered on November 7, 2017 on Count IV as to G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count IV with prejudice is entered in favor of Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc., and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms. LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing and Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith and Smith Advertising & Associates, Inc. shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count V — Violation of 18 U.S.C. Secs. 1962(d) and 1964 against Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, Bridgeview Bank Group and Smith Advertising & Associates, Inc.

A decision was rendered on Count V on March 30, 2015 (Dkt. 351) as to Charles L. Starr, III, a/k/a Larry Starr. A decision was rendered on Count V on May 14, 2015 (Dkt. 378) as to Bridgeview Bank Group. A decision was rendered on November 7, 2017 on Count V as to G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count V with prejudice is entered in favor of Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc., and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms. LLC,

Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith, a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count VI — Violation of Secs. 772.103(3) and 772.104, Fla. Stat., against Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, Bridgeview Bank Group and Smith Advertising & Associates, Inc.

A decision was rendered on Count VI on March 30, 2015 (Dkt. 351) as to Charles L. Starr, III, a/k/a Larry Starr. A decision was rendered on Count VI on May 14, 2015 (Dkt. 378) as to Bridgeview Bank Group. A decision was rendered on November 7, 2017 on Count VI as to G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count VI with prejudice is entered in favor of Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc., and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, and G. Todd Smith, a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, LLC shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count VII — Violation of Secs. 772.103(4) and 772.104, Fla. Stat., against Charles L. Starr, III, a/k/a Larry Starr, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, Bridgeview Bank Group and Smith Advertising & Associates, Inc.

A decision was rendered on Count VII on March 30, 2015 (Dkt. 351) as to Charles L. Starr, a/k/a Larry Starr. A decision was rendered on Count VII on May 14, 2015 (Dkt. 378) as to Bridgeview Bank Group. A decision was rendered on November 7, 2017 on Count VII as to G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count VII with prejudice is entered in favor Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc., and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Charles L. Starr, III, a/k/a Larry Starr, Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith Gary T. Smith, Lucy B. Smith and Smith Advertising & Associates, Inc. shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count VIII Violation of Sec. 772.11, Fla. Stat., against G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc.

A decision was rendered on Count VIII on November 7, 2017 (Dkt. 848). An order correcting the respective amounts of prejudgment interest and adding prejudgment interest to November 14, 2017 was entered on November 15, 2017 (Dkt. 852).

It is hereby **ordered** that a joint and several final judgment is entered against G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. and in favor of R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, and BNK Smith, LLC as follows::

A. Damages in the following amounts:

1. $47,598,983.00 to R1A Palms, LLC;

2. $11,246,494.00 to Triple Net Exchange, LLC

3. $7,795,449.47 to MK Investing, LLC;

4. $2,963,804.18 to BNK Smith, LLC.

B. Prejudgment Interest in the following amounts:

1. $4,081,414.89 to R1A Palms, LLC

2. $1,037,076.82 to Triple Net Exchange, LLC

3. $698,100.01 to MK Investing, LLC

4. $270,001.35 to BNK Smith, LLC.

The Court further awards attorney's fees in the amount of $40,609.00 in favor of R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, and BNK Smith, LLC. This Final Judgment shall accrue post-judgment interest pursuant to 28 U.S.C. Sec. 1961, for which sum execution shall issue.

Count IX Conversion against G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc.

A decision was rendered on Count IX on November 7, 2017 (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count IX with prejudice is entered in favor of G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc., and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. shall go hence without day.

Count X — Violation of Florida's Deceptive and Unfair Trade Practices Act against G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, Bridgeview Bank Group and Smith Advertising & Associates, Inc.

A decision was rendered on Count X on March 31, 2014 (Dkt. 244) and on April 18, 2016 as to Bridgeview Bank Group (Dkt. 655). A decision was rendered on Count X on November 7, 2017 as to G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc. (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count X with prejudice is entered in favor of Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith, and Smith Advertising & Associates, Inc., and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms. LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Bridgeview Bank Group, G. Todd Smith a/k/a Todd Smith, Gary T. Smith, Lucy B. Smith and Smith Advertising & Associates, Inc. shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XI — Violation of Sec. 68.065, Fla. Stat., against Smith Advertising & Associates, Inc.

A decision was rendered on Count XI on November 7, 2017 (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count XI with prejudice is entered in favor of Smith Advertising & Associates, Inc. and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Smith Advertising & Associates, Inc. shall go hence without day.

Count XII Breach of Contract against G. Todd Smith a/k/a Todd Smith, Gary T. Smith, and Smith Advertising & Associates, Inc.

A decision was rendered on Count XII on November 7, 2017 (Dkt. 848).

It is hereby **ordered** that a final judgment dismissing Count XII with prejudice is entered in favor of G. Todd Smith a/k/a Todd Smith, Gary T. Smith, and Smith Advertising & Associates, Inc., and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms. LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and G. Todd Smith a/k/a Todd Smith, Gary T. Smith, and Smith Advertising & Associates, Inc. shall go hence without day.

Count XIII Breach of UCC Sec. 4-302(a) against Bridgeview Bank Group

A decision was rendered on Count XIII on April 18, 2016 (Dkt. 655).

It is hereby **ordered** that a final judgment on Count XIII is entered in favor of Bridgeview Bank Group and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms. LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Bridgeview Bank Group shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XIV Breach of UCC Sec. 4-302(a) against Wells Fargo, N.A.

A decision was rendered on Count XIV on April 18, 2016 (Dkt. 656).

It is hereby **ordered** that a final judgment on Count XIV is entered in favor of Wells Fargo, N.A. and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, and BNK Smith, LLC shall take nothing, and Wells Fargo, N.A. shall go hence without day. Jurisdiction is

reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XV Breach of 12 C.F.R. Part 229 against Bridgeview Bank Group

A decision was rendered on Count XV on April 18, 2016 (Dkt. 655).

It is hereby **ordered** that a final judgment on Count XV is entered in favor of Bridgeview Bank Group and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Bridgeview Bank Group shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XVI Breach of 12 C.F.R. Part 229 against Wells Fargo, N.A.

A decision was rendered on Count XVI on April 18, 2016 (Dkt. 656).

It is hereby **ordered** that a final judgment on Count XVI is entered in favor of Wells Fargo, N.A. and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms. LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Wells Fargo, N.A. shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XVII Negligence against Bridgeview Bank Group

A decision was rendered on Count XVII on April 18, 2016 (Dkt. 655).

It is hereby **ordered** that a final judgment on Count XVII is entered in favor of Bridgeview Bank Group and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Bridgeview Bank Group shall go hence without day. Jurisdiction is reserved to consider all

pending, and any other appropriate, post-judgment motions.

Count XVIII Negligence against Wells Fargo, N.A.

A decision was rendered on Count XVIII on April 18, 2016 (Dkt. 656).

It is hereby **ordered** that a final judgment on Count XVIII is entered in favor of Wells Fargo, N.A. and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Bridgeview Bank Group shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XIX Fraud against Bridgeview Bank Group

A decision was rendered on Count XIX on April 18, 2016 (Dkt. 655).

It is hereby **ordered** that a final judgment on Count XIX is entered in favor of Bridgeview Bank Group and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, and BNK Smith, LLC shall take nothing, and Bridgeview Bank Group shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XX Negligent Misrepresentation against Bridgeview Bank Group

A decision was rendered on Count XX on April 18, 2016 (Dkt. 655).

It is hereby **ordered** that a final judgment on Count XX is entered In favor of Bridgeview Bank Group and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Bridgeview Bank Group shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XXI Defamation Per Se against Regions Bank, Florida Bankers Association, Inc., Robert Nicholas Shaw

A decision was rendered on Count XXI on March 31, 2014 (Dkt. 244).

It is hereby **ordered** that a final judgment on Count XXI is entered in favor of Regions Bank, Florida Bankers Association, Inc. and Robert Nicholas Shaw, and against Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Regions Bank, Florida Bankers Association, Inc. and Robert Nicholas Shaw shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XXII Invasion of Privacy against Regions Bank, Florida Bankers Association, Inc., Robert Nicholas Shaw

A decision was rendered on Count XXII on March 31, 2014 (Dkt. 244).

It is hereby **ordered** that a final judgment on Count XXII is entered in favor of Regions Bank, Florida Bankers Association, Inc. and Robert Nicholas Shaw, and against Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Regions Bank, Florida Bankers Association, Inc., and Robert Nicholas Shaw shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Count XXIII Negligence/Negligent Misrepresentation against Regions Bank

A decision was rendered on Count XXIII on April 18, 2016 (Dkt. 652).

It is hereby **ordered** that a final judgment on Count XXIII is entered in favor of Regions Bank and against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC. R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall take nothing, and Regions Bank shall go hence without day. Jurisdiction is reserved to consider all pending, and any other appropriate, post-judgment motions.

Dkt. 271 Counterclaim of Bridgeview Bank Group

Count I Violation of Secs. 772.103(3) and 772.104, Fla. Stat., against R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith LLC

A decision was rendered on Count I on March 30, 2015 (Dkt. 353).

It is hereby **ordered** that a final judgment of dismissal on Count I is entered in favor of R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC and against Bridgeview Bank Group. Bridgeview Bank Group shall take nothing, and R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall go hence without day.

Count II Violation of Secs. 772.103(4) and 772.104, Fla. Stat., against Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC, BNK Smith, LLC

A decision was rendered on Count II on March 30, 2015 (Dkt. 353).

It is hereby **ordered** that a final judgment of dismissal on Count II is entered in favor of Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC, and against Bridgeview Bank Group. Bridgeview Bank Group shall

take nothing, and Marvin I. Kaplan, R1A Palms, LLC, Triple Net Exchange, LLC, MK Investing, LLC and BNK Smith, LLC shall go hence without day.

DONE and ORDERED in Chambers in Tampa, Florida on this 11th day of June, 2018.

ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
All parties and counsel of record