

IN AND FOR THE SEVENTEENTH JUDICIAL  
CIRCUIT IN AND FOR BROWARD COUNTY,  
FLORIDA

CASE NO.:

GARY BITNER, an individual, and BITNER  
GOODMAN, INC., a Florida corporation,

Plaintiffs,

vs.

MICHAEL GOODMAN, an individual,  
GOODMAN PUBLIC RELATIONS, INC., a  
Florida corporation, BETH ZUCKERKORN,  
an individual, and GENE BROYLES, an  
individual,

Defendants.

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### **COMPLAINT**

Plaintiffs, GARY BITNER and BITNER GOODMAN, INC., by and through their undersigned counsel, hereby sue Defendants, MICHAEL GOODMAN, GOODMAN PUBLIC RELATIONS, INC., BETH ZUCKERKORN, and GENE BROYLES, as follows:

### **JURISDICTION**

1. Plaintiff, GARY BITNER (“Bitner”), is an individual, sui juris, and a resident of Broward County, Florida.
2. Plaintiff, BITNER GOODMAN, INC. (the “Company” or “Bitner Goodman”), is a Florida corporation with its principal place of business in Broward County, Florida.
3. Defendant, MICHAEL GOODMAN (“Goodman”), is an individual, sui juris, and a resident of Broward County, Florida.

4. Defendant, GOODMAN PUBLIC RELATIONS, INC. (“Goodman PR”), is a Florida corporation, with its principal place of business in Broward County, Florida.
5. Defendant, BETH ZUCKERKORN (“Zuckerkorn”), is an individual, sui juris, and a resident of Broward County, Florida.
6. Defendant, GENE BROYLES (“Broyles”), is an individual, sui juris, and a resident of Broward County, Florida.
7. Venue is proper in Broward County, Florida as it is the location where the causes of action accrued, and where Defendants reside.

#### **BACKGROUND ALLEGATIONS**

8. Bitner was involved in public relations for many years and started his own Ft. Lauderdale based public relations company approximately 35 years ago.
9. After employing Goodman for several years in his own firm, Bitner decided to bring Goodman on as a partner and, to that end, the parties formed Bitner Goodman in 2003.
10. Since the formation of their business partnership, Bitner and Goodman have operated Bitner Goodman with great success for over 10 years.
11. At all relevant times and through the filing of this action, Bitner served as the President of the Company and Goodman served as the Vice President, with each serving as a Director and each owning a 50% interest in the Company.
12. Bitner Goodman has been reported to be one of the largest and most respected full-service marketing companies in South Florida, and services a variety of clients, including the Simon Property Group malls, Winn-Dixie stores, and the South Florida

Regional Transportation Authority (Tri-Rail). Bitner Goodman is also a founding member of Worldcom Public Relations Group.

13. Recently, however, Goodman determined that he was interested in moving in a different direction and wanted to separate from the Company.
14. Because of the extensive client relationships, customer contracts, and assets of Bitner Goodman, the parties began discussing the framework for Goodman's departure. In the meantime, the parties agreed to continue to jointly operate as Bitner Goodman to best protect the business, its clients, and its employees.
15. However, when Bitner arrived at the office the morning of June 12, 2014, he was confronted with a nearly empty office.
16. Through the review of surveillance video, Bitner has since discovered that, under the cover of darkness on June 11, 2014, Goodman, together with a moving company and several employees including Zuckerkorn and Broyles, waited until the office had closed for the day—and then looted it.
17. At the time of the theft, Zuckerkorn was the Vice President of Graphic Communications at Bitner Goodman and Broyles was the Staff Accountant/Office Manager.
18. Both Zuckerkorn and Broyles were trusted and high level employees of Bitner Goodman.
19. Surveillance video shows that 17 minutes after Bitner left for the day, the looting began with an employee taking three (3) pieces of framed artwork. Over the next

five (5) hours, until 11:47 p.m., Goodman and the employees plundered Bitner Goodman.

20. Specifically, Goodman, together with Zuckerkorn and Broyles, removed significant assets of the Company, including but not limited to: all Company checks and accounting records; office furniture including desks, tables, chairs, printers, televisions, phones, a credenza, and a light fixture; 16 file cabinets and their files; a binding machine with its supplies; all of Bitner Goodman's art department computers; Bitner's personal items; more than 15 computers and a server; a vast array of supplies; a shredder; a coffee machine and an espresso machine; and petty cash.
21. Simply, these actions were undoubtedly designed to leave the Company in a position where it simply could not function.
22. Defendants' looting of the Company was so extensive and malicious that items as minor as an umbrella stand and first aid kit had been taken.
23. In fact, at 8:10 p.m., Goodman is seen on the surveillance video smiling as he announces to his co-conspirators that he is "going to take the bell," as he smiles and walks off with the service bell.
24. Bitner learned of the looting the following morning when he arrived to an almost empty office.
25. Bitner thereafter demanded return of the stolen assets and property, but to date Defendants have failed and/or refused to return any such items.

26. Subsequent to the looting, Bitner discovered that Goodman formed Goodman PR months ago and, in fact, filed the paperwork with the Secretary of State on April 30, 2014.
27. Additionally, Goodman PR created its own website, which website identifies Goodman as a *former* partner of Bitner Goodman.
28. Even more disturbing, however, Goodman PR identifies itself as having a “track record of providing unparalleled service to *our* clients . . .” (emphasis added) and then identifies clients who are and continue to be clients contractually obligated to Bitner Goodman, with at least one client having years remaining on its contract. The Goodman PR website also includes testimonials from clients purportedly praising Goodman PR when, in fact, the services being praised were performed by Bitner Goodman.
29. Although Goodman PR has been purportedly operating for approximately one month, in identifying itself as having a “track record,” Goodman PR attempts to improperly piggy-back off the success and goodwill of the Company.
30. In addition to looting the Company and in addition to inducing various staff members to join Goodman PR’s employ, Goodman, ostensibly in his capacity as officer of Bitner Goodman, caused the Bitner Goodman website, facebook, and twitter accounts to be taken down from the internet.
31. As a public relations firm, Bitner Goodman heavily relies upon social media, as Goodman and the other Defendants undoubtedly know.

32. In fact, while Goodman caused Bitner Goodman's social media to be discontinued, he activated his own website, facebook, and twitter accounts. In this way, if someone conducted a web search, they would be unable to access the Bitner Goodman website, but would be able to access the Goodman PR website.
33. Lastly, because Goodman refused to return any of the accounting records, Bitner Goodman was required to immediately retain a third party vendor and re-hire the Company's prior bookkeeper (and purchase a new computer and printer) to recreate, as best as possible, its accounting records. At that time, Bitner discovered that various clients of the Company were not invoiced for the months of May and June and, upon information and belief, Goodman and Goodman PR diverted such fees to Goodman PR.
34. Additionally, as a result of Defendants' actions in taking all of Bitner Goodman's files and accounting records, and upon realizing that certain unapproved checks to vendors and creditors were clearing Bitner Goodman's account, Bitner Goodman undertook emergency procedures to protect the funds in its checking account and prevent improper payments. As a result, several vendors have contacted Bitner Goodman as a result of non-payment of amounts due them, and Bitner Goodman has been placed in the unfortunate position of having to confirm with the vendor and then with the appropriate client that these amounts are actually due the vendor, and that payment for same has been invoiced by Bitner Goodman and paid by the client. These matters, all necessitated by Defendants' actions, have taken tremendous time and resources from Bitner Goodman and its remaining employees.

35. Zuckerkorn, who was largely responsible for the art department at Bitner Goodman, has refused to return to Bitner Goodman its art files, both relative to the business of Bitner Goodman and relative to the business of Bitner Goodman's clients, including clients who Goodman PR does not even purport to service.
36. As such, Goodman PR, Goodman, and Zuckerkorn have left Bitner Goodman in the position of being unable to provide services to clients as needed and, as a result thereof, Bitner Goodman could be in breach of various contracts at any given time.
37. Also, upon information and belief, Zuckerkorn was largely responsible for orchestrating the removal of Bitner Goodman's social media sites from the internet and has been instrumental in ensuring that the sites remained "offline."
38. Bitner Goodman has had to incur additional and significant expense to hire another company to attempt to recreate its website and social media presence.
39. Broyles, who was the account manager for Bitner Goodman (and in such position, acquired sensitive financial information about the firm), while employed by Bitner Goodman and during his work hours, actively procured new vendors and a physical location for Goodman PR and, in fact, was using Bitner Goodman services, including its email, to do so. Furthermore, prior to his departure with Goodman, Broyles planned and executed the payment to various creditors/vendors based solely upon Goodman's interests and not the interests of Bitner Goodman. In short, Broyles provided various creditors priority in contravention of the best interest of Bitner Goodman.

40. Goodman, Zuckerkorn, and Broyles' actions were not done in good faith and, instead, were done maliciously and with the direct and sole purpose of interfering with the business of the Company, trying to put Bitner Goodman out of business, and placing it in a position of being unable to service its clients or pay its vendors.
41. All conditions precedent to the maintenance of this action have occurred, been waived, or otherwise excused.

**COUNT I - BREACH OF FIDUCIARY DUTY**

42. Plaintiffs, GARY BITNER and BITNER GOODMAN, INC., reallege their allegations in Paragraphs 1 through 41 above.
43. This is an action against Defendant, MICHAEL GOODMAN, for damages in excess of \$15,000.00, exclusive of attorneys' fees and costs, for breach of fiduciary duty.
44. Bitner and Goodman became partners in 2003, with Bitner and Goodman each owning a 50% interest in Bitner Goodman, and both being officers and directors.
45. Bitner reposed great confidence and trust in Goodman in connection with the affairs of Bitner Goodman, which confidence Goodman knowingly and voluntarily accepted.
46. Pursuant to Florida law, Goodman owed Bitner certain fiduciary duties and was required to deal with Bitner and Bitner Goodman fairly and in good faith. These duties include duties of loyalty, honesty, good faith, care, and fair dealing; the duty to disclose all material facts; the duty to refrain from self-dealing; the duty to act in the best interest of Bitner Goodman; and the overall duty to not take unfair advantage of Bitner Goodman.



47. Goodman breached these duties and has failed to uphold his fiduciary duties of honesty, loyalty, good faith, and care that an ordinarily prudent person would exercise under similar circumstances, or in a manner reasonably believed to be proper.
48. These actions include, but are not limited to, Goodman's actions which were done for the sole purpose of deriving a personal benefit to the detriment of Bitner Goodman, stealing the Company's assets and business records to furnish his newly formed entity, diverting business proceeds which were to inure to Bitner Goodman, stealing the Company's checks and accounting records for the sole purpose of bringing the Company's daily operations to a halt, and actively soliciting clients and employees away from Bitner Goodman while still employed, and an officer and director of the Company.
49. Bitner and Bitner Goodman have been damaged as a result of Goodman's breaches of fiduciary duty.

WHEREFORE, Plaintiffs, GARY BITNER and BITNER GOODMAN, INC., respectfully request judgment against Defendant, MICHAEL GOODMAN, for damages in excess of \$15,000.00, costs, and interest, together with such other and further relief as this Court deems just and proper, including punitive damages upon an evidentiary showing of entitlement to same.

**COUNT II - BREACH OF FIDUCIARY DUTY**

50. Plaintiff, BITNER GOODMAN, INC., realleges its allegations in Paragraphs 1 through 41 above.

51. This is an action against Defendants, BETH ZUCKERKORN and GENE BROYLES, jointly and severally, for damages in excess of \$15,000.00, exclusive of attorneys' fees and costs, for breach of fiduciary duty.
52. Zuckerkorn and Broyles were trusted and high level employees of Bitner Goodman, which trust Zuckerkorn and Broyles knowingly and voluntarily accepted.
53. By virtue of their relationship, Zuckerkorn and Broyles owed Bitner Goodman certain fiduciary duties and were required to deal with them fairly and in good faith.
54. Notwithstanding their position of trust, Zuckerkorn and Broyles breached their duties by, among other things, actively orchestrating and carrying out the looting of the offices of Bitner Goodman, taking and thereafter refusing to return to Bitner Goodman its numerous files, giving certain creditors priority to the detriment of Bitner Goodman, and placing Bitner Goodman in a position where it was unable to service its clients or its vendors.
55. These actions were taken by Zuckerkorn and Broyles while still employed by Bitner Goodman.
56. These actions of Zuckerkorn and Broyles were done in bad faith and for the sole purpose of interfering with the business of Bitner Goodman.
57. Bitner Goodman has been damaged as a result of Zuckerkorn and Broyles' breaches of fiduciary duty.

WHEREFORE, Plaintiff, BITNER GOODMAN, INC., respectfully requests judgment against Defendants, BETH ZUCKERKORN and GENE BROYLES, jointly and severally, for damages in excess of \$15,000.00, costs, and interest, together with such other and further relief as

this Court deems just and proper, including punitive damages upon an evidentiary showing of entitlement to same.

**COUNT III - CONVERSION**

58. Plaintiffs, GARY BITNER and BITNER GOODMAN, INC., reallege their allegations in Paragraphs 1 through 41 above.
59. This is an action against Defendants, MICHAEL GOODMAN, GOODMAN PUBLIC RELATIONS, INC., BETH ZUCKERKORN and GENE BROYLES, jointly and severally, for damages in excess of \$15,000.00, exclusive of attorneys' fees and costs, for conversion.
60. On or about June 11, 2014, Defendants, Goodman, Goodman PR, Zuckerkorn, and Broyles, looted the offices of the Company.
61. During such time, Defendants converted to their own use property lawfully belonging to the Company and Bitner, personally.
62. Defendants have taken possession of these items with the intent to exercise an ownership interest inconsistent with the Plaintiff's right of possession.
63. Additionally, upon information and belief, Goodman and Goodman PR invoiced certain Bitner Goodman clients for services performed, which amounts should have been invoiced on behalf of the Company.
64. Despite demand, Defendants have refused to return these items.
65. Upon information and belief, Defendants are currently utilizing some of these items for the operation of Defendant Goodman's new business, Goodman PR, less than one mile away.

66. Plaintiffs have been damaged as a direct and proximate result of Defendants' actions.

WHEREFORE, Plaintiffs, GARY BITNER and BITNER GOODMAN, INC., respectfully request judgment against Defendants, MICHAEL GOODMAN, GOODMAN PUBLIC RELATIONS, INC., BETH ZUCKERKORN, and GENE BROYLES, jointly and severally, for damages in excess of \$15,000.00, costs, and interest, together with such other and further relief as this Court deems just and proper, including punitive damages upon an evidentiary entitlement to same.

**COUNT IV - TORTIOUS INTERFERENCE**

67. Plaintiff, BITNER GOODMAN, INC., realleges its allegations in Paragraphs 1 through 41 above.

68. This is an action against Defendants, MICHAEL GOODMAN and GOODMAN PUBLIC RELATIONS, INC., jointly and severally, for damages in excess of \$15,000.00, exclusive of attorneys' fees and costs, for tortious interference.

69. Bitner Goodman has various business relationships with clients, many of which are evidenced by written contracts.

70. Goodman and Goodman PR had knowledge of these relationships.

71. Goodman and Goodman PR intentionally and unjustifiably interfered with these relationships and have diverted these customers from Bitner Goodman to Goodman PR, despite the existence of ongoing contracts with Bitner Goodman.

72. Additionally, upon information and belief, Goodman and Goodman PR invoiced certain Bitner Goodman clients for services performed, which amounts should have been invoiced on behalf of the Company.

73. Bitner Goodman has been damaged as a result of Defendants' actions.

WHEREFORE, Plaintiff, BITNER GOODMAN, INC., respectfully requests judgment against Defendants, MICHAEL GOODMAN and GOODMAN PUBLIC RELATIONS, INC., jointly and severally, for damages in excess of \$15,000.00, costs, and interest, together with such other and further relief as this Court deems just and proper, including punitive damages upon an evidentiary showing of entitlement to same.

**COUNT V - CIVIL CONSPIRACY**

74. Plaintiffs, GARY BITNER and BITNER GOODMAN, INC., reallege their allegations in Paragraphs 1 through 41 above.

75. Plaintiffs further reallege their allegations in Paragraphs 44–49 and 69–73 above.

76. This is an action against Defendants, MICHAEL GOODMAN, BETH ZUCKERKORN, and GENE BROYLES, jointly and severally, for damages in excess of \$15,000.00, exclusive of attorneys' fees and costs, for civil conspiracy.

77. Defendants, Goodman, Zuckerkorn, and Broyles, have taken concerted action to accomplish an unlawful purpose and/or to accomplish a lawful purpose by unlawful means, to wit, the unlawful breach of fiduciary duty by Goodman to Bitner and the Company, and the unlawful tortious interference by Goodman to the Company.

78. In furtherance of this conspiracy, Defendants, through concerted action, among other things: stole the Company's assets and business records; diverted business proceeds which were to inure to Bitner Goodman; stole the Company's checks and accounting records for the sole purpose of bringing the Company's daily operations to a halt;

took down the social media sites of Bitner Goodman; and diverted clients who are contractually obligated to Bitner Goodman.

79. As a result of Defendants' actions, Plaintiffs have been damaged.

WHEREFORE, Plaintiffs, GARY BITNER and BITNER GOODMAN, INC., respectfully request judgment against Defendants, MICHAEL GOODMAN, BETH ZUCKERKORN, and GENE BROYLES, jointly and severally, for damages in excess of \$15,000.00, costs, and interest, together with such other and further relief as this Court deems just and proper, including punitive damages upon an evidentiary showing of entitlement to same.

**COUNT VI - ACCOUNTING**

80. Plaintiffs, GARY BITNER and BITNER GOODMAN, INC., reallege their allegations in Paragraphs 1 through 41 above.

81. This is an action against Defendants, MICHAEL GOODMAN and GOODMAN PUBLIC RELATIONS, INC., jointly and severally, for an accounting within the equitable jurisdiction of the Court.

82. At all times material, Bitner and Goodman occupied a confidential relationship whereby trust was reposed and accepted.

83. Because of this relationship, Bitner and Goodman were allowed full and equal access to the various aspects of Bitner Goodman.

84. Goodman, without prior notice to Bitner, looted the Bitner Goodman offices, taking with him, among other things, all client information, accounting information, Company checks, the Company accounting computer, and various furniture.

85. Upon information and belief, Goodman has also invoiced various clients through his new entity, Goodman PR, for amounts which should inure to the benefit of Bitner Goodman.
86. Pursuant to Florida law, Bitner and Bitner Goodman are entitled to an accounting, which accounting should include all amounts invoiced by or on behalf of Goodman and/or Goodman PR for services provided from January 1, 2014, and all items taken from the Company.

WHEREFORE, Plaintiff, GARY BITNER and BITNER GOODMAN, INC., respectfully request judgment against Defendants, MICHAEL GOODMAN and GOODMAN PUBLIC RELATIONS, INC., jointly and severally, for an accounting, together with such other and further relief as this Court deems just and proper.

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