

The Royal Poinciana Playhouse Foundation

221 Ocean Terrace

Palm Beach, Florida 33480

561-840-0696 (seasonal)

Montauk: 631-238-5445 (seasonal)

efax: 631-614-4319

October 12th, 2010

Sidney Spiegel

340 Royal Poinciana Way Suite 326

Palm Beach, FL 33480

561-832-8502

RE: plan to move forward

Dear Mr. Spiegel,

I called your office today to make an appointment to meet with you but was told that you were unavailable and to place a letter in your mailbox at the plaza.

As per my prior correspondence with you I think that the idea that I am presenting to you will allow you to relieve yourself from the contractual obligations and encumbrances that you assumed in 1979 and allow you to profit from your property. Everything that I wrote in my prior letter still applies other than that I have now established the foundation and retained attorney Jeff Tomberg.

I plan to purchase a court index number and effect personal service on you, the Town of Palm Beach, the Sterling Group and other necessary parties with the enclosed attorney retainer letter, my February 20th, 2010 letter to the Palm Beach Daily News, and my previous letter to you. The purpose is to bring you into a forum to work out this issue in a manner that, hopefully, everyone can profit and the community can get its Playhouse back into operation.

I have no intent or desire to, nor will I, commence adversarial litigation in this matter. I am ready to give away all of the money that I am spending as a gift to the Palm Beach Community which I witnessed wants their theater back very, very much.

Sincerely Yours,

Robert A. Ficalora

Royal Poinciana Playhouse Foundation



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August 27th, 2010

Mr. Jeff Tomberg, Esq.
The Law Office of Jeff Tomberg
626 SE 4th Street
P.O. Box 1426
Boynton Beach FL 33425-1426
ph. 561-737-1345
fax 561-734-8971

Re: background, plan, retainer and rates

Dear Jeff,

This retainer agreement is intended to introduce you and the foundation to the parties necessary for a proposed settlement to relieve the contractual burden created by the 1979 agreement on Sidney Spiegel and his heirs, successors and assigns. Although a docket number is to be purchased and papers filed in it, no Request for Judicial Intervention (RJI) bringing on a Judge is to be filed until the need to do so is agreed upon by all parties. The intent is an agreement beneficial to the Town of Palm Beach, to the Palm Beach Community, and to those with a financial interest in the Royal Poinciana Plaza.

I became involved during the recent effort to prevent the demolition of the Royal Poinciana Playhouse and redevelop the Poinciana Plaza. Having fought a case regarding restrictive covenants protecting a system of parkland and roadways in Montauk, NY (see www.montauk.com), I am fully familiar with that ancient part of real property law. I was able to get valuable documents from Pat Flynn's Theater Guild and pull records on file at the County Center to understand this case. I then wrote a letter to the *Palm Beach Daily News* (attached). When the plan for demolition was subsequently

withdrawn, I immediately made an appointment and met with Sidney Spiegel at his office at the Poinciana Plaza where I recognized him for operating the theater for twenty-five years before it went dark. After our meeting I immediately wrote up and delivered to him a plan (attached) that we will now be attempting to implement. This retainer agreement is an integral part of that plan.

Per our prior discussion and correspondence, the retainer and rates that you will be paid and the documents that you will create and file in the docket that you will open are as follows:

Retainer: \$2,500 (paid by wire 8/27/10)

Statement of Facts: \$300

Memorandum of Law: \$750

Attorney's affidavit: \$275 per hour (discounted)

Complaint: \$600

Paralegal work: \$75 per hour

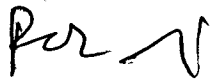
Court and Town Council appearances: \$300 per hour

Appearances, Court papers, motions, etc.: \$275 per hour (discounted)

Expenses will be reimbursed monthly as incurred.

I am in the process of setting up the 501(c)(3) operating foundation with the IRS so that I can open an bank account and fund it. Please begin to prepare the above documents.

Yours,



Robert A. Ficalora

President, CEO and Managing Director

Royal Poinciana Playhouse Foundation

Demolishing Royal Poinciana Playhouse tantamount to contempt of court

Saturday, February 20, 2010

The rights to the Royal Poinciana Playhouse were sold in the March 6, 1979, agreement between Poinciana Properties and the Town of Palm Beach. In return, valuable consideration was granted through profitable variances to develop the shopping center at the site.

The 1979 agreement, therefore, was a contract. The deed by which the current claimant owner, Sidney Spiegel, took title on Oct. 1, 1979, reflects this fact. What Mr. Spiegel purchased was a profitable shopping center with a contractual obligation to maintain and operate the Playhouse. The rights and obligations established by the 1979 agreement are attached to and run with the land.

In the July 10, 2007, final judgment of Judge David F. Crow in the matter of Poinciana Management Inc. vs. Town of Palm Beach, the court held that "Plaintiff, as successor and assignee to the 1979 Agreement, does not have the right to demolish the Poinciana Theater."

The application before the Landmarks Commission is requesting approval to demolish the theater and is, therefore, requesting its complicity in contempt for an order of the court.

Robert A. Ficalora

Palm Beach

Find this article at:

<http://www.palmbeachdailynews.com/search/content/news/2010/02/20/edit0221fiacorla.html>

Robert A. Ficalora
221 Ocean Terrace
Palm Beach, Florida 33480

To:

Sidney Spiegel
340 Royal Poinciana Way
Suite 326
Palm Beach, Florida 334870

Re: A plan that might work for you.

Dear Mr. Spiegel,

It was good meeting with you the other day, thank you.

After reviewing legal records of the Palm Beach Theater Guild, and retrieving key documents from the County center, I retained an attorney and prepared papers for a temporary restraining order to stop further progress on a proposal to demolish the Poinciana Playhouse. I have dismissed that council and consulted with, but have not retained, a new one about options for satisfactorily attaining a remedy from the issues raised by the 1979 Agreement as a contract.

Attorney Jeff Tomberg suggested suing the Town of Palm Beach for Mandamus to compel you to fulfill your obligations under the 1979 Agreement as a contract to maintain and operate the Playhouse. After some discussion with Patrick Flynn of the Theater Guild I came to realize that would mean forcing you to spend \$5 million or more dollars on the Playhouse with little or no probability of getting a return on that money. I emphatically told him that I wouldn't support it or be a part of it!

My thinking was, and remains, that all of the elements of a plan that will make you money and provide further development opportunities for the Plaza are available, are relatively inexpensive, and should be explored. I am not going to do anything unless we do it together by agreement.

The restrictive covenants contained the October 1st, 1979 deed by which you took title to the Plaza constitute a negative easement and a cloud upon your title. Florida law on point this case is Chapter 65 regarding the clearing clouds. My perceived interest in the 1979 Agreement is as Palm Beach property owner/taxpayer whose representatives entered into the 1979 agreement on my predecessors' behalf. In other words, as the successor under the 1979 Agreement you are the servient estate and I am a member of the dominant estate. On this basis I think that we have standing to work out a plan and take it to court.

The Plan is:

1. A non-adversarial court action in which the Royal Poinciana Playhouse Foundation, the Plaza, and the Town of Palm Beach are parties.
2. All of the particulars would be considered by the parties prior to bringing it to the court.
3. If a satisfactory agreement is not reached the case will not be filed.
4. The court will divide the title unified in the 1979 Agreement in order to compel that a deed to the Playhouse be issued to The Royal Poinciana Playhouse Foundation as Trustee upon a claim of equitable title.
5. The deed to the Foundation would be on the western boundary of the Plaza roughly parallel the inter-coastal and would include the tax-deductible donation of the Hibel Building (see location map).
6. The above plan may cost-effectively unburden the Plaza from the 1979 Agreement and provide further development opportunities together with significant reductions in property taxes and federal Income taxes.
7. I have prepared the papers for establishing a tax-exempt Operating Foundation to take title to, maintain and operate the Playhouse. The papers are in the folder that I left with your secretary in draft form and have not been filed, nor has an attorney been retained.

I am available at you convenience for further meetings upon the above DRAFT plan.

Sincerely Yours,



Robert A. Ficalora
221 Ocean Terrace
Palm Beach, Florida 33480
(561) 840-0696

Cc: Law offices of Jeff Tomberg
626 SE 4th Street
Boynton Beach FL 33435
(561) 737-1345

LOCATION MAP Royal Poinciana Plaza

