

1. Plaintiff Howard Siegel's wife passed away unexpectedly in 2014. To honor her memory, Plaintiffs donated substantial sums of money to Defendant HFLA, a charity dedicated to providing interest-free loans to needy members of the Houston-area Jewish community. The parties expressly agreed that the donations would be used strictly for the purpose of seeding and further contributing to an endowment (the "Endowment") that, once fully funded, would cover HFLA's yearly operating expenses. However, HFLA, acting by and through its designated officers, David Loev, Laurence Kam, Joe Blog, and Paul Wainstein, has since failed and refused to provide Plaintiffs with even the most basic information regarding the use and performance of the donated funds or the status of the Endowment. That failure itself is a serious defalcation by those

representatives of HFLA. More fatal, however, is the inescapable conclusion that HFLA, through the actions of its designated officers, David Loev, Laurence Kam, Joe Blog, and Paul Wainstein, has engaged in a pattern of conduct which assures that Plaintiffs' donations to the Endowment will be permanently stranded as dead money and never used for their intended purpose. This lawsuit follows. Although, to be clear, Plaintiffs are not bringing this lawsuit for personal gain. All damages recovered will be returned to the Siegel Family Charitable Fund to be donated to charitable organizations in memoriam of Barbara Siegel.

## **II. DISCOVERY CONTROL PLAN**

2. Pursuant to Rule 190.3 of the Texas Rules of Civil Procedure, discovery should be conducted pursuant to Discovery Control Plan Level 3.

## **III. PARTIES**

3. Plaintiff Siegel Family Charitable Fund is a donor advised fund controlled by Adam Siegel and Kimberly Siegel. Adam Siegel is the son of Howard Siegel and the late Barbara Siegel. Kimberly Siegel is Adam Siegel's wife. At all relevant times the Siegel Family Charitable Fund was sponsored by HJCF, who is also the custodian of the Endowment and is HFLA's agent for all related purposes. All donations made by the Siegel Family Charitable Fund were done so at the specific instruction of Adam Siegel and Kimberly Siegel.

4. Plaintiff Howard Siegel is an individual residing in Houston, Texas.

5. Defendant Hebrew Free Loan Association of Houston, Texas is an unincorporated non-profit association governed by Chapter 252 of the Texas Organizations Code and is recognized as a tax-exempt entity pursuant to Section 501(c)(3) of the Internal Revenue Code. HFLA may be served by serving process on its registered agent or other authorized person found at 4131 S. Braeswood Blvd., Houston, Texas 77025, or wherever else such authorized person(s) may be

found. At all relevant times David Loev, Laurence Kam, Joe Blog, and/or Paul Wainstein occupied the positions of president or treasurer of HFLA with authority over the management of the Endowment.

6. Defendant Houston Jewish Community Foundation is a Texas non-profit corporation and is recognized as a tax-exempt entity pursuant to Section 501(c)(3) of the Internal Revenue Code. As set forth above, HJCF was at all relevant times the sponsoring organization of the Siegel Family Charitable Fund, the custodian of the Endowment, and is HFLA's agent for all related purposes. Additionally, at all relevant times HJCF collected management fees from both the Siegel family and HFLA. Specifically, HJCF collected fees from the Siegel family for acting as the Siegel Family Charitable Fund's sponsoring organization, and also collected fees from HFLA for acting as the custodian and agent for the Endowment. HJCF may be served by serving process on its registered agent, Roberta Herman, 5603 S. Braeswood Blvd., Houston, Texas 77096. HJCF may also be served by serving process on any other authorized person found at 5603 S. Braeswood Blvd., Houston, Texas 77096, or wherever else such authorized person(s) may be found.

7. Under the terms of the Agency Custodial Agreement between HFLA and HJCF governing the Endowment since 2016, either the president or the treasurer of HFLA is granted complete and exclusive authority to deliver investment or disbursement instructions concerning the Endowment, including the right to terminate the Agency Custodial Agreement and cause the balance of the Endowment to be returned to HFLA. David Loev, Laurence Kam, Joe Blog, and/or Paul Wainstein have been the sole parties to occupy the offices of president and treasurer since 2016 with authority to deliver such instructions. As the leading officers of HFLA, those individuals also had primary responsibility to manage and grow the Endowment to meet its stated purpose. The Agency Custodial Agreement further provides that in the absence of instructions from the

president or treasurer, HJCF will invest the Endowment in accordance with decisions made by HJCF for all other amounts over which it has discretion.

#### **IV. STATEMENT OF RELIEF SOUGHT**

8. Pursuant to Rule 47(c)(3)–(d) of the Texas Rules of Civil Procedure, Plaintiffs seek monetary relief of \$250,000.00 or less, excluding interest, statutory or punitive damages and penalties, and attorney’s fees and costs, together with all other and further relief, both general and specific, legal or equitable, to which they may justly be entitled. However, Plaintiffs reserve the right to amend this petition should it be revealed that their damages are in excess of such amount. Damage awards will be returned to the Siegel Family Charitable Fund to be donated to charities that respect and honor donors in the memory of Barbara Siegel.

#### **V. JURISDICTION AND VENUE**

9. This Court has subject-matter jurisdiction because the amount in controversy exceeds the minimum jurisdictional threshold.

10. This Court has personal jurisdiction over the parties. All or a substantial part of the events occurred in Texas. The contracts at issue were formed in Texas and the torts complained of were committed in Texas. Moreover, the parties are all residents of Texas and regularly do business in Texas such that the exercise of jurisdiction over them would not offend traditional notions of fair play and substantial justice.

11. Pursuant to Section 15.002(a)(1) of the Texas Civil Practice & Remedies Code, venue is proper in Harris County because all or a substantial part of the events and/or omissions giving rise to the claims and causes of action set forth herein occurred in Harris County.

## **VI. BACKGROUND**

### **A. The background and mission of HFLA.**

12. HFLA was founded in 1932 during the Great Depression to fulfill the Biblical commandment found in Deuteronomy 15:8 that:

*If there is a poor man... thou shalt not harden thy heart, nor shut thy hand from thy poor brother... but thou shalt open thy hand wide to him, and shalt surely lend him sufficient for his need, in that which he lacks.*

13. HFLA in its present form was organized in 1971 to carry on this mission by providing interest-free loans to needy members of the Houston-area Jewish community. Like many charities, HFLA is entirely dependent on charitable donations. It does not collect interest on its loans and otherwise has no operating income.

14. HFLA began informally and with very modest means, often making loans in the range of \$5.00 to \$25.00. However, since those humble beginnings, HFLA has grown considerably to the point where it now oversees aggregate donor contributions and loans measured in the hundreds of thousands of dollars.

### **B. Plaintiffs become involved with HFLA.**

15. The Siegel family became involved with HFLA beginning in 2011. Since that time the Siegels have not only donated substantial sums of money to HFLA, but they have also volunteered countless hours in support of the organization. For example, Adam Siegel previously served as the treasurer and co-president of HFLA and has tirelessly volunteered his time to, *inter alia*, address and implement comprehensive improvements to financial reporting, budgeting, and financial management necessary to transition the organization from its informal past practices to the adoption of practices more reflective of its current size.

16. It was in this capacity in 2014 that Adam Siegel first noticed that a significant portion of the public's donations to HFLA were being used to cover operating expenses rather than serving the charity's primary purpose of making loans to needy members of the Houston-area Jewish community.

**C. Plaintiffs create, launch, and seed the Endowment as a lasting legacy to the late Barbra Siegel.**

17. This realization inspired Plaintiffs to create and launch the Endowment with the goal that, once fully funded, proceeds from the Endowment would cover HFLA's operating expenses in perpetuity.

18. Unfortunately, however, this laudable effort to create and launch the Endowment also coincided in 2014 with the untimely and unexpected passing of Barbara Siegel. Barbara Siegel was the wife of Plaintiff Howard Siegel and the mother of Adam Siegel.

19. Wishing to honor their late-wife and mother and provide her with a lasting legacy, Plaintiffs made the decision at that time to formally seed the Endowment with a \$41,218.00 contribution in her name. This contribution and all subsequent contributions were made by Plaintiffs in the honor and perpetual memory of Barbara Siegel. In total, Plaintiffs have donated the following amounts to HFLA.

<b>Year</b>	<b>Amount</b>
2015	\$41,218.00
2015	\$10,000.00
2016	\$10,000.00
2017	\$10,000.00
<b>Total:</b>	<b>\$71,218.00</b>

20. At the time the Endowment was launched in 2015 and continuing through at least 2019, the target investment level for the Endowment was \$750,000.00. This was projected as the amount of money needed to produce sufficient investment earnings to cover HFLA's operating expenses without encroaching on the Endowment's principal. This was the target investment level during the entire period that Plaintiffs' contributions to the Endowment were solicited and made.

**D. Defendants fail to appropriately fund the Endowment.**

21. Following the launch of the Endowment in 2015 and continuing through 2016, the Endowment received contributions totaling \$198,000.00. However, unfortunately, it appears this auspicious start would not last.

22. Following a change in leadership at HFLA when David Loev, Laurence Kam, Joe Blog, and Paul Wainstein took control, a concerted pattern of conduct began and has been continuously carried out by that leadership which renders it impossible for the Endowment ever to achieve its stated purpose. One key element of that pattern has been the failure to seek and obtain sufficient new Endowment contributions to build toward the target level. As shown on the following page, the Endowment received only minimal contributions in 2017 and 2018, and did not receive *any* contributions at all in 2020.<sup>1</sup> That is the most recent year for which data is publicly available. Defendants have denied Plaintiffs access to the data for 2021 and 2022.

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<sup>1</sup> It should also be noted that of the \$22,500.00 donated to the Endowment in 2017, \$10,000.00 was donated by Plaintiffs.

<b>Year</b>	<b>Amount</b>
2015	\$96,285.00
2016	\$101,715.00
2017	\$22,500.00
2018	\$10,000.00
2019	\$95,000.00
2020	\$0.00
<b>Total:</b>	<b>\$325,500.00</b>

**E. Defendants fail to appropriately invest the Endowment funds.**

23. A second critical element of Defendants’ pattern of conduct is the failure of HFLA under the leadership of David Loev, Laurence Kam, Joe Blog, and Paul Wainstein to appropriately invest the existing Endowment funds to achieve reasonable investment returns. Defendants and their representatives, including, but not limited to, David Loev, continually represented to Plaintiffs and others that the corpus of the Endowment has at all relevant times been invested in an investment fund sponsored by HJCF, the HJCF Index Growth Fund.<sup>2</sup> But that is demonstrably false. HFLA’s publicly available tax returns show drastically lower returns than what should have been realized if the funds were truly invested in the HJCF Index Growth Fund as represented.

24. Defendants offer no explanation for this serious and highly detrimental discrepancy. The HJCF Index Growth Fund appears to be a blended equity and bond fund of the type that would otherwise be appropriate to provide the reasonable investment growth needed for the Endowment to achieve its target investment level. But, despite Plaintiffs’ repeated requests, Defendants have refused to disclose the investment returns for the HJCF Index Growth Fund for each of the years

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<sup>2</sup> Specifically, on or about April 9, 2019, Loev represented at an HFLA board meeting that the endowment has *always* been invested in the HJCF Index Growth Fund. HFLA’s 2019 IRS Form 990 also includes a similar statement.



involved. Nevertheless, Plaintiffs were able to locate information for several of the years as shown below in order to compare them with what HFLA reported on its tax returns. Plaintiffs' investigation uncovered the following:

- a. For each of the years 2016, 2017, and 2018, HFLA's tax returns show an Endowment investment return in the 2% range.

However, based on a publicly available HJCF report obtained by Plaintiffs, the investment return for the HJCF Index Growth Fund for the year 2017 was 14.2% — *i.e.*, more than seven times greater than that reported by HFLA. And, although Plaintiffs do not currently have access to the HJCF Index Growth Fund's investment returns for 2016 and 2018, it is expected that they are likewise substantially greater than the 2% reported by HFLA.

- b. For 2019, HFLA's tax return shows an Endowment investment return of 10%.

However, based on a publicly available HJCF report obtained by Plaintiffs, the investment return for the HJCF Index Growth Fund for the year 2019 was 20.1% — *i.e.*, more than double that reported by HFLA.

25. This failure to achieve Endowment investment returns at the level represented and/or what is reasonable and should be prudently expected constitutes a major defalcation by Defendants that has substantially reduced the Endowment balance and harmed Plaintiffs and all similarly situated Endowment donors. As noted above, Defendants have refused to explain this serious discrepancy, but it must either be the result of David Loev, Laurence Kam, Joe Blog, and/or Paul Wainstein providing investment instructions different than what was publicly represented, or HJCF violating its custodial agreement.

**F. Defendants unilaterally increase the target investment level and demonstrate a course of conduct fatal to the Endowment purpose.**

26. The last publicly available data indicates that the Endowment has a balance of approximately \$400,000.00. That is not acceptable. Given the original target investment level of \$750,000.00, and assuming new contributions at the same \$100,000.00 per year rate as what was

seen in 2015 and 2016 when HFLA appropriately prioritized the Endowment, and also assuming the Endowment funds were invested in a reasonably prudent manner, the Endowment should have been fully funded and producing usable revenue by now. But obviously that has not happened under the leadership of David Loev, Laurence Kam, Joe Blog, and Paul Wainstein. Instead, the Endowment is only a fraction of the way towards its original stated goal, which is now a moving target and leads to a third fatal element in the recent pattern of conduct by HFLA leadership concerning the Endowment.

27. At some point in 2019, HFLA's leadership under David Loev, Laurence Kam, Joe Blog, and/or Paul Wainstein unilaterally increased the Endowment target investment level from \$750,000.00 to \$1.2 million. The reason for this marked increase has not been made known to the public but presumably relates to the fact that HFLA's leadership has inexplicably allowed operating expenses to increase so substantially that a materially larger target investment level is now necessary to produce sufficient annual revenue to meet those expenses.

28. This increase in the target investment level, combined with the failure of HFLA's leadership to obtain meaningful new donations and appropriately invest Endowment funds, represents a concerted course of conduct that renders Plaintiffs' cherished donations as permanently stranded dead money. The Endowment will *never* reach a target investment level sufficient to defray known or knowable HFLA operating expenses and thus will never be used for the purpose for which Plaintiffs' donations were made. Based on the current rate of growth, it would take more than fifteen years for the Endowment to reach the current target level of \$1.2 million, and the Endowment can only sit idle during that time while it accumulates. Obviously, it is impossible to make any reasoned determination at present about the utility of the Endowment or the status of HFLA operating expenses (or even the continued existence of HFLA) fifteen years

from now. This is not what Plaintiffs intended for their donations and it is not what was represented to Plaintiffs at the time the donations were made.

29. Clearly alarmed by this development, Plaintiffs have repeatedly requested that David Loev, Laurence Kam, Joe Blog, and/or Paul Wainstein cause Defendants to provide them with more information regarding the use and performance of their donated funds and the status of the Endowment. But those individual officers have ignored Plaintiff's requests and have refused to provide Plaintiffs with even the most basic level of information. The only information available to Plaintiffs regarding the Endowment is derived from a handful of publicly available IRS filings.<sup>3</sup> But these records are sparse, outdated, inaccurate, misleading, and are fundamentally insufficient to determine what has happened and/or what is happening to Plaintiffs' donations and the Endowment.

30. This refusal by Defendants' current leadership to provide Plaintiffs with such crucial and readily (to them) available information can only be viewed as a tacit admission that Plaintiffs' donations — and what should have been Barbara Siegel's lasting legacy — are not being used for their intended purpose. Indeed, it is now clear that the course of conduct carried out by HFLA leadership with respect to the Endowment has permanently stranded Plaintiffs' donations as dead money that will never achieve their intended purpose. Plaintiffs now bring this lawsuit to recover their donations and return them to the Siegel Family Charitable Fund to be donated to another charity as appropriate.

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<sup>3</sup> Specifically, the only financial information that Plaintiffs have been able to obtain was obtained through IRS Form 990 filings, which the IRS mandates tax exempt charities like HFLA make available to the public. But HFLA failed even in that regard. The most recent Form 990 available on HFLA's website is for the year 2019. Plaintiffs were only able to obtain a copy of the 2020 filing after notifying the IRS of HFLA's non-compliance. Additionally, because HJCF is the custodian of the Endowment funds and is HFLA's agent for all related purposes, Plaintiffs made the same requests to HJCF. But HJCF also refused to help. HJCF responded that it needed prior authorization from HFLA, which HFLA has continually failed and refused to provide.

**G. Defendants’ mistreatment of the Endowment and its donors is representative of what is to be expected from HFLA’s current leadership.**

31. Since coming to power in 2016, HFLA’s leadership under the control of David Loev, Laurence Kam, Joe Blog, and Paul Wainstein has turned what was once a revered charitable organization into little more than a “members only” private club. Members are now approved at the sole discretion of the incumbent board. Only these chosen individuals are allowed to receive financial information or otherwise participate in the organization. All others — Plaintiffs included — are kept in the dark. This stands in stark contrast with HFLA’s past practice of inclusivity where all donors could be members and were welcomed and encouraged to participate in the organization.

32. Although a full recounting of HFLA’s gross mismanagement and numerous other bad acts under the leadership of David Loev, Laurence Kam, Joe Blog, and Paul Wainstein is outside the scope of this petition, the following is just a sampling of the kind of behavior that HFLA has become known for under its current — and increasingly notorious — leadership:

- a. HFLA is currently under investigation by the Texas Attorney General for failure to comply with Texas law and the common law fiduciary duties owed by trustees of charitable trusts and officers, directors, and employees of charitable nonprofit organizations.
- b. HFLA’s immediate past president, David Loev, was previously sanctioned by the SEC for participation in a “pump and dump” stock scheme and has been reprimanded by the Texas Accountancy Board for violations involving his integrity. Yet, even though HFLA is well-aware of these facts, Loev continues to play an active role in the organization, even serving as its current head of fundraising.
- c. Howard and Adam Siegel were met with violence when they attempted to peacefully voice their concerns at an HFLA board meeting. Adam Siegel was verbally and physically attacked by an invitee of the HFLA board when he attempted to ask questions regarding the Endowment. However, rather than apologize for the attack, HFLA condoned the individual’s actions, appointed him to the board, elected him vice president, and sought to use donor resources to unlawfully indemnify him against Adam Siegel’s ensuing lawsuit for assault. The lawsuit since settled on the eve of trial with the individual being forced to resign from HFLA.

- d. Howard and Adam Siegel have also been targeted in the press and on social media. Throughout the time that Plaintiffs have attempted to obtain transparency and respect for the Endowment donations, HFLA and its leadership have waged a vile back-channel smear campaign against Plaintiffs alleging improper and selfish motives.
- e. The Endowment is not the only part of HFLA that is currently being mismanaged. Publicly available records reflect that over \$400,000.00 in other donor cash is currently sitting idle with HFLA and is not being used to make loans or otherwise fulfill any charitable purpose for which the funds were donated.
- f. HFLA now operates without any independent checks and balances to prevent favoritism in the use of public donor funds. HFLA leadership has declined to enforce its conflict-of-interest policy, choosing instead to allow HFLA leadership free reign to approve and make loans to friends and family without scrutiny.
- g. HFLA's operating expenses have been allowed to increase at an unsustainable and unjustified rate.
- h. The numerous inconsistencies in what few records have been made publicly available indicates that HFLA's IRS filings may be inaccurate and/or purposely misleading.

## **VII. CAUSES OF ACTION**

### **A. Count I: Breach of Contract against HFLA.**

33. Plaintiffs re-allege the allegations set forth above.

34. Plaintiffs donated funds to HFLA with the express agreement that they would be used strictly for the restricted purpose of seeding and contributing to an endowment that, once fully funded, would cover HFLA's yearly operating expenses. Plaintiffs fully performed by donating the funds to HFLA; however, despite demand, HFLA, acting by and through its designated officers, David Loev, Laurence Kam, Joe Blog, and Paul Wainstein, has failed in every respect to honor the purpose and intent for which those donations were solicited and made. HFLA, acting by and through its designated officers, David Loev, Laurence Kam, Joe Blog, and Paul Wainstein, has failed and refused to provide Plaintiffs with even the most basic information

regarding the use and performance of the funds or the status of the Endowment. Moreover, from the limited information publicly available to Plaintiffs, it is clear that HFLA, acting by and through its designated officers, David Loev, Laurence Kam, Joe Blog, and Paul Wainstein, has mismanaged the Endowment and ceased any material fundraising efforts related thereto, thus effectively stranding Plaintiffs' donations as dead money never to be used for their intended purpose.

35. The actions of HFLA's responsible officers have rendered it impossible for the Endowment to ever reach a level sufficient to support HFLA's yearly operating expenses, thus frustrating and defeating the intended purpose of Plaintiffs' donations. This failure to use Plaintiffs' donations for their intended purpose has injured Plaintiffs resulting in damages equal to the principal amount of Plaintiffs' donations, plus the expected or actual (if higher) returns on investment for such funds, together with any interest accrued thereon. Although, to be clear, Plaintiffs are not bringing this lawsuit for personal gain. All damages recovered will be returned to the Siegel Family Charitable Fund to be donated to charitable organizations in memoriam of Barbara Siegel.

**B. Count II: Money Had and Received against HFLA and HJCF.**

36. Plaintiffs re-allege the allegations set forth above.

37. In the alternative, Plaintiffs assert the equitable doctrine of money had and received. HFLA and/or HJCF hold funds that in equity and good conscience belong to Plaintiffs. Plaintiffs donated the funds to HFLA on the condition that they would be used strictly for the restricted purpose of seeding and contributing to an endowment that would become fully funded within a reasonable time to cover the HFLA's yearly operating expenses. HJCF currently serves as the agent and/or custodian of HFLA and its assets and is in possession of the Endowment funds. Given that it is now clear that the intended purpose of the donations will never be realized, equity dictates that

the donated funds be returned to Plaintiffs so that they may be redirected to one or more other charities that will respect Plaintiffs' intent and honor the memory of Barbara Siegel.

### **VIII. FRAUDULENT CONCEALMENT AND DISCOVERY RULE**

38. Defendants' actions were inherently undiscoverable. Defendants and their agents actively concealed — and Defendants continue to actively conceal — the true nature of their actions from Plaintiffs. Plaintiffs are unable to discover the full scope of Defendants' wrongful conduct absent the aid of discovery. Specifically, Defendants must provide Plaintiffs with certain financial and other information regarding the performance of the donated funds and the status of the Endowment. Defendants have thus far failed and/or refused to provide this information to Plaintiffs.

### **IX. CONDITIONS PRECEDENT**

39. All conditions precedent have been performed or have occurred.

### **X. ATTORNEY'S FEES**

40. Plaintiffs' claims were timely presented and remain unpaid. Pursuant to Chapter 38 of the Texas Civil Practice and Remedies Code and other applicable law, Plaintiffs are therefore entitled to recover their reasonable and necessary attorney's fees incurred.

### **XI. CONCLUSION AND PRAYER**

Accordingly, for the reasons set forth above, Plaintiffs request that they be awarded final judgment against Defendants, jointly and severally, as follows, with all money damages payable to the Siegel Family Charitable Fund to be used solely for donations to other charitable organizations in memoriam of Barbara Siegel:

- a. Actual damages equal to the total principal amount of the donated funds, plus actual and/or expected returns on investment;

- b. Pre-judgment and post-judgment interest at the highest legal or contractual rate allowed by law;
- c. Reasonable and necessary attorney's fees, together with additional contingent amounts in the event of appellate proceedings;
- d. Costs of court; and
- e. All other and further relief, both general and specific, legal or equitable, to which Plaintiffs may justly be entitled.

DATED: July 8, 2022.

Respectfully Submitted,

**SORRELS LAW**

/s/Randall O. Sorrels

Randall O. Sorrels  
Texas Bar No. 10000000  
5300 Memorial Drive, Suite 270  
Houston, Texas 77007  
T: (713) 496-1100  
F: (713) 238-9500  
randy@sorrelslaw.com  
eservice@sorrelslaw.com

and

**STACY & BAKER, P.C.**

By: 

Brian A. Baker  
State Bar No. 24082648  
brian.baker@stacybakerlaw.com  
5300 Memorial Drive, Suite 270  
Houston, Texas 77007  
Ph: 713-527-9991 | Fx: 713-527-9992

**ATTORNEYS FOR THE SIEGEL FAMILY  
CHARITABLE FUND AND HOWARD SIEGEL**