

STATE OF NORTH CAROLINA  
COUNTY OF HALIFAX

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

MILTON JAMES GARRETT, in Behalf )  
of Himself and the CITY OF ROANOKE )  
RAPIDS and its TAXPAYERS )

Plaintiff, )

v. )

RANDLE "RANDY" H. PARTON; )  
RICHARD "RICK" G. WATSON; )  
ERNEST C. PEARSON; MOONLIGHT )  
BANDIT PRODUCTIONS, LLC; )  
MOONLIGHT BANDIT PROPERTIES, )  
LLC; FRIENDS OF MOONLIGHT )  
BANDITS, LLC; MOONLIGHT )  
BANDIT CONCESSIONS, LLC; )  
MOONLIGHT BANDIT )  
MERCHANDISING, LLC; )  
NORTHEASTERN NORTH CAROLINA )  
REGIONAL ECONOMIC )  
DEVELOPMENT COMMISSION; AND )  
NORTH CAROLINA'S NORTHEAST )  
PARTNERSHIP; )

Defendants. )

COMPLAINT AND PETITION  
FOR DECLARATORY  
JUDGMENT

NOW COMES Plaintiff, by undersigned counsel, complaining of the Defendants,

alleges:

**INTRODUCTION**

1. This action is brought pursuant to statutory and common law as set forth below to obtain relief from Defendants for the fraudulent and jointly tortuous conduct of Defendants in appropriating public monies and properties and wrongfully inducing the City of Roanoke Rapids to finance a theatre for the benefit of Defendants in connection with an entertainment enterprise,

formerly known as “The Randy Parton Theatre” (“Theatre”), which resulted in harm to the City of Roanoke Rapids and its taxpayers.

2. This action arises from a conspiratorial scheme by and among Defendants to fraudulently induce the City of Roanoke Rapids (“City”) to approve and finance the creation of Carolina Crossroads Music and Entertainment District (“Carolina Crossroads”), an entertainment district in Roanoke Rapids, and to use tax increment financing (“TIF”) bonds to finance the construction and operation of the Theatre within Carolina Crossroads.

3. Defendants violated their fiduciary responsibilities to the City of Roanoke Rapids and, acting in concert, jointly and individually, intentionally and negligently made and caused to be made misrepresentations and omissions of material information in connection with tax increment financing bonds (“TIF”), the receipt of bond proceeds and other public money of the municipality, the City of Roanoke Rapids, and the misappropriation of millions of dollars of such monies. Defendants, acting intentionally and negligently in concert and individually, employed tortuous and deceptive practices in connection with the issuance of the TIF bonds, the use of proceeds therefrom, and the development and operation of the theatre. As a result, the City and its citizens have been injured by the waste of public tax money and the incurrence of public debt.

### **PARTIES**

4. Plaintiff Milton Jim Garrett is and was at all times complained of a citizen and resident of Roanoke Rapids, Halifax County, North Carolina, and is and has been at all times complained of a taxpayer to the governments of Roanoke Rapids, Halifax County and the State of North Carolina. Plaintiff brings this action on behalf of himself and similarly situated taxpayers of Roanoke Rapids for the benefit of Roanoke Rapids and seeks to restore to the City

of Roanoke Rapids and its taxpayers the losses incurred by them as a result of the wrongful conduct of the Defendants.

5. At all times complained of, Defendant Randle “Randy” H. Parton was a citizen and resident of the State of North Carolina and domiciled in Halifax County, North Carolina. The wrongful tortuous conduct on the part of Defendant Randy Parton occurred in the State of North Carolina. Defendant Parton remains engaged in substantial business activity within the State of North Carolina, including financial contacts and is thus subject to process in the State of North Carolina. Defendant Parton is and was the managing member of Defendant Moonlight Bandit Productions, LLC, Moonlight Bandit Properties, LLC, Friends of Moonlight Bandit, LLC, Moonlight Bandit Concessions, LLC, and Moonlight Bandit Merchandizing, LLC (hereinafter collectively referred to as “Moonlight Companies”). Such companies were founded and incorporated in North Carolina by Defendant Parton for the purpose of operating and promoting the Theatre. Defendant Parton had a fiduciary relationship to the City of Roanoke Rapids arising out of the entrustment of public funds to him.

6. Defendant Richard “Rick” G. Watson is a citizen and resident of Edenton, North Carolina. At all times complained of, Watson worked in a fiduciary capacity representing the City of Roanoke Rapids as President and Chief Executive Officer of Defendant Northeastern North Carolina Regional Economic Development Commission and Defendant North Carolina Northeastern Partnership (hereinafter collectively “Commission”) in that he was charged with the responsibility of promoting economic development in the northeastern region of North Carolina, including the City of Roanoke Rapids. In that capacity he held public money intended, in part, to benefit Roanoke Rapids, as well as other areas of the region, in his care and trust, was paid by his public constituency, while at the same time he was doing work with Parton and

obtaining an equity interest in the various “Moonlight Companies” referred to hereinabove. Defendant Watson’s ownership interest and conflicts with said “Moonlight” companies were actively concealed from the City and taxpayers of the City by all Defendants. Defendant Watson received bond monies and other public funds intended to be used to finance the Theatre enterprise and, in turn, to promote the economic development of Roanoke Rapids.

7. Defendant Ernest C. Pearson is a citizen and resident of the City of Cary, North Carolina. At all times complained of Defendant Pearson was a licensed attorney associated with the law firm of Sanford Holshouser, L.L.P., in Cary, North Carolina. At all times complained of, Defendant Pearson was a fiduciary and had a fiduciary duty to the City of Roanoke Rapids and at the same time, did business with and owned interests and expectations in other Defendants herein who had interests in conflict with the City. At various times, Defendant Pearson obtained an equity interest in and represented various other Defendants with fiduciary interests adverse to each other. In addition to representing the Defendant Commission, Pearson also represented the adverse interests of Rick Watson and Randy Parton and his Moonlight Companies. Such activity on the part of Defendant Pearson continued until his relationship with Commission was terminated by its Board. Defendant Pearson did professional work in forming the five operating Moonlight Companies for Defendant Parton, acquired an interest in at least one of such companies and had an agreement for an expectancy for same in the future. Even during the course of such activities on the part of Pearson, he was officially challenged as to his conflicts of interest and steadfastly refused to depart therefrom, taking the position “there is no conflict of interest.” Defendant Pearson knew or should have known that his activities were grossly improper.

8. The Defendants Moonlight Companies were formed at the behest of Defendant Parton, by Defendant Pearson and are each a “for-profit” duly chartered corporation by the State of North Carolina. Each of said Moonlight Companies likewise has its principle office and operations in the State of North Carolina. The Moonlight Companies likewise had a fiduciary duty to Plaintiffs and the citizens of Roanoke Rapids, North Carolina, because of the entrustment of public monies to them. At all times complained of, the Moonlight Companies were the alter ego of the Defendants Watson, Parton, and Pearson.

9. On April 27, 2007, the Moonlight Companies filed their Annual Report with the North Carolina Secretary of State, revealing that the owners thereof were Defendant Parton, his wife, Deb Parton, Defendant Watson, Defendant Pearson, and two others. Until such public filing, the owners of the Moonlight Companies were kept secret from the public.

10. Defendant Northeastern North Carolina Regional Economic Development Commission and Defendant North Carolina’s Northeastern Partnership (collectively “the Commission”) are the regional entity designated by statute to collectively and economically market and promote the Northeastern area of the State, including Roanoke Rapids. In doing so, the Commission survives by the use of public monies, including monies supplied by the City of Roanoke Rapids. Defendant Watson was the Chief Executive Officer and President of the Commission at all times complained of herein, while at the same time owning a portion of Moonlight Bandit Productions, LLC, formed and initially owned by Randy Parton, who Watson “recruited” to Roanoke Rapids to supposedly improve the economic development in the area. The Commission acted in a fiduciary capacity with respect to Plaintiff and Roanoke Rapids in that it had in its possession funds intended, in part, to benefit Roanoke Rapids and furnished to

the Commission for the purpose of being used in the best economic interest of the citizens of Roanoke Rapids.

### **JURISDICTION AND VENUE**

11. This action is brought pursuant to G.S. 58-63-1, *et seq.*, and common law as set forth below. This Court has jurisdiction over the parties pursuant to G.S. § 1-75.4. Venue is proper in this Court pursuant to G.S. § 1-82.

### **FACTUAL BACKGROUND**

12. At all times complained of, Defendant Watson was an employee of Commission, was its President, and was duty bound to act in the best interest of his employer (the Commission) and its constituent local governments, including the City of Roanoke Rapids. Sometime in 2004, Defendant Watson formulated the idea of a country music theatre in Eastern North Carolina as an economic development project. The project grew into the “Randy Parton Theatre” in Roanoke Rapids, North Carolina, of which Watson was the paid “manager” and, along with Defendants Pearson and Parton, part owner.

13. As a first step, Defendant Watson deemed it essential to recruit a “name” entertainer in order to associate the entertainer’s name with the project and thus make it “saleable” to various local governments in northeastern North Carolina. For unknown reasons, Defendant Watson settled on Randy Parton. Randy Parton was a sometime country music entertainer at Dollywood in Pigeon Forge, Tennessee. Although he had never distinguished himself as an entertainer, he appeared to be “sellable” because he was the brother of his famous sister, Dolly Parton. Although Randy Parton was on record as being somewhat unreliable in the entertainment business, and had demonstrated his problems with alcohol, Watson was

undeterred. He never disclosed such shortcoming to the City of Roanoke Rapids with whom he and Randy Parton finally made an agreement for the operation of a “Randy Parton Theatre.” In fact, Defendant Watson falsely promoted Randy Parton as an experienced manager of theatres and an outstanding entertainer. Such misrepresentations were made by Defendant Watson, not only to the City of Roanoke Rapids, but also to various other local governments in northeastern North Carolina, all in an effort to serve his own purposes as hereinafter described.

14. Defendant Watson visited Parton at his home in Tennessee and upon securing his commitment to be part of the project, immediately began a massive effort to sell him to his constituent local governments in northeastern North Carolina. The initial part of Defendants’ scheme was to introduce Defendant Parton to officials and get their so-called support for his theatre project. Defendant Watson first set about creating an aura of Randy Parton of full and apparent enthusiastic support from various high ranking officials in North Carolina government. This was accomplished in part by taking Randy Parton to meet various officials, including Speaker of the House, Jim Black, the Governor, and others. Although such officials had no vote or say-so in the approval or disapproval of the project, as a selling point to local governments, the purpose was to create the aura of acceptance of Randy Parton and the project. Defendant Watson also hosted several receptions and parties at his home in Edenton, North Carolina and at restaurants and bars in Raleigh. The Defendant, Ernest Pearson, went so far as to draft letters of “endorsement” for the signatures of state officials, all designed to create the desired aura and sell Randy Parton to local officials who had the responsibility of making the decision.

15. As the project evolved, the objective sought to be accomplished by Defendants Parton, Watson, and Pearson was to induce a local government to build a theatre to

the likings of the Defendants. Tax increment financing bonds could be utilized to pay for the theatre without a vote of the people. This was true because so-called Amendment One, twice defeated by the voters of North Carolina, had recently been narrowly approved by the North Carolina voters. Amendment One allows tax increment financing bonds to be issued by local government without a vote of the people. Such procedure was appealing to the Defendants for another reason. The bonds and the financing to come from them could be accomplished with very little information given to the public. In fact, in this instance, essential facts could be withheld from the public which could not be withheld had in fact, the people voted on the bond issue. After trying and failing with several local governments, the Defendants concentrated on the City of Roanoke Rapids. The Defendants inundated the officials of Roanoke Rapids with the “endorsements” obtained from state officials through the efforts described above.

16. When Defendant’s scheming started, they did not target Roanoke Rapids in particular. Rather, Defendants “shopped” the idea of building a theatre to several communities in northeastern North Carolina, an area of the State suffering from a struggling economy, before zeroing in on Roanoke Rapids. Defendant Watson, who as president of the Defendant Commission had a fiduciary duty to work toward improved economic development, promoted the theatre project as a means of improving the economy in the area. Defendant Watson manipulated his position with the Commission and his influence in northeastern North Carolina to elicit interest in his scheme. Failure with at least one other local government occurred when the local government learned that part of the deal required the local government to buy the necessary land, build the theatre, and “front the operation”, the functions which Roanoke Rapids finally undertook.

17. In order to evoke the semblance of “competition” between local governments to be selected by the Defendants, they put out an apparent competitive and ballyhooed “Request for Proposals” to local governments, giving them a deadline in which to submit their proposal and thus be fortunate enough to be the “winners”, i.e., get Randy Parton and an economic boon with a country music theatre.

18. Another ploy used by Defendants was influencing the media in giving the project publicity. Although Dolly Parton had nothing to do with the project and although it was her brother who was the central figure, Defendants used the Dolly Parton persona and insisted, among other things, that Randy Parton’s name always appear preceding the name of Dolly Parton in any news or publicity. Such efforts on the part of the Defendants exemplified their efforts to make a sale of their ill-conceived project to the people of Roanoke Rapids.

19. Further, the Defendants, while using public monies to do so, used various artifices to prevent all pertinent facts from getting into the public eye. Included with such efforts was the use of “Confidentiality Agreements” wherein it was agreed that certain information would not be furnished to the public although the parties were dealing with a very public issue.

20. Early on, it was apparent that Defendants Watson, Pearson and Parton were dealing with pervasive conflicts of interest surrounding the scheme and their activities within it. Such issues were kept hidden from the public and from the City of Roanoke Rapids. Included in such conflicts was the fact that Pearson represented and did legal work in connection with the project for Defendant Watson and the Commission as well as for Defendant Parton. In fact, Pearson organized five different companies which would be utilized by Parton and others in the operation of the proposed theatre, and while charging the Commission for services, also charged Parton and Watson for services. During all this time, Defendants Parton, Pearson and Watson

were laying groundwork for Watson and Pearson to obtain equity interests in the theatre and its operations by obtaining interests in certain Moonlight Companies. For at least Watson and Pearson, these efforts were in clear conflict with their fiduciary duties to the City of Roanoke Rapids, the people of Roanoke Rapids, and the Commission

21. In fact, on January 14, 2005, Pearson's law firm, Sanford Holshouser, accepted a check in the amount of \$50,000 (fifty thousand dollars) from Randy Parton, apparently for services rendered or to be rendered by Pearson and his law firm to Randy Parton and his wife, Deb Parton. Shortly thereafter, Pearson's law firm researched conflicts of interest issues and outrageously billed the Commission for such work while at the same time submitting bills for legal services to Parton. Thus, the Defendants Watson and Pearson were serving various conflicting interests, i.e., foremost, as it later appeared, themselves. In fact, on February 2, 2005, Defendant Pearson submitted a bill for legal services to Defendant Parton noting that he was separating his bills into three categories, one involving the formation of companies for Randy Parton and "the matter which we anticipate we will be compensated by way of a small equity interest in various companies" which Parton would "work through" in carrying out the "contemplated projects." On information and belief, such projects included the formation of five companies for Randy Parton which would be used to operate the proposed theatre and in which Pearson, Watson and Parton would, and did in fact, become owners of equity interests therein. At all such times, Defendant Watson continued as the President of Commission and Pearson continued as attorney for Commission, both duty-bound to serve the best interest of Commission and its constituents, including the City of Roanoke Rapids and its taxpayers. At all such times, Watson continued drawing a salary from Commission in the approximate amount of \$165,000 per year.

22. Defendant Moonlight Bandit Productions, LLC, was incorporated in the State of North Carolina at the behest of the individual Defendants, the legal work being done by Pearson and his law firm. It is one of the companies referred to by Pearson wherein he would obtain an equity interest through which the “contemplated projects,” i.e. the theatre operations would be carried out. On the day after the incorporation of Moonlight Bandit Productions, Pearson informed the Parties “that the City would seek approval of the Local Government Commission in the office of the State Treasurer to issue Tax Increment Bonds to finance the theatre project in Roanoke Rapids and that the City would thereupon assume the financial obligations and the deal originally contemplated by the parties. This meant that the City would assume the financial obligations of the “Randy Parton Theatre” and its operations in Roanoke Rapids in an amount which became some \$21.5 million for a theatre which had an over-stated cost of only \$13 million. Still, the City of Roanoke Rapids was not informed of the pertinent facts, including the conflicting positions of its supposed advocates and protectors, Watson and Pearson. In fact, the individual Defendants decided to craft agreements involving the business of the City, Defendants, and a developer into separate agreements, thereby pertinent and material facts would not come into the possession of the City or the public. The separations of agreements involving the City were said to be because of “public policy”, a euphemism for the lack of public scrutiny. The agreement with Moonlight Bandits and the City of Roanoke Rapids was approved by the Roanoke Rapids City Council on April 5, 2005. A true copy of that Agreement is attached as Exhibit A and incorporated by reference. In so approving, the Roanoke Rapids City Council had no knowledge that Moonlight Bandit was owned in part by persons it considered its caretakers, i.e., Watson and Pearson.

23. It was necessary by virtue of a legal requirement, that the City obtain a “business plan” which was due by April 15, 2005. To comply with the requirement, Defendants, Parton, Watson and Pearson, undertook to prepare a “Confidential Business Plan” attached as Exhibit B. At Watson’s directions, the so-called “Business Plan” was prepared for Moonlight Bandits, the titular contractual owner of the theatre operation, utilizing a go-by, as opposed to original material, for a business plan from a completely separate company. The business plan exaggerated and embellished, falsely, Defendant Parton’s experience and management capabilities when the Defendants knew or should have known that Parton had no management experience, that he had a reputation for unreliability in the entertainment world and that his history of alcohol abuse was a continuing problem. It was provided to the City for it to use in issuing and marketing the bonds. The exaggerated and false statements contained in the alleged business plan wrongfully facilitated an ill-fated business venture by the City and defrauded the City and its taxpayers.

24. The business plan revealed that Defendant Watson “is business manager for Moonlight Bandit Productions” (Moonlight Bandit Productions was itself a brand new company without a track record of managing anything) “over seeing all business activities for the Randy Parton Theatre.” Not disclosed was Watson’s ownership interest in Defendant Moonlight Productions or the financial gains he stood to obtain as a result of that interest. Nor did it mention that Defendant Pearson had or was obtaining a similar equity interest in the company. At all such times, Defendant Watson bodaciously continued to run the Commission as President and CEO, drawing a salary of some \$165,000 per year, funded in part by tax money intended to benefit the people of Roanoke Rapids, North Carolina.

25. Economic Research Associates (“ERA”) was commissioned to prepare a feasibility study of the Theatre. ERA based substantial, if not most, of its analysis on information obtained directly or indirectly from Defendants Watson, Parton and Pearson, including information that the Theatre would anchor a much larger development project formally known as the Carolina Crossroads Music and Entertainment District (“Carolina Crossroads”). The feasibility study, which was not complete until April 14, 2005, concluded that the Theatre could be a “market-viable attraction concept” *if* surrounding development in Carolina Crossroads was complete and operating by the time the Theatre opened. Specifically, the feasibility study found the Theatre could be viable if specified “assumptions” were met. The study listed several assumptions on which the economic viability of the Theatre depended, specifically “key elements of the larger proposed development [Carolina Crossroads], including two hotels, at least 200,000 square feet of retail, and additional entertainment/amusement opportunities are operational by the time the Theatre is opened” and the “Theatre is competently and proactively managed to maximize earnings and deliver a product that is in tune with the marketplace.” Defendants knew or through the exercise of reasonable care should have known that these assumptions would not be met.

26. ERA was also commissioned to prepare a second related feasibility study of the Carolina Crossroads Music and Entertainment District in which the Theatre was being built. On December 13, 2005, ERA completed what has been dubbed a study of the financial plan and economic impacts of the Carolina Crossroads district. The so-called financial study specifically states “ERA’s Scope of Work did not involve analyzing the market viability of the overall Entertainment District program as proposed. Rather, the proposed program was taken as an

assumption set.” Upon information and belief, no feasibility study of Carolina Crossroads itself was commissioned by any party

27. By April 22, 2005, the foregoing transactions, including the Agreement between the City and various Defendants, had reached the draft stage. The Local Government Finance Division of the State Treasurer’s Office, in its official capacity, instructed the City that it needed to re-negotiate terms of the Agreement between the City and the various Defendants. Such instructions included important changes in the priority of payments from the theatre enterprise, such as that real property, debt and operating costs would be paid before fees payable to Randy Parton and before other profit distributions were made. The State Treasurer sought to make sure that the final agreement would prioritize the payment of such things as the bonds before Randy Parton’s company, in which all of the individual Defendants owned an interest, was paid. For reasons, which at this point are obscure, the final agreement did not reflect the recommended changes to the priority of payments. Payment to Parton, for more than unfortunate reasons, remained the priority.

28. The Agreement for the theatre operation and the City euphemistically called the “Economic Development Agreement” (EDA) was signed by Parton for Moonlight Bandit, by the City and by others on June 30, 2005 (Exhibit A). The Agreement contained the following Terms and Conditions:

- a. After the debt on the bonds used to finance the theatre is paid off, Defendant Parton and/or Moonlight Bandit would have the option to purchase the theatre for \$1.00 Dollar [Thus, Watson, still working for the Commission, Pearson, an attorney representing various interests, and Parton obtained a

contractual right to purchase from the people of Roanoke Rapids the \$21,500,000 facility for One Dollar].

- b. Moonlight Bandits would be responsible for managing the theatre [again, the individual Defendants, unknown to all other parties, then owned the vast majority of it (less than 10% being owned by their friends)].
- c. Defendant Parton was to be paid a \$1,500,000 “Artist Fee” each year [there is no indication or suggestion as to how this figure was reached, and it was far more money than Randy Parton had ever earned.]
- d. The City agreed to provide Parton with an “acceptable, fully furnished home” and an “acceptable vehicle.”

29. The same agreement provided that revenue from the theatre would be distributed in the following priority: (a) payment of \$750,000 toward Parton’s artist fee; (b) payment of operating costs; (c) payment of the balance of the Artist’s Fee to Parton (another \$750,000); and (d) payment to the “equity fund” from which a short-fall in subsequent years could be satisfied. After all such priorities were satisfied, the lease payments to the City would be equal to the annual debt service on the financing and in particular, the TIF bonds used to finance construction of the theatre. The Proceeds from the theatre have never to this day been sufficient to satisfy the debt service on the bonds or to repay them, an eventual fact which the Defendants knew or should have known would become fact. It was obviously and economically impossible for the theatre to satisfy a \$21.5 million debt, a fact which the Defendants knew or should have known in the exercise of reasonable care.

30. No vote of the people of Roanoke Rapids, North Carolina was ever taken to authorize the transactions described hereinabove. Had it been done, the public scrutiny would have revealed a looming fiasco and a financial impossibility and tragedy for the City.

31. The transactions above attracted other scrutiny. On January 4, 2006, Defendant Pearson, representing the Commission, met with the Commission and Defendant Watson in connection with a federal investigation of corruption and bribery offenses involving the Speaker of the North Carolina House of Representatives, Jim Black. Pearson charged the Commission for his legal services in doing so. The Attorney General of the State of North Carolina became involved and on January 17, 2006, Defendant Pearson informed the Attorney General that Defendant Watson did not have an alleged conflict of interest in working for the Commission and for Parton and Moonlight Bandit at the same time. Pearson alleged in correspondence to the Attorney General that, as he saw it, "there was no conflict of interest" in Defendant Watson's work for both the Commission and for Parton. His reasoning was that, among other things, the Commission did not give anything of value to Parton, i.e., the interest of Parton was "exactly the same" as the interests of the Commission. Obviously, such response did not advise the Attorney General of Watson's ownership interest in Moonlight Bandit or his potential of being able to buy the \$21.5 million theatre enterprise from the people of Roanoke Rapids for his portion of \$1.00. Neither did Pearson disclose his own similar interest.

32. On January 13, 2006 at a meeting of the County Managers who were represented in the commission headed by Watson, the County Managers questioned Defendant Watson's job with the Commission versus his relationship with Defendant Parton and the various theatre related companies. They raised the issue of conflict of interest.

33. On March 7, 2006, the Local Government Commission approved the use of TIF bonds for the Roanoke Rapids theatre enterprise, which the Defendants had named the “Randy Parton Theatre.” The proposed uses of the bond funds of \$21.5 million was set out by the local government commission agenda as:

- a. Theatre acquisition, \$12,885,000;
- b. Capitalized interest (18 months), \$1,725,000;
- c. Repayment of Notes and Interest \$3,725,000;
- d. Debt Service Reserve Funds, \$1,800,000;
- e. Interest Reserve, \$1,065,000; and
- f. Cost of Insurance/Other, \$300,000.

34. The State Auditor also became concerned about the various activities of the Defendants and investigated. In March 2006, the State Auditor issued a scathing Audit of the Commission. The Audit confirmed the obvious conflicts of interests between the individual Defendants and found inadequate oversight of the Board of Directors of the Commission. The audit found that the Commission had undertaken very poor oversight in general, had financial reporting irregularities and other deficiencies as otherwise set out in the report. Following the report, the Commission fired Defendant Watson, making his termination retroactive. Upon information and belief, the Board of the Commission also terminated the services of Defendant Pearson, for similar reasons.

35. The City has been greatly damaged as a result of the scheme and complicities of the Defendants. In addition to paying more than \$21.5 million for a theatre which has a maximum value now of no more than \$6 million, and the clear loss of the difference between the \$13 million cost of construction of the theatre and the \$21.5 million in bonds, the

City is prevented from undertaking other municipal projects. Thus, the City is prevented from making other additional expenditures. One of the constrictions on the City is the inability to pay incentives for any other economic development project.

36. The theatre construction was completed on March 2, 2007. The TIF bond issue closed on March 7, 2007, and \$21.5 million became available to the City for the cost of the theatre. The actual cost of construction of theatre was approximately \$13 million, nearly \$8.5 million less than the closing amount of the bonds. On the same day, March 7, 2007, the City leased the theatre to Moonlight Bandit Productions. The understanding had been that Parton, with his represented vast experience in managing country music theatres, would manage the theatre. Instead, the Defendant Watson, the CEO of the Commission, became the manager. He brought with him some of his staff from the Commission.

37. On March 15, 2007, Defendant Parton took possession of the City's theatre, which immediately was formally named the "Randy Parton Theatre." Over \$1 million of the bond issue was used to make the theatre the extension of Randy Parton himself. Large letters on the front of the theatre represented it as the "Randy Parton Theatre." Inside, the elaborate curtains for the stage were the letters "R P" elaborately displayed. The same letters, "R P," appeared on the furniture, the seating, items purchased from the concession stands (even the napkins), on brochures and on the website used to market the theatre.

38. Randy Parton, with the consent and complicity of Watson, misused millions from the theatre. Among the misuses was the \$2 million spent by Parton on such things as trips to Las Vegas, liquor purchases, apartment rents for Watson's son, \$600 for a girdle for Defendant Parton's wife, \$600 for a single pair of trousers for Defendant Parton, and various other frivolous and improper expenditures, all amounting to over \$2 million. Such expenditures

amount to embezzlement of City funds and intentional misappropriation by Parton with the knowledge of Watson and enabled by the negligent oversight of Watson. Much of such expenditures were run through Moonlight Bandit Productions in which the individual Defendants all had a financial interest and responsibility to the City.

39. Defendant Parton performed his first show at the theatre on July 16, 2007. His performance and the performance of Watson reflected the fact that neither of them had any experience whatsoever in managing a country music theatre, or even a remotely similar undertaking. In September, just two months after Parton's first performance such inadequacies had become so pronounced that the City undertook to negotiate a new contract with Parton, reducing his role as manager and lead performer. Just weeks later, on December 6, 2007, just five months after Parton came in as ostensible manager and principal entertainer, officials of the City had Parton removed from the theatre just before a scheduled performance because he was "under the influence." Thus, the City lost its purported manager and its lead entertainer meaning that the whole project had come apart.

40. The City has now employed more competent management and has booked more reliable entertainment in the theatre. The theatre has been renamed the Roanoke Rapids Theatre and while admittedly the theatre is doing better without the Randy Parton influence, there remains a practical impossibility that the theatre will ever be able to pay off the bonds which financed its existence and the spending sprees of Randy Parton. Because of the misconduct the Defendants, as alleged herein and as will be otherwise determined in discovery in this case, the City of Roanoke Rapids has been stuck with a white elephant investment from which there is not practical means of recovery. In fact, it has just been reported that the Theatre will be closed for the first few weeks of July 2008.

41. The conduct of Defendants as set forth hereinabove was in violation of their fiduciary duties owed by the Defendants to Roanoke Rapids and its taxpayers, was pursuant to a common scheme and plan, and at all times was pursuant to a concerted plan and common conspiracy to defraud the City of Roanoke Rapids and its taxpayers. In doing so, Defendants made false and material representations to the City of Roanoke Rapids, withheld material facts, and thereby induced the City to issue \$21.5 million in bonds for which it now owes, knowingly grossly overstated the financial expectations of the theatre, and thus the ability of the City to repay the bonds appropriated and misused for their personal benefit the funds and property of the City, and otherwise wrongfully deprived the City and its citizens of their funds and property. All for their personal benefit and to obtain the theatre enterprise from the City and its taxpayers at no cost to them other than a token one dollar. Defendants are joint tortfeasors under the law of North Carolina and its Uniform Contribution Among Tort-Feasors Act. Each of the Defendants is liable to the City for the conduct of each of the others.

42. The conduct of the Defendant was intentional and grossly negligent. Plaintiff is therefore entitled to recover such punitive damages as may be allowed by a jury.

43. Plaintiff and his fellow citizens and taxpayers at Roanoke Rapids have been injured in an amount greater than \$10,000.

44. Plaintiff brings this action on behalf of himself and the City of Roanoke Rapids because the City is unlikely to take such action, including litigation, as may be necessary to recover from Defendants the losses and damages incurred as a result of Defendants' actions as alleged herein. A request of the City to act would be futile as evidenced by the City's decision to enter into a so-called Settlement Agreement in February 2008 with Defendants Parton and Moonlight Companies, without the approval of Plaintiff or his fellow taxpayers. Pursuant to the

Settlement Agreement, the City agreed to pay \$750,000 to Defendants Parton and Moonlight Bandits in consideration of the release of and from any and all claims, actions or causes of action which each party to the Settlement Agreement had or might have had against the other party at the time the Settlement Agreement was executed.

**Count 1 – Civil Conspiracy**

45. Plaintiff incorporates by reference and realleges fully herein the contents of the foregoing paragraphs 1 through 44.

46. Defendants agreed to do an unlawful act or to do a lawful act in an unlawful way in that Defendants attempted to, and did in fact, fraudulently procure or cause to be procured public financing for the construction, development and operation of the Theatre.

47. Plaintiff has been and will in the future be injured by the acts and agreements of Defendants in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of the tax revenues which would have been available from the Carolina Crossroads and/or the Theatre had Defendants' scheme not depleted bond revenues and/or opportunities available for the development of the TIF district at Carolina Crossroads.

48. Plaintiff has been and will in the future be injured by the acts and agreement of Defendants in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of municipal monies which now must be diverted to operation costs of the Theatre and to debt servicing on TIF bonds used to finance the Theatre, and which monies inured to the benefit of Defendants.

49. Defendants acted pursuant to a common scheme in that Defendants planned among themselves and with the advice and counsel of others, including subordinate employees and third party professionals, and formed corporate entities to further such planning.

## **Count 2 – Breach of Fiduciary Duty**

50. Plaintiff incorporates by reference and realleges fully herein the contents of the foregoing paragraphs 1 through 49.

51. Defendant Watson, as President and CEO of the Commission owed a fiduciary duty to the Commission and the taxpayers who fund the Commission

52. Defendant Watson breached his fiduciary duty by advancing his personal interests as an owner of Moonlight Bandit companies when the Commission had financial, professional and other dealings with Moonlight Bandit companies and, as a fiduciary, his highest duty was to the Commission and the taxpayers.

53. Defendant Pearson, as an attorney associated with the law firm of Sanford Holshouser, L.L.P owed a fiduciary duty as attorney to his client, the Commission and to the taxpayers who fund the commission.

54. Defendant Pearson breached his fiduciary duty by representing, serving on the board of and, at times, owning interest in other named Defendants, specifically the Moonlight Companies, whose interest was in conflict with his duty as attorney to both the commission and the taxpayers, represented by the Plaintiff, who funded the commission.

55. Plaintiff has been and will in the future be injured by both Defendant Watson's and Defendant Pearson's breach of fiduciary duty in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of the tax revenues which would have been available from Carolina Crossroads had Defendants' scheme not depleted bond revenues available for the development of the TIF district at Carolina Crossroads.

56. Plaintiff has been and will in the future be injured by both Defendant Pearson's and Defendant Watson's breach of fiduciary duty in that Plaintiff, as a citizen and

taxpayer, is and will be deprived of the benefit of municipal monies which now must be diverted to operation costs of the Theatre and to debt servicing on TIF bonds used to finance the Theatre, and which monies inured to the benefit of Defendants.

### **Count 3 – Common Law Fraud**

57. Plaintiff incorporates by reference and realleges fully herein the contents of the foregoing paragraphs 1 through 56.

58. Defendants Parton, Watson and Pearson, individually and through Defendant companies, made or caused to be made representations and omissions relating to material past or exiting facts, including representations and omissions relating to:

- a. Defendant Parton's professional management experience and/or ability to manage an entertainment venue like the Theatre;
- b. Defendant Watson and Pearson's ownership interests in Defendant companies including Moonlight Bandit; and
- c. Representations to ERA, including statements about comparable entertainment venues, development in Carolina Crossroads neighboring the Theatre, the availability of financial assistance for Theatre marketing and the potential for private investment in order to obtain a positive feasibility study for review and use by the City and others.

59. The representations made by Defendants were false.

60. When such representations were made, Defendants knew the representations were false or made the representations recklessly without any knowledge of their truth and as positive assertions.

61. Defendants made the representations with the intent that the same would be acted upon by City, the LGC, and others.

62. The City and other government bodies, acting on behalf of Plaintiff as a citizen and taxpayer, reasonably relied upon the representations and omissions and acted upon them.

63. Plaintiff has been and will in the future be injured by the acts and agreements of Defendants in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of the tax revenues which would have been available from Carolina Crossroads and the Theatre had Defendants' scheme not depleted bond revenues available for the development of the TIF district at Carolina Crossroads.

64. Plaintiff has been and will in the future be injured by the acts and agreement of Defendants in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of municipal monies which now must be diverted to operation costs of the Theatre and to debt servicing on TIF bonds used to finance the Theatre, and which monies inured to the benefit of Defendants.

#### **Count 4 – Tortious Acting in Concert**

65. Plaintiff incorporates by reference and realleges fully herein the contents of the foregoing paragraphs 1 through 64.

66. Defendants committed a tortuous act in concert with each other and pursuant to a common design in that Defendants agreed to do and did in fact fraudulently procure or caused to be procured public financing for the construction, development and operation of the Theatre and the same inured to the benefit of Defendants personally.

#### **Count 5 – Unfair and Deceptive Trade Practices**

67. Plaintiff incorporates by reference and realleges fully herein the contents of the foregoing paragraphs 1 through 66.

68. Defendants committed an unfair or deceptive act or practice in that representations made relating to material facts or omissions of materials facts had the capacity or tendency to deceive.

69. Defendants' unfair or deceptive act or practice was in or affecting commerce.

70. Plaintiff has been and will in the future be injured by the acts and agreements of Defendants in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of the tax revenues which would have been available from Carolina Crossroads and the Theatre had Defendants' scheme not depleted bond revenues available for the development of the TIF district at Carolina Crossroads.

71. Plaintiff has been and will in the future be injured by the acts and agreement of Defendants in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of municipal monies which now must be diverted to operation costs of the Theatre and to debt servicing on TIF bonds used to finance the Theatre, and which monies inured to the benefit of Defendants.

### **Count 6 – Fraudulent Misrepresentation**

72. Plaintiff incorporates by reference and realleges fully herein the contents of the foregoing paragraphs 1 through 71.

73. Defendants made or caused to be made false representations or concealed or caused to be concealed material facts, and the same were reasonably calculated to deceive and were made with the intent to deceive, including:

- a. that Defendants Pearson and Watson were working for both the Commission and one or more Defendants at the same time;
- b. representations to ERA, including statements about comparable entertainment venues, about the potential for private investment in order to obtain a positive feasibility study for review; and
- c. the false suggestion and aura of competition between several cities.

74. False representations and concealments of materials facts made by Defendants did in fact deceive.

75. Plaintiff has been and will in the future be injured by the acts and agreements of Defendants in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of the tax revenues which would have been available from Carolina Crossroads and the Theatre had Defendants' scheme not depleted bond revenues available for the development of the TIF district at Carolina Crossroads.

76. Plaintiff has been and will in the future be injured by the acts and agreement of Defendants in that Plaintiff, as a citizen and taxpayer, is and will be deprived of the benefit of municipal monies which now must be diverted to operation costs of the Theatre and to debt servicing on TIF bonds used to finance the Theatre, and which monies inured to the benefit of Defendants.

**Count 7 – Negligent Misrepresentation**

77. Plaintiff incorporates by reference and realleges fully herein the contents of the foregoing paragraphs 1 through 76.

78. The City and others acting on behalf of Plaintiff as a citizen and taxpayer justifiably relied to their detriment and to Plaintiff's detriment on information prepared without reasonable care by Defendant Watson and Pearson, including:

- a. that Defendants Pearson and Watson were working for both the Commission and one or more Defendants at the same time;
- b. representations to ERA, including statements about comparable entertainment venues, about the potential for private investment in order to obtain a positive feasibility study for review; and
- c. the false suggestion and aura of competition between several cities.

79. Defendant Watson, as a fiduciary, owed the relying parties a duty of care as President and CEO of the Commission.

#### **Count 8 - N.C. Declaratory Judgment Act**

80. Plaintiffs incorporate by reference and reallege fully herein the contents of the foregoing paragraphs 1 through 79.

81. The Agreement by and between the City of Roanoke Rapids and Defendants the product of Defendants' conspiracy and fraudulent conduct as alleged herein, and thus is void.

82. There is a genuine, subsisting, and justiciable controversy between and among the parties to this action arising out of fraudulent and jointly tortuous conduct of Defendants.

83. Pursuant to G.S. §1-253, Plaintiff is entitled to a declaration that the Agreement by and between the City of Roanoke Rapids and Defendants, and any and all agreements and contracts resulting therefrom, including the Settlement Agreement, are null and void, and any efforts to enforce the same are unlawful.

WHEREFORE, Plaintiff respectfully prays the Court:

- A. That the Court designate this case as an “exceptional or complex” matter pursuant to Rule 2.1 of the General Rules of Practice
- B. That pursuant to the law of North Carolina, the Court appoint an appropriate person to accomplish an accounting of all the losses sustained by the Plaintiff and the City;
- C. That the Court order an appraisal of the theatre;
- D. That the Defendants be enjoined and ordered by the Court to jointly and severally restore all losses by City to the City; that such amounts include unauthorized expenditures and misappropriations of City funds, and the difference between the actual market value of the theatre and the costs of \$21.5 million.
- E. That the contract referred to in Paragraph 26 between the City and certain of the Defendants providing for the operation of theatre and sale to the Defendants be declared void and the Court enter a Declaratory Judgment to that effect.
- F. That the Defendants be enjoined and ordered by the Court to restore all losses by City to the City, and to pay such punitive damages as a jury may award;
- G. That the Defendants pay all costs of this action;
- H. That all issues of fact be tried to a jury;
- I. That in the trial of this action, appropriate issues of breach of fiduciary duty, intentional and negligent, tortious conduct, and such other issues as

may arise from the evidence in this action, and damages and punitive damages, be submitted to the jury.

- J. That pursuant to North Carolina law the Defendant's be required to pay reasonable attorney fees as part of the costs of this action;
- K. That the Court enter such other and further Orders as may be just and proper.

This the \_\_\_\_\_ day of June, 2008.

North Carolina Institute for Constitutional Law

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