

**IN THE SUPERIOR COURT
OF DEKALB COUNTY
GEORGIA**

ANTHONY S. TRICOLI,

Plaintiff,

vs.

**ROB WATTS; RON CARRUTH; JIM
RASMUS; MARK GERSPACHER;
SHELETHA CHAMPION; HENRY
HUCKABY; JOHN FUCHKO; STEVE
WRIGLEY; BEN TARBUTTON; THE BOARD
OF REGENTS OF THE UNIVERSITY
SYSTEM OF GEORGIA; SAM OLENS, THE
ATTORNEY GENERAL OF GEORGIA; and
ROBIN JENKINS
Defendants.**

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Comes now Plaintiff Anthony Tricoli and brings this action under OCGA §16-14-1 et seq. (Georgia RICO), OCGA § 51-6-1&2 and OCGA § 13-6-11 for damages caused by concerted reprisals and retaliation intended to force Tricoli out as President of Georgia Perimeter College (GPC) and destroy his career through acts of fraud by Defendants, up to and including the malicious fabrication and dissemination of false evidence and false reports on matters under the jurisdiction of a state agency against Dr. Tricoli with the intent to injure him--economically and not merely by reputation—in

a pattern of illegal activity under the RICO statute including acts of evidence tampering, false statements to state agencies, influencing witnesses, mail and wire fraud, by which Defendants created misrepresentations violating state criminal statutes that harmed the Plaintiff.

In particular, it is alleged herein that Defendants knowingly conspired to manipulate the budget of GPC, as well as the legally-mandated reports on the budget of a state institution to the president of GPC, and to make knowing public misrepresentations on the GPC budget, all with the common purpose of harming Plaintiff by destroying his career and livelihood in retaliation for his efforts at good governance, as well as obscuring Defendants' own malfeasance and misuse of state resources.

Use of these misrepresentations for purposes of subsequent media transmissions procured by Defendants resulted in additional counts of mail and wire fraud and false reports by a state agency. In addition, Plaintiff brings alternative claims for fraud, intentional infliction of emotional distress, and punitive damages under the RICO statute.

Plaintiff brings separate claims for breach of contract resulting from this scheme, since Tricoli was forced to resign--after the date for any notice that his annual contract would not be renewed--on the basis of the fraudulent pretext, as was known to the Board of Regents before the renewal date, as

well as a threat of termination and damage to his business reputation, resulting in additional RICO claims for extortion. Furthermore, Tricoli was induced to resign under threat of termination on the basis of the known fraud, with the promise of being moved to another paid position with the Board of Regents, as the Regents falsely reported to the media on May 7, 2012. That offer was withdrawn on a false pretext after Tricoli resigned in reliance on it, upon which the Regents falsely reported to the media that Tricoli's contract—which renewed on May 1, 2012—was not renewed, resulting in additional claims for fraudulent inducement, promissory estoppel, and reliance damages.

Parties and Relevant Persons

1.

Plaintiff Anthony Tricoli is former President of Georgia Perimeter College (GPC) in Decatur, Georgia, who more than doubled its enrollment, revenues, cash reserves, and prestige—but who was forced to resign in May of 2012 upon reports, including media reports issuing from the Board of Regents, that there was a budget deficit at GPC that was variously publicly reported at eight, sixteen, and twenty-five million dollars—though the actual size and cause of the alleged deficit was never documented, even upon an

audit report by the Board of Regents that was performed after Tricoli's ouster. The only undisputed conclusion was that the budget numbers were misrepresented to Tricoli by the finance staff of both Georgia Perimeter College and the University System of Georgia.

2.

The Board of Regents is a governmental authority overseeing the University System of Georgia (USG). At the time of Tricoli's ouster, officials at the USG claimed to have known of mounting budget problems at GPC for the preceding three years, yet never mentioned it to Tricoli in USG budget hearings or performance evaluations of Tricoli.

3.

Rob Watts served for 15 years as Vice President of Fiscal Services and then as interim president of GPC before being replaced by Tricoli as president. Watts then moved to the USG central office as Chief Operating Officer and Two-Year College Sector Head. Once at the USG, as Tricoli's direct supervisor through 2011, he withheld budgetary information from Tricoli, in order to bring about Tricoli's demise, and subsequently re-assumed the position of acting President of GPC. Watts conducted annual USG budget hearings and performance evaluations of Anthony Tricoli through 2011 without ever mentioning deficit spending that suddenly

became an urgent public crisis requiring Tricoli's immediate removal, without any investigation of the cause, in early 2012. Watts took over as interim president of GPC after Tricoli was forced out over a reported budget crisis that was never addressed in USG budget hearings and reviews conducted by Watts. Watts still serves as interim president of GPC two years later. In that position, he attempted to illegally interfere with Open Records Act requests for email communications related to this action.

4.

Ron Carruth, Executive Vice President of Financial and Administrative Affairs, reported directly to the President as the top financial administrator at GPC. Carruth served in that position under interim president Rob Watts and remained in that position at Watts' insistence, as Tricoli's supervisor, when Tricoli assumed office. During the time that Watts served over both Carruth and Tricoli as Chief Operating Officer to the USG and Sector Head of Two-Year Colleges, Carruth reported overspending to Watts and intentionally misled his direct superior to whom he reported, Tricoli, in violation of GPC Policy 302 regarding the budget and spending of GPC, in particular with respect to the drawdown of budget reserves, reserves that were created by the actions and at the direction of President Anthony Tricoli and surreptitiously wasted by Carruth. It is undisputed that Carruth was

reporting one set of numbers to the Board of Regents and another set of numbers to Anthony Tricoli. Carruth retired with a full pension immediately following the report of a budget crisis and the ouster of Tricoli in May of 2012.

5.

Sheletha Champion served as Director of Internal Audit and then was promoted by Carruth to Assistant Vice President of Financial Affairs, and was complicit with Carruth in the intentional false reporting of the GPC budget. She was aware of the problems leading to the reported budget crisis in 2012 and did not report them to President Tricoli, yet Tricoli was forced out and she was not. She left after the reported budget crisis to take a similar position under the former Chancellor of the USG.

6.

Michael Cole worked in the accounting department under Carruth and Champion. He was responsible for several serious accounting deficiencies reported to President Tricoli by the USG in March of 2012. After the reported budget crisis and ouster of President Tricoli in April of 2012, Cole was given another USG position at Dalton State College, notwithstanding the serious deficiencies in his job performance at GPC.

7.

Mark Gerspacher was Budget Director at GPC, who was also complicit in the false reporting of the budget to President Tricoli and the shadow reporting of different figures to the USG and Board of Regents. Gerspacher left to take another State position as Executive Director for Compliance, Reporting and Financial Services at Chattahoochee Tech in March of 2012, just prior to the report of a budget crisis and the ouster of Tricoli.

8.

Amy Jurgens replaced Gerspacher as Budget Director at GPC in March of 2012, and her discovery of the manipulation and mismanagement of the budget, and the misreporting of the budget to Tricoli, compared to the information being supplied to the Board of Regents, was one factor that made it necessary to make the public announcement of a budget crisis and effect the ouster of Tricoli without further delay, only a month after her arrival—even though the ouster occurred immediately after Tricoli’s positive annual performance review and the passing of the deadline on April 30 for notice of non-renewal of his annual contract. Jurgens did not inform President Tricoli of her concerns before the reported budget crisis and ouster of Tricoli.

9.

James Rasmus was the Executive Director of Human Resources at GPC. It was under his department that the only identifiable budget problems were found in the subsequent Regents' audit—specifically \$6.8 million in misallocation of employee fringe benefits. Upon information and belief, Rasmus also submitted anonymous complaints that were used by Rob Watts to initiate repeated state audits and investigations of Anthony Tricoli (that found no wrongdoing on Tricoli's part) and were also used by Regents Chancellor Henry Huckaby and Regents Board Chairman Ben Tarbutton to damage Tricoli at the Board of Regents. Rasmus' \$6.8 million reporting error contributed to the reported budget crisis and was unknown to Tricoli prior to the USG audit results released in September of 2012. Though he was directly responsible for nearly half the \$16 million budget deficit reported in April 2012, Rasmus remains in his position as HR Director at GPC today.

10.

Athena Jones was Benefits Director in Human Resources under Rasmus, with responsibility in the area in which the \$6.8 million misallocation was identified. After the reported budget crisis and ouster of Tricoli, she was promoted to a similar USG position at Georgia Tech.

11.

Henry Huckaby is the Chancellor of the Board of Regents who took office in 2011 and one year later induced Plaintiff to resign as President of GPC with threats of termination and false reports that Tricoli was directly responsible for a \$16 million budget deficit, together with the false promise of a job at the Regents central office that Huckaby withdrew after Tricoli resigned based on these false inducements, taking away Tricoli's rights under Regents policy and State Law.

12.

Ben Tarbutton is a member and former Chairman of the Board of Regents who helped orchestrate the ouster of Anthony Tricoli as President of GPC with a retaliatory motive and publicly falsely blamed Tricoli as solely responsible for the reported budget crisis.

13.

John Fuchko, Chief Audit Officer and Associate Vice Chancellor of Internal Audit for the USG, knew of the false reporting of the GPC budget and withheld the information from Tricoli, conducted repeated audits unrelated to the budget that found no wrongdoing in previous unsuccessful efforts to discredit Tricoli. In his Special Report, he blamed Tricoli for the reported budget crisis at GPC in 2012. In the same report he dismissed efforts to find \$9 million never accounted for while failing to investigate

contradictory and incomplete statements by others cited in his report. He then illegally interfered with Open Records requests directed at the false reporting of the GPC budget to Tricoli and the Board of Regents.

14.

Ben Riden, Associate Vice Chancellor for Fiscal Affairs at the USG, knew of the false reporting of the GPC budget and withheld the information from Tricoli. According to Riden, he knew of the overspending for three years prior to the reported budget crisis of April 2012—yet it was never mentioned in any USG budget hearing or review, or in Tricoli’s performance evaluations.

15.

Steve Wrigley, Executive Vice Chancellor of the USG, knew of the false reporting of the GPC budget and withheld the information from Tricoli, while using it to undermine Tricoli with the Chancellor and Board of Regents. Wrigley was in contact with Ron Carruth and Rob Watts about the budget issue at GPC but withheld that information from Tricoli, while using it to set Tricoli up.

16.

Robin Jenkins made repeated false and sometimes anonymous complaints about Tricoli that were also used by Watts, Fuchko, Wrigley, and

Huckaby to effect Tricoli's ouster that Defendants ultimately attempted to justify based on the intentional misrepresentations concerning the GPC budget that were widely disseminated in the news media, including in broadcasts by Huckaby and statements to the media by Tarbutton. With the knowledge of Watts and the Board of Regents, Jenkins maliciously and repeatedly used these false reports in order to interfere with Tricoli's efforts to find another position comparable to the GPC presidency and to prevent Tricoli's hiring by another higher education institution.

17.

David Schick is the former editor of the GPC student newspaper who made repeated requests to GPC and the Board of Regents under the Georgia Open Records Act seeking documents related to the knowingly false representations of the budget, the dismissal of 282 GPC employees because of the reported budget crisis of 2012, the ouster of Tricoli as GPC president, and the subsequent retention, promotion, or hiring at another USG-related institution of every GPC official with direct responsibility for the reported GPC budget crisis.

18.

Sam Olens, Attorney General of Georgia, has made persistent efforts to uphold and protect this false reporting of the budget crisis and ouster of

Tricoli, including by defending GPC and the Board of Regents' resistance to complying with Schick's Open Records requests, withholding the results of an investigation into the missing \$9 million of the reported budget shortfall, and otherwise assisting in the suppression of evidence related to this action.

19.

Burns Newsome is Secretary and counsel to the Board of Regents who participated in investigations and audits of Tricoli, at the behest of Defendants, that never found any wrongdoing by Tricoli, but resisted reporting the results clearing Tricoli.

20.

Kimberly Ballard-Washington is staff counsel to the Board of Regents who participated in investigations and audits of Tricoli, at the behest of Defendants, that never found any wrongdoing by Tricoli.

21.

Donald Leeburn is a resident of Georgia who served on the Board of Regents at times relevant to this action.

22.

Thomas Hopkins is a resident of Georgia who served on the Board of Regents at times relevant to this action.

23.

Mansfield Jennings is a resident of Georgia who served on the Board of Regents at times relevant to this action.

24.

Kenneth R. Bernard is a resident of Georgia who served on the Board of Regents at times relevant to this action.

25.

Doreen Stiles Poitevint is a resident of Georgia who served on the Board of Regents at times relevant to this action who has given testimony under oath that the Regents do not review the facts, issues, or documentation of cases brought to them for review, but rely only on what they are told by the USG officials including Defendants in this action.

26.

Kessell Stelling is a resident of Georgia who served on the Board of Regents at times relevant to this action.

27.

Larry Walker is a resident of Georgia who served on the Board of Regents at times relevant to this action.

28.

Frederick Cooper is a resident of Georgia who served on the Board of Regents at times relevant to this action.

29.

Willis Potts is a resident of Georgia who served on the Board of Regents at times relevant to this action.

30.

Phillip A Wilheit Sr is a resident of Georgia who served on the Board of Regents at times relevant to this action.

31.

Wanda Yancey Rodwell is a resident of Georgia who served on the Board of Regents at times relevant to this action.

32.

William NeSmith Jr is a resident of Georgia who served on the Board of Regents at times relevant to this action.

33.

William A. Rutledge, Jr. is a resident of Georgia who served on the Board of Regents at times relevant to this action.

34.

Frederick Cooper is a resident of Georgia who served on the Board of Regents at the time relevant to this action.

35.

Laura Diamond is a former Atlanta Journal-Constitution reporter who wrote a series of articles blaming Anthony Tricoli for the reported budget crisis and alleged shortfall of \$25 million based on information supplied by the USG. Diamond subsequently left the Journal-Constitution to accept employment by the USG in media relations at Georgia Tech.

36.

Richard Belcher is a WSB-TV reporter in Atlanta who released a story condemning Tricoli for his supposed actions related to another lawsuit against the Regents, which was used as a pretext for removing Tricoli after he resigned as GPC president on the promise of a position in the USG central office, and after the time Tricoli's annual contract as GPC president otherwise renewed if not for the resignation. Tricoli was later cleared of any of the supposed wrongdoing related to the Belcher report, but only after he was forced out as GPC president and dropped from his position in the USG central office before it started.

37.

Defendants in this action, including individuals in the position of state government officials, acted with the specific intent to injure Plaintiff as described herein.

38.

Upon information and belief, some or all of the named individuals are co-conspirators, whether named as defendants or not, and their acts form part of the conspiracy to injure Plaintiff.

39.

Plaintiff reserves the right to amend the complaint to name as individual defendants any person named herein who, upon discovery in this action, proves to have committed, attempted, or conspired to commit any indictable act under OCGA §16-14-1 et seq (Georgia RICO), or committed any tortious act or conspired with the perpetrators of any tortious act so as to incur liability as a state official acting outside the scope of official duties pursuant to OCGA § 20-21-25(a).

Jurisdiction and Venue

40.

Plaintiff hereby incorporates and re-allege the preceding paragraphs as if set forth fully herein.

41.

A substantial part of the transactions giving rise to this action occurred in DeKalb County and some Defendants reside in the county.

Therefore, venue is proper in DeKalb County pursuant to OCGA § 9-10-93 and § 16-14-11.

42.

Defendant Board of Regents of the University System of the State of Georgia is an agency or a department of the State of Georgia, which is subject to the jurisdiction of this Court by virtue of the facts hereinafter alleged and the application of O.C.G.A. § 16-14-1 et seq. and O.C.G.A. § 50-21-20 et seq. The Board of Regents is the named entity responsible for all acts by officials at the Board of Regents or GPC performed within the scope of their duties that are alleged to be tortious or a breach of contract. The Regents are also liable for criminal acts of University System employees under O.C.G.A. § 16-14-4(b), or for their own conspiracy and criminal predicate acts in a pattern of racketeering activity under O.C.G.A. § 16-14-4(c).

43.

Service on Defendant Board of Regents of the University System of Georgia may be made pursuant to O.C.G.A. § 50-21-35 by serving the Chancellor of the Board of Regents, Hank M. Huckaby, at his usual office address, which is: 270 Washington Street, SW, Suite 7025, Atlanta, Georgia 30334, and by serving Lisa Pratt, Director of Risk Management Services of

the Georgia Department of Administrative Services, at her usual office address, which is: 200 Piedmont Avenue, SE, Suite 1804, West Tower, Atlanta, Georgia, 30334-9010.

44.

USG Defendants John Fuchko, Steve Wrigley, and Hank Huckaby and Board of Regents Defendant Ben Tarbutton may also be served at their usual office address: 270 Washington Street, SW, Suite 7025, Atlanta, Georgia 30334.

45.

Rob Watts may be served at his usual office address: Georgia Perimeter College, Office of the President, 3251 Panthersville Road, Decatur, Georgia 29651.

46.

James Rasmus may be served at his usual office address: Georgia Perimeter College, Human Resources, 3251 Panthersville Rd, Decatur, Georgia 29651.

47.

Sheletha Y. Champion may be served at her home address in DeKalb County: 3740 Market Walk Clarkston, GA 30021

48.

Ron Carruth may be served at his home address: 703 Morningside Cir SE, Conyers, GA 30094-4480 .

49.

Mark Gerspacher may be served at his usual office address: Chattahoochee Technical College, Office A1108, 980 South Cobb Drive Marietta, GA 30060.

50.

Robin Jenkins may be served at his home address: 1357 Rolling Stream Way, Lawrenceville, GA 30043.

51.

Sam Olens, Attorney General of Georgia, may be served at his usual office address: 40 Capitol Square, SW, Atlanta, GA 30304-1330.

52.

The acts of the named individual defendants are attributable to the State of Georgia to the extent they are alleged to constitute tortious conduct under the laws of the State of Georgia not excepted by the GTCA. Defendants are also personally liable for torts committed outside the performance of the job duties and for their predicate acts to the extent they arise under OCGA 16-14-1 et seq., by reference to the Criminal Code of Georgia for acts of retaliation against Plaintiff in order to harm his economic

interests and to perpetuate the intentional misuse of state resources or the furtherance of an illegal conspiracy for those purposes under OCGA §16-14-4(c) (Georgia RICO).

53.

Pursuant to O.C.G.A. § 50-21-35, undersigned counsel for Plaintiff certifies that the requirement has been satisfied to mail a copy of this Complaint via certified mail, return receipt requested, to the Office of the Attorney General at his usual office address, to wit: Sam Olens, 40 Capital Square, S.W., Atlanta, Georgia, 30334-1330.

54.

Plaintiff filed a timely ante litem notice and received certified mail return receipts for the ante litem notice, insofar as it is required for any state tort law or breach of contract claims. See Exhibit 1.

Statement of Facts

55.

Plaintiff hereby incorporates and re-alleges the preceding paragraphs as if set forth fully herein.

THE TRICOLI PRESIDENCY

56.

Plaintiff Anthony Tricoli was hired as president of Georgia Perimeter College (GPC) in 2006. He replaced interim president Rob Watts who left GPC to become Chief Operating Officer and Two-Year College Sector Head of the University System of Georgia (USG), overseen by the Board of Regents.

57.

At the time of Tricoli's hiring in 2006, Watts informed Tricoli in his first week as GPC President that because of a political decision made by the Board of Regents, the Lawrenceville campus of GPC was slated to close. This closure would result in the loss of 7000 students and approximately \$30 million in revenue. Watts therefore instructed Tricoli that his first task on the job was to devise a plan to lay off 300-350 GPC employees.

58.

Watts also prevailed upon Tricoli to retain as the top financial administrator at GPC Ron Carruth, who had been promoted to that position by Watts, based on Carruth's decades of experience, calling Carruth "the best budget manager in Georgia." Within a month Tricoli suggested to Watts that he would like to remove Carruth, but Watts told Tricoli he could not do that because of his history with the USG and because Carruth was the best

budget manager in the USG. Tricoli made the same request to Watts on three occasions in 2007, 2008, and 2010, and Watts told Tricoli he could not remove Carruth.

59.

However, instead of laying off employees as instructed by Watts, Tricoli took vigorous steps to increase access to the college and enrollment increased by 10,000 students within a year, making GPC the third largest institution in the University System of Georgia after only the University of Georgia and Georgia State University.

60.

The increase of enrollment to 27,000 students during Tricoli's tenure as president doubled the revenues of GPC. Accordingly, the annual budget of GPC grew from approximately \$94 million to \$190 million.

61.

As a result of this growth in enrollment and revenues, the purported \$30 million budget crisis of 2006-07 was averted without laying off any GPC employees.

62.

In addition, at Tricoli's direction, an \$18 million reserve fund was created at GPC, using funds generated by the dramatically increased enrollment.

63.

Tricoli worked under a written contract that was annually renewed unless notice of non-renewal was given by April 30 each year. When Tricoli's annual contract was unanimously renewed by the Board of Regents in 2009, Chancellor Erroll Davis wrote, "We all remain impressed with what you have done at GPC. Keep up the good work!"

64.

Then-Chancellor Davis also described the overall impact of Tricoli's leadership, in taking the school from a base of 6,000 students when he started in 2006 to 27,000 students by the time he departed in 2012, on the culture of GPC:

It was under Dr. Tricoli's leadership that the image and culture of GPC positively changed. It was no longer seen as a last chance college, but a college of first choice, a gateway into the University System of Georgia, transferring thousands of students each year into the USG's senior institutions. In 2011, GPC enrolled over 15,000 freshman students, a great change from the 6,000 freshmen that enrolled in 2006 prior to Dr. Tricoli's arrival. In the five years under his leadership, the image of the institution was unquestionably transformed for the better, locally, nationally, and internationally. The college's international composition has grown to nearly 160 different countries. It has become one of, if not the, most diverse colleges in the University System, and it graduates more students of color than any in the USG.

65.

Tricoli received numerous awards and accolades for his leadership at GPC, including a national award from the American Association of University Professors, for the best plan for running a college *in the nation*-- right up until the time he was blamed for a \$16 million budget deficit and removed by Chancellor Hank Huckaby.

66.

On April 25, 2012, Ron Carruth reported to Tricoli that there was a million dollar budget deficit. In the course of the same day, Carruth revised the deficit reported to Tricoli to four, then to eight million dollars. Ten days earlier Carruth had informed Tricoli at the Executive Committee meeting that GPC was operating \$4 million in the black.

67.

Upon hearing these increasing deficit numbers for the first time, Tricoli immediately informed Chancellor Huckaby and ordered cost-cutting measures including a hiring freeze and travel restrictions. However, it turned out that Tricoli's demise had already been arranged.

68.

When Tricoli and his executive staff met with finance personnel from the USG, the USG informed him that the actual budget deficit was \$16

million, and that the USG had known of the growing budget problem for at least three years.

69.

The USG auditors who came in to examine the books reported that the accounting records kept by Gerspacher, Champion, and Carruth were so confusing that they were impossible for a trained accountant to follow, making it likely that the actual spending on millions of dollars of items was hidden in the records and could not be ascertained.

70.

Based on documents supplied by the Board of Regents, the Atlanta Journal Constitution reported in 2012 that there was a 9.2 million dollar surplus at GPC in 2008, which dropped to \$288,765 when 2012 fiscal year began.

71.

However, Rob Watts loyalist Ron Carruth had reported to President Tricoli that GPC was running a \$4 million surplus in early April 2012, ten days before the reported budget crisis that led to Tricoli's ouster. Carruth had continually reported similar rosy budget numbers at every meeting pursuant to GPC and Regents' policy of the Strategic Planning Budget Committee, the Executive Committee, and the President's Cabinet. Carruth

continued to approve every budget request put forward, stating that GPC had the funds to cover such expenditures as the addition of 100 new full-time faculty members to support the growth of the school, responding to detailed inquiries by Tricoli. Meanwhile, Carruth had been reporting drastically different numbers to the USG and Board of Regents that showed GPC rapidly careening out of the black and into the red.

72.

In 2009, the Regents changed USG policy to allow system institutions to draw down their reserves without prior Board approval. After that policy change, Carruth began drawing out of the reserves—reserves built up in GPC’s case at Tricoli’s direction--without informing Tricoli, anytime after 2009.

73.

Yet Carruth never mentioned these budget issues at any stage of the budget development or reporting processes mandated by GPC and Regents policy.

74.

Though the USG and Regents claimed to have been aware of the situation since 2010, overspending was never mentioned in the annual USG budget review or performance evaluation of President Tricoli, conducted by

USG Chief Operating Officer Rob Watts in any year, including the years after 2009 when GPC was supposedly engaged in deficit spending.

75.

According to the USG Special Report, the audit done by the USG itself of the GPC books after the reported budget crisis in 2012 and released after Tricoli's ouster, the annual budget summaries prepared by Ron Carruth for President Tricoli according to GPC and Regents policy, as an official report of a state agency, did not reflect the actual financial condition of GPC.

76.

The same false information was reported by Carruth and his team in the regular meetings of the Executive Committee, the President's Cabinet, and the Strategic Planning Budget Committee.

77.

The same false information was presented in regular USG Budget Hearings by Carruth from 2009 to 2011. Then, in February 2012, Carruth prepared what was later revealed to be a false budget presentation and asked Tricoli to present it.

78.

In the last Budget Hearing hosted by the USG at GPC during Tricoli's presidency, in February 2012 (two months before the reported budget crisis

and ouster of Tricoli), President Tricoli ended the conversation by indicating that he had been holding \$800,000 in an account that he was not able to release under Mr. Watts (who left his USG position in October 2011), but he would finally like to release these funds to the faculty and staff at GPC for their long awaited and long deserved raises. Huckaby asked how this request came about, and Tricoli responded that in the 2008-2009 timeframe he and the President's Cabinet (including Faculty Senate President Todd Hendricks and EVP Ron Carruth) completed a salary study that indicated the faculty and staff were well underpaid. Tricoli immediately directed Carruth to place \$800,000.00 into a holding account, with plans to place \$1.2 million the following year and \$1.5 million the year after that to bring the faculty and staff back up to appropriate salary levels. In previous years Watts, who was Tricoli's supervisor from 2009 through 2011, had denied the request to release the funds to augment faculty salaries. At the 2012 Budget Hearing, Tricoli asked Huckaby if he could finally release these funds to GPC's employees, and he was told to hold off until after the Georgia Legislative Session. However, Tricoli was removed before the Legislative session ended. No one spoke up at Budget Hearing to say that the reserves to fund faculty raises Tricoli was asking about were no longer there.

79.

However, the USG Special Report conducted after Tricoli's ouster found that the audited financial statements prepared by Carruth's team did not reflect the actual financial condition of GPC with respect to outstanding revenues and depleting reserves. This establishes that Tricoli was being deliberately misled both in the reports coming up to him from Carruth and the evaluations and budget reviews coming down from Tricoli's supervisor, Rob Watts. Watts was aware as Carruth spent down the \$18 million reserve and both misled Tricoli the entire time.

80.

These knowingly false reports to Tricoli violated GPC Policy 302, which states;

"The Executive Vice President for Financial and Administrative Affairs shall inform the President of any expenditure trends that may affect the College's ability to live within its budget, any changes in revenue that were not anticipated in the original budget, and any external conditions that may require adjusting expenditures. The President will decide if mid-Year budget adjustments are necessary."

81.

Tricoli was employed on an annual contract that renewed for an additional year if he was not given notice otherwise by April 30 of each year. Tricoli's annual contract was renewed by unanimous agreement--and

with enthusiastic endorsement by then-Chancellor Erroll Davis during his term--every year from 2007 through 2012, based on exceptional performance of his duties as president.

82.

When the reported budget crisis was first disclosed in late April of 2012, the Atlanta Journal-Constitution pilloried President Tricoli for causing a \$16 to \$25 million budget deficit, based on information provided by the USG and Board of Regents. In fact, because of the reserves previously built up by Tricoli, GPC never actually went into the red at any time during his presidency.

83.

Chancellor Huckaby publicly announced that Tricoli was being held accountable for the reported \$16 million budget deficit and removed from office, but was being transferred to another position in the USG central office because of Tricoli's admittedly proven ability and the "extenuating circumstances" surrounding the reported budget crisis.

84.

Three days after procuring Tricoli's resignation as president under a threat of termination and the promise of a transfer to the central office,

Huckaby terminated Tricoli's career on May 10, 2012, ten days after Tricoli's written contract as GPC president was automatically renewed.

85.

Board of Regents Chairman Ben Tarbutton announced that "the buck stops with Tricoli" and "the important thing is that he [Plaintiff Tricoli] is no longer president," though the subsequent audit by the USG looking into the reported budget crisis confirmed that Ron Carruth had systematically misinformed Tricoli on the state of the budget and the reserves.

86.

The audit conducted by the USG itself found that \$6.8 million of the deficit arose out of the Human Resources department under James Rasmus, who reported directly to Ron Carruth, in the form of misallocation of employee benefits. The rest of the \$9 million shortfall was never accounted for, yet no known outside audit was ever conducted other than the USG's audit of itself.

87.

It was announced by the Board of Regents and widely reported in the media that the Attorney General was conducting an investigation into the unaccounted-for funds. However, no results of this Attorney General investigation have ever been released.

88.

After Tricoli's ouster in May of 2012, Robb Watts was named interim president of GPC, for the second time, and cut 282 jobs, just shy of the 300-350 he ordered Tricoli to cut in 2006 to solve the \$30 million budget shortfall that arose under Watt's tenure as GPC president. Watts also announced to the public and the press that the actual deficit figure blamed on Tricoli in 2012 was \$25 million.

89.

After Tricoli's departure, enrollment and revenues both declined at GPC, reversing the trend during Tricoli's tenure.

90.

Yet within none months of taking office, Watts announced to great fanfare that the \$25 million deficit that has never been explained, in a total budget of \$190 million, had just as inexplicably been erased in less than a year, and that GPC was now operating in the black again.

91.

This complaint will tell the story how Tricoli went from being a "rising star of the University System," according to the Atlanta Journal-Constitution, whose dynamic leadership and fiscal responsibility led GPC out of the doldrums of the \$30 million budget woes in 2006, to being forced

out in disgrace and blamed for a \$25 million deficit just five years later— and less than a month after being told by his top financial official that GPC was operating in the black by \$4 million, though USG personnel had long known otherwise without ever raising the issue with Tricoli. It is a story of a pattern of false reporting of official state business in violation of OCGA § 16-10-20 being used to co-opt public offices that exist to serve the people of Georgia and illegally use the machinery of state government instead to carry out vendettas against Plaintiff Tricoli and in furtherance of the misuse of state resources.

THE CABAL FORMS

92.

While President Tricoli's attempts to stimulate growth and restore fiscal soundness to GPC won him many accolades, including three national awards for best college president in the year before and even the same year as his ouster, it also earned him many enemies.

93.

After Tricoli resolved the purported budget crisis of 2006-07 without laying off any of the 350 employees as directed by Rob Watts, Watts repeatedly had Tricoli investigated and audited based on anonymous reports.

No wrongdoing by Tricoli was ever found after months of investigation much more extensive than that ever devoted to determining how GPC overspent its budget by \$16 million.

94.

Before Tricoli was unanimously re-appointed by the Board of Regents in 2010 under his annual contract, Watts wrote to Tricoli to say that he had damaged his standing with some of the Board members and USG personnel.

95.

Upon information and belief, some of the three known anonymous letters to Watts came from Rob Jenkins, whose position as director of the Writer's Institute was eliminated as part of the budget restructuring in 2010, and who spared no effort to maliciously retaliate against Tricoli thereafter. Ironically, it was Watts who ordered the termination of the Writer's Institute position, and Jenkins went back to teaching at the same increased salary he held in his administrative position.

96.

James Rasmus, head of the Human Resources Department, who was found to be responsible for a \$6.8 million misallocation of employee fringe benefits—the only shortfall in the reported budget crisis of 2012 that has

ever been identified--was another source of anonymous reports to Watts resulting in audits and investigations of Tricoli that found no wrongdoing.

97.

One issue that caused enmity just four weeks prior to the reported budget crisis and ouster of Tricoli concerned the discussion of merger of two year and technical colleges.

98.

At Huckaby's request for possible and additional mergers in the USG. Tricoli shared an idea he received from members of the GPC Foundation Board sometime earlier. The suggestion was to consider bringing GPC and Atlanta Metropolitan College together. Huckaby asked Tricoli to send his ideas to Huckaby in writing.

99.

When the memo requested by Huckaby was leaked to the AJC's Laura Diamond after Huckaby distributed it only during a meeting of the USG Executive Staff, USG officials, in particular Steve Wrigley, were furious with Tricoli, who only complied with a request from the Chancellor, instead of with those who leaked the information from the Chancellor's Executive Staff meeting. This would prove to be only the beginning of manipulating the press by releasing information to harm Tricoli.

100.

Tricoli initiated the addition of several three-year degree programs, collaborating with Georgia Southwestern State, putting GPC in the lead in the USG on creation of these shortened degree programs for students, and was on the verge of creating similar relationships with Georgia State, Kennesaw State, and Georgia Southern. Watts resisted this successful initiative because Tricoli did not seek his prior approval for it.

101.

More importantly, the financial team at GPC that eventually spent down the reserves, misreported budget numbers, and misallocated fringe benefits obligations knew that they were not meeting the standards Tricoli expected, as they constantly failed to meet goals set for them by Tricoli.

102.

They also felt their position were protected as long as their ally Rob Watts was overseeing the two-year college presidents.

103.

This team of Carruth, Champion, Gerspacher, and Rasmus began intentionally withholding accurate information from Tricoli in official reports of state business, while keeping records so confusing that Tricoli would not have been able to follow them if he had examined them

personally instead of relying on the reports of the GPC financial team--USG auditors later reported they were unable to decipher the books kept by Carruth's team at GPC. Meanwhile, they were more accurately reporting the real condition of the GPC budget to Watts at the USG.

104.

But when Watts fell out of favor at the USG when Huckaby became Chancellor in July of 2011, Watts was reassigned out of the USG central office as interim president at Georgia Highlands in October 2011, the financial team at GPC lost its protective umbrella.

105.

When several accounting discrepancies were reported back to Tricoli by Huckaby in early 2012, Tricoli convened a meeting with Carruth and Champion, who refused to disclose who was responsible for the errors. Tricoli ordered them from his office until they were willing to tell the truth about the financial affairs of GPC to its President.

106.

Tricoli persisted in his inquiries and learned that the accounting errors were caused by Michael Cole. After the reported budget crisis and ouster of Tricoli, and Cole was let go in the budget cuts that followed, Cole was

invited by John Fuchko to interview at the USG central office and given a USG position at Dalton State College.

107.

During his review of the Accounting Department Audit which was received by GPC in January of 2012, Tricoli learned from Sheletha Champion that part of the problems highlighted in the Accounting Audit were created by a consultant hired by Rob Watts and Ron Carruth years earlier. Tricoli dug deeper and learned in February 2012 that the consulting firm offered no value to GPC. Tricoli immediately directed Champion and Carruth to terminate the contract for consulting services. Tricoli was never informed of the existence or the name of the consulting company, or that this company was contracted by Watts and Carruth and paid over a million dollars per year out of the GPC Budget.

108.

Only in the course of the Special Report audit by the USG after his ouster did Tricoli learn from John Fuchko that the consulting firm Tricoli dismissed was the politically-connected Skybridge Consultants.

109.

Upon information and belief, there were undisclosed personal connections between Skybridge, Carruth, Watts, and USG staff and members of the Board of Regents.

110.

Tricoli also vigorously opposed the switch from PeopleSoft, as a payroll service provider to USG campuses, to ADP, a switch supported by Defendants, in particular Board of Regents Chairman Ben Tarbutton. The switch to ADP resulted in a service center that was placed in Tarbutton's hometown and brought a multi-million dollar annual contract to Sandersville, Georgia, which was selected after an "international search" for the best site.

111.

The switch to the ADP system had widespread opposition, not just from Tricoli, but from IT professionals throughout the University System as a system ill-suited to USG needs and a wasteful expenditure. After the USG spent millions upon millions of dollars switching to ADP and setting up the service center in Sandersville, the system has not performed as promised, and has greatly exceeded the projected costs, and the USG is in the process of transitioning back to PeopleSoft in 2015.

112.

After being dismissed at GPC, Skybridge was subsequently sent by the USG to perform consulting work at the Service Center in Sandersville that was established for ADP.

113.

In the spring of 2012, leading up to the time of the reported GPC budget crisis and ouster of Tricoli, there was extensive discussion within the USG of the budgetary impact of significant cost over-runs in the ADP services. Tricoli went on the record expressing his concerns about the arrangement with ADP.

114.

While GPC had built up a reserve fund of \$18 million (\$9.2 million according to information supplied to the Atlanta Journal-Constitution by the USG) at Tricoli's direction by 2009, other two-year colleges in the USG system continued to struggle mightily with their budgets. In a time of economic downturn after 2008, other USG college presidents were forced to leave their positions in the face of budget disasters. In striking contrast to what would later happen in the ouster of Tricoli, all the other presidents of USG two-year colleges forced out in the face of budget deficits left with generous severance packages and benefits.

115.

Throughout 2010 and 2011, Carruth continued to approve all budget requests and respond to all inquiries by Tricoli about specific line items that there were sufficient revenues to cover them. This stands in stark contrast to what was later reported in the press through the USG: a fiction that Tricoli was either not paying attention to detail with respect to the budget or was intentionally “dipping into the reserves,” as reported by Laura Diamond of the Atlanta Journal-Constitution, now employed by the USG.

116.

However, the USG knew during this period that, though GPC never went into the red, it was outspending its revenues in a manner that could not be sustained. Steve Wrigley asked Tricoli early in 2012 if GPC had the future budget capacity to support a \$1 million grant GPC had won to start a new program. Of course, Wrigley knew the financial situation that had been reported to the USG, but not to Tricoli, by Carruth. In keeping with the pattern, Wrigley did not disclose what he knew to Tricoli while setting Tricoli up for the fall. Wrigley set Tricoli up by asking him to put that statement in writing, that GPC had the reserves to cover future costs of the program, which Tricoli readily did in the belief that GPC had substantial reserves to cover them.

117.

Meanwhile, in the spring of 2012, foreshadowing the major cloak-and-dagger media drama to come, Carruth and his budget team were meeting over the course of weeks with USG officials at a remote location on the Newton County GPC campus, after business hours, late into the night, without Tricoli's knowledge. Upon information and belief, the reason for meeting after hours at this remote campus was to keep the meetings secret from Tricoli. The purpose of these meetings was never known until the reported budget deficit of April 25, 2012, and subsequent ouster of Tricoli.

THE AX IN THE BACK FALLS

118.

The gambit resulting in Tricoli's ouster began with a malicious attack by GPC instructor Rob Jenkins, who sent a long list of undocumented hearsay complaints about Tricoli to Huckaby at the time of the reported budget deficit of April 2012.

119.

On the morning of April 25, 2012, Ron Carruth came into the President's office and reported to Anthony Tricoli for the first time that "there may be a problem with a shortfall in the budget." Tricoli asked how that could be when Carruth had reported ten days earlier that GPC was

operating at a \$4 million surplus, and Carruth was not able to respond. When Tricoli asked how much of a shortfall, Carruth responded maybe a million dollars.

120.

Tricoli immediately met with Vice President Alan Jackson to determine where they could find cost-savings of \$1 million at GPC, an institution with five campuses and over 3000 faculty and staff, with a budget of \$190 million. Within an hour, Tricoli and Jackson believed they had solved the unexpected million-dollar emergency.

121.

Later that morning, however, Carruth returned to Tricoli's office and informed Tricoli that the shortfall was "more like \$4 million."

122.

Tricoli immediately went into action again with Jackson identifying areas of possible cost-savings to resolve a \$4 million shortfall, proactively addressing the issue just as he had in the previous purported budget crisis of 2006-2007 when Watts projected a loss of \$30 million.

123.

When Carruth returned later and reported that the budget deficit was maybe more like \$8 million, and could be more, Tricoli immediately picked

up the phone to inform Chancellor Huckaby of the serious problem that Carruth, his top financial officer, did not seem to grasp and request help from the USG.

124.

That afternoon Ben Riden arrived with a team of auditors from the USG central office. After working for five hours reviewing Carruth's records, Riden informed Anthony he should go ahead and go home because the auditors would be working all night to try to decipher the records.

125.

The next day Tricoli convened a meeting of USG staff and GPC vice presidents including Carruth, explained the issue that had arisen the day before, and introduced Ben Riden.

126.

Riden then asked Carruth how much he thought GPC was in the red. Carruth said he thought it was \$8 million and Riden said "No." Carruth said \$9 million? Riden said no. Carruth said \$10 million? Riden: No. Tricoli grabbed Carruth's arm and said "Ron, you don't know? Are you kidding me!"

127.

Riden then reported that after reviewing the records overnight, the USG had determined that there was a \$16 million deficit. Riden also commented that the USG had been aware of the problems developing since 2010.

128.

Tricoli turned to Carruth, who was seated immediately beside him and asked how that could be since Carruth had reported a \$4 million surplus ten days before. All Carruth said was, “My bad, Dr. T, my bad.”

129.

In the course of the meeting Tricoli received a message from his secretary that Huckaby wanted to see him at the USG / Board of Regents office downtown, as John Fuchko had texted him about what had transpired at the meeting at GPC.

130.

When Tricoli arrived at Huckaby’s office, Huckaby immediately informed Tricoli that he needed to resign. Tricoli refused, noting that he had been informed ten days ago that GPC was \$4 million in the black and the USG was now saying they have known for three years that was not true, but Huckaby, the Chancellor over the entire USG system, insisted, “The buck stops with you, Anthony.”

131.

Tricoli returned to his office and gathered copies of all the minutes of all the meetings of the Executive Committee, the President's Cabinet, and the Strategic Planning Budget Committee and returned to the central office to show Huckaby that Tricoli had been deceived with an entirely different picture of the GPC budget.

132.

Tricoli also kept working on a plan to stave off the budget problem with \$8 million in savings and a recommendation to borrow another \$8 million within the USG from Georgia State University (after Tricoli was removed, this method was in fact used to balance the GPC budget), which could be paid back in the next year through a pending contract by GPC with Fort Gordon that would have immediately increase enrollment by 6500 students, bringing total GPC enrollment for the fall of 2102 to 33,500 students.

133.

Huckaby dismissed the plan and the documentation showing that Tricoli had been deceived, stated that Tricoli was responsible for the reported budget crisis, and cited the Jenkins memo as evidence that Tricoli

needed to leave GPC. Huckaby insisted that Tricoli needed to resign or Huckaby would fire him.

134.

Tricoli refused to resign, insisting that he had been deliberately misled and that he could resolve the problem. However, he was, in fact, removed before he could take action to address the budget issue, as he did in 2006. In 2012, he was not afforded the opportunity to lead the school out of the problem as he did when Watts ordered him to close the Lawrenceville campus and lay off 300-350 employees to make up for the loss of \$30 million in revenues.

135.

In fact, the timing and magnitude of the reported budget crisis were calculated to make it impossible for Tricoli to resort to long-term solutions such as continuing to grow the enrollment, or to any short-term solution that could provide adequate savings before the 2012 fiscal year ended on June 30, 2012—without borrowing, as GPC and the USG later did, following Tricoli's recommendation.

136.

On Friday, May 4, Tricoli presided over the GPC graduation ceremonies, and WSB-TV was there to film Tricoli.

137.

On May 6, Huckaby called Tricoli and repeated that Huckaby would fire Tricoli if Tricoli did not resign by 3 pm the next day. Huckaby further offered to re-assign Tricoli to a position in charge of distance learning and academic affairs at the USG central office downtown, working with the new Vice Chancellor Houston Davis, if Tricoli would resign his position as GPC President.

138.

The next day, May 7, prior to Tricoli's response to Huckaby's threat and alternative offer, it was reported in the Atlanta Journal-Constitution that Tricoli was out as GPC president and had been re-assigned to the USG central office because of the \$16 million shortfall.

139.

It was also reported in the Atlanta Journal-Constitution on May 7 that all reporters there had received a tip a week earlier—which on information and belief came from the USG-- that it had already been decided that Tricoli was going to be removed.

140.

It was also reported that the deficit would grow to \$25 million in 2013.

141.

Tricoli did finally under duress accept the offer to move to a position in the USG central office later on May 7, after the news had already been released to the press by the USG.

142.

On or about May 9, 2012, Richard Belcher of WSB-TV released a news report related to another pending lawsuit against the Board of Regents, in which Belcher accused Tricoli of hiring friends who were convicted felons at GPC.

143.

Tricoli was eventually cleared of any involvement or wrongdoing in that matter and dropped from the lawsuit. However, the Belcher report was used as a pretext for removing Tricoli altogether from the employ of the USG.

144.

The same day as the Belcher report later ran on the WSB evening news, Huckaby's secretary called Tricoli and asked him to come in to see Chancellor Huckaby the next day.

145.

On May 10, Huckaby reneged on the promised transfer to the central office that had already been reported in the press, citing the addition of the fallout from the Belcher news story to the reported budget crisis.

146.

Though the deadline for notice of non-renewal had passed on April 30, Huckaby informed Tricoli ten days after that deadline came and went, on May 10, that Tricoli's contract would not be renewed. Tricoli was placed on administrative leave until his existing contract expired on June 30 and sent a letter explaining that would be the end of his association with the USG.

147.

Within two weeks of learning information the USG and Regents had withheld concerning the budget, that the GPC finance team led by Carruth had intentionally, systematically, and duplicitously fed inaccurate numbers to Tricoli, Tricoli was completely out of a job.

148.

He had no chance to address the problem upon finding out about it. Moreover, because of the fashion in which he was first coerced and then cajoled into resigning his position as president, before Huckaby reneged on the position in the USG central office before it even began, Tricoli was

denied any due process or appeal rights for improper termination under Regents policy.

CIRCLING THE WAGONS

149.

After Tricoli's ouster, Board of Regents Chairman Ben Tarbutton, whom Tricoli had opposed on the creation of the multi-million dollar ADP service center in Tarbutton's home town of Sandersville, announced to the Atlanta-Journal Constitution that the USG would work to find out what happened and resolve the reported budget crisis, but "the important thing is that the president [Tricoli] is gone."

150.

Reports from the AJC based on information provided by the USG stated that Tricoli personally "dipped into" the GPC reserves.

151.

It was also falsely reported in the AJC after Tricoli's ouster that his annual contract had not been renewed. In fact it did renew on May 1, 2012, prior to his May 7 forced resignation and May 10 elimination as USG distance learning coordinator and academic affairs advisor, contrary to Huckaby's promise.

152.

The USG also changed its own policies, without acknowledging the role of its own former laxness in the budget problems at GPC and other USG schools, in part to require USG school presidents to attend the USG financial staff meetings at which the GPC staff had presented different numbers than those presented to Tricoli, the external audit exit conferences. At these conferences, which under the previous policy were attended only by the GPC and USG finance staff, and not the president, a more accurate financial picture of the GPC budget was shared between Carruth's team and the USG, but never reported to President Tricoli—who, according to the later investigation by the USG was receiving different numbers from Carruth and his team.

153.

Huckaby also announced a policy change to revert to the former policy of requiring USG approval for a school to dip into reserves.

154.

Rob Jenkins' hearsay email to Huckaby was also released to the press and cited in Atlanta Journal-Constitution articles.

155.

Jenkins, now fully legitimized as part of the anti-Tricoli cabal, contacted the AAUP asking them to rescind the top national award they had given Tricoli and to announce the revocation nationally. AAUP ended up making statement it regretted giving the award to Tricoli in light of the \$16 million budget scandal that was falsely blamed on Tricoli.

156.

Tricoli also had the National Pacesetter of the Year Award revoked from him by NACADA as a result of these actions by the USG.

157.

Jenkins also wrote to officials at Palo Verde College when they were interviewing Tricoli as one of two finalists for the presidency of that college, calling their attention to Atlanta Journal-Constitution articles assigning blame to Tricoli for the unexplained \$16 million shortfall at GPC. The head of the Palo Verde search committee said Jenkin's interference likely cost Tricoli the job as president of the college, for which he was one of two finalists. Palo Verde and the hiring consultant both complained to the USG about Jenkins' actions and received no response.

158.

Watts, Huckaby, and Wrigley were all aware of Jenkins' activities in maliciously undermining Tricoli—passing on media articles based on false

information fed to AJC by the USG, for example, that Tricoli had intentionally dipped into GPC reserves to cover overspending-- and did not respond to notices from Tricoli or Palo Verde asking them to stop Jenkins' malicious activities, which only continued in a concerted effort to prevent Tricoli from obtaining another job in his profession. Jenkins was in such close contact with the other Defendants regarding Tricoli that he knew about the decision to drop Tricoli from any USG employment before Tricoli did.

159.

The USG did an internal investigation of the reported budget crisis, conducted by John Fuchko, only after the ouster of Tricoli was complete. In the Special Report released September 17, 2012, the \$16 million shortfall was not accounted for. The only discrepancy causing a shortfall that was ever identified was \$6.8 million in misallocated employee fringe benefits by HR director James Rasmus, who remains in the employ of GPC, and HR assistant Athena Jones, who was promoted to a similar position at USG institution Georgia Tech. The report held Tricoli accountable for the deficit, though admitting that Tricoli's finance team had not kept accurate records or reported accurate information to Tricoli. No determination was made in the report if any theft or fraud was involved in the shortfall. Nor was there any determination what amount of the overspending was attributable to the

Skybridge contract that had been unknown to Tricoli or the ADP cost overruns that he had opposed.

160.

The Fuchko report did fault Tricoli for not attending the external audit exit conferences--at which the GPC deficit spending that was hidden from Tricoli by Carruth and his team was shared with the USG—though the college presidents did not attend those meetings according to the policy in place at that time, and which was changed after the Tricoli ouster to require the presidents’ attendance at those conferences. The Fuchko report also misrepresented Tricoli as a member of the same GPC “financial team,” though it is clear that under the then-existing policy guidelines that Tricoli was not a member of the financial team that reported to Tricoli. This false premise leads to Fuchko’s absurd and self-contradicting observations that the same financial team that misrepresented the budget information to Tricoli, as Fuchko concedes occurred, included Tricoli—as if Tricoli misrepresented the budget numbers to himself. For these and other reasons, the conclusions in the Fuchko report that Tricoli was at fault are not supported even by the facts contained in the report. Thus, it is evident that Fuchko started with report’s conclusion, regardless of the facts, in order to blame Tricoli and divert culpability from the Defendants for the reported

budget crisis, of 2012 in a grossly misleading official state report that actually covers for misrepresentations in a series of prior official state agency budget reports over a period of three years.

161.

The Attorney General also reportedly investigated the missing \$9 million from the 2012 fiscal year before Tricoli's ouster. No report has ever issued from the Attorney General, either to confirm or deny the conclusion that Tricoli was responsible for the reported budget deficit, or to shed any light on the missing \$9 million.

162.

No outside investigation of the reported budget crisis or the missing \$9 million was ever done. The Attorney General represents the USG and Board of Regents.

163.

The disparate and retaliatory treatment of Tricoli was also evidenced by the contrasting manner in which other USG presidents facing similar budget problems were quietly moved out and helped along to other positions.

164.

For example, when President Daniel Kaufman ran into similar budget problems at Georgia Gwinnett College, so that Wrigley and Fuchko exchanged emails about GGC going down the same road as GPC, Kaufman was allowed to exit gracefully with a going away party and a page on the GGC website about his charter presidency, without media grilling for the budget problem, which enabled him to land a job at the Gwinnett County Chamber of Commerce at a starting salary of \$350,000 a year (Tricoli applied for the same job and was not granted an interview). In April 2012, the same time as the reported budget crisis at GPC, the USG also identified financial problems at Atlanta Metropolitan College, which were worked out in private and never released to the press, and the USG gave President Gary McGaha a \$25,000 raise when they renewed his contract in May 2012. In November 2012, President Larry Rivers announced amid similar financial problems that he would step down at the end of the academic year 2013 at Fort Valley State College and resume teaching in the USG system, with going away parties and positive press releases. In October of 2012 President Valerie Hepburn announces amid similar financial problems at Coastal Georgia College that she will step down at the end of the academic year in May 2013, with a post on the USG website that “Once Hepburn leaves the presidency, she will focus on research and teaching activities

while assisting the University System [USG] on several health and education policy projects.” President David Bell retired from Macon State College in 2010 after a 2009 disclosure that his personal leave reports that affect the amount of his state pension were falsified to show him working at times he was actually taking personal leave, and Sam Olens, the Attorney General of Georgia has placed the falsified leave reports under court seal, and has filed a motion as recently as September 2013 to keep them under seal.

165.

All of these presidents who were allowed to retire within the USG system are on the 90/60 plan. That is, for two years after their retirement they can receive 90 percent of their presidential salaries for doing token work within the University System. Thereafter they receive 60 percent of their presidential salary for life.

166.

Tricoli, by contrast, was given no chance to explain or defend his actions before being crucified in the press on the basis of knowingly false reports on matters within the jurisdiction of state agencies, and then removed from office in public disgrace on the same pretext, deprived of all pension and benefits, and even hounded in his efforts to find alternate employment..

167.

Rob Watts was given control of GPC as interim president on May 14, 2012, and undertook to eliminate 282 positions, close to the number of employees he ordered Tricoli to eliminate in 2006.

168.

Tuition revenues at GPC decreased after Watts took over, as enrollment dropped by 5000 students, reversing the trend created under Tricoli's leadership.

169.

Though enrollment and revenues decreased—and though the source of the reported \$25 million deficit was never identified by GPC, the USG, or the Attorney General--Watts reported that in less than a year the \$25 million deficit reported in April 2012 was erased and the college is now operating in the black.

170.

GPC student newspaper editor David Schick made numerous Open Records requests targeted at the reported budget crisis of 2012 and the elimination of 282 positions at GPC.

171.

John Fuchko ordered that no email communications or other documents be gathered at the USG in response to Schick's request, in violation of the Georgia Open Records Act and OCGA § 16-10-94.

172.

Watts ordered a new and illegal document retention policy calling for the deletion of all emails from the period pre-dating his interim presidency from the GPC server.

173.

GPC and the Regents failed to turn over large segments of documents, resulting in a separate lawsuit, Schick vs. the Board of Regents, in Fulton County Superior Court.

174.

The Attorney General of Georgia, Sam Olens, defended the obstruction of Schick's Open Records requests.

175.

Tricoli was harmed by the failure to disclose documents that would have corrected the false account of his role in the reported budget crisis of 2012 in violation of the Georgia Open Records Act and OCGA §16-10-94.

176.

He has also been harmed by the Attorney General's failure to report investigation results regarding the charges leveled against him in connection with the reported budget crisis that cost Tricoli his job.

177.

He has been harmed by the USG Special Investigation that attributed the reported \$16-25 million deficit to him, and falsely identified Tricoli as a member of the GPC "financial team," though it is undisputed that accurate information on the budget was reported to the USG and Board of Regents but not to Tricoli by the actual GPC "financial team," with the knowledge of the Defendants.

178.

Surprisingly little effort has been made to account for the missing \$16 million in the 2012 budget, including in the audit conducted by the USG. John Fuchko, USG's chief audit officer, explained to Watts in a May 10, 2012 letter that the audit "will primarily be based on selected tests of sampled records/data and will not constitute a detailed review of all financial transactions. Therefore, it is possible that errors, irregularities, and/or illegal acts, including fraud or malfeasance, may go undetected."

179.

These fraudulent acts of false reports to a state agency and evidence tampering were committed in furtherance of a scheme to harm Plaintiff in a pattern of actions defined as predicate acts of conspiracy under OCGA §16-14-1 et seq (Georgia RICO).

180.

Actions taken by Defendants, including but not limited to the ouster of Tricoli on knowingly false pretenses, illicitly using knowingly false reports of matters under the jurisdiction of a state agency to damage Tricoli, and the false claims made against him therein, were pretexts for retaliation for Tricoli's efforts to run GPC in a sound, legal, and fiscally responsible manner, and were intended to harm Plaintiff in his purse and his career.

181.

The knowing misrepresentations made to and about Tricoli by Defendants in knowingly false reports of matters under the jurisdiction of a state agency in retaliation against Tricoli did, in fact, destroy both his career at GPC and his prospects for future comparable employment.

182.

The fraud and misrepresentation of Defendants harmed President Tricoli independently of any harm to his reputation, and caused him actual damages, including but not limited to the loss of income and benefits, and

attorney fees to address and defend against the false charges in knowingly false reports of matters under the jurisdiction of a state agency and the alteration and suppression of evidence that were intended to end Tricoli's career and destroy his livelihood.

183.

Tricoli denied knowledge of or involvement in the decisions and practices that led to the reported budget crisis to the Board of Regents, and the Board of Regents and its counsel, the Attorney General of Georgia, knew in fact that the budget had been misrepresented to Tricoli by the GPC Defendants (Carruth, Champion, Gerspacher, Rasmus, and Jenkins) and the facts withheld from Tricoli by the Board of Regents Defendants (Huckaby, Wrigley, Fuchko, and Watts).

184.

The Board of Regents and the Attorney General allowed evidence to be altered, misrepresented or concealed with respect to the claims of wrongdoing brought to their attention by Tricoli.

185.

Defendants thereby retaliated against Plaintiff for his methods of presiding in a sound, legal, and fiscally responsible manner—contrary to the wasteful, unethical, and illegal practices of Defendants--and participated in a

conspiracy to harm Plaintiff as the common motive for a pattern of racketeering activity in violation of OCGA §16-14-1 et seq (Georgia RICO).

186.

Defendants' acts caused Plaintiff compensable harms including but not limited to the loss of his job, salary, and income, the loss of future employability in his profession, and additional economic harm caused directly by Defendants' actions as well as severe emotional distress and exacerbation of physical ailments.

187.

This fraud in the creation of a false record, regarding matters under state jurisdiction, against Tricoli also served as part of the basis for the agreement between the Board of Regents, individual defendants at the Board of Regents, USG, and GPC, and the Attorney General of Georgia in a conspiracy to destroy Tricoli's career, harming his economic interests and causing him to incur considerable costs defending against these intentional misrepresentations brought against him in official state agency reports.

188.

Defendants thereby retaliated against Plaintiff for the exercise of his duties under GPC and Regents policy, and in violation of the Georgia RICO statute and numerous criminal code provisions.

189.

Defendants' conduct was reckless and callously indifferent, was motivated by malice, and actually caused physical as well as direct economic harm to Plaintiff.

CLAIMS

190.

Plaintiff hereby incorporate and re-allege the preceding paragraphs as if set forth fully herein.

191.

Plaintiff was denied any recourse for the wrongful actions and retaliation taken against him under color of state law in violation of Regents policy and due process under the Georgia Constitution. Tricoli also twice asked Huckaby for a hearing before the Board, and twice he was denied by Huckaby.

192.

Defendants' systematic and concerted attempts to co-opt the powers and responsibilities vested in state government to harm Plaintiff and his economic interests with the intent and common purpose to destroy Dr.

Tricoli's career and perpetuate the misuse of state resources constitute an enterprise under OCGA § 16-14-3(6).

193.

Defendants engaged in a pattern of racketeering activity through more than two acts in furtherance of a scheme with similar intents, results, accomplices, victims, and methods of commission, with the last act within four years of another such act pursuant to OCGA § 16-14-3(8)—specifically to harm Dr. Tricoli in order to perpetuate the misuse of state resources for personal benefit.

194.

Defendants committed predicate acts of racketeering activity under OCGA § 16-14-3(9)(A) by committing acts indictable under the following criminal statutes and RICO subsections:

OCGA § 16-10-20, false report to state. OCGA § 16-14-3(9)(A)(xv).

18 USC § 1961 & 1343, wire fraud. OCGA § 16-14-3(9)(A)(xxix)

18 USC § 1961 & 1341, mail fraud. OCGA § 16-14-3(9)(A)(xxix)

OCGA § 16-10-94, tampering with evidence. OCGA § 16-14-3(9)(A)(xvi).

18 USC § 1961(1)(A) & OCGA (9)(A)(xxix), OCGA 16-18-16, 45-11-5, & 16-14-3(9)(B), Extortion

195.

Together these acts constitute a pattern of racketeering activity pursuant to OCGA 16-14-3(8)(A).

False Report to State Agency

196.

Defendants knowingly made false statements with respect to official business within the jurisdiction of a state agency, including but not limited to reports to the GPC Strategic Planning Committee on the Budget, Executive Committee, and President's Cabinet, USG budget reviews and performance evaluations.

197.

Defendants knowingly made false statements about Tricoli's responsibility for the reported budget crisis that were intended to harm him by, inter alia, destroying his career that were statements concerning official state business, including but not limited to press releases to the media and radio broadcasts to the public, in violation of OCGA § 16-10-20.

Wire Fraud

198.

Defendants violated U.S. mail and wire fraud statutes, and the Georgia RICO Act, each and every time they made a misrepresentation via phone call, electronic mail, or U.S. mail to harm President Tricoli in furtherance of this fraudulent scheme and conspiracy.

199.

These communications were intended and devised as schemes and artifices to defraud by means of false or fraudulent pretenses, that Defendants caused to be transmitted by US mail or wire for purposes of executing their fraudulent scheme to harm the Plaintiff.

200.

Defendants knowingly made false statements about Tricoli's responsibility for the reported budget crisis that were intended to harm him by, inter alia, destroying his career that were disseminated by wire, including but not limited to radio broadcasts to the public, in violation of 18 USC § 1343.

201.

Defendants knowingly made false statements about the intention to reassign Tricoli to another USG position--that were intended to harm him

by, inter alia, destroying his career, upon which he was intended to rely, and upon which he did rely to his detriment by resigning his position--that were disseminated by wire, including but not limited to telephone calls and radio broadcasts to the public, in violation of 18 USC § 1343.

Mail Fraud

202.

Defendants knowingly made false statements about Tricoli's responsibility for the reported budget crisis that were intended to harm him by, inter alia, destroying his career that were disseminated by US mail, in violation of 18 USC § 1341.

203.

Defendants knowingly made false statements about the intention to reassign Tricoli to another USG position--that were intended to harm him by, inter alia, destroying his career, upon which he was intended to rely, and upon which he did rely to his detriment by resigning his position--that were transmitted by US mail, including but not limited to statements to the media, in violation of 18 USC § 1341.

Evidence Tampering

204.

Defendants knowingly fabricated false budget information for the purpose of harming Tricoli and perpetuating improper use of state resources for personal benefit.

205.

Defendants suppressed knowledge of budget information relied on by the USG and budget information misrepresented to President Tricoli.

206.

Defendants ignored and suppressed evidence regarding the \$9 million for which the USG never accounted.

207.

Defendants obstructed the release of information relevant to these issues under the Georgia Open Records Act.

Influencing Witnesses

208.

Defendants improperly influenced witnesses to the scheme to harm Tricoli and cover up improper use of state resources by conveying threats or conferring benefits on every individual responsible for the reported budget crisis--and for the budget information misreported and misrepresented to

President Tricoli—including but not limited to a new job, reassignment, or promotion—or allowing them to retire with full benefits—in contrast to President Tricoli who was ousted from his position then terminated. These actions were taken for express purposes of harming President Tricoli and perpetuating improper use of state resource in violation of OCGA §16-10-93.

Extortion

209.

Plaintiff had a property right in his position pursuant to the annual contract that renewed due to failure to give notice otherwise on May 1, 2012.

210.

Plaintiff was thereafter threatened with termination if he did not resign his position, renouncing his contractual property rights.

211.

Plaintiff's property rights were also taken away under threats of harm—in this case a harm based on knowing misrepresentations injuring his business reputation in falsified state agency reports.

RICO Enterprise

212.

Defendants maintained control of the enterprise through this pattern of racketeering activity. OCGA § 16-14-4(a).

213.

The enterprise is the association of the individual Defendants working through their respective state agencies and controlling the governmental entities for illegitimate purposes, namely controlling their official functions that are supposed to serve the public for purposes of concerted retaliation against Plaintiff Anthony Tricoli with the intent to harm his economic interests through a related pattern of criminal code violations specified under the RICO statute, as described herein.

214.

The enterprise also targeted Anthony Tricoli for purposes of hiding the incompetence, waste, mismanagement, preferential treatment, self-dealing, misuse of state funds, and other unethical conduct in violation of state law in order to perpetuate the misuse of state resources.

215.

The enterprise consisting of the association of individuals and state agencies named as Defendants in this action, in cooperation with other co-conspirators who may be identified later, retaliated against Anthony Tricoli

for attempting to run GPC in a sound, upright, legal, and fiscally sound manner.

216.

This retaliation took the form of a series of more than two related predicate acts in violation of criminal statutes enumerated in the RICO Act, occurring within four years of each other, with the common purposes of harming Anthony Tricoli by destroying his career and perpetuating the misuse of state resources that was opposed by Anthony Tricoli.

217.

Persons employed by or associated with Defendants participated in the scheme and maintained and controlled the enterprise for the purpose of harming the economic interests of Plaintiff in violation of OCGA § 16-14-4(b).

218.

Defendants conspired to participate in the scheme and maintain and control the enterprise for the purpose of harming the economic interests of Plaintiff and for protecting waste, mismanagement, and malfeasance within their state agencies in violation of OCGA 16-14-4(c).

Fraud

219.

Plaintiff was harmed by intentional fraudulent misrepresentations of the Defendants, not only by reputation, but by way of direct economic harm.

Fraudulent Inducement

220.

Plaintiff was induced to forfeit his property rights in his annual contract based on the false promise, on which he was intended to rely, and did rely to his detriment, that he would be given another position at the USG.

221.

Plaintiff was induced to forfeit his due process property rights in his right to appeal any adverse action to the Board of Regents based on the false promise, on which he was intended to rely, and did rely to his detriment, that he would be given another position at the USG.

Open Records Act Violations

222.

In addition to the requests by David Schick, a GPC faculty member made a request for all correspondence between Jenkins and Huckaby. The official reply was that none exist.

223.

In fact, Jenkins sent to Huckaby an April 2012 email with three pages of vague and unsubstantiated charges against Tricoli, which Huckaby released to the press to justify actions taken against Huckaby.

224.

Huckaby days later tells Tricoli he must resign because “the faculty hate him.”

225.

Other emails show Jenkins was aware of Huckaby’s termination of Tricoli before Tricoli himself was informed.

226.

Jenkins wrote to AAUP to bring false reports disseminated in the media as part of this scheme—including Jenkins’ email to Huckaby--to their attention. AAUP, which had awarded high honor to Tricoli for his achievements the previous year, expressed regret at honoring Tricoli in light of the false reports from Jenkins and the USG blaming Tricoli for the budget

shortfall that was intentionally hidden from him with the knowledge of the USG.

227.

On May 15 Jenkins wrote to Watts, whom Huckaby had just reassigned to resume as interim president of GPC, expressing his abhorrence of Tricoli, who Jenkins believed forced him out of his position as Director of the Writer's Institute.

228.

The maliciousness of Jenkins became apparent when he wrote to interfere with Tricoli's subsequent job search, during the time Jenkins was in contact with Huckaby and Watts.

229.

Palo Verde College sent notice to Huckaby and Watts of Jenkins inappropriate behavior, placing them on additional notice that the stories they knew to be false were being used against Tricoli.

230.

Palo Verde cited Jenkins' interference as reason for not selecting Plaintiff for the position for which Tricoli was one of two finalists.

231.

Tricoli sent notice to Wrigley and Huckaby of Jenkins' actions and received no response.

232.

Upon information and belief, additional existing documents requested by GPC faculty or journalists have not been turned over in violation of the Georgia Open Records Act.

Breach of Contract

233.

Defendants breached Plaintiff's written contract by failing to give notice of non-renewal before the April 30 deadline, though all Defendants had knowledge of all the facts used as a pretext for Tricoli's ouster before that date.

234.

Under the annual renewal of the contract, Defendants are liable for Plaintiff's annual salary and benefits.

Promissory Estoppel

235.

Defendants are estopped from reneging on the position promised to Tricoli at the USG central office, on which he relied to resign his position as president of GPC, and are liable for making Tricoli whole for everything that was promised to him.

Reliance

236.

Tricoli reasonably relied on Huckaby's promise of a job in the USG central office if he resigned—particularly in light of the fact that every president in the USG system removed for budget issues received a new position or severance, and every person directly responsible for the reported budget crisis of 2012 has remained on the job, received a transfer or promotion to another USG-related position, or allowed to retire with full benefits.

237.

Defendants are therefore liable for all salary and benefits lost by Tricoli in his lifetime because of Defendants' wanton, malicious, and oppressive actions, including the failure to honor the promise on which Tricoli relied in resigning his position as GPC president and forgoing his

appeal rights as to any adverse action taken against him by GPC, USG, or the Regents.

Retaliation

238.

Defendants improperly retaliated against Tricoli, in violation of state law and Regents policy, in all actions taken to harm him because of his efforts at good governance and sound fiscal policy at GPC and within the USG.

239.

The retaliatory motive is evidenced by, inter alia, the disparate treatment of Tricoli and other USG presidents who faced similar difficulties and were allowed to quietly leave to take other jobs, often within the USG system.

Respondeat Superior

240.

The Board of Regents and GPC are liable for the malfeasance and malice their employees, including but not limited to the malicious actions of Rob Jenkins.

Intentional Infliction of Emotional Distress

241.

Defendants wanton, malicious, and unjust actions are of the sort that a reasonable person would find to cause severe emotional distress, and did in fact cause Tricoli severe emotional distress and related health problems.

Attorney Fees

242.

Defendants have acted in bad faith and caused unnecessary trouble and expense, entitling Plaintiff to attorney fees. Plaintiff is also entitled to all attorney fees and costs of investigation and litigation under The Georgia RICO Act.

Punitive Damages

243.

Defendants' actions showed willful misconduct, malice, fraud, wantonness, oppression, and want of care that indicate conscious indifference to the consequences.

244.

Individual Defendants acted in part with the intent to retaliate against Plaintiff for the exercise of his rights in violation of OCGA §16-14-1 et seq, as these acts were undertaken in furtherance of a fraudulent scheme to harm Plaintiff.

245.

Defendants acted with the specific intent to cause harm to Plaintiff, entitling Plaintiff to an award of punitive damages under OCGA § 51-12-5.1 and OCGA § 16-14-6(c).

246.

The award of damages may be trebled pursuant to the RICO statute.

Injunctive relief

247.

Injunctive relief may be ordered, including the restoration of Tricoli to his position as GPC president or a comparable position or the affordance of due process and appeal rights for his improper termination under OCGA § 16-14-6(a).

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests the following relief:

- a. Trial by jury;
- b. Judgment for plaintiff against Defendants in an amount to be determined by a jury after trial of the issues;
- c. Compensatory damages for Plaintiff;
- d. Treble damages under the RICO statutes;
- e. Punitive damages
- f. An award of litigation expenses and attorney fees, including all costs of investigation trebled under the RICO statutes; and,
- g. Injunctive relief to restore any position, salary and benefits, and due process and appeal rights.
- h. Any other relief the Court deems just and proper.

Respectfully submitted this 7th day of May, 2014.

STEPHEN F. HUMPHREYS, P.C.

/s/ Stephen F. Humphreys

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