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Summons & Complaints and all public documents subsequently completed and filed by Phillips & Paolicelli LLP. Address: 747 3rd Ave 6th floor, New York, NY 10017. Phone: (212) 388-5100.

Summons & Complaints relying on the research of James G. Faluszczak:

NYS UCS Case Number	Alleged Perpetrator	Defendant #	Defendants	Plaintiff
950588/2020	Harding, Mr. Wayne	3	Holy Name Province of the Order of Friars Minor, St. Bonaventure University & Big Brothers & Big Sisters of America.	IVES, LILLIA

STATE OF NEW YORK
SUPREME COURT: COUNTY OF NEW YORK

LILLIA IVES,

Plaintiff,

vs.

HOLY NAME PROVINCE OF THE ORDER OF
THE FRIARS MINOR,
ST. BONAVENTURE UNIVERSITY
BIG BROTHERS & BIG SISTERS OF
AMERICA, INC.,
DEFENDANT DOES 1-10,

Defendants.

SUMMONS

Plaintiff designates the County of NEW YORK as the place of trial. The basis of venue is the Defendant Holy Name Province of the Order of the Friars Minor's county of residence pursuant to CPLR §503.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiffs' attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

DATED: New York, New York
August 13, 2020

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HOLY NAME PROVINCE OF THE ORDER OF THE FRIARS MINOR
129 West 31st St., 2nd Fl. New York, NY 10001

BIG BROTHERS & BIG SISTERS OF AMERICA, INC.,
2502 N. Rocky Point Drive, Suite 550
Tampa, Florida 33607

ST. BONAVENTURE UNIVERSITY
3261 West State Road, Saint Bonaventure, NY 14778

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STATE OF NEW YORK
SUPREME COURT: COUNTY OF NEW YORK

LILLIA IVES,

Plaintiff,

vs.

HOLY NAME PROVINCE OF THE ORDER OF
THE FRIARS MINOR,
ST. BONAVENTURE UNIVERSITY
BIG BROTHERS & BIG SISTERS OF
AMERICA, INC.,
DEFENDANT DOES 1-10,

Defendants.

COMPLAINT

Index No.:

Plaintiff Lillia Ives, by and through her undersigned attorneys, as and for her Complaint, alleges as follows:

NATURE OF THE ACTION

1. This action is brought pursuant to the Child Victims Act, codified at CPLR 214-g.
2. In approximately 1987-88, when she was approximately 6-7 years old, Plaintiff Lillia Ives suffered unlawful and profound sexual abuse by a “Big Brother”.
3. The man who unlawfully sexually abused the Plaintiff was a pedophile known as Wayne Harding (hereafter “THE ABUSER”).
4. THE ABUSER became acquainted with Plaintiff and her family by being selected to serve as a Big Brother mentor working with the Plaintiff’s family in the 1980s.
5. THE ABUSER used his position as a Big Brother to meet, groom, and sexually abuse children including the Plaintiff.
6. On information and belief, the program that selected, appointed, assigned, or employed THE ABUSER to serve as a Big Brother was at St. Bonaventure University.

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7. On information and belief, the above-captioned Defendants owned, operated, supervised, funded, staffed, controlled, and/or were otherwise responsible and answerable for the Big Brother program that assigned THE ABUSER to work with Plaintiff's family.

8. On information and belief, Defendants failed to perform an appropriate and thorough background check and review of THE ABUSER prior to selecting, accepting, appointing, designating and/or retaining him as a Big Brother.

9. On information and belief, Defendants failed to supervise THE ABUSER in the presence of minor children, failed to identify and report inappropriate and/or suspicious behaviors by THE ABUSER, failed to warn Plaintiff and her family that THE ABUSER could not be trusted to supervise children, and otherwise ignored signs that THE ABUSER was a potential danger to minor children, was engaging in acts to groom minor children, and/or was engaging in inappropriate sexual contact with minor children during Big Brothers program events.

10. Defendants negligently and recklessly selected, designated, appointed, accepted, and/or retained THE ABUSER as a Big Brother, and permitted him to have unfettered and unsupervised access to children through a Big Brothers program including Plaintiff.

11. On information and belief, the above-captioned Defendants failed to conduct an adequate investigation of THE ABUSER before assigning him to serve as a Big Brother, despite their awareness that in that position he would interact with, supervise, and have access to vulnerable at risk young children.

12. Defendants knew or should have known that THE ABUSER presented a risk of harming vulnerable minor children, including Plaintiff.

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13. Notwithstanding this knowledge, and despite the duty and relationship of trust owed to families and their children, Defendants negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by THE ABUSER, permitted the abuse to occur, failed to supervise THE ABUSER and minor children including Plaintiff and her siblings in his presence, failed to timely investigate THE ABUSER's misconduct, failed to report THE ABUSER's misconduct, failed to have in place or implement appropriate policies and procedures to prevent sexual abuse of minors, failed to adequately train minor children and/or their staff and employees to identify and report inappropriate and/or suspicious behavior, failed to warn minor children and their families of prior sexual abuse by Big Brothers of minor children, and are otherwise responsible for THE ABUSER's sexual assault of Plaintiff, and Plaintiff's consequential injuries and damages.

14. On information and belief, had the above Defendants properly investigated THE ABUSER, they would have learned that he was not a trustworthy and qualified adult capable of serving in a position where he would work with, supervise, and mentor vulnerable children.

15. On information and belief, had the above Defendants properly investigated THE ABUSER, they would have learned that THE ABUSER was had at least one prior arrest and conviction.

16. On information and belief, had the above-captioned Defendants properly investigated THE ABUSER, they would have learned that he had been accused of sexual misconduct with minors.

17. It was readily foreseeable to Defendants that assigning THE ABUSER to work as a Big Brother with a vulnerable family such as Plaintiff's would place minor children in those families at risk of sexual abuse.

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18. After THE ABUSER was assigned to serve as a Big Brother, he used that position to gain Plaintiff's acquaintance, groom her for sexual abuse, and unlawfully sexually abuse and assault her.

19. In 1988, THE ABUSER was arrested and indicted for his sexual abuse of children including Plaintiff.

20. In 1989, THE ABUSER pled guilty to two counts of sexual abuse in the first degree as a result of his sexual abuse of children including Plaintiff.

PARTIES

21. Defendant HOLY NAME PROVINCE OF THE ORDER OF THE FRIARS MINOR ("HOLY NAME") describes itself as an evangelical and missionary fraternity that is "[b]ased in New York City."

22. Defendant HOLY NAME operates and does business in New York County.

23. Defendant HOLY NAME has its Provincial Offices in, resides in, and is based in New York County, at 129 West 31st St., 2nd Fl. New York, NY 10001, making venue in this County proper.

24. On information and belief, at all relevant times, Defendant HOLY NAME has owned, operated, sponsored, supervised, funded, staffed, controlled, and/or is otherwise answerable and liable for the activities of Defendant ST. BONAVENTURE UNIVERSITY ("SBU").

25. On information and belief, at all relevant times, Defendant HOLY NAME has owned, operated, sponsored, supervised, funded, staffed, controlled, and/or is otherwise answerable and liable for the activities of the Franciscan Center for Social Concern at SBU.

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26. On information and belief, at all relevant times, Defendant HOLY NAME has owned, operated, sponsored, supervised, funded, staffed, controlled, and/or is otherwise answerable and liable for the activities of a youth mentoring Big Brothers program at SBU.

27. On information and belief, that youth mentoring Big Brothers program at Defendant SBU is also known as the Bona Buddies program.

28. Defendant SBU describes itself as the Nation's first Franciscan University.¹

29. On information and belief, Defendant SBU is, and at all relevant times was, a university, organized pursuant to the laws of the State of New York and located at 3261 West State Road, Saint Bonaventure, NY 14778.

30. Defendant HOLY NAME lists the Franciscan Center for Social Concern at SBU as among its "ministries."²

31. Defendant HOLY NAME lists Franciscan Institute at SBU and St. Bonaventure Church as among its "ministries."³

32. Defendant HOLY NAME lists SBU as among its "ministries."⁴

33. On information and belief, the youth mentoring program at SBU that appointed Wayne Harding as a Big Brother was also affiliated with, funded by, controlled by, organized by, and/or supervised by Defendant Big Brothers & Big Sisters of America, Inc. ("BBBSA").

34. Defendant Big Brothers & Big Sisters of America, Inc. is, and at all relevant times was, a non-profit organization or entity, which includes but is not limited to civil corporations, decision-making entities, officials, and employees, authorized to conduct business, doing

¹ <https://www.sbu.edu/docs/default-source/about-sbu/institutional-profile.pdf>.

² <https://hnp.org/links/#cat155>.

³ <https://hnp.org/links/#cat155>.

⁴ <https://hnp.org/links/#cat155>.

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business, and headquartered at 2502 N. Rocky Point Drive, Suite 550, Tampa, Florida 33607, and registered to conduct business in New York.

35. The website of BBBSA states “Big Brothers Big Sisters makes meaningful, monitored matches between adult volunteers (“Bigs”) and children (“Littles”), ages 5 through young adulthood in communities across the country.”⁵

36. The website of BBBSA states “We develop positive relationships that have a direct and lasting effect on the lives of young people.”⁶

37. According to its website, BBBSA “believes that it must hold itself *accountable* to the families, children, and mentors enrolled in our program. We must hold ourselves *accountable* to the donors, partners, and advocates who fund our work.”⁷

38. BBBSA’s website declares that “[m]aking the best possible match between a Little and a Big is critical to the growth and development of a child. But before we begin the matching process, agency professional staff start by thoroughly screening potential Bigs.”⁸

39. BBBSA operates through a national system of local affiliates.

40. On information and belief, the youth mentoring program that appointed THE ABUSER to be a Big Brother was one of BBBSA’s affiliates.

41. At all relevant times, the above-captioned Defendants (“Defendants”) hired, employed, accepted, approved, retained, managed, oversaw, controlled and directed personnel, such as Big Brother leaders, to perform functions that required them to interact with children.

42. Plaintiff Lillia Ives (“Plaintiff”) is an individual residing in Orleans County, New York.

⁵ <https://www.bbbs.org/about-us/>.

⁶ <https://www.bbbs.org/about-us/>.

⁷ <https://www.bbbs.org/impact/> (emphasis added).

⁸ <https://www.bbbs.org/safeguarding-children/>.

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43. Plaintiff was born in 1981.

44. To the extent that any of the above parties were different entities, corporations, or organizations in the 1980s, during which time THE ABUSER used his position to meet, groom, and sexually abuse Plaintiff, such entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

45. To the extent that any of the above parties is a successor to a different entity, corporation, or organization which existed during the period of time when THE ABUSER used his position to meet, groom, and sexually abuse Plaintiff, such predecessor entity, corporation, or organization is hereby on notice that it is intended to be a defendant in this lawsuit.

46. Defendants Does 1 through 10 are unknown individuals, entities, or agents, including but not limited to any other local affiliates of Defendants, whose actions or omissions contributed to Plaintiff's sexual abuse, and whose identities will be provided when they become known pursuant to CPLR § 1024.

FACTUAL ALLEGATIONS

47. Plaintiff repeats and realleges all preceding paragraphs of this Complaint.

48. On information and belief, in the 1980s, Wayne Harding ("THE ABUSER") was selected, appointed, retained, and or employed by Defendants to serve as a Big Brother to work with, supervise, and mentor vulnerable children.

49. The children to whom THE ABUSER was assigned to be a "Big Brother", work with, mentor, and supervise included Plaintiff's brother Dennis.

50. THE ABUSER became acquainted with Plaintiff and her family by being designated as a "Big Brother" to her brother.

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51. THE ABUSER foreseeably used his position as a Big Brother to meet vulnerable children including Plaintiff, to groom them, and ultimately to sexually abuse and assault them, causing Plaintiff and others profound and lifelong pain and suffering.

52. On information and belief, the above-captioned Defendants owned, operated, supervised, funded, staffed, controlled, and/or were otherwise responsible and answerable for the program that assigned THE ABUSER to work with Plaintiff's family.

53. On information and belief, the program that appointed THE ABUSER to be a Big Brother was at Defendant SBU.

54. On information and belief, Defendants failed to perform an appropriate background check of THE ABUSER prior to selecting, employing, accepting, designating and/or retaining him as a Big Brother.

55. On information and belief, Defendants failed to supervise THE ABUSER in the presence of minor children, failed to identify and report inappropriate and/or suspicious behaviors by THE ABUSER, failed to warn Plaintiff and her family that THE ABUSER could not be trusted to supervise children, and otherwise ignored signs that THE ABUSER was a potential danger to minor children, was engaging in acts to groom minor children, and/or was engaging in inappropriate sexual contact with minor children during Big Brothers program events.

56. Defendants negligently and recklessly selected, designated, appointed, accepted, and/or retained THE ABUSER as a Big Brother, and permitted him to have unfettered and unsupervised access to children including Plaintiff.

57. On information and belief, Defendants failed to conduct an adequate investigation into THE ABUSER before assigning him to serve as a Big Brother.

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58. Defendants knew that as a Big Brother, THE ABUSER would interact with, supervise, and have access to vulnerable and at risk young children in the families to which he was assigned.

59. By 1986, Defendants knew that the families whose children participate as “Littles” in youth mentoring programs can be vulnerable, and that children in those families are at risk of being sexually abused by so-called Big Brothers.

60. Defendants knew or should have known that THE ABUSER presented a serious risk of harming vulnerable minor children in the families to which he was assigned, including Plaintiff.

61. Notwithstanding this knowledge, and despite the fiduciary duty and relationship of trust owed to families and their children, Defendants negligently, recklessly, and willfully failed to protect Plaintiff from sexual abuse by THE ABUSER, permitted the abuse to occur, failed to supervise THE ABUSER and minor children like Plaintiff in his presence, failed to timely investigate THE ABUSER’s misconduct, failed to report THE ABUSER’s misconduct, failed to have in place appropriate policies and procedures to prevent sexual abuse of minors, failed to train minor children and/or their staff and employees to identify and report inappropriate and/or suspicious behavior, failed to warn minor children and parents of prior sexual abuse by Big Brothers of minor children, and are otherwise responsible for THE ABUSER’s sexual assault of Plaintiff, and Plaintiff’s consequential injuries and damages.

62. On information and belief, had the Defendants properly investigated THE ABUSER, they would have learned that he was untrustworthy and not qualified to serve in a position where he would work with, supervise, and mentor vulnerable children.

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63. On information and belief, had the above Defendants properly investigated THE ABUSER, they would have learned that THE ABUSER was had at least one prior arrest and conviction before he sexually abused Plaintiff.

64. On information and belief, had the above-captioned Defendants properly vetted and investigated THE ABUSER, they would have learned that he was had been accused of sexual misconduct with minors prior to his sexual abuse of Plaintiff.

65. It was readily foreseeable to Defendants that assigning THE ABUSER to work as a Big Brother with vulnerable families would place children in those families, including Plaintiff, at risk of sexual abuse.

66. In approximately 1987-88, when she was approximately 6-7 years old, Plaintiff Lillia Ives was unlawfully and profoundly sexual abused by THE ABUSER.

67. In 1988, THE ABUSER was arrested and indicted for of his sexual abuse of multiple children he met through the Big Brothers program, including Plaintiff.

68. In 1989, THE ABUSER pled guilty to two counts of sexual abuse in the first degree.

69. At all relevant times, on information and belief, THE ABUSER was under the supervision and control of the above captioned Defendants.

70. At all relevant times, THE ABUSER's duties and responsibilities as a Big Brother included, among other things, being a positive adult role model.

71. Defendants authorized and allowed THE ABUSER to supervise minor children, to be alone with them, and to have unfettered and unsupervised access to them.

72. At all relevant times, Defendants authorized and permitted THE ABUSER to conduct his responsibilities as a Big Brother without supervision.

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73. The sexual abuse and assault to which THE ABUSER subjected Plaintiff was in violation of Article 130 of New York Penal Law.

74. THE ABUSER manipulated and coerced Plaintiff, a vulnerable child, to acquiesce in his sexual misconduct.

75. In addition to this, Plaintiff's relationship to Defendants as a vulnerable child, put pressure on Plaintiff not to report THE ABUSER's abuse.

76. Defendants knew or should have known that THE ABUSER was a danger to minors, like Plaintiff, before he sexually abused Plaintiff.

77. Defendants knew or should have known that THE ABUSER was not qualified to perform the duties as a Big Brother.

78. Defendants knew or should have known that allowing THE ABUSER to have unsupervised and unlimited access with minors and their families, particularly vulnerable minors like Plaintiff and her siblings who were in need of support, posed an unacceptable risk of grooming and child sex abuse.

79. Prior to the time of Plaintiff's sexual abuse, Defendants knew or should have known that there was a specific danger of child sex abuse for children in their institutions and programs.

80. Defendants knew or should have known that THE ABUSER, while acting as a Big Brother, was behaving inappropriately with members of Plaintiff's family.

81. The sexual abuse of minors such as Plaintiff by THE ABUSER was foreseeable to Defendants.

82. Defendants owed Plaintiff a reasonable duty of care because they affirmatively solicited families to participate in their programs; they undertook custody of and responsibility

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for minor children; they promoted their facilities, staff, appointees, employees, Big Brothers, and programs as being safe for children, they held out their agents, including THE ABUSER, as safe to work with and around minors, they encouraged parents and children to spend time with their agents; and/or authorized their agents, including THE ABUSER, to provide professional services to children.

83. Defendants owed Plaintiff a heightened, fiduciary duty of care because they held themselves out as being able to provide a safe and secure environment, mentors, and supervision for vulnerable children; families were led to believe that they could entrust their children to Defendants' and THE ABUSER's care, and Plaintiff's family expected that Plaintiff would be properly supervised in an environment free from harm and abuse; Plaintiff was a vulnerable minor, and unable to protect himself; and Defendants affirmatively assumed a position of empowerment over Plaintiff.

84. Defendants owed Plaintiff a duty to protect her from harm because Defendants' acts and omissions created a foreseeable risk of harm to Plaintiff.

85. Since the inception of their Big Brothers programs, at all relevant times, Defendants encouraged families and minor children to join their program by promoting it as a safe and secure environment and program.

86. Upon information and belief, the Defendants individually and collectively selected leaders and volunteers for Big Brothers program.

87. At all relevant times, Defendants accepted, approved, appointed, and otherwise retained THE ABUSER as a Big Brother, and gave him unsupervised and unfettered access to minor children.

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88. At all relevant times, THE ABUSER was under the direct supervision and control of the Defendants.

89. On information and belief, Defendants authorized and empowered THE ABUSER to supervise and provide instruction, counseling, and guidance to minor children.

90. On information and belief, Defendants authorized and empowered THE ABUSER to enforce Big Brother rules.

91. Upon information and belief, Plaintiff's family were conditioned and taught by Defendants to trust and follow the instruction, direction, and guidance provided by the Defendants and THE ABUSER.

92. In performing his duties as a Big Brother, Defendants allowed THE ABUSER to be alone with minor children, and to have unfettered and unsupervised access to minor children.

93. It was foreseeable to Defendants that Big Brothers such as THE ABUSER would visit family homes of their so-called "Little Brothers."

94. It was foreseeable to Defendants that Big Brothers such as THE ABUSER would meet and interact with siblings of their so-called "Little Brothers."

95. It was foreseeable to Defendants that Big Brothers such as THE ABUSER would supervise or babysit the siblings of their so-called "Little Brothers."

96. It was foreseeable to Defendants that Big Brothers such as THE ABUSER would sexually abuse and/or assault the siblings of their so-called "Little Brothers."

97. THE ABUSER foreseeably coerced Plaintiff to submit to unlawful sexual conduct.

98. On information and belief, Defendants knew or should have known that THE ABUSER presented a danger to minor children like Plaintiff, before he sexually abused Plaintiff.

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99. Defendants owed Plaintiff a duty of reasonable care because they had superior knowledge about the risk of sexual abuse posed to minor children in their programs and facilities, the risk of child sex abuse in general, and the risk that allowing THE ABUSER to be a Big Brother posed to minor children, including Plaintiff.

100. As a result of the foregoing, including Defendants' misconduct that allowed the ABUSER to meet, groom, and sexually abuse Plaintiff, Plaintiff has suffered and continues to suffer great physical and mental pain and anguish, severe and permanent emotional distress, psychological injuries, fear and anxiety; was prevented and will continue to be prevented from performing his normal daily activities; was and will continue to be deprived of the enjoyment of life's pleasures; has suffered and will continue to suffer loss of earnings and earning capacity; has incurred and will in the future incur expenses for medical and psychological treatment, and was otherwise damaged in an amount that exceeds the jurisdictional limits of lower courts in this State.

101. To the extent that any Defendant pleads, or otherwise seeks to rely upon Article 16 of the New York Civil Practice Law and Rules (CPLR) to have fault apportioned to another allegedly culpable party, Plaintiff expressly states that Defendants' conduct falls within one or more of the subdivisions of CPLR 1602.

102. Upon information and belief, at all times relevant to this Complaint, there was agreements existed between BBBSA and local affiliates including the other Defendants which governed their relationship.

103. Upon information and belief, at all times relevant to this complaint, the relationship agreement required Defendants to adopt, abide by, and satisfy BBBSA's standards for practice.

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104. Upon information and belief, the standards for practice established standards that have been the hallmark of BBBSA since 1922.

105. Upon information and belief, the standards for practice purport to guide BBBSA affiliates in their overall operations.

106. Upon information and belief, BBBSA's standards for practice establish standards to which Defendants must adhere.

107. Upon information and belief, BBBSA's standards for practice require affiliates *inter alia* to maintain confidential personnel records on each employee; and to obtain criminal history records prior to hiring staff or assigning volunteers to staff positions.

108. Upon information and belief, the standards for practice provide procedures for volunteer intake, the matching process, and regular supervisory contact with volunteer, parent/guardian and child.

109. Upon information and belief, BBBSA's standards for practice insist that affiliates such as the program that appointed THE ABUSER as a Big Brother must follow the process outlined unless an alternate process is requested and approved in writing by BBBSA.

110. Upon information and belief, in 1982, the National Vice-President of BBBSA published a report entitled "Child Sexual Abuse" ("Child Sex Abuse Report").

111. Upon information and belief, the author of the Child Sex Abuse Report, attorney Donald L. Wolff, relied on a host of experts in the fields of mental health, psychology, medicine, social work, and more to assist the BBBSA, the Affiliate agencies, the Executive Directors, professional staffs, parents, boards, volunteers and the community, in the detection, selection, supervision and investigative procedures of alleged abusers.

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112. Upon information and belief, Mr. Wolff noted in the Child Sex Abuse Report that BBBSA—“we who are in the field of providing service...to young children”—had actual knowledge that such service attracts child sexual abusers.

113. Upon information and belief, Wolff recognized in the Child Sex Abuse Report that “[g]enerally it is agreed that child molestation type offenses do not involve physical force for the commission of the offense. In fact the reverse is more often true. The offender usually entices through indoctrination the child into the sexual behavior through either persuasion or entrapment in which the child is caused to feel indebted or obligated. Since we deal with boys and girls who may have no adequate role model or parent figure in their lives, it is very characteristic to shower the child with new found approval...affection and attention with the new relationship. Money, gifts and new, exciting adventures for the child with this new friend all could be ways to pressure the child into approval for otherwise reluctant behavior. Clearly our clients are a ‘high risk’ for the potential abuser. The pedophilic applicant will generally try to encourage overnight visits, weekend stays at his home, or trips which involve travel very early in the relationship.”

114. Upon information and belief, in a report entitled “Child Sexual Abuse: What We Have Learned” which was presented at the June, 1986 BBBSA National Conference Child Sexual Abuse Symposium, Mr. Wolf warned that “the overwhelming area of concern is in the typical Big Brother–Little Brother match.... our major emphasis is on the selection of our Big Brother applicants.” (“What We Have Learned Report”).

115. Upon information and belief, in the What We Have Learned Report, Wolf emphasized that “whenever adult individuals are placed in contact with the children, BBBS could be responsible for their behavior at the special event as well as any conduct which might

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result from that initial contact.... We need to be especially concerned about those individuals who seem to have some over-involvement with children.... These individuals should be selected with scrutiny.... The overwhelming percentages [of offenders] are for the Caucasian, single male.... Most of the children assaulted were under the age of 15.... Almost twice as many reported incidents occurred in the second or subsequent match of the volunteer with a child.”

116. Upon information and belief, Mr. Wolf also declared that since child victims frequently report sexual abuse after child sexual abuse training sessions, this “emphasizes the need for this kind of preventive training prior to the initiation of the match and not thereafter.... Therefore, I strongly recommend that agencies conduct prevention training as a part of the orientation phase to be conducted separately for the children in our programs, the mothers of the children and the volunteers themselves. These prevention training programs will show the individual who comes to our organization with the desire and intent to abuse that we are training the children in our program how to prevent that abuse.... we must show these individuals that we are prepared and that we are going to prepare our children how to avoid inappropriate behavior.”

117. Upon information and belief, the What We Have Learned Report written in 1986, long before the Internet also addressed child pornography, writing: “Many of our [sex abuse] cases also involve pornographic pictures, both video and still shots of the children, and the showing of pornographic movies on video equipment and other movie equipment.... Many of the individuals involved in these cases have been apprehended as a result of inappropriate photographs of children that have been developed or circulated and observed by others. The children should be taught at prevention training the inappropriateness of photographs being taken of them in the nude.”

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118. Upon information and belief, the information respecting child sexual abuse contained in the above described reports was known by or knowable by Defendants before THE ABUSER abused Plaintiff.

119. Upon information and belief, despite recognizing those principles, Defendants failed to take adequate measures to investigate, vet, and supervise the ABUSER before appointing him as a Big Brother.

FIRST CAUSE OF ACTION

NEGLIGENT HIRING, RETENTION, SUPERVISION, AND DIRECTION

120. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

121. Since at least 1982, Defendants knew that child-serving organizations such as BBBSA and its affiliates were being used by pedophiles and child molesters to sexually abuse and exploit children.

122. Despite this knowledge, the Defendants did not implement and/or enforce adequate child sex abuse prevention policies, practices, and procedures, and the Defendants thereby created a foreseeable risk of harm to children including Plaintiff.

123. At all times relevant to this Complaint, Defendants had a duty to supervise the program that appointed THE ABUSER as a Big Brother to ensure that it implemented adequate protections and preventative measures respecting child abuse.

124. At all times relevant to this Complaint, Defendants had the means and ability to control the program that appointed THE ABUSER as a Big Brother.

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125. The duty of Defendants to take reasonable measures to guard against child sexual abuse by Big Brothers is not a duty that can be declined by choice.

126. Defendants could and should exercise such supervision given the known risk of harm to vulnerable children like Plaintiff, and the profound consequences of childhood sexual abuse.

127. Defendants had a duty ensure that the program that appointed THE ABUSER as a Big Brother had rigorous recruitment, screening, and monitoring policies, practices, and procedures.

128. At all times relevant to this Complaint, Defendants knew that predatory individuals like THE ABUSER were volunteering with Big Brother programs with the intention of sexually abusing and exploiting vulnerable at-risk children like Plaintiff.

129. At all times relevant to this Complaint, Defendants knew or should have known that failing to have policies, practices, and procedures governing recruitment, screening, and monitoring of predatory individuals THE ABUSER would or could lead to the organization affirmatively and enthusiastically matching such individuals with vulnerable at-risk children, like Plaintiff, thereby exposing them to sexual abuse and exploitation.

130. Defendants breached their duty as described above by committing one or more of the following negligent acts or omissions:

- a. failing to supervise, monitor, review, or control the recruiting, matching, supervising, and monitoring policies, practices, and procedures of the program that appointed THE ABUSER as a Big Brother.

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- b. failing to have in force and effect policies, practices, and procedures to prevent volunteers like THE ABUSER from having unrestricted unsupervised time with vulnerable at-risk children like Plaintiff;
- c. failing to ensure that “Littles” and their families, including Plaintiff’s family, were educated, informed, and warned about the prevalence and risk of childhood sexual abuse by volunteers and/or employees like THE ABUSER; and
- d. failing to supervise, inspect, monitor, review, and otherwise audit how their mission of helping at-risk and vulnerable children was being carried out by the program that appointed THE ABUSER.

131. It was entirely foreseeable that Defendants’ negligent failure to supervise the program that appointed THE ABUSER as a Big Brother created a risk of harm including sexual abuse and assault to at-risk children like Plaintiff.

132. Prior to the sexual abuse of Plaintiff, Defendants learned or should have learned that THE ABUSER was not fit to work with or around children.

133. Defendants, by and through their agents, servants and/or employees, became aware, or should have become aware of THE ABUSER’s propensity to commit sexual abuse and of the risk to Plaintiff’s safety.

134. Defendants negligently retained THE ABUSER with knowledge of his propensity for the type of behavior which resulted in Plaintiff’s injuries.

135. At all relevant times, Defendants had a duty to exercise due care in hiring, appointing, assigning, retention, supervision and direction of THE ABUSER, so as to protect minor children, including Plaintiff, who were likely to come into contact with him, and/or under

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his influence or supervision, and to ensure that THE ABUSER did not use his assigned position to injure minors by sexual assault, contact or abuse.

136. Defendants were negligent and failed to use reasonable care in hiring, appointing, assigning, and retention, of THE ABUSER, failed to properly investigate his background and history, and/or hired, appointed, and/or assigned him to Defendants' programs, when Defendants knew or should have known of facts that would make him a danger to minor children; and Defendants were otherwise negligent.

137. Defendants were negligent and did not use reasonable care in their supervision and direction of THE ABUSER and minor children in his presence, failed to monitor his activities, failed to oversee the manner in which he carried out the duties to which Defendants assigned him, even though they knew or should have known that THE ABUSER posed a threat of sexual abuse to minors; allowed the misconduct describe above to occur and continue; failed to investigate THE ABUSER's dangerous activities and remove him from their organization; and Defendants were otherwise negligent.

138. THE ABUSER would not have been in a position to sexually abuse Plaintiff had Defendants not been negligent in the appointing, retention, supervision, and direction of THE ABUSER.

139. Defendants were negligent and did not use reasonable care in their training, if any, of minor children and adult Big Brothers to identify and report suspicious, inappropriate, and grooming behaviors or sexual abuse by Defendants' volunteers, leaders, and other agents.

140. At all relevant times, THE ABUSER acted in the course and scope of his duties as a Big Brother with Defendants.

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141. Defendants' aforesaid actions were willful, wanton, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.

142. At all relevant times, Plaintiff was a vulnerable child entrusted to Defendants care, and was under the supervision and control of Defendants, such that Defendants owed her a duty to act *in loco parentis* and to prevent foreseeable injuries.

143. By reason of the foregoing, Defendants breached their duties to act *in loco parentis*.

144. At all relevant times, there existed a fiduciary relationship of trust, confidence and reliance between Plaintiff and each Defendant.

145. The entrustment of Plaintiff to the care and supervision of the Defendants and their agents and employees while Plaintiff was a vulnerable child, imposed upon Defendants fiduciary duty to act in the best interests of Plaintiff.

146. Defendants were entrusted with the well-being, care, and safety of Plaintiff, which Defendants had a fiduciary duty to protect.

147. By reason of the foregoing and their failure to take measures to protect the well-being of vulnerable children including Plaintiff, Defendants breached their fiduciary duties to Plaintiff.

148. As a direct and proximate result of Defendants' misconduct described above, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

149. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, together with interest and costs in an amount that exceeds the jurisdiction of the lower courts of the State.

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SECOND CAUSE OF ACTION**NEGLIGENT, RECKLESS, AND WILLFUL MISCONDUCT**

150. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

151. At all relevant times, Defendants affirmatively and/or impliedly represented to minor children, their families, and the general public that agents of Defendants, including THE ABUSER, did not pose a risk of sexually abusing children, and that children, including Plaintiff, would be safe in their care.

152. Defendants knew or should have known this representation was false, and that appointing THE ABUSER as a Big Brother and giving him unfettered access to children, including Plaintiff, posed an unacceptable risk of harm to children.

153. Upon information and belief, Defendants lacked any reasonable policy and/or practice to supervise or oversee THE ABUSER or minor children in his presence in order to keep their minor participants safe from sexual abuse.

154. Defendants' conduct resulted in the sexual assault of children, including but not limited to Plaintiff, and put numerous other children at risk of sexual assault.

155. By failing to disclose the risk of sexual assault at Defendants' programs, Defendants unreasonably deprived the families of children entrusted to their care, including Plaintiff, of the ability to protect their children.

156. Defendants failed to warn Plaintiff and her family that THE ABUSER posed a risk of child sexual assault and abuse.

157. The conduct of Defendants as described herein was done with utter disregard as to the potential profound injuries which would ensue, and with depraved indifference to the health

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and well-being of children, and to the fact that Defendants subjected children in their charge, including Plaintiff, to sexual crimes.

158. Defendants' aforesaid actions were negligent, reckless, willful and wonton in their disregard for the rights and safety of children, including Plaintiff.

159. As a direct and proximate result of Defendants' misconduct, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

160. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, together with interest and costs in an amount that exceeds the jurisdiction of the lower courts of the State.

THIRD CAUSE OF ACTION

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

161. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

162. The sexual abuse of Plaintiff was extreme and outrageous conduct, beyond all possible bounds of decency, atrocious and intolerable in a civilized world.

163. Defendants' aforesaid negligent, grossly negligent and reckless misconduct, endangered Plaintiff's safety and caused her to fear for her own safety.

164. Defendants knew or disregarded the substantial probability that THE ABUSER would cause severe emotional distress to Plaintiff.

165. As a direct and proximate result of Defendants' foregoing misconduct, Plaintiff suffered severe emotional distress including psychological and emotional injury as described above.

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166. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, together with interest and costs in an amount that exceeds the jurisdiction of the lower courts of the State.

FOURTH CAUSE OF ACTION

BREACH OF STATUTORY DUTIES TO REPORT

167. Plaintiff repeats and realleges each and every allegation set forth above as if fully set forth herein.

168. Pursuant to, *inter alia*, N.Y. Soc. Serv. Law §§ 413 and 420, Defendants had a statutory duty to report reasonable suspicion of abuse of children in their care.

169. Defendants breached their statutory duty by knowingly and/or willingly failing to report reasonable suspicion of abuse of children in their care.

170. As a direct and proximate result of Defendants' foregoing breaches, Plaintiff suffered grave injury, including the physical, psychological and emotional injury and damages as described above.

171. By the reason of the foregoing, Defendants are liable to Plaintiff for compensatory and punitive damages, in an amount to be determined at trial, together with interest and costs in an amount that exceeds the jurisdiction of the lower courts of the State.

WHEREFORE, Plaintiff prays for judgment as follows:

- a. Awarding Plaintiff compensatory damages for her injuries, in an amount to be determined at trial;
- b. Awarding Plaintiff punitive damages for her injuries, in an amount to be determined at trial;
- c. Awarding Plaintiff prejudgment interest, to the extent available by law;

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- d. Awarding Plaintiffs costs and disbursements and attorneys' fees to the extent available by law; and
- e. Awarding such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

172. Plaintiff demands a trial by jury of all issues triable by jury in this action.

Dated: August 13, 2020

Yours, etc.

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