

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ANDREW M. CUOMO,
Attorney General of the State of New York,
on behalf of the People of the State of New York,

Plaintiff,

- against -

PEDRO ESPADA, JR., KENNETH BRENNAN,
LYDIA ALMEYDA, BARBARA BRAXTON,
CONSTANCE BRUNO, BEVERLY CROSBY,
JACQUELINE COLLAZO, JOHN FELICIANO,
VICTOR FELICIANO, MARZETTA HARRIS,
MONICA HARRIS-COLEMAN, EVETTE MADURO
PAGAN, CHARLOTTE MCDUFFIE, LIDISBELLE
PACHECO, LOURDES RIVERA, VICTOR SIERRA,
GENOVEVA TORRES, JEANETTE TORRES,
ANDREW YONG, & DORIS YONG,

Defendants.

SUMMONS

Index No.

TO THE ABOVE-NAMED DEFENDANTS:

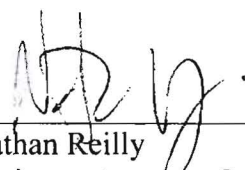
YOU ARE HEREBY SUMMONED and required to serve upon plaintiff's attorney an answer to the Verified Complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

The basis of the venue designated is the county where the plaintiff has its business address.

Dated: April 20, 2010

ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Plaintiff

BY:



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New York, NY 10271
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Index No.

**VERIFIED
COMPLAINT**

Andrew M. Cuomo, Attorney General of the State of New York, on behalf of the People of the State of New York, alleges the following against the above named defendants:

1. Comprehensive Community Development Corporation (“Soundview”); a not-for-profit health care organization in the Bronx, was founded by Pedro Espada, Jr. in 1978. Mr. Espada is presently Soundview’s President and Chief Executive Officer (“CEO”). Mr. Espada has frequently extolled the good works of Soundview and has taken credit for his stewardship of the organization. However, when Soundview’s financial operation is examined and when the compensation of its top executives is reviewed, it is evident that Mr. Espada has manipulated the “not-for-profit” and perverted

its legal purpose for his own personal and political benefit. Through excessive compensation packages, abuse of corporate credit cards, self-dealing and other abuses, Mr. Espada has grossly profited himself, his family and his loyal supporters and advanced his own political ambitions at the cost of millions of dollars to the patients of Soundview and the taxpayers of New York State. In essence, Mr. Espada has used Soundview as a personal piggybank.

NATURE OF THE CASE AND SUMMARY OF THE FACTS

Mr. Espada Has Looted Soundview for His Own Personal and Political Benefit

2. In the past five years alone, Mr. Espada has siphoned more than \$14 million in excessive compensation and unwarranted benefits out of Soundview to enrich himself and his family. The most egregious example is a provision in Mr. Espada's compensation package -- a so-called "severance provision" -- that is currently worth approximately \$9 million. The provision in truth provides not severance pay but deferred compensation; it unconditionally guarantees Mr. Espada the payment of one year's gross salary for every year of service he has provided to Soundview. In essence, Mr. Espada has given himself a 100% bonus guaranteed every year. There are no restrictions or limitations placed on Mr. Espada's (or, in the event of his death, his beneficiary's) right to collect this payment. Even Mr. Espada's death does not stop the payment which, pursuant to the provision, goes to his beneficiary. Thus, if Mr. Espada were terminated for good cause (including a finding of fraud, a breach of his fiduciary obligations to Soundview, or even a criminal conviction), under the terms of the provision he would still be entitled to his \$9 million payment. Today, given Mr. Espada's unconditional

entitlement to approximately \$9 million upon his departure from Soundview, the organization is effectively insolvent. Further, were the clause to be triggered, Soundview would be forced into bankruptcy.

3. In addition, on information and belief, between 2006 and mid-2009, Mr. Espada racked up more than \$250,000 in personal charges on his Soundview corporate American Express card ("the Soundview corporate credit card"), which were passed off as legitimate Soundview business expenses. This included, on information and belief, more than \$80,000 in restaurant bills for more than 650 separate meals, including more than 200 meals (totaling more than \$20,000) from two sushi restaurants that regularly received orders from Mr. Espada's wife and delivered the orders to the Espada home in Mamaroneck. In a similar fashion, Soundview has funded airfare and vacations for Mr. Espada, his wife and his family to locations including Las Vegas, Miami, and Puerto Rico.

4. Soundview has also provided Mr. Espada with what is essentially an unlimited line of credit -- via the Soundview corporate credit card. Indeed, at Mr. Espada's direction, the Soundview Board of Directors (the "Board") has explicitly authorized Mr. Espada to use his Soundview corporate credit card without any restrictions whatsoever for his own personal as well as political expenses. From 2006 through mid-2009, Mr. Espada charged more than \$450,000 in items that he later identified as personal.

5. In addition to an outrageous salary and benefits, Soundview allows Mr. Espada 14 weeks of paid leave per year which has an estimated value of at least \$75,000

to \$85,000. This amount is then used to offset Mr. Espada's "personal" expenses on his Soundview corporate credit card.

6. In September 2009, despite being provided with 14 weeks of annual leave per year which accumulates indefinitely, Mr. Espada exhausted all his leave as a consequence of his exorbitant personal expenses. As a result, he was in debt to Soundview. In order to remedy this situation, in December 2009, Soundview altered Mr. Espada's employment agreement to require Soundview to credit him with his 14 weeks of annual leave on the first day of each year, i.e., before it accrued. In this way, Soundview extended Mr. Espada more than \$75,000 in credit -- itself a clear violation of the New York State Not-for-Profit Law.

7. Mr. Espada's looting of Soundview was not limited to personal enrichment, but also included the improper use and abuse of Soundview for Mr. Espada's political ambitions. For example, more than 150,000 pieces of campaign literature, at a cost of over \$100,000, were paid for by or funneled through Soundview to promote Mr. Espada's election bid. He also routinely placed political campaign expenses on the Soundview corporate credit card, a practice which continues to this day.

8. In addition to all this, in 2007, Mr. Espada (whose primary residence is in Mamaroneck, New York) decided to seek elective office and needed to establish a residence in the Bronx. Accordingly, he directed Soundview to provide him with a housing allowance in order to cover the additional personal expense of a second residence. The Soundview Board complied by agreeing that Soundview should increase Mr. Espada's pay by approximately \$2,500 per month to cover the costs of a Bronx co-op which Mr. Espada claimed as his legal residence for purposes of his 2008 New York

Senatorial campaign. This perversion of Soundview improperly enriched Mr. Espada and corruptly enhanced his political status.

9. Mr. Espada also siphons money from Soundview by Soundview's contracting with other companies he or his family control. For example, he has also directed the Board to retain his private for-profit janitorial company to provide services to Soundview. In order to justify the selection of the company over other entities capable of providing the very same services, Mr. Espada's son, Pedro Gautier Espada ("Gautier"), arranged for the submission of purportedly competing bids. However, the bids were rigged to ensure Mr. Espada's company came in with the lowest proposal -- a bid of nearly \$400,000 per year. Further, on behalf of Soundview, Mr. Espada placed Gautier, who was also the manager of the private company, in charge of supervising the contract. In this dual role, manager of the private company and the Soundview supervisor responsible for the work being performed, Gautier earned more than \$150,000 in 2008.

10. If that conflict of interest were not conspicuous enough, shortly after the awarding of the janitorial contract, Gautier was named Soundview's Chief Compliance Officer and was charged with ensuring that conflicts of interests and self-dealing be identified and eliminated. Gautier was not the only member of the Compliance Committee who was decidedly unfit to serve as an integrity watchdog. Maria Cruz and Esther Hill, both of whom were previously convicted of felonies as a result of their criminal diversion of public funds from Soundview to Mr. Espada's political campaigns, were placed on the Compliance Committee as well. Thus, despite their convictions, they were entrusted with integrity oversight at Soundview.

11. Meanwhile, Soundview's accounting staff routinely placed a priority on making payments to Mr. Espada's private companies and to ensuring that his bloated credit card bills were paid on time. Yet no such directive pertained to Soundview's obligations to the United States Internal Revenue Service ("IRS") or other legitimate vendors. As a result, Soundview's accounting staff, including Soundview's Chief Financial Officer ("CFO") Kenneth Brennan, failed to make adequate payroll withholdings and often simply did not make its payroll tax payments to the IRS. The failure to make these payments occurred even though an outside firm provided specific instructions to Soundview on the amount of tax owed and the timing of when payments were due. Thus, Soundview's flouting of its payroll tax obligations was intentional and undertaken to ensure that sufficient funds were on hand to pay Mr. Espada, his private companies and his expenses.

12. In 2009, the IRS took action against Soundview for failure to meet its obligations. To date, Soundview has been required to pay approximately \$475,000 in back taxes and penalties, but the full scope of its obligations remains unknown. Even while Soundview's tax deficit was accruing and the scope of Soundview's liabilities was growing, a member of Soundview's staff reminded its outside accountants that a priority should be placed on making payments to Mr. Espada, his family and entities he controlled.

13. Over the years, Soundview has been no stranger to corruption and controversy. Most notably, in 2005, four Soundview employees were convicted of criminally diverting resources from Soundview to Mr. Espada's political campaign. Soundview's response to the filing of criminal charges against its employees was to make

arrangements to advance them money from Soundview to pay their legal fees. Following their felony convictions, each was welcomed back to Soundview in essentially the same position and at the same salary, despite having been convicted of conduct that victimized Soundview and its patients. Further, as noted above and discussed more fully below, after their convictions, two of the felons were placed on Soundview's Compliance Committee. The decision to retain the four felons and the decision to place two of them on the Compliance Committee was orchestrated by Mr. Espada and took place without meaningful discussion by Soundview's Board or an objection from a single Board member.

14. Soundview's decision to retain these individuals as critical members of Soundview's staff had a severe cost. In 2009, the New York State Department of Health rejected Soundview's application for a grant that would have awarded Soundview up to \$3 million over a five-year period to serve women and children in need. The rejection was based in part on Soundview's continued employment of individuals who had been convicted of misappropriating charitable funds.

The Compromised and Captured Board

15. Mr. Espada was able to loot Soundview because he packed the Soundview Board with people he controlled, either through family relations or through serving as their employer in the New York State Senate. The Board was effectively as sham. Members of the Board -- individuals who are duty bound to put the interests of its charitable mission above all others, have functioned as an ever-ready rubber stamp for Mr. Espada without regard to their fiduciary obligations to Soundview. The Board

includes, and has included, family members, proven loyalists and individuals who are personally and financially indebted to Mr. Espada. In the past 5 years, the Board has been packed with five individuals who are currently or have been employed by Mr. Espada on his Senate staff and at least six individuals with family ties to Mr. Espada. These Board members have repeatedly and without hesitation agreed to every proposal advanced by Mr. Espada regardless of his obvious conflicts of interest and self-dealing, while turning a blind eye to the damage these requests cause Soundview. Regardless of the schemes that are blatantly designed to benefit Mr. Espada at Soundview's expense and that literally systematize conflicts of interest, the Board has a single response to Mr. Espada's requests: Approved.

16. Accordingly, the Attorney General seeks a judgment, that among other things: (a) holds Mr. Espada and Mr. Brennan liable for their misappropriation and waste of Soundview assets; (b) holds Mr. Espada and Mr. Brennan liable for the breach of their fiduciary duties to Soundview; (c) removes Mr. Espada and Mr. Brennan as officers of Soundview; (d) removes defendants Barbara Braxton, Constance Bruno, Beverly Crosby, Victor Feliciano, Marzetta Harris, Monica Harris-Coleman, Charlotte McDuffie, Lidisbelle Pacheco, Victor Sierra, Genoveva Torres and Jeanette Torres as directors of Soundview; (e) enjoins all of the defendants from serving as officers or directors of Soundview or any other not-for-profit corporation in the future; (f) requires Mr. Espada to repay impermissible loans made to him by Soundview; (g) enjoins any payment to Mr. Espada pursuant to the deferred compensation provision included in Mr. Espada's 2005 employment contract; (h) declares that same deferred compensation provision to be null and void; and (i) grants such other and further relief as the Court deems just and proper.

PARTIES

17. The Attorney General is responsible for overseeing the activities of New York not-for-profit corporations and the conduct of their officers and directors, in accordance with New York's Not-for-Profit Corporation Law ("N-PCL"), Estates, Powers & Trusts Law ("EPTL"), and Executive Law ("Exec. L.").

18. The Attorney General maintains offices at 120 Broadway, New York, New York.

19. Soundview is registered with the New York State Attorney General's Charities Bureau. It files annual financial reports with the Charities Bureau, including the IRS Form 990 and the New York CHAR 500. Soundview's by-laws state that its mission is:

[T]o provide high quality and cost effective health care and social services to all individuals whether or not they have health insurance or the ability to pay the full cost of care.

20. Soundview is exempt from federal income tax under § 501(c)(3) of the Internal Revenue Code. Its certificate of incorporation requires Soundview to operate in a manner that would not cause it to lose that status.

21. Defendant Pedro Espada, Jr. maintains addresses at 325 East 201st Street, Apt. 4B, Bronx, New York 10458 and 115 Beechwood Drive, Mamaroneck, New York 10543. Mr. Espada is and has been the President and Chief Executive Officer of Soundview during all times that gave rise to the claims in this lawsuit. Mr. Espada founded Soundview in 1978 and has worked continuously at Soundview since it began operating in 1979. Mr. Espada is also a New York State Senator, representing the 33rd

State Senate district. He was elected to that office in 2008 and has served in that capacity since 2009.

22. Defendant Kenneth T. Brennan resides at 28N Tappan Landing Road, Tarrytown, New York 10591. Mr. Brennan has been Soundview's Vice President of Finance and CFO during all times relevant to the claims in this lawsuit.

23. Defendant Lydia Almeyda was a Director of Soundview at some of the times when the events that gave rise to the claims in this lawsuit occurred, including during 2005. Ms. Almeyda's last known address is 510 E. 156th Street, Bronx, NY 10455.

24. Defendant Barbara Braxton was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2005 to the present. Ms. Braxton's last known address is 2070 Seward Avenue, Apt. 5H, Bronx, NY 10473.

25. Defendant Constance Bruno was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2005 to the present, and served as the Chairperson of Soundview's Board. Ms. Bruno's last known address is 50 Maple Avenue, Woodridge, NY 12734.

26. Defendant Jacqueline Collazo was a Director of Soundview at some of the times when the events that gave rise to the claims in this lawsuit occurred, including during 2005 and 2006, and served as Vice-Chairperson of the Board. Ms. Collazo's last known address is 255 Fieldston Terrace, Apt. 6A, Bronx, NY 10471.

27. Defendant Beverly Crosby was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from

2005 to the present. Ms. Crosby's last known address is 517 W.151st Street, Apt. 4C, New York, NY 10031.

28. Defendant John Feliciano, a/k/a Juan Feliciano was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2005 to 2009, and served as Chairperson and Treasurer of the Board. Mr. Feliciano's last known address is unknown.

29. Defendant Victor Feliciano was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2005 to the present and served as Chairperson of the Board. Mr. Feliciano's last known address is 1555 Unionport Road, Apartment 2H, Bronx, NY 10462.

30. Defendant Marzetta Harris was a Director of Soundview at some of the times when the events that gave rise to the claims in this lawsuit occurred, including during 2005 and in 2009 to the present. Ms. Harris' last known address is 930 Longwood Avenue, Bronx, NY 10459.

31. Monica Harris-Coleman was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including in 2010. Ms. Harris Coleman's last known address is 387 Grand St, Apt. 1303, New York, NY 10002.

32. Defendant Evette Maduro Pagan was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2007 to 2008. Ms. Maduro Pagan's last known address is 3007 LaSalle Avenue, Bronx, NY 10461.

33. Defendant Charlotte McDuffie was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2005 to the present and served as Secretary and Vice-Chairperson of the Board. Ms. McDuffie's last known address is 793A Croes Avenue, Bronx, NY 10473.

34. Defendant Lidisbelle Pacheco was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2005 to the present and served as Vice-Chairperson of the Board of Directors. Ms. Pacheco's last known address is 80 Halstead Avenue, Yonkers, NY 10704.

35. Defendant Lourdes Rivera, also known as Lourdes Mocete, also known as Lourdes Espada, was a Director of Soundview at some of the times when the events that gave rise to the claims in this lawsuit occurred, including during 2005 and 2006, and served as Chairperson of the Board. Ms. Rivera's last known address is 1180 Merritt St., Fairfield, CT 06825.

36. Defendant Victor Sierra was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2009 to the present. Mr. Sierra's last known address is unknown.

37. Defendant Genoveva "Jenny" Torres was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from 2005 to the present. Ms. Torres' last known address is 1965 Lafayette Avenue, Apt. 20Q, Bronx, NY 10473.

38. Defendant Jeanette Torres was a Director of Soundview at some or all times when the events that gave rise to the claims in this lawsuit occurred, including from

2009 through the present, and served as Secretary and Vice-Chairperson of the Board.

Ms. Torres' last known address is 410 Fourth Street, 1st Floor, Mamaroneck, NY 10543.

39. Defendant Andrew Yong was a Director of Soundview at some of the times when the events that gave rise to the claims in this lawsuit occurred, including from 2006 through 2009 and served as Treasurer of the Board. Mr. Yong's last known address is 301 W. 57th Street, Apt. 7G, New York, NY 10019.

40. Defendant Doris Yong was a Director of Soundview at some of the times when the events that gave rise to the claims in this lawsuit occurred, including during 2005 and 2006. Ms. Yong's last known address is 117-09 Union Turnpike, Forest Hills, NY 11375.

41. Lydia Almeyda, Barbara Braxton, Constance Bruno, Beverly Crosby, Jacqueline Collazo, John Feliciano, Victor Feliciano, Marzetta Harris, Monica Harris-Coleman, Evette Maduro Pagan, Charlotte McDuffie, Lidisbelle Pacheco, Lourdes Rivera, Victor Sierra, Genoveva Torres, Jeanette Torres, Andrew Yong and Doris Yong are referred to as the "Director Defendants."

JURISDICTION AND VENUE

42. The Attorney General brings this action on behalf of the People of the State of New York under Article 7-A of the Exec. L., § 175, N-PCL §§ 706, 707, 714, 717, 719 and 720, EPTL § 8.1-4, and as *parens patriae*.

43. Under N-PCL §§ 720(a) and 720(b), the Attorney General is authorized to bring an action to require the directors and officers of a New York not-for-profit corporation to account for the mismanagement of corporate assets and for transfers, loss,

or waste of corporate assets in violation of their fiduciary duties and to recover all resulting damages from such officers and directors.

44. Under N-PCL §§ 112(a)(4), 706(d) and 714(c), the Attorney General is authorized to seek removal of corporate officers and directors for cause, including violations of their fiduciary duties.

45. Under EPTL § 8.1-4(m), the Attorney General may institute appropriate proceedings to secure the proper administration of a not-for-profit corporation.

46. Under N-PCL § 112(a)(7), the Attorney General is authorized to bring an action to enforce any right given under the N-PCL to an officer or director of a not-for-profit corporation.

47. The Attorney General also has common law *parens patriae* authority to conserve charitable property.

48. Because the Attorney General maintains offices at 120 Broadway, New York, New York, venue is properly laid in New York County, as provided in CPLR § 503(a).

FACTS UNDERLYING ALL CAUSES OF ACTION

49. Soundview is a not-for-profit health care provider in the Bronx that receives its funding from state and federal programs and grants. Soundview was founded and incorporated as a not-for-profit entity in 1978 and was licensed by New York State as a diagnostic center in 1981.

50. In the past five years, Soundview has operated at various outpatient facilities throughout the South Bronx. In 2008, those clinics saw more than 20,000

patients. The vast majority of the funding Soundview receives comes directly or indirectly from Medicare or Medicaid.

51. Soundview's healthcare mission (the reason for its existence as a not-for-profit corporation) and its financial viability have been and continue to be compromised by the conduct of its directors, officers and senior management. The Board members, officers and senior managers have, at the direction of Mr. Espada, either directed or permitted Soundview's resources to be drained for the benefit of Mr. Espada, his family and his political operations.

I. Mr. Espada and the Board of Directors Have Enriched Mr. Espada at the Expense of Soundview and Placed Soundview at Financial Risk.

52. With an acquiescent Board under his control and a management staff packed with family and loyalists,¹ Mr. Espada has engineered a series of lucrative arrangements designed to enrich him and his family while placing Soundview at significant financial risk and reducing it to insolvency.

Mr. Espada's Excessive Severance Package

53. Mr. Espada's most recent employment contract, which was executed in 2005, provides him with a so-called severance package currently worth approximately \$9 million. The package is so financially onerous for Soundview that it makes Soundview balance-sheet insolvent and raises issues of whether the not-for-profit is capable of operating as a going concern. The package is so generous to Mr. Espada and so patently unfair to Soundview that a diligent Board operating in good faith and in the best interest of Soundview could not have approved it.

¹ Soundview's Board and senior management are discussed in greater detail below in Section IV.

54. Paragraph 8(d) of the contract unconditionally entitles Mr. Espada to a severance payment of one year's gross salary for each year of his 30-plus years of employment with Soundview. There are no restrictions placed on his (or in the event of his death, his beneficiary's) right to collect this severance when Mr. Espada ceases to work for Soundview. Even if Mr. Espada is terminated for cause (such as a finding of fraud or breach of his fiduciary obligations to Soundview), under the contract he is entitled to the full payment. In reality, the provision is a form of deferred compensation that presently guarantees Mr. Espada approximately \$9 million upon his departure from Soundview or death.

55. At the moment of its execution, Mr. Espada's contract reduced Soundview to insolvency on a balance sheet basis. This is so because the contract created a liability of approximately \$6 million (and presently \$9 million and rising) which far exceeded Soundview's net assets. Between 2005 and 2009, Soundview's net assets ranged between \$550,000 and \$1.48 million.²

56. Mr. Espada's potential payout grows each year. As noted above, Mr. Espada's present pay-out figure would be approximately \$9 million and will bankrupt the organization upon his departure.

² Under Generally Accepted Accounting Principles (U.S. GAAP), deferred compensation arrangements such as Mr. Espada's severance package should appear on Soundview's balance sheet but it does not. When placed on Soundview's balance sheet, Mr. Espada's severance pay-out results in Soundview's liabilities substantially exceeding its corporate assets. Additionally, Soundview should be reserving funds to fund the liability when it comes due. When the contract was executed, it represented an approximately \$6 million liability. Additionally, in each subsequent year, Soundview should effectively be funding that reserve with the equivalent of Mr. Espada's salary for the year. Soundview has failed to do so, or to appropriately disclose the contingent liability created by the severance provision.

57. Further, the severance provision effectively provides Mr. Espada with a veto over any restraint or meaningful oversight that the Board might seek to impose upon him. Were a conflict to arise between Mr. Espada and the Board resulting in Mr. Espada's termination or his resignation, his severance package would be triggered, depleting Soundview of all assets and forcing it into bankruptcy. Put another way, Mr. Espada's severance package operates as a poison pill that ensures that if the Board displeases him, he has the ability to destroy Soundview.

Soundview's Payment of Mr. Espada's Personal Expenses

58. Under his current employment contract, Mr. Espada received wages totaling more than \$287,000 in 2009. In addition to his salary, Mr. Espada is provided with 14 weeks of paid leave each year which he is permitted to convert into cash at will to pay for personal expenses. To avail himself of this financial benefit, Mr. Espada is authorized to use his Soundview corporate credit card for personal expenses; the personal expenses are then off-set against the value of his leave.

59. Through this unorthodox arrangement, Soundview has funded hundreds of thousands of dollars of Mr. Espada's personal and political expenses, and served as his own personal ATM. The spending that Mr. Espada has routed through Soundview has included both personal and political expenditures, in violation of the federal tax law and Soundview's own certificate of incorporation. 26 U.S.C. § 501 (c) (3).

60. In the last four years alone, Mr. Espada has charged over \$450,000 in expenses unrelated to Soundview to his corporate credit card. In a single month prior to his contested 2008 primary for the New York State Senate, Mr. Espada amassed over \$90,000 in charges, the vast majority of which were campaign expenses.

61. This arrangement provided Mr. Espada with a substantial financial benefit and simultaneously placed Soundview's not-for-profit status at risk. Nevertheless, the arrangement was unanimously approved by the Soundview Board and has not been subject to review by the Board since its inception.

62. In September 2009, despite being provided with 14 weeks of annual leave (which accumulates indefinitely but is routinely converted into cash to pay for his personal and political expenses), Mr. Espada had exhausted his leave. As a result, Mr. Espada actually owed Soundview nearly \$6,000 for his personal expenditures. At the time, Soundview was struggling to meet its payroll and to pay more than \$700,000 in outstanding federal payroll tax obligations. Nonetheless, in December 2009, at Mr. Espada's direction and with the approval of Soundview's CFO, Mr. Brennan, the Board revised the terms of his employment agreement to require Soundview to credit him with his annual leave on the first day of each year, i.e., before the leave even accrued. In this manner, Soundview extended more than \$75,000 in credit to Mr. Espada, in violation of the loan prohibition of New York N-PCL § 716.

Misappropriating Soundview Funds

63. As a consequence of allowing Mr. Espada to use his corporate credit card for personal expenses, hundreds of thousands of dollars of personal charges were placed on his credit card. Even if this type of arrangement were permissible (and it is not), it would necessarily require that Mr. Espada regularly reconcile his credit card statements and that someone from Soundview carefully audit his reconciliation to ensure that charges were being properly characterized as personal rather than legitimate business expenses. Not only did Mr. Espada and Soundview's accounting staff fail to do such

reconciliations on a timely basis, but the reconciliations and the underlying accounting that did take place were inherently flawed. Mr. Espada did not submit receipts or expense reports. Personal expenses were intentionally and routinely mischaracterized as business expenses so that the expenses would be paid by Soundview.

64. Members of the Soundview accounting staff, including Mr. Brennan, and Ms. Ortiz, Mr. Espada's Executive Assistant, were aware of the fact that personal expenses were intentionally being characterized as business expenses and did nothing to correct the practice. Indeed, both Mr. Brennan and Ms. Ortiz were complicit in the scheme to use Soundview funds to pay for Mr. Espada's personal and political expenses.

65. From 2006 through 2009, on information and belief, more than \$250,000 of personal expenses charged on Mr. Espada's corporate credit card were passed off as business expenses. This sum included charges for more than 650 restaurant visits (totaling in excess of \$80,000) -- more than 400 of which were at local restaurants near Mr. Espada's home in Mamaroneck. More than two hundred of the meals charged to Soundview -- totaling more than \$20,000 -- were from two sushi restaurants; the meals were typically ordered by Mr. Espada's wife, and were, in many instances, delivered to Mr. Espada's home. Nonetheless, they were reported as business expenses and paid by Soundview.

66. Other personal expenses improperly charged to Soundview have included airline tickets for Mr. Espada, his wife and other individuals who were not Soundview employees or directors, and numerous other items that are unrelated to Soundview's mission.

67. One Soundview employee has admitted that it was understood that personal expenses that were improperly attributed to Soundview were to be ignored. According to this employee, while it might be acceptable at Soundview to seek to correct a glaring abuse that might otherwise be questioned by an outside accountant or regulator, it was verboten to point out other instances in which Mr. Espada was causing Soundview to pay for less obvious personal expenses.

Mr. Espada's Self-Dealing

68. Recognizing opportunities to secure further personal profit from Soundview, in 2007, Mr. Espada formed Soundview Management Enterprises, LLC ("Espada Management Company"), a for-profit janitorial services company. The entity was created to take over the janitorial contract then being performed by Soundview's wholly-owned subsidiary, Community Expansion Development Corporation ("Expansion"). Mr. Espada was and is the sole owner of Espada Management Company. Mr. Espada's eldest son Gautier manages Espada Management Company, despite the fact that he is a full time employee of Soundview (which happened to be Espada Management Company's single largest client and the source of the vast majority of its revenue).³

69. In early 2008, Mr. Espada directed Soundview's Board to hire Espada Management Company to provide janitorial services to Soundview. Under the contract with Espada Management Company, Soundview agreed to pay \$396,000 annually for janitorial services and also to take steps to defray Espada Management Company's operating costs, such as providing free office space and free cleaning supplies.

³ See also paragraph 123, *infra*.

70. In addition, the Espada Management Company took over janitorial contracts that had previously belonged to and had been serviced by Soundview's subsidiary, Expansion. In 2009 alone, Mr. Espada's company earned over \$40,000 in rent and maintenance fees from former Expansion clients, thereby diverting revenue from Soundview to Espada Management Company.

71. To create the artifice that Soundview entered into an arm's length, commercially reasonable transaction with Espada Management Company, Gautier papered the record with proposals from purported rival bidders. In fact, Gautier rigged the bidding process to ensure that the Espada Management Company would "win" the contract. For example, Soundview received a bid that was too low from one cleaning company, i.e., the proposal was at least \$60,000 less than what Soundview ultimately contracted to pay the Espada Management Company. Upon receiving the bid, Gautier (who as previously noted was the Soundview employee responsible for supervising janitorial services) called the company and arranged to have the bid submitted with grossly inflated figures. In another instance, Gautier arranged for a company to submit a bid that was based on a gross overstatement of the work that needed to be performed. As a result, this bid too was far in excess of the proposal submitted by Espada Management Company.

72. Once it began providing services to Soundview, Espada Management Company was operated as a pass-through entity to fund Mr. Espada's political activities. Upon information and belief, Espada Management Company spent at least \$60,000 on Mr. Espada's 2008 campaign, paying the rent for campaign office space, wages for

campaign workers and consultants and printing costs. The funds at issue originated with Soundview.⁴

73. Similarly, in 2005, Mr. Espada created a private company called Platinum Placement Services LLC ("Platinum Placement"). In 2007 and 2008, Platinum Placement received more than \$35,000 in fees from Soundview for placing "reminder" calls to patients regarding appointments. Despite Mr. Espada's role in forming Platinum Placement and the fact that Jeanette Torres (a former Soundview employee, current Espada Senate staffer and Soundview Board member and the mother of Mr. Espada's grandchild) had a role in Platinum Placement's day-to-day management, Soundview's Board minutes show no evidence of the conflict being disclosed or discussed. Indeed, the Board minutes are silent as to the justification for outsourcing the work in question and the rationale for allowing the work to be performed by an entity wholly-owned by Mr. Espada.

Employing Family Members

74. Since 2005, Mr. Espada has received \$1.77 million in wages and, on information and belief, approximately \$900,000 in benefits (including personal expenditures mischaracterized as business expenses). His for-profit companies have generated in excess of \$700,000 in revenue from Soundview. Soundview also provided him with a Mercedes automobile. And, as discussed above, Soundview has provided Mr. Espada with deferred compensation (or so-called severance) package that is currently worth approximately \$9 million.

⁴ In prior elections, Mr. Espada or those acting on his behalf had simply diverted funds from Soundview to the campaign. Indeed, this conduct resulted in the 2005 felony convictions of four Soundview employees: Maria Cruz, Esther Hill, Sandra Love and Norma Ortiz.

75. In the past five years, Soundview and the Espada Management Company have employed no fewer than 12 members of Mr. Espada's family, collectively paying them more than \$2,000,000.

76. Since 2005, Gautier has received over \$776,000 from Soundview. In addition, he received over \$28,000 in interest-free loans that he has yet to pay back and he has access to a corporate credit card that reflects thousands of dollars in personal charges. Soundview also pays his car lease payments and car insurance.

77. Gautier also oversees the operation of vending machines at multiple Soundview locations. On information and belief, Gautier is permitted to retain the profits from those machines. The sales from the machines are in cash, and it is unclear how much Gautier profits from the arrangement. What is clear is that Soundview does not receive any income from the operation of the vending machines at its own clinics.

78. Alejandro Espada, another of Mr. Espada's sons, received over \$430,000 from Soundview since 2005.

79. Romero Espada, another of Mr. Espada's sons, was paid over \$190,000 over the same time period.

80. Jeannette Torres, the mother of Gautier's child and a Soundview Board member has received over \$300,000 from Soundview since 2005.

81. Edwin Miranda, Mr. Espada's cousin, received over \$145,000 from Soundview over the same time period.

82. Mr. Espada's sister, Elena Espada, received over \$250,000 from Soundview over the same time period.

83. Lissette Espada, Mr. Espada's daughter-in-law, received over \$95,000 from Soundview over the same time period.

Rewarding Loyalists Convicted of Illegally Diverting Funds to Mr. Espada's Political Operations

84. In 2005, four senior managers at Soundview, Sandra Love, then-Senior Vice President, Maria Cruz, then-Vice President of Operations, Norma Ortiz, then-Executive Assistant to Mr. Espada, and Esther Hill, then-director of the Women Infants and Children ("WIC") Program at Soundview, were convicted of grand larceny.⁵ The charges related to the women's participation in a scheme to defraud Soundview by directing Soundview's employees on Soundview's time and at Soundview's expense to work for Mr. Espada's political campaigns. As a result of their fraud, tens of thousands of dollars intended for Soundview's WIC and HIV programs actually was used to pay for workers employed by Mr. Espada's political campaign.

85. During the course of the investigation and during the pendency of the criminal proceeding, Soundview paid the legal fees for each woman. Following their convictions, Soundview was obligated to seek reimbursement of the legal fees. In 2007, pursuant to inquiries from federal auditors regarding the large amount of as yet un-repaid legal fees, Mr. Espada converted 1,317 hours of his own accrued sick leave to satisfy the \$156,237.00 in outstanding legal fee liabilities owed to Soundview.

⁵ Specifically, Maria Cruz was convicted on June 1, 2005 of grand larceny in the 3rd degree (Case No. 025599-2005); Esther Hill, Sandra Love and Norma Ortiz were each convicted on May 20, 2005 of grand larceny in the 3rd degree, scheme to defraud in the 1st degree, and petty larceny (Case No. 07420-2003). Prior to this incident, Ms. Love had been convicted in July 2001 for misappropriating charitable funds to benefit Mr. Espada's political campaign. (Case No. 00685-2000).

86. Further, as discussed in paragraphs 125 through 127 below, Mr. Espada retained all four women as Soundview employees in positions that were virtually identical to those they had held prior to their convictions. In addition to their salaries, Ms. Cruz and Ms. Love were provided with automobiles and auto insurance paid by Soundview. Upon retiring in 2009, and just four years after her conviction for defrauding Soundview, Ms. Ortiz was awarded five months severance by Mr. Espada, based on her “tremendous service” to Soundview and the community.

87. Thus, Ms. Cruz, Ms. Hill, Ms. Love and Ms. Ortiz were essentially rewarded by Mr. Espada, despite their felonies. Also, as noted elsewhere in this Verified Complaint, Ms. Hill and Ms. Cruz were placed on Soundview’s Compliance Committee and entrusted with oversight of integrity matters. In contrast, Soundview itself suffered twice -- once as the victim of the fraud and again for continuing to employ these women. That is, in late 2009, Soundview’s grant application to become a WIC provider was denied by the New York State Department of Health because the company continued to employ two of the felons in positions of trust. This grant would have provided up to \$3 million over the course of five years to Soundview and its patients.

Payroll Tax Scam

88. Automatic Data Processing, Inc. (“ADP”) provides payroll, tax and human resource services to companies. From 1986 through the present, Soundview has used ADP to process and distribute paychecks for its employees on a bi-weekly basis. Prior to 2004, ADP also provided tax services to Soundview and, acting as Soundview’s agent, paid state and federal tax authorities the withholding taxes owed in connection with

Soundview's payroll. In 2004, ADP ceased providing tax services to Soundview due to Soundview's inability to maintain adequate funds to satisfy its tax obligations.

89. Since ceasing its tax services, ADP provided quarterly instructions to Soundview regarding the amount of payroll tax owed to the IRS. Despite the fact that Soundview was specifically informed of its payroll tax liabilities, it frequently failed to make the payments required by law.

90. Specifically, in 2008, Soundview failed to pay more than \$700,000 in federal payroll taxes. In the same year, Soundview timely paid Mr. Espada's credit card charges including more than \$250,000 in personal expenditures.

91. In choosing to pay Mr. Espada's credit card bill before its federal payroll tax obligations, Soundview placed Mr. Espada's interest ahead of its own interests. Indeed, as a result of the Board's and Officers' actions, Soundview incurred substantial penalties and placed the corporation at risk of significant civil -- if not criminal -- liability. To date, Soundview has paid approximately \$475,000 in back taxes and penalties, but the full scope of Soundview's obligation is unknown. The substantial funds that Soundview owes to the IRS have exacerbated Soundview's precarious financial situation.⁶

92. Further, in 2009, Soundview jeopardized additional state funding of more than \$3 million for a proposed new facility because it failed to disclose its sizeable tax debt to the federal government, as well as other liens and judgments against it.

⁶ In December 2009, Soundview needed a cash infusion to meet necessary financial obligations. Unable to obtain a commercial loan, the Board approved Soundview's borrowing \$200,000 purportedly from Mr. Espada. Soundview's Board minutes do not reflect the terms of the loan (such as interest rate or duration). Nor do the minutes reveal that the funds were actually provided by New Yorkers for Espada; Mr. Espada's political campaign committee. This transaction remains the subject of an ongoing investigation.

93. In sum, Soundview, a cash strapped not-for-profit that receives all of its money through federal and state grants, paid Mr. Espada and his family at least \$5 million in the past five years. During this same period, Soundview has lost out on millions of dollars in state funding because of Mr. Espada's mismanagement. Mr. Espada's self-dealing, waste and misappropriation has resulted in the diversion or loss of millions of dollars and has dramatically worsened Soundview's financial state.

II. Using Soundview's Workers and Resources for Political Purposes.

94. For years, Mr. Espada has used Soundview to operate and support his own political campaigns.

95. Most recently, in 2008, on information and belief, Mr. Espada spent over \$75,000 of Soundview's charitable resources on his quest to be elected State Senator, in violation of Soundview's certificate of incorporation and the laws applicable to charitable organizations. By favoring his own political ambitions over the needs of South Bronx residents, he not only wasted Soundview's assets but also jeopardized Soundview's tax-exempt status.

96. For his 2008 Senate campaign, Mr. Espada used Soundview employees, including Marzetta Harris, a current Soundview Board member and a Soundview outreach worker in 2008, as well as Soundview's resources to fund his election effort. Following his election, Mr. Espada hired Ms. Harris for his Senate staff and re-appointed her to Soundview's Board.

97. In 2008, Ms. Harris orchestrated a program to use Soundview for Mr. Espada's campaign, but disguise the activity as outreach for Soundview. Under this program, Soundview spent more than \$25,000 on fruits and vegetables to be distributed

in neighborhoods in the Bronx, some of which were not served by Soundview clinics, but which were located in the 33rd Senate District where Mr. Espada was seeking office. In the 33rd District, while the fruit and vegetables were purportedly being distributed on behalf of Soundview and were being paid for by Soundview, Mr. Espada's campaign workers gathered names for petitions to place Mr. Espada on the ballot or handed out campaign material in support of Mr. Espada's election.

98. Mr. Espada also used Soundview's funds to mail materials during the course of the campaign that were veiled campaign literature. Soundview's postage costs skyrocketed in 2008 in comparison to 2007, increasing by well over 300% during the year, with particular spikes in June, July and August -- the heart of Mr. Espada's primary election campaign.

99. Mr. Espada, who resided in Mamaroneck, New York, also arranged for Soundview to finance a second home in the Bronx in order to satisfy residency requirements for the State Senate seat. In September 2007, Mr. Espada purchased an apartment at 325 East 201st St. in the Bronx. Shortly after the purchase of this apartment, Mr. Espada directed Soundview to provide him with a housing allowance that covered his total monthly mortgage and maintenance expensed due on the Bronx apartment. Since January 1, 2008, Mr. Espada has received more than \$50,000 to maintain a residence in the jurisdiction in which he serves.

100. In total, on information and belief, Soundview improperly spent in excess of \$75,000 to benefit Mr. Espada's 2008 campaign, in contravention of its charter and its status as a 501(c)(3) tax-exempt organization.

III. Soundview's Failure to Maintain Adequate Books and Records.

101. In late 2007, Soundview needed to hire temporary accountants because it could not afford permanent accountants and its books and records were in disarray. Soundview hired Accountemps, a division of Robert Half International, Inc., ("Accountemps") to deal with issues such as unpaid invoices, some of which were up to three years old. In many instances, documents sufficient to substantiate the reasons for and nature of Soundview's obligations simply did not exist. Records of Soundview's cash expenditures were similarly scattered and again, in many instances, there was no supporting documentation.

102. As the temporary accountants organized and tried to prioritize invoices that were due, Norma Ortiz issued a directive to them, approved by Mr. Brennan. The directive required that payments reimbursing Mr. Espada and his family had to be paid before any other vendor or financial obligation, including such basic expenses as Soundview's rent and its utilities.

103. Ultimately, in 2009, Accountemps pulled its staff from Soundview because Soundview was unwilling or unable to pay its outstanding bills. To date, Soundview still owes Accountemps more than \$39,000. Accountemps was not the only organization whose bills have remained unpaid. Soundview has been named in multiple debt collection actions by vendor-creditors in recent years, including a law suit by the New York State Workers' Compensation Board.

104. Further, Soundview has yet to file either a federal tax return or its required state charities filings for 2008. For 2005, 2006 and 2007, Soundview's state and federal filings contain plain misstatements, including inaccurate statements about the

composition of Soundview's Board and about the compensation of Soundview's officers and other highly compensated individuals. For instance, Soundview's 2007 tax return, filed both with the IRS and the Office of the New York State Attorney General, states that Mr. Espada's compensation for the year was \$0. In truth, Mr. Espada earned at least \$450,000 in salary and other benefits.

105. Soundview's faulty record keeping is not limited to its tax filings. In 2009, Soundview submitted Vendor Responsibility Questionnaires ("VRQs") signed by Mr. Espada to the New York State Department of Health in connection with applications for two distinct state grants. These VRQs contained multiple misstatements, including a failure to disclose substantial unpaid federal tax obligations, as well as other unpaid liens and judgments.

106. Soundview's haphazard record keeping has allowed Mr. Espada to hide and disguise his looting of Soundview's resources. As a result of this intentional mismanagement, Soundview has failed to adequately maintain accurate books and records as required by the New York laws governing charities.

IV. The Conflicted, Compromised and Espada-Controlled Board and Management.

107. Mr. Espada has been able to plunder Soundview because he has populated its Board with members who do not exercise independent judgment and oversight and who do not possess the necessary independence or other qualifications to serve on the Board of a not-for-profit. These individuals include Mr. Espada's relatives, individuals who are financially indebted or personally obligated to him, and individuals who are employed on his New York State Senate staff.

108. In 2007, Mr. Espada installed as the Chairman of the Board his uncle, John Feliciano. Despite the fact that Soundview's by-laws explicitly prohibit an employee from serving as a member of the Board, at the time Mr. Feliciano became Chairman, he was an employee of Soundview. Further, while serving as Chairman, Mr. Feliciano was employed as a member of Mr. Espada's New York State Senate staff and Espada Management Company, Mr. Espada's for-profit janitorial services company.

109. Mr. Feliciano was preceded as the Board's Chairperson by Lourdes Rivera, who served throughout 2005 and 2006. During her tenure as Chairwoman, Ms. Rivera dated and ultimately married Mr. Espada's son, Gautier, who was an employee of Soundview.

110. Another uncle of Mr. Espada, Victor Feliciano, served on Soundview's Board for many years, and was the Board's Chairman in 2006 and 2007. During at least part of Mr. Feliciano's tenure on the Board, his son was an employee of Soundview -- a violation of the Soundview's bylaws which prohibits Board service by the parents of Soundview employees.

111. In April 2009, Jeanette Torres, the mother of Mr. Espada's grandchild, became a Board member. Prior to her Board service, Mr. Espada arranged for Ms. Torres to receive a \$7,500 loan from Soundview; the loan has never been fully repaid. Further, while serving on the Board, Ms. Torres has also received other payments from Espada Management Company, and was employed as a member of his New York State Senate staff.

112. The Board's current Chairwoman, Constance Bruno, received a \$1,000 loan from Mr. Espada's for-profit company in August 2009.

113. Jacqueline Collazo served as a member of Soundview's Board and is the niece of Mr. Espada.

114. Marzetta Harris serves as a member of the Board of Soundview, while also serving an employee of Mr. Espada's New York State Senate staff. She also previously was employed by Soundview.

115. Monica-Harris Coleman serves as a member of the Board of Soundview, while also serving an employee of Mr. Espada's New York State Senate staff. She also previously was employed by Soundview.

116. Lidisbelle Pacheco serves as a Board member of Soundview and is the mother of a grandchild of Mr. Espada.

117. Victor Sierra serves as a Board member of Soundview and is the boyfriend of Elena Espada, Mr. Espada's sister.

118. Andrew Yong served as a member of the Board of Soundview. Prior to leaving the Board, Mr. Yong was hired as an employee on Mr. Espada's New York State Senate staff.

119. In the instances in which Board members had no demonstrable, familial or economic ties to Mr. Espada, they often possessed little experience or training that would make them obvious candidates for service on the Board of a not-for-profit organization, such as Soundview. For example, one Board member, during her tenure on the Board, had multiple creditors file debt collection lawsuits against her.

120. Not surprisingly, given that more than a majority of the Board members had personal and financial ties to Mr. Espada, the Board has operated as his captive. The Board minutes demonstrate that it served merely as a rubber stamp for every proposal put

forward by Mr. Espada, regardless of the consequences to Soundview. Only one type of vote is ever recorded when it came to Mr. Espada's continuous demands for increased compensation or sweetheart arrangements: *Approved.*

Soundview is Controlled by Key Employees Whose Loyalty is to Espada and who are Controlled by Espada

121. On a day-to-day basis, Soundview is controlled and operated by approximately eight employees who place Mr. Espada and his family's interests above the interests of Soundview.

122. Since June 1996, Kenneth Brennan has served as Soundview's Vice President of Finance and CFO. Mr. Brennan routinely placed Mr. Espada's financial and political interests above the interests of Soundview. As discussed above, Mr. Brennan has demonstrated that his primary (if not exclusive) loyalty is to Mr. Espada and that Mr. Espada's interests always come before the interests of Soundview, even if Soundview is placed at both financial risk and in legal jeopardy. He has regularly directed that payments to the IRS, as well as bona fide vendors and creditors, be delayed when necessary in order to ensure that Mr. Espada's lavish lifestyle is funded by Soundview. As a consequence, while Mr. Espada's income and perquisites have steadily increased over the years, Soundview has been driven into insolvency and been subjected to IRS sanctions.

123. In 2005, Mr. Espada made his son Gautier Soundview's Director of Environmental Care, allowing him to operate as Soundview's facilities manager. Among other things, this position required that, starting in 2008, Gautier oversee the performance of the janitorial services provided by his father's company, Espada Management Company. Put another way, Gautier, on behalf of Soundview, was responsible for

supervising the performance of his own employer, Espada Management Company. Given the inherently conflicted nature of Gautier's obligations, it is all the more remarkable that, later in 2008, Gautier also was named as Soundview's Compliance Officer -- a role that required Gautier to identify and advise Soundview's employees about precisely the type of conflict of interest to which he was a party.

124. Alejandro Espada, Mr. Espada's son, is Soundview's Director of Marketing. In this role, Alejandro Espada oversees, among other things, Soundview's outreach efforts to the community, including its mass mailings to potential patients. These mailings routinely extol the great works of Soundview and Mr. Espada. As discussed in paragraph 98 above, Soundview's mailing expenditures in 2008 were designed more to promote Mr. Espada's political aspirations than Soundview's health services. Specifically, Soundview's mailing expenses in the three month period leading up to Mr. Espada's contested September 9, 2008 primary election for State Senate were roughly 240% percent greater than Soundview's postage expenditures for the entire year of 2007.

125. Maria Cruz, Soundview's Director of Human Resources, remains in a key position at Soundview, despite her 2005 conviction for diverting federal and state funds from Soundview to Mr. Espada's political campaign. While Ms. Cruz, as a consequence of her conviction, was supposedly demoted from her role as a corporate officer, in reality her responsibilities did not change. She continued to wield considerable influence at Soundview and remains among its highest paid employees. Further, Mr. Espada arranged for the legal fees associated with the criminal case against Ms. Cruz to be advanced by Soundview. Unable to repay the money herself, Mr. Espada cashed in over \$10,000 of

his own annual leave to satisfy her legal bill. Despite her felony conviction, Ms. Cruz was also placed on Soundview's Compliance Committee in 2008.

126. Sandra Love was also convicted of a felony in 2005 for diverting federal and state funds from Soundview to Mr. Espada's political campaign. Prior to her conviction for stealing from Soundview, Ms. Love was Senior Vice President. Although purportedly demoted from her role as a corporate officer following her conviction, Ms. Love continued to manage a Soundview clinic site and, in 2008, was the second highest paid Soundview employee, earning more than Soundview's Chief Financial Officer or its Medical Director.

127. Up until her 2009 retirement, Norma Ortiz was the Executive Assistant to Mr. Espada. As was the case with Ms. Cruz and Ms. Love, Ms. Ortiz was convicted in 2005 for grand larceny related to diverting funds from Soundview to Mr. Espada's political campaign. Ms. Ortiz suffered no consequences at Soundview from this conviction. She continued in her role as Mr. Espada's Executive Assistant and continued to have authority over Soundview's expenditures, including control over Mr. Espada's corporate credit card (on which hundreds of thousands of dollars of personal expense were charged). Further, as with Ms. Cruz, Ms. Ortiz was unable to repay the money advanced by Soundview for her legal fees, and Mr. Espada converted over \$40,000 worth of his accumulated annual leave to satisfy her debt to Soundview.

128. In sum, Soundview's management is dominated by individuals who are either Espada family members or Espada loyalists, people who have been rewarded for acts (including illegal acts) performed on behalf of Mr. Espada and against the interest of

Soundview. Each of these individuals, as discussed above, has consistently placed Mr. Espada's interests above the interests of Soundview.

Soundview's Compliance Committee

129. In 2008 Soundview adopted a compliance plan designed to comply with New York law.⁷ Such plans are intended to ensure that healthcare agencies receiving public funding avoid conflicts of interest and guard against waste, fraud and abuse. To carry out Soundview's obligation, Mr. Espada created a Compliance Committee and designated a Chief Compliance Officer. Both the Chief Compliance Officer and the Committee were tasked with advising Soundview's staff on, among other things, conflicts of interest, fraud and abuse, and wage and hour issues.

130. As Chief Compliance Officer, Mr. Espada installed his son, Gautier. As noted above, at the time he served as Chief Compliance Officer, Gautier was also employed by Espada Management Company, one of Soundview's largest outside contractors. Indeed, his duties at Soundview included supervising the work of his other employer, Espada Management Company.

131. Mr. Espada also placed Maria Cruz and Esther Hill on the Compliance Committee. Both women had been previously convicted of felonies as a consequence of their involvement in the diversion of public funds from Soundview to Mr. Espada's political campaigns.

132. Kenneth Brennan was also placed on the Compliance Committee. As discussed above, it is Mr. Brennan who, as CFO, has ensured that Mr. Espada's interests

⁷ New York law requires that all health care organizations that receive in excess of \$500,000 annually from governmental sources adopt a compliance plan. 18 NYCRR § 521; implementing New York Social Services Law 363-d.

were served over the interests of Soundview. Indeed, it was Mr. Brennan who oversaw a an accounting system that systemically gave priority to Mr. Espada's personal expenses and to payments to Espada Management Company -- while obligations to other bona fide creditors and to the IRS languished.

133. No Board member objected or expressed any concern over the selection of Mr. Espada's son, the two felons or Mr. Brennan as members of the Compliance Committee.

134. As demonstrated above, the conflict-riddled Board and senior management have been unable or unwilling to fulfill their fiduciary duties to Soundview. Instead, they have permitted Mr. Espada to use Soundview's assets for personal and political purposes inconsistent with Soundview's charitable mission. Mr. Espada has been allowed to enrich himself and others at the expense of the not-for-profit's financial and operational wellbeing.

FIRST CAUSE OF ACTION

Breach of Fiduciary Duty N-PCL §§ 717 & 720 (Against Mr. Espada)

135. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

136. Mr. Espada failed to discharge his duty an officer of Soundview with the degree of care, skill, prudence, diligence, and undivided loyalty required of him in that, among other things, he has: (a) misappropriated and wasted Soundview's funds and other property for his personal benefit and for the personal benefit of members of his family and others; (b) directed Soundview's resources to be used to benefit his political

campaign; (c) put in place Board members whose personal and financial entanglements with Mr. Espada create inherent conflicts of interests and ensure that Mr. Espada's improper compensation and business arrangements are approved; (d) caused Soundview to provide him with a compensation package including grossly excessive deferred compensation and paid leave that serves no legitimate corporate purpose and jeopardizes Soundview's financial wellbeing; (e) arranged for unlawful loans from Soundview to finance his personal and political expenses; (f) usurped a corporate opportunity by transferring Soundview's janitorial services to his own for-profit company; (g) failed to ensure that Soundview's operations adhere to the purposes set forth in its certificate of incorporation; and (h) jeopardized Soundview's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code.

137. By engaging in the foregoing, and upon information and belief, other improper conduct, Mr. Espada has breached his fiduciary duties to Soundview in violation of N-PCL § 717. Accordingly, Mr. Espada is liable under N-PCL §§ 720(a)(1)(A) and (a)(1)(B) to account for his conduct in the neglect and violation of his duties in the management and disposition of corporate assets, and for his conduct in transferring Soundview assets to himself and others, and causing loss and waste of Soundview corporate assets, and to pay restitution and damages to Soundview.

SECOND CAUSE OF ACTION

Waste and Misappropriation of Corporate Assets N-PCL § 720 (Against Mr. Espada)

138. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

139. Mr. Espada has misappropriated funds from Soundview for his personal use and the use of others through, among other things, misusing his corporate credit card to fund personal and political expenses and usurping a corporate opportunity by transferring Soundview's janitorial services to his own for-profit company.

140. Mr. Espada has caused loss and waste of Soundview's corporate assets by, among other things, (a) arranging for an excessive deferred compensation package that renders Soundview insolvent; (b) using Soundview resources for his political campaigns; (c) arranging for unlawful loans from Soundview to finance his personal and political expenses; and (d) arranging for unjustified and excessive accrued paid leave to be used to pay his personal and political expenses. In so doing, he has acquired Soundview's corporate assets for himself, rendering him liable to Soundview under N-PCL § 720(a)(1)(A) and 720(a)(1)(B) to account for his misconduct and to pay restitution and damages to Soundview.

THIRD CAUSE OF ACTION

Participation in an Impermissible Loan N-PCL §§ 716 & 717 (Against Mr. Espada)

141. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

142. While an officer of Soundview, Mr. Espada arranged for loans from Soundview in the form of (a) Soundview advancing him funds to pay his personal credit card expenditures; and (b) Soundview extending Mr. Espada a line of credit by making his entire annual leave balance available to him at the beginning of each year before he had earned it. These loans enabled Mr. Espada to use Soundview's assets to fund his personal and political expenses.

143. Each of these transactions were prohibited loans within the meaning of N-PCL § 716.

144. Accordingly, Mr. Espada should be directed to repay all amounts advanced to him under these loans, together with interest.

FOURTH CAUSE OF ACTION
Conduct Necessitating Removal of an Officer
N-PCL § 714
(Against Mr. Espada)

145. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

146. Mr. Espada (a) misappropriated Soundview's funds and other property for his personal benefit and for the personal benefit of members of his family and others; (b) directed Soundview's resources to be used to benefit his political campaign; (c) put in place Board members whose personal and financial entanglements with Mr. Espada create inherent conflicts of interests; (d) caused Soundview to provide him with a compensation package that serves no legitimate corporate purpose and jeopardizes Soundview's financial wellbeing; (e) obtained unlawful loans from Soundview; (f) failed to ensure that Soundview's operations adhere to the purposes set forth in its certificate of incorporation; (g) usurped a corporate opportunity by transfer Soundview's janitorial services to his own for-profit company; (h) prioritized his own financial interests over those of Soundview, thereby harming Soundview's financial wellbeing and exposing Soundview to litigation and regulatory penalties; and (i) and jeopardized Soundview's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code. Sufficient cause exists to remove Mr. Espada as an officer of Soundview.

147. Accordingly, Mr. Espada should be removed for cause as an officer of Soundview, and be permanently barred from election or appointment as an officer of Soundview or of any other not-for-profit corporation incorporated or authorized to conduct business in the state of New York.

FIFTH CAUSE OF ACTION

Breach of Fiduciary Duty N-PCL §§ 717 & 720 (Against Mr. Brennan)

148. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

149. Mr. Brennan failed to discharge his duty as an officer of Soundview with the degree of care, skill, prudence, diligence, and undivided loyalty required of him in that, among other things, he has: (a) knowingly permitted Mr. Espada to misappropriate Soundview's funds; (b) prioritized Mr. Espada's financial interests over those of Soundview, thereby harming Soundview's financial wellbeing and exposing Soundview to litigation and regulatory penalties; (c) failed to maintain adequate books and records; (d) failed to ensure that Soundview's assets were used for the purposes set forth in its certificate of incorporation; and (e) permitted Soundview's funds to be used for purposes that violate Soundview's charter and jeopardized Soundview's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code.

150. By engaging in the foregoing, and upon information and belief, other improper conduct, Mr. Brennan has breached his fiduciary duties to Soundview in violation of N-PCL § 717. Accordingly, Mr. Brennan is liable under N-PCL §§ 720(a)(1)(A) and (a)(1)(B) to account for his conduct in the neglect and violation of

his duties in the management and disposition of corporate assets, and for his conduct in allowing Mr. Espada to transfer Soundview assets to Mr. Espada and others, and for allowing Mr. Espada to cause loss and waste of Soundview corporate assets, and to pay restitution and damages to Soundview.

SIXTH CAUSE OF ACTION
Conduct Necessitating Removal of an Officer
N-PCL § 714
(Against Mr. Brennan)

151. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

152. Mr. Brennan, among other things, (a) knowingly permitted Mr. Espada to misappropriate Soundview's funds; (b) prioritized Mr. Espada's financial interests over those of Soundview, thereby harming Soundview's financial wellbeing and exposing Soundview to litigation and regulatory penalties; (c) failed to maintain adequate books and records; (d) failed to ensure that Soundview's operations adhere to the purposes set forth in its certificate of incorporation; and (e) permitted Soundview's funds to be used for purposes that violate Soundview's charter jeopardize Soundview's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code. Sufficient cause exists to remove Mr. Brennan as an officer of Soundview.

153. Accordingly, Mr. Brennan should be removed for cause as an officer of Soundview, and be permanently barred from election or appointment as an officer of Soundview or of any other not-for-profit corporation incorporated or authorized to conduct business in the state of New York.

SEVENTH CAUSE OF ACTION
Conduct Necessitating Removal of the Board
N-PCL §§ 706 & 717
(Against Director Defendants)

154. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

155. The Director Defendants failed to discharge their duties as directors of Soundview with the degree of care, skill, prudence, diligence, and undivided loyalty required of them in that, among other things, they have: (a) failed to exercise even rudimentary oversight over Mr. Espada's expenditures, thereby permitting both the waste of Soundview's assets and the use of those assets for purposes inconsistent with Soundview's charitable mission; (b) permitted Mr. Espada to misappropriate Soundview's funds; (c) authorized impermissible loans to Mr. Espada; (d) approved improper compensation packages for Mr. Espada that were not in the best interest of Soundview and threatened the financial wellbeing of Soundview; (e) approved interested party transactions that were not in the best interest of Soundview; and (f) prioritized Mr. Espada's financial interests over those of Soundview, thereby harming Soundview's financial wellbeing and exposing Soundview to litigation and regulatory penalties.

156. By engaging in the foregoing, the Director Defendants have breached their fiduciary duties to Soundview.

157. Sufficient cause exists to remove the current members of the Board.

158. Accordingly, the current members of the Board should be removed for cause as directors of Soundview. Additionally, all of the Director Defendants should likewise be permanently barred from election or appointment as directors of Soundview

or of any other not-for-profit corporation incorporated or authorized to conduct business in the State of New York.

EIGHTH CAUSE OF ACTION

Failure to Properly Administer Charitable Assets – EPTL § 8-1.4 (Against All Defendants)

159. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

160. As officers or directors of Soundview, Mr. Espada, Mr. Brennan and each of the Director Defendants are trustees under EPTL § 8-1.4(a), responsible for the proper administration of Soundview's charitable assets. Mr. Espada, Mr. Brennan and the Director Defendants have failed to properly administer Soundview's charitable assets. Additionally, Mr. Espada and Mr. Brennan have failed to maintain accurate books and records and failed to institute and maintain appropriate financial controls. Further, Mr. Espada has further failed to properly administer Soundview's charitable assets in that he has wasted Soundview's assets by improperly diverting them to himself and others. These improper diversions have occurred with the knowledge and approval of Mr. Brennan.

161. Mr. Espada, Mr. Brennan and the Director Defendants should be permanently removed, as officers, directors and trustees of Soundview and any other not-for-profit corporation incorporated or authorized to conduct business in the state of New York. Additionally, Mr. Espada and Mr. Brennan should be ordered to account for their failure and to provide restitution to Soundview.

**NINTH CAUSE OF ACTION
For Declaratory Judgment
Pursuant to CPLR § 3001
(Against All Defendants)**

162. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

163. Through his control of the Board, Mr. Espada arranged for a severance provision to be included in his 2005 employment contract with Soundview that is so one-sided and patently unfair to Soundview as to imperil Soundview's continued existence. The provision, included in Paragraph 8(d) of the agreement, provides that "[u]pon resignation, termination, death or disability, Espada or his beneficiary (in the event of death) shall receive one year's gross salary for each year of employment with CCDC corporate."

164. Mr. Espada's severance arrangement serves no legitimate corporate purpose. If paid out in accordance with its terms, the severance payment would bankrupt Soundview and threaten the ability of the organization to fulfill its stated charitable mission.

165. Even if not paid out, the severance arrangement, by its mere existence, enables Mr. Espada to extract additional benefits or leverage from the Board. There is real and justifiable controversy regarding the legitimacy and enforceability of the severance provision of Mr. Espada's 2005 employment contract.

166. Declaratory relief is needed to make clear that Soundview and its Directors and officers are not bound to pay out the severance called for in Paragraph 8(d) of Mr. Espada's 2005 employment contract.

167. Accordingly, judgment should be entered declaring that Paragraph 8(d) of Mr. Espada's 2005 employment contract is void and unenforceable, contrary to public policy, and enacted in violation of the duties of the directors who ostensibly reviewed and approved it.

TENTH CAUSE OF ACTION
To Enjoin Unlawful Conveyance or Transfer of Corporate Assets
N-PCL §§ 719 & 720
(Against All Defendants)

168. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

169. Payment to Mr. Espada under the severance arrangement set forth in Paragraph 8(d) of his 2005 employment contract would constitute an unlawful conveyance, assignment or transfer of corporate assets.

170. Reasonable grounds exist to believe that the Soundview Board will seek to transfer corporate assets to Mr. Espada under the terms of the severance of his 2005 employment contract upon the occurrence of one of the triggers for payment.

171. Injunctive relief is needed to avoid such unlawful conveyance, assignment or transfer of Soundview assets.

172. Accordingly, judgment should be entered enjoining any payment to Mr. Espada under Paragraph 8(d) of his 2005 employment contract.

PRAYER FOR RELIEF

Plaintiff demands judgment against Defendants as follows:

A. Removing Mr. Espada and Mr. Brennan as officers of Soundview; and

B. Removing all of the Director Defendants currently serving on the Board of Soundview as directors of Soundview; and

C. Holding Mr. Espada and Mr. Brennan liable to pay restitution and damages in an amount to be determined at trial; and

D. Declaring that the severance arrangement set forth in Paragraph 8(d) of Mr. Espada's 2005 employment contract is void and unenforceable, contrary to public policy, and enacted in violation of the duties of the directors who ostensibly reviewed and approved it; and

E. Enjoining any payment by Soundview to Mr. Espada pursuant to Paragraph 8(d) of Mr. Espada's 2005 employment contract; and

F. Enjoining Mr. Espada and Mr. Brennan, and all other persons acting or claiming to act on their behalf or in concert or participation with them, from accessing, using, or distributing Soundview's funds or other assets to Mr. Espada pursuant to Paragraph 8(d) of Mr. Espada's 2005 employment contract; and

G. Enjoining Mr. Espada and Mr. Brennan from serving as officers, directors, trustees or equivalent positions of Soundview or any other not-for-profit corporation in the future; and

H. Enjoining the Director Defendants from serving as officers, directors, trustees or equivalent positions of Soundview or any other not-for-profit corporation in the future; and

I. Granting such other and further relief as is just and proper.

Dated: April 20, 2010
New York, New York

Attorney General of the State of New York

By: 

Mitra Hormozi

Nathan Reilly

Assistant's Attorney General

Office of the Attorney General

120 Broadway

New York, New York 10271

(212) 416-6132/8860

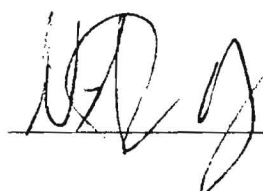
VERIFICATION

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss:

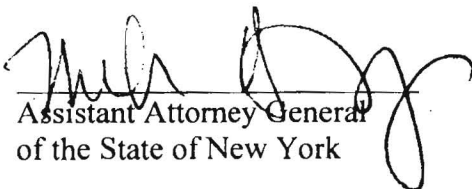
NATHAN REILLY, being duly sworn, deposes and says:

That he is an Assistant Attorney General of the State of New York, and is duly authorized to make this verification; and

That he has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to the best of his own knowledge, except as to matters therein stated to be upon information and belief, and as to those matters he believes them to be true.



Sworn to before me this
20 day of April, 2010



Assistant Attorney General
of the State of New York