

SUPREME COURT COUNTY OF SUFFOLK  
STATE OF NEW YORK

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SUMMONS AND  
COMPLAINT

GRACA FERNANDES,

INDEX:

Plaintiff,

-against-

MARIA FERNANDES, AUGUSTO FERNANDES and  
HORSEBLOCK HOLDING ASSOC.,

Defendants.

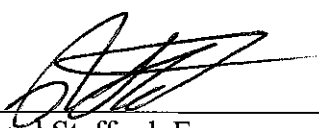
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TO ABOVE-NAMED DEFENDANT(S):

You are hereby summoned to Answer the Complaint in this action and to serve a copy of your Answer or to serve a Notice of Appearance on Plaintiff's Attorney within twenty (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: Bohemia, New York  
October 4, 2017

Yours, etc.  
LAW OFFICE OF RICHARD B. STAFFORD

By:   
Richard Stafford, Esq.  
Attorney for Plaintiff  
One Corporate Drive  
Suite 103  
Bohemia, NY 11716  
(631) 589-7999

To: Horseblock Road Associates  
73 Jamaica Avenue  
Holtsville, NY 11742

Maria Fernandes  
270 Hot Water Street  
Manorville, NY 11949

Augusto Fernandes  
270 Hot Water Street  
Manorville, NY 11949

SUPREME COURT COUNTY OF SUFFOLK  
STATE OF NEW YORK

Index No.

**GRACA FERNANDES,**

**Plaintiff,**

**- against -**

**MARIA FERNANDED, AUGUSTO FERNANDES and  
HORSEBLOCK HOLDING ASSOC.,**

**Defendant.**

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**SUMMONS**

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**LAW OFFICE OF RICHARD B. STAFFORD**

Attorney for Plaintiff  
One Corporate Drive  
Suite 103  
Bohemia, NY 11716  
(631) 589-7999

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Dated: October 17, 2017

Yours, etc.

**LAW OFFICE OF RICHARD B. STAFFORD**

Attorney for Petitioner  
One Corporate Drive  
Suite 103  
Bohemia, NY 11716  
(631) 589-7999

COMPLIANCE PURSUANT TO 22 NYCRR § 130-1.1-a:

To the best of the undersigned's knowledge, information and belief formed after an inquiry reasonable under the circumstances, the within document (s) and contentions contained herein are not frivolous as defined in 22 NYCRR § 130-1.1-a.

SUPREME COURT COUNTY OF SUFFOLK  
STATE OF NEW YORK

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GRACA FERNANDES,

Plaintiff,

-against-

MARIA FERNANDES, AUGUSTO FERNANDES and  
HORSEBLOCK HOLDING ASSOC.,

Defendant.

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SUMMONS AND  
COMPLAINT  
INDEX:

Plaintiff, GRACA FERNANDES, for her Complaint alleges as follows:

1. At all times hereinafter mentioned the plaintiff, GRACA FERNANDES, resides in the County of Suffolk County, State of New York, (hereinafter referred to as the "Plaintiff").
2. At all times hereinafter mentioned the defendant, MARIA FERNANDES, resides in the County of Suffolk, State of New York.
3. At all times hereinafter mentioned the defendant, AUGUSTO FERNANDES, resides in the County of Suffolk, State of New York.
4. At all times hereinafter mentioned the defendant, HORSEBLOCK HOLDING ASSOC., is domestic partnership formed under the laws of New York and with its principal headquarters located in Suffolk County, State of New York.
5. At all times hereinafter mentioned, defendant, Maria Fernandes was/is a fifty (50) percent owner/partner in the defendant corporation, Horseblock Holding Assoc.
6. At all times hereinafter mentioned, plaintiff, Graca Fernandes was/is a fifty (50) percent owner/partner in the defendant corporation, Horseblock Holding Assoc.

7. At all times hereinafter mentioned, pursuant to a partnership agreement, the plaintiff, Graca Fernandes was/is entitled to fifty (50) percent of all profits of defendant corporation, Horseblock Holding Assoc.
8. At all times hereinafter mention, Augusto Fernandes, acted as an employee, agent and/or representatives of Horseblock Holding Assoc.
9. At all times hereinafter mentioned, Horseblock Holding Assoc. owned a certain piece of improved property located at 2074 Horseblock Road, Medford, New York, (hereinafter referred to as "2074 Horseblock Road").
10. At all times hereinafter mentioned, the improved property located at 2074 Horseblock Road, Medford, New York consisted of multiple residential apartments, a laundry facility and two yards for storage of construction equipment.
11. At all times hereinafter mentioned, during the period of 2007 through the date of this Complaint and continuing, Defendant, Maria Fernandes, personally and/or through her agents, employees/representatives collected rent(s) and/or proceeds on behalf of Horseblock Holding Assoc.

**FIRST CAUSE OF ACTION**  
**CONVERSION**

12. Plaintiff repeats and realleged paragraphs "1" through "11" as if set forth in full herein.
13. At all times hereinafter mentioned, the defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. with intent to withhold from the plaintiff and convert to their own, collected rent(s) and other proceeds funds from tenants.

14. At all times hereinafter mentioned, the defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. knew that the plaintiff, GRACA FERNANDES was entitled to receive fifty (50) percent of any and all rents and other proceeds, monies and funds collected.

15. During the years 2007 through October 2017, the defendants MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. collected rents and other proceeds from the improved property located at 2074 Horseblock Road.

16. During that same period of January 2007 to October 2017, the defendants, MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC withheld any and all collected rents and proceeds from the on-site laundry facility from the plaintiff, GRACA FERNANDES.

17. During the period of January 2007 to October 2017, the defendants MARIA FERNENDAS, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. in a continuing course of conduct, collected the above-mentioned rents and other proceeds from the improved property located at 2074 Horseblock Road and converted said rents and other proceeds to their/ its own personal use and/or to corporate business accounts under their control and/or control of their agent(s) to the exclusion of the Plaintiff's rights to the rent and other proceed.

18. During the period of January 2007 to October 2017, the defendants MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. in a continuing course of conduct, collected the above-mentioned rents and other proceeds from the improved property located at 2074 Horseblock Road and converted approximately \$10,000.00 per month in rents and other proceeds to their/ its own personal use and/or to corporate business

accounts under their control and/or control of their agent(s) to the exclusion of the Plaintiff's rights to the rent and other proceed.

19. During the Period from January 2007 to October 2017, the Plaintiff GRACA FERNANDES never received any dividend, distribution or partnership share of profits from rent or other proceeds collected by the Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. The Plaintiff GRACA FERNANDES did receive three hundred dollars (\$300.00) in quarters from AUGUSTO FERNANDES as proceeds from one month of laundry proceeds.

20. The Plaintiff has been damaged as a result of the defendant(s), MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., due to the conversion of collected rents, proceeds and other partnership funds .

**SECOND CAUSE OF ACTION**  
**UNJUST ENRICHMENT (PLEAD IN THE ALTERNATIVE)**

21. Plaintiff repeats and realleges Paragraphs "1" through "20" as if set forth in full herein.

22. The Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., have benefited financially benefited from 2074 Horseblock Road from the rents and other proceed they have collected.

23. The Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC.'s financial benefit was in part derived from monies and funds due and owed to the "Plaintiff".

24. During the period of January 2007 through present, the Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. engaged in a continuing course of conduct in which they intentionally and wrongfully

secreted/misappropriated \$10,000.00 per month in rents and other proceeds without providing the Plaintiff with her rightful share. As a result, the Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. were unjustly enriched.

25. The balance of fairness and good conscience requires the "Plaintiff" be made whole for any and all money the Defendant(s), MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., improperly obtained at the expense of the "Plaintiff".

26. The Plaintiff has suffered damages because defendant(s), MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., have been unjustly enriched.

**THIRD CAUSE OF ACTION**  
**BREACH OF FIDUARY DUTY**

27. Plaintiff repeats and realleges Paragraphs "1" through "26" as if set forth in full herein.

28. The Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., owed a fiduciary duty to the "Plaintiff" preserve any and all rents and other proceeds from business operation 2074 Horseblock Road rightfully belonging, due, owed to the "Plaintiff".

29. At all times herein mentioned, the Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC. "ran" the day-to-day operations of the Defendant partnership, including collecting all rent(s) and other proceeds, paying all expenses, making any and all repairs and maintaining any and all business records.

30. At all times herein mentioned, the Defendant(s) was required to safeguard any portion of "proceeds" the Plaintiff was entitled to receive and/or be paid.

31. At all times herein mentioned, and more specifically during the period of January 2007 through present, the Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and



HORSEBLOCK HOLDING ASSOC., breached their individual and collective fiduciary duties due to any plaintiff by intentionally failing or refusing to safeguard, account for, sequester, the "Plaintiff" her portion of the profits from the business operations of 2074 Horseblock Road.

32. At all times herein mentioned, and more specifically during the period of January 2007 through present, the Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., breached their individual and collective fiduciary duties by intentionally failing or refusing to provide the "Plaintiff" her portion of the profits from the business operations of 2074 Horseblock Road.

33. At all times herein mentioned, and more specifically during the period of January 2007 through present, the Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., breached their individual and collective fiduciary duties by intentionally allowing partnership funds to be spent on expense that were not legitimate expenses.

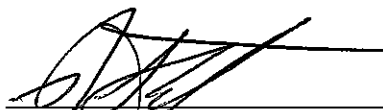
34. The Plaintiff has been damaged by the Defendant(s) MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., by this breach of their fiduciary duties.

**WHEREFORE**, Plaintiff, GRACA FERNANDES, demands judgment as follows:

- (a) On the first cause of action (CONVERSION), judgment against Defendant(s), MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC., for the following relief: (1) a monetary judgment in the amount of 1,000,000.00 (ONE MILLION DOLLARS) in actual, compensatory damages;

- (b) On the second cause of action (UNJUST ENRICHMENT) Judgment against Defendant, MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC for the following relief: a monetary judgment in the amount of \$1,000,000.00 (ONE MILLION DOLLARS) in actual, compensatory damages; and
- (c) On the third cause of action (BREACH OF FIDUCIARY DUTY) Judgment against Defendant, MARIA FERNANDES, AUGUSTO FERNANDES and HORSEBLOCK HOLDING ASSOC for the following relief: a monetary judgment in the amount of \$1,000,000.00 (ONE MILLION DOLLARS) in actual, compensatory damages; and
- (d) For other and further relief, as may be just and proper.

Dated: Bohemia, New York  
October 2, 2017



Richard Stafford, Esq.  
LAW OFFICE OF RICHARD B. STAFFORD  
One Corporate Drive  
Suite 103  
Bohemia, NY 11716  
(631) 589-7999

VERIFICATION

STATE OF NEW YORK )

)ss.:

COUNTY OF SUFFOLK )

GRACA FERNANDES, being duly sworn, depose and says: I have read the foregoing Summons and Complaint and knows the contents thereof: the same is true to my knowledge except as to the matters stated therein to be alleged on information and belief, and as to those matters I believe them to be true.

Graca Fernandes  
GRACA FERNANDES

Sworn to before me  
October 17, 2017

[Signature]

CHRISTOPHER KEITH COLLOTTA  
Notary Public - State of New York  
NO. 02CO6359118  
Qualified in Suffolk County  
My Commission Expires May 30, 2021

SUPREME COURT COUNTY OF SUFFOLK  
STATE OF NEW YORK

Index No.

**GRACA FERNANDES,**

**Plaintiff,**

**- against -**

**MARIA FERNANDED, AUGUSTO FERNANDES and  
HORSEBLOCK HOLDING ASSOC.,  
Defendant.**

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**VERIFIED COMPLAINT**

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**LAW OFFICE OF RICHARD B. STAFFORD**

Attorney for Plaintiff  
One Corporate Drive  
Suite 103  
Bohemia, NY 11716  
(631) 589-7999

Dated: October 17, 2017

Yours, etc.

**LAW OFFICE OF RICHARD B. STAFFORD**

Attorney for Petitioner  
One Corporate Drive  
Suite 103  
Bohemia, NY 11716  
(631) 589-7999

COMPLIANCE PURSUANT TO 22 NYCRR § 130-1.1-a:

To the best of the undersigned's knowledge, information and belief formed after an inquiry reasonable under the circumstances, the within document (s) and contentions contained herein are not frivolous as defined in 22 NYCRR § 130-1.1-a.