

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ROBERT M. BRADLEY,

Plaintiff,

vs.

DAVID G. MASSAD, COMMERCE BANK
AND TRUST COMPANY,
MARCELLO MALLEGNI, BRENDA L. MALLEGNI
MICHAEL J. NORRIS, JANE M. NORRIS
LBM FINANCIAL, LLC,
SUSAN ALDEN, STONE SERVICES INC.,
DAVID KOZIAK, DAVID J. MANDARA,
WOLFPEN FINANCIAL, LLC,
WILLIAM A. DEPIETRI, SAMUEL DESIMONE,
JOHN DESIMONE, CATHY DESIMONE,
SANTO ARCURI, KEVIN B. MCMANUS,
EVEREST CONSTRUCTION INC., and
MKM SITE DEVELOPMENT CORP.

Defendants.

VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL

1. This is an action for damages arising under the Racketeer Influence and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 et seq. Additionally, the action includes claims under Massachusetts law. The predicate acts supporting the RICO counts include, but are not limited to: mail fraud, bank fraud, obstruction of justice, loan sharking, and extortion. The facts alleged also indicate violations of the Fair Housing Act, the Truth In Lending Act, the Real Estate Settlement Procedures Act, and the Equal Credit Opportunity Act.

2. This RICO enterprise has been directed and controlled by the Defendants David G. “Duddie” Massad (“Massad”), Marcello Mallegni (“Mallegni”), Michael J. Norris (“Norris”), Jane M. Norris (“J. Norris”), Susan Alden (“Alden”), Brenda Mallegni (“B. Mallegni”), Stone Services Inc. (“Stone”), David Kozik (“Kozik”), David Mandara (“Mandara”), Samuel DeSimone (“S. DeSimone”), John DeSimone (“J. DeSimone”), Cathy DeSimone (“C. DeSimone”), Santo Arcuri (“Arcuri”), Kevin B. McManus (“McManus”), Everest Construction Inc. (“Everest”), MKM Site Development Corp. (“MKM”) and William Depietri (“Depietri”). The lending companies, LBM Financial, LLC (“LBM”), Wolfpen Financial, LLC (“Wolfpen”), and Commerce Bank and Trust Company (“Commerce”) (collectively “the Lender Defendants”), which the defendants, Massad, Mallegni and Depietri have used, controlled, and directed to commit these illegal acts, are also members of the enterprise, along with the other named defendants. All of the above-named are sometimes collectively referred to as “Defendants.”

3. It is alleged that all of the Defendants acted in concert to defraud, extort, conspire against and deprive the Plaintiff of monies, property, and assets and have attempted to place him and his family out of his home and in fear for their physical safety.

4. Defendant LBM is a notorious “hard money” lender engaged in the business of lending money primarily to real estate developers. LBM imposes extremely high interest rates, points, and exorbitant fees on its borrowers. Defendants Massad and Mallegni through their various lending entities, including Defendants LBM and Wolfpen, would loan money to individuals and entities and proceed to charge interest rates far in excess of the contractual amount, often in violation of Massachusetts usury laws. This

scheme was designed to effectively strip the project or property of its equity and force borrowers to refinance their loans for a higher amount that included fraudulently-inflated interest. The Defendants regularly used the threat of foreclosure to force the borrowers to agree to their fraudulent loan terms. LBM's and Wolfpen's principal, Mallegni, routinely demanded equity in the borrower's projects and or business, usually extracted at the last minute before a scheduled LBM or Wolfpen loan closing.

5. When the borrower is most vulnerable, Mallegni and the other named Defendants extort fees and other financial compensation and engage in whatever dishonest conduct that suits their purposes to the point of forcing borrowers, or even third parties, into bankruptcy through the pursuit of foreclosure actions predicated upon inflated and or invalid mortgages.

6. If and when one of LBM's or Wolfpen's borrowers defaults or becomes vulnerable, usually caused by the Defendants patented delays and stall tactics or influence on subcontractors and third parties, Mallegni and the other named Defendants extort additional equity, fees, and other financial gratuities as a condition of LBM's or Wolfpen's forbearance and cooperation. It has also been LBM's standard practice to aggressively market borrower's projects as if they already owned them, even when borrower's loan status is current and in good standing. Additionally, LBM will boast openly that a borrower's project is their own to even the borrower's own business associates and related municipal governing bodies to its project, further degrading both the borrower and the project. Moreover, it also became the standard practice of Mallegni and Norris, after they extorted equity from a project, to further enrich themselves by: (a) forcing themselves into a managing partner position, (b) making themselves the general

contractor, or naming one of their partners and/or affiliates as the general contractor, and (c) making themselves the lender. With total disregard of any and all conflicts of interest in any given transaction described herein, the Defendants acted in the capacity of lender, partner, developer, contractor, inspector and legal council for all parties all at the same time. Defendants grinded each project to a stop and into default and assumed no responsibilities whatsoever.

7. The Defendants criminal enterprise treated their own investors with the same disregard as the borrowers/developers. It is being further alleged that the Lender Defendants acted in concert to defraud, conspire against and deprive their own investors out of personal monies invested in the criminal enterprise by creating a web of lies and fraud as represented in Susan MacDonald v LBM Financial, LLC et al., Middlesex Superior Court, Civil Action No. 08-1940 (the "MacDonald Lawsuit"). The Lender Defendants would induce investors to enter into "Participation Agreements" supposedly using first mortgages as the security for the monies invested. The Participation Agreements relied on mortgages as security and in doing so violated countless Securities Laws. None of the Lender Defendants are licensed Brokers/Dealers. At its inception, the MacDonald Lawsuit exhibited enough merit for Ms. MacDonald to have been awarded attachments on all named Defendants business and personal bank accounts and real estate.

8. The allegations contained within this complaint are not isolated incidents or rare contestable events, but rather a reoccurring pattern of organized criminal activity by the Defendants and their enterprise. At present, or in the recent past, the Defendants have been named in an extraordinary amount of complaints in both State and Federal

Courts, filed by both Borrowers, Investors and even U.S. Trustees that all contain exact or similar allegations as contained herein. These complaints and/or cases include but are not limited to the following:

- a.) Susan MacDonald v. LBM Financial, LLC et al., Massachusetts Superior Court, Civil Action No. 08-1940;
- b.) Jean Boudreau et al v. LBM Financial, LLC et al., Massachusetts Superior Court, Civil Action No. 07-40015;
- c.) Sandra DiGiovanni et al v.LBM Financial,LLC et al., Massachusetts Superior Court, Civil Action No. 07-1812;
- d.) Shamus Holdings, LLC v. LBM Financial, LLC, U.S. Bankruptcy Court, Case No. 07-14572 (Chapter 11);
- e.) Donald R.Lassman, US Trustee v. LBM Financial, LLC, U.S. Bankruptcy Court, Case No. 06-11513 (Chapter 7);
- f.) Nicholas Fiorillo et al v. David G.Massad et al., U.S. District Court, Case No. 07-40015;
- g.) Bernard J.Laverty, Jr. v. David G.Massad et al., U.S. District Court, Case No. 08-40062;
- h.) Charles Sanderson et al v. David G.Massad et al., U.S. District Court, Case No. 08-40106;
- i.) William J.Abraham v. David G.Massad et al., Massachusetts Superior Court, Civil Action No. 05-06168;
- j.) John F. Gallagher et al v. Commerce Bank et al., Massachusetts Superior Court, Civil Action No. 05-01953;
- k.) Stafford Development, LLC v. Kevin B.McManus, U.S. Bankruptcy Court, Case No. 05-50770 (Chapter 7);
- l.) 219 Forest St LLC v LBM Financial, LLC, et al., U.S. Bankruptcy Court, Case No. 07-04097; and
- m.) LBM Financial, LLC v Evergrass, Inc, et al., Massachusetts Superior Court, Civil Action No. 2007-03723.

9. Plaintiff alleges that the default interest rate and late fees charged by the

Defendants in their criminal enterprise are punitive and must be voided as unenforceable penalties. In order to be enforceable, a default interest rate must be based on the anticipated costs or reasonable damages that would be incurred by a lender due to a borrower's failure to timely pay the loan. The effective rate of default interest under the notes, consisting of twenty percent (20%) default rate, the one point per month and the late fees, compounded monthly, is approximately forty-one (41%) per annum.

The default rate under the notes was determined without any regard to Lender Defendants anticipated costs or reasonable damages that would be sustained in the event of a default under the note terms. The default interest and late fees provisions of the notes serve one of only two purposes. Either the Lender Defendants would receive a windfall from the exorbitant default interest and late fees, or the sheer weight of the default interest and late fees would permit the Lender Defendants to consume the equity in the Plaintiffs properties. In either event, the Lender Defendants claims for default interest and late fees under the notes are an impermissible penalty and must be disallowed as a matter of Law. Claims for compounded interest and compounded fees are contrary to fundamental principles of common law in this Commonwealth and must be disallowed.

10. In addition, the Defendants have previously tried to dissuade the Plaintiff from filing this present action by threatening to bring a lawsuit in the State Courts of Massachusetts (which they have since filed) in an attempt to prevent the Plaintiff from seeking redress of his disputes in Federal Court.

The Parties

11. Plaintiff Robert M. Bradley (“Bradley”) is an individual, who resides in Marstons Mills, Massachusetts.

12. Defendant David G. “Duddie” Massad is an individual who resides at 14 Jefferson Drive, Westborough, Massachusetts.

13. Defendant Marcello Mallegni is an individual who resides at 6 Wolfpen Lane, Southborough, Massachusetts.

14. Defendant Michael J. Norris is an individual who resides at 43 Hopewell Farm Road, Natick, Massachusetts.

15. Defendant Commerce Bank and Trust Company is a federally insured financial institution headquartered in Worcester, Massachusetts.

16. Defendant LBM Financial, LLC is a duly organized Massachusetts limited liability company with a principal place of business located in Marlborough, Massachusetts.

17. Defendant Wolfpen Financial, LLC is a duly organized Massachusetts limited liability company with a principal place of business in Marlborough, Massachusetts.

18. Defendant William A. Depietri is an individual who resides at 15 Presidential Drive, Southborough, Massachusetts.

19. Defendant Samuel Desimone is an individual who resides in Worcester County, Massachusetts.

20. Defendants John and Cathy Desimone are individuals who reside at 156 Harbor Bluff Road, Hyannis, Massachusetts.

21. Defendant Santo Arcuri is an individual who resides at 1 Rollingwood Drive, Worcester, Massachusetts.

22. Defendant Brenda L. Mallegni, spouse of Marcello Mallegni, is an individual who resides at 6 Wolfpen Lane, Southborough, Massachusetts.

23. Defendant Jane M. Norris, spouse of Michael J. Norris, is an individual who resides at 43 Hopewell Farm Road, Natick, Massachusetts.

24. Defendant Susan Alden is an individual who resides in Middlesex County, MA and can be contacted at 171 Locke Drive, Marlborough, Massachusetts.

25. Defendant Stone Services, Inc. is a duly organized corporation with a principal place of business located in Marlborough, Massachusetts.

26. Defendant Kevin B. McManus (“McManus”) is an individual who resides at 1 Mount View Drive, Paxton, Massachusetts.

27. Defendant Everest Construction Inc. was a duly organized corporation run by McManus with a principal place of business at 69 Milk St., Westborough, Massachusetts.

28. Defendant MKM Site Development, LLC was a duly organized corporation run by McManus with a principal place of business at 69 Milk Street, Westborough, Massachusetts.

The 415 Main Street Loan

29. In or around July 2000, Plaintiff was a partner in an LLC known as First Cape Venture Realty Trust (“First Cape”). First Cape owned a building located at 415

Main Street, Hyannis, Massachusetts. The property was a 160 year old landmark property that had been run for many years as various popular restaurants/nightclubs and is most-often recognized as “The Asa Bearse House.”

30. Bradley had led a group to purchase this property about 10 months earlier out of a portfolio of failed loans as the property had been abandoned the previous two years and was in major disrepair. Bradley’s group ultimately did a complete “ground up” rehabilitation of the property, costing in excess of \$750,000, and reopened the property with much success as “Pastiche and The Blue Room”.

31. In or around April 2001, Bradley was presented with the opportunity to buy out his partners in First Cape and pay off its loans at a discount. Bradley began seeking financing to conduct the buy out, and, through a mutual attorney friend, was introduced to Defendants Mallegni and LBM.

32. Mallegni told Bradley he did a great deal of business on the Cape, that he had a home on the Cape for over 20 years, and that he was very familiar with the successful transformation of this property and some of Bradley’s other dealings and was most interested in making a loan on the property.

33. At this time, Bradley brought in his lawyer and business partner in First Cape, Vincent J. DiMento, to help negotiate the terms of the deal. DiMento and Bradley explained that the discounted buy out of Bradley’s partner was a very time sensitive situation and that Bradley’s partner and the existing mortgage holder both had the right to sell the property right from under Bradley. The property had quickly established itself as the hottest establishment on the Cape and had built up considerable equity in its real estate value.

34. Both Bradley and Mallegni agreed that the present value of the property at 415 Main Street as a going concern at that time was \$1.4-1.5 Million. Bradley was seeking a new loan of \$682,500 from Mallegni to be in a first mortgage position to take out the present mortgage held by Raymond Borque.

35. Mallegni quoted a cost of the loan to be 16% and points for 4 months. Both Bradley and DiMento said that was too expensive and too short of a time period. Mallegni said as a further service and in hopes of doing additional business that since there was so much equity in the property and business, he would arrange to get Bradley conventional financing within 90 days. Again, Bradley stressed the need to close this loan quickly or they would lose the deep discount and the deal. Mallegni said he would close in "48 hours." Bradley and DiMento repeated that the proposed loan was too expensive and that they would be looking elsewhere. Mallegni said he liked the deal and the talk of other real estate projects so much that he would be interested in personally investing in the property.

36. Several days later, Bradley and DiMento proposed a deal wherein Mallegni would invest \$250,000 of his own personal money into the venture and would also make a first mortgage loan in the amount of \$435,000 for 4 months at 14% and 2 points, but, Mallegni would have to personally arrange for conventional financing to refinance this entire loan out within the 4 month term. In return for this participation, Mallegni would receive a 25% interest in First Cape and the restaurant operating company at 415 Main Street. Mallegni agreed and both sides were satisfied that it was a good deal for all and hopeful that this was the foundation for a relationship to do a lot of

future business as the parties agreed to diligently prepare for a closing in the upcoming days.

37. Several days turned into several weeks which turned into over a month without a closing. Bradley and DiMento repeatedly called both Mallegni and Norris demanding a response and to deliver on the agreed upon terms as it was becoming impossible for them to hold the discounted deal together. Constantly, they were told by the defendant: “don’t worry, we will close in the next two days.”

38. In what was later learned to be a patented move by the Defendants, Mallegni waited until the last absolute moment before the deal Bradley had to buy out his partners was about to be sold to someone else, to pull a bait and switch and extort a much more advantageous deal for the Defendants.

39. Mallegni and Norris completely changed their story to Bradley and DiMento. What was once a sure thing had turned into an impossible deal to accomplish. Mallegni now said he would not be putting up any of his own money as equity into the deal that the loan amount would be the full \$682,500 and the deal would have to be 16% and 4 points.

40. Bradley was outraged by how the Defendants had waited until the last second to change the terms of the deal. Mallegni pleaded that the only way to get the deal done in time was to use another one of his finance companies, Wolfpen, that he owned with another partner, Depietri.

41. Bradley continued to protest and Mallegni assured him that he wanted to accommodate his initial terms but Depietri would not let him. Mallegni stated that without Depietri’s consent the deal would be off. He suggested Bradley at least not lose

the whole deal and “bite the bullet this one time and it’ll all work out.” Mallegni told Bradley that “once we get this first deal done at a little higher rate, we’ll be able to do a ton of business together. I’ll finance all your real estate deals and then I’ll take you right into a bank to meet its owner and set you up for life with conventional bank rates. My partner in LBM is Duddie Massad, I control him and he controls Commerce Bank, so in the long run you’ll make out.”

42. The loan of \$682,500 closed in June 2001 at 16% and 4 points with Wolfpen. Bradley personally guaranteed the repayment of the loan. Additionally, the Defendants took the 25% equity interest in the project that they extorted at the last moment without investing any of their own personal money in exchange for the equity interest. Additionally, Defendants added on legal fees (although Norris agreed not to as he was now a 5% partner and agreed not to charge the partnership legal fees as DiMento had not), and demanded payments to Stone Services Inc., another Mallegni controlled entity for no apparent reason or services performed.

43. Additionally, Mallegni demanded that the restaurant/nightclub pay him \$500 per week for no apparent reason other than extortion as there would be no further services rendered by him. Bradley protested, explaining that the tenant/business could not afford that kind of extra expense, that the Cape was a seasonal business, that funds generated “in season” were reserved to carry the business through the “off season,” and that payroll was cut by more than half most of the year with all key employees taking pay cuts. Mallegni countered by lowering the year round, weekly amount payable to him to \$300 to be paid in an envelope, in cash. When Bradley protested that that was impossible to do, Mallegni insisted, “Do it or I’ll foreclose on everything.” Mallegni received his

\$300 cash payments every week, often sending his teenage children to see the restaurants managers for the envelopes.

44. The 4 month original loan term came and went and Mallegni never refinanced the loan as promised. Bradley and DiMento constantly complained that this was bait and switch and that this high rate of interest coupled with the weekly demanded cash payments would bankrupt the business. The Defendants continuously claimed a refinance at conventional rates was to happen momentarily. Now the Defendants were arbitrarily rolling over the loans, accumulating additional points and running the interest rate of at least 32%, which represented a default rate of 20%, a point per month and a 10% late fee, without ever serving a default notice or demand. When Bradley argued in protest, Mallegni assured him, "that's just Susan (Alden), she doesn't know we're partners or the deal we have, I'll get her to correct it later." This went on for a long period of time while the loan continued to accrue usurious rates of interest and erode the partner's equity in the project and the loan balance was skyrocketing.

45. After years of numerous other transactions between the plaintiff and the Defendants involving all similar criminal business practices, commingling and cross collateralizations and inadequate discharges of amounts repaid, Defendants took complete control and possession of the property and business located at 415 Main Street by means of extortion and bait and switch on a personal loan to Bradley when he was most vulnerable and further never credited to one of his accounts a \$250,000 reduction to an outstanding loan. In addition to the disputed and fraudulent transfer of Bradley's interest and Mallegni taking of this property is the fact that Mallegni and Norris transferred over \$50,000 of improvements to the property (new roof, windows, heating

system ect., without Bradley's consent) and then applied all these charges to a personal loan / HUD Statement to Bradley of \$940,000 to which there was no consideration or funds disbursed at that loan closing. To date Bradley contests this entire transaction.

The 300 Main Street and 599 Main Street Loans

46. After closing the 415 Main Street loan at the beginning of the summer of 2001, business at that location had become wildly successful. Mallegni was constantly there, acting like and telling everyone that this was his new restaurant and nightclub. He would parade friends, family, and bankers in and out, constantly demanding gift certificates for himself and others and demanded that Bradley arrange to have Mallegni's people "taken care of."

47. Soon thereafter, around the beginning of July, many other local brokers and owners would approach Bradley with other real estate or business opportunities. Bradley saw the opportunity to take over a long established location that was a year round nightclub and pub called Sophie's and Goodfellow's that was in bankruptcy due to a dispute between the current partners. The establishment had a 21-year lease that was extremely below market rates located at 300 Main Street, Hyannis, Massachusetts.

48. Around that time, the owner of a seasonal establishment that was extremely popular called the Atlantic Clam House and Beechtree Bar, located at 599 Main Street, Hyannis, Massachusetts, approached Bradley to see if he wanted to take over his place as it had become too much for him to handle.

49. Bradley thought that by basically using the same management team at several of the establishments on Main Street, each business could save considerable money on staff and on their combined buying power on advertising, and food and liquor

purchases. To this end, Bradley approached Mallegni and reminded him of how he slighted him on their recently closed deal at 415 Main Street. Bradley then explained the rationale, values, and opportunities of the next two proposed acquisitions and how that combined, they would enhance the likelihood of each to succeed. Bradley suggested that Mallegni “make up” for the last deal and loan him the money for these two new projects at 12% and 2 points. Mallegni said that was fair and instructed Bradley to go make the best deal he could and that he would be able to close immediately. This was critical as both deals were very time sensitive and Bradley wanted to make sure the businesses could capture as much of the busy summer business as possible as more than half the summer still remained.

50. Bradley negotiated a deal to buy out the partners and take over the establishments for \$200,000 for 300 Main Street location and \$165,000 for the 599 Main Street location. Bradley explained that he wanted to reinvent and rename both locations after the summer in an effort to meet market needs and increase their business. He requested loans in the amounts of \$250,000 and \$200,000 to cover the acquisitions and have a debt service reserve for both until Mallegni would assist in the immediate refinancing that he said he would do in concert with the refinancing that he was already obligated to do on the 415 Main Street property.

51. With time being of the essence, the critical busy business days of summer on Cape Cod passing by, and both extremely attractive deals about to fall apart, the Defendants once again began the stalling tactics to put Bradley at a most vulnerable disadvantage. Again waiting until the last moment before the deals were to fall apart, the Defendants then pulled a bait and switch and Mallegni demanded to be paid 15% and 4

points, more fees to Stone Services Inc. for no apparent reason, again extorted 25% equity in both the leases and operating businesses (again giving Norris 5%), and again piled on legal fees and demanded \$500 per week per location, which was again changed to a demand for a cash payment of \$300 per week per location. After numerous extensions and threats of both deals falling apart, both loans closed at the last minute in accordance with the extorted terms dictated by the Defendants on August 10, 2001. Bradley personally guaranteed the repayment of the loan. Heated arguments followed as Bradley contested these last minute tactics. Mallegni again assured Bradley that he would package up everything with him and take the deal to his partner Massad and immediately refinance out all this expensive money and replace it with conventional bank rates at Commerce.

52. The plan was to transform Sophie's / Goodfellows during the off season into a modern city style nightclub called Fluid and The Retro Café in a major gut rehabilitation of the property at a cost of \$400,000, and a minor changeover, at very little or no cost, of Atlantic Clam House to Bubba's BBQ Shack.

53. It is customary in a transaction such as this that all the various entities that are involved in a property or operating company usually remain separate from each other so that in the event that something negative happens to one of the entities, it will not have an effect on another. Mallegni agreed with Bradley that that was the only way to have these entities structured and told him that is in fact how all his businesses are set up. True to form, after relentless pressure and threat of a lawsuit by Bradley and DiMento for the Defendants to replace their "hard money" with bank rate funds, they threatened foreclosure and an inability to obtain bank rates unless all the entities were cross

collateralized. Now the Defendants were seeking for one to fail so they could take them all.

The 156 Harbor Bluff Road Loan

54. In the early fall of 2001, Bradley identified a distressed single family home directly on the water in Hyannis Harbor located at 156 Harbor Bluff Road where he negotiated the very advantageous acquisition price of \$880,000. The goal was to close on the property immediately in the late fall, perform a complete gut rehab/redesign of the entire property over the winter and have a brand new waterfront home to bring to the red hot Cape spring market at that time.

55. Bradley approached Defendant Wolfpen to do a straight real estate loan, unlike the recent past restaurant loans that Bradley felt were nothing short of criminal. Bradley was to be the borrower. Mallegni stated that he thought this deal was a “home run” and would “make up” for the other “misunderstandings” by granting Bradley a 6 month loan at 12% and 2 points with an option to renew for 6 months and no prepayment penalty. Bradley put up a deposit of \$20,000 to put the deal under agreement and had to close quickly to purchase the property at that price.

56. Bradley was seeking a loan for \$1,300,000, which would represent \$880,000 to acquire the property, \$350,000 to completely redesign and gut rehab the property, build a high end property, and have a debt service reserve. Defendant Wolfpen agreed that the house should be put on the market for a minimum of \$2,500,000 for a pre-completion price and even higher when completed in the spring market.

57. Bradley had to postpone several of the scheduled closing dates as, once again, the Defendants stalled until the brink of the deal collapsing. Bradley argued that

again he was in jeopardy of losing his deposit and the project. Again Mallegni claimed that he would have done the loan as promised but that Depietri would not let him. Again at the last possible moment, Defendants waited until Bradley was most vulnerable and changed the deal. The 156 Harbor Bluff Road loan closed for \$1,300,000 with Wolfpen on October 18, 2001 at a rate of 16% and 4 points and an impossible term of 4 months. They pleaded to Bradley that all he had to do was get started with the project and they would take out their money with conventional financing as both Depietri and Mallegni claimed they had “a half dozen banks they could take this deal to as it was a complete no-brainer” and would further promise to get it done within 2 months.

58. The day before the closing, Bradley was informed by Norris that the deal had further changes to it. Now the Defendants wanted a \$50,000 “Lender fee” if the house sold for “up to \$1,600,000” and an additional fee of 40% of all amounts over \$1,600,000.

59. The project got off to a fast start and began generating tremendous word of mouth interest both within the immediate neighborhood and the brokerage community and the project seemed to be going as planned.

60. In a completely unrelated matter, Bradley was furious that the promise of the \$400,00 rehab money for the transformation of Sophie’s into Fluid was already two months late and he was extremely worried about the carrying costs of that project and getting it reopened by spring. Countless demands were made by Bradley to correct this situation that was nearing disaster.

61. Mallegni could not deny the magnitude of the situation and told Bradley that a couple of his loans that he thought would have closed long ago that would have

been his money for this project were now closing within the next week and that Bradley should get as many workers on the job as soon as possible. Bradley countered that there were no funds to accomplish this. Mallegni instructed Bradley to put in false requests for payment for the Harbor Bluff job and that he would approve them so he could get started.

62. Bradley adamantly argued that he did not want to commingle funds from one project to another and certainly did not want to be accused of the same. He told Mallegni he had enough of a relationship with all his contractors to get started without stealing from another project as long as the Fluid financing came immediately. Mallegni assured it was a day or two away. Bradley got deeper and deeper into the Fluid project as Mallegni never fulfilled his commitment to fund it. Tradesmen threatened to walk off and lien the project. Mallegni insisted that Bradley take money from the Harbor Bluff Road project to keep the project moving forward while he continued to promise the closing of the Fluid loan would be the very next day. Days turned into weeks as Mallegni continued to fraudulently represent he had the money to fund the project and he continued to approve and advance funds from Harbor Bluff for Fluid.

63. Bradley was now in a complete panic as there were now nowhere near enough funds available to complete his “no-brainer / home run” Harbor Bluff Road project. It was quite obvious that the Defendants had advanced well over \$150,000 in construction funds to Bradley for work that not been performed. Bradley became furious and embarrassed at the state of both projects. He demanded Mallegni stop the lying and immediately fund the Fluid loan so that he could rectify the accounting of both projects. Mallegni told Bradley “Shut up or you’ll get us both killed, if Depietri or Duddie find out what’s going on we’re both (expletive).”

64. Both the Harbor Bluff project and the Fluid project came to an abrupt halt as the Defendants became aware of the status of each. The Fluid project eventually opened and was under-funded and Defendants quickly insisted that Bradley sell and transfer the project and property to HOOTERS, another client/borrower of the Defendants at that time (and who ultimately went bankrupt and completely out of business at all their New England locations that Defendants had as collateral).

65. The Harbor Bluff Road project was completely stopped when it was about 65% completed. The funds that Mallegni instructed to be used at Fluid were never replaced. Mallegni told Bradley that “Depietri is (expletive), he knows this place will sell whenever he wants and at whatever price he chooses. He’s going to run up your loan at 32% until there is no equity left and chase you for every penny.” The Harbor Bluff Road project sat for a year without funds being advanced. Bradley pleaded repeatedly to work out deals to get the loan paid off and the project sold.

66. Eventually the project was finished and ready for sale. Bradley believed that the house should be priced at \$2,250,000 for a fast sale and that would be enough to cover the usurious accounting of the Defendants as to what was now the balance owed.

67. Shortly thereafter, Defendants approached Bradley with an offer that they had solicited amongst themselves for \$1,850,000, to which Bradley replied, “That’s way too low, I’m not buying them the house...we just had an open house with all kinds of activity and Broker interest, way too low, no.”

68. Immediately thereafter, Mallegni and Norris informed Bradley that he had spoken to the other Defendants and that they had decided that he had to accept the offer of \$1,850,000 whether he liked it or not. Defendants explained that Massad had a friend

at his bank (Bradley later was told that it was Samuel Desimone, one of his Commerce Board of Directors) who had a son who wanted to purchase the house and that was all he could or would pay for it “like it or not.” Again, Bradley insisted that the price was way off-base and refused the offer.

69. When Defendants learned of Bradley’s refusal of the offer, Mallegni told Bradley that “you have no idea who you are (expletive) with, you’ll disappear off the face of the earth and no one will find out, do the right thing and take the deal and we’ll make it up on the next one and everyone will be happy.” Depietri told Bradley that not only did he have to take the deal, but that he was going to hold him responsible for a \$418,000 “shortfall” deficiency from his accumulating usurious interest rate of over 32% and the deeply discounted rate they forced Bradley to sell to their associate.

70. Shortly thereafter, the Defendants strong-armed Bradley to sell 156 Harbor Bluff Road to John and Cathy Desimone for \$1,850,000, and after their usurious loan calculations, charged Bradley a bogus deficiency of \$418,000 that arose directly from both the blatant misappropriation of fund and forced delays of in excess of a year by the Defendants. This bogus “shortfall” was later illegally transferred onto another totally unrelated property at the last moment at a closing table and forced a new mortgage on some new partners of Bradley’s on a completely new venture by threatening to “blow up” the financing of the other project. Ultimately, this bogus \$418,000 was repaid in an amount of over \$750,000 as Defendants continued to calculate the outstanding balance at the usurious rate of in excess of 32%.

The Whale Road / Great Island Loan

71. In the late fall of 2001, Bradley was approached by a broker friend regarding a prime buildable lot on Great Island in Yarmouth. The Broker suggested Bradley make a full price offer to purchase the lot of \$550,000 before it went onto the open market and into MLS in the upcoming days as he felt it was very under valued. Sight unseen, Bradley advanced a deposit check and put the lot under agreement for the full asking price of \$550,000. After seeing the lot Bradley was excited to design and build an exclusive home for this pristine site in one of the most prestigious areas on Cape Cod. Two weeks later, the same broker brought Bradley an offer for \$850,000 to purchase the same lot, as is. Bradley refused and decided to build a new house there.

72. Bradley met with Mallegni on behalf of the Defendants and told him that “the raping and robbery has got to stop. I want to do a group of development deals, pay you off, shake hands and get you out of my life.” Mallegni said he agreed and would do anything to try to make things right and to work out for everyone. Bradley then showed Mallegni the lot and his design plans for the house. Mallegni had a personal residence around the corner from this lot for 20 years and knew the area extremely well. He absolutely loved the deal and plans and told Bradley, “if you only make \$1.5 million here before you’re finished, you’re a (expletive) idiot, this deal is a home run, very rarely does a new house go up on Great Island.” Bradley insisted that the Defendants make it up to him on this deal after the Desimone beating he took. Mallegni assured him he would and that the rate would be 12% and 2 points for whatever he wanted to do.

73. Bradley felt it would take \$650,000 to build a high-end luxury new home along with the \$550,000 price of the lot and an additional \$100,000 debt service reserve

for 8 months for a total project cost of \$1,300,000. The Defendants agreed with Bradley that this approach and the design Bradley proposed would produce a sales price of \$3.2-3.4 million.

74. Bradley sat with Mallegni and negotiated a deal to borrow \$1.3 million at a rate of 12% and 2 points. Mallegni told Bradley, "I can probably get Duddie to buy this from you at \$3.2 million, this house is going to be beautiful and I've been trying to get him down here for years."

75. Bradley then put up a \$20,000 deposit and entered into a Purchase and Sale Agreement to purchase the lot located at 4 Whale Road in Yarmouth in November of 2001, with a closing date scheduled for January 13, 2002 as Mallegni told Bradley he could close whenever he finished his due diligence.

76. Bradley quickly satisfied the due diligence to get his plans approved and looked to close as soon as possible in hopes of catching the red hot spring market at that time in 2002. Initial response from the high end brokerage community was overwhelmingly positive and everyone wanted the listing. Bradley's closing date was fast approaching and he started to demand that everyone honor their commitment. Per usual, Bradley could start to see the stall tactics beginning to come into play and asked to extend the closing date.

77. Bradley began to hound Norris to get the loan documents done. Norris then told Bradley, "He wants to talk to you, you better come up." Upset, Bradley pleaded that there was no way he would let Mallegni go back on his word again and change the deal. Norris responded by giving his patented response he later became known for "It is what it is, what do you want me to tell you." Bradley had already heard that Mallegni

was driving around showing off his plans and telling everyone this was a house that he was building. Bradley was furious as once again he found himself with another fantastic opportunity to make a lot of money and pay off the Defendants disappear and also lose his deposit money that was up at risk.

78. When Bradley arrived to meet the Defendants at their offices in Marlborough, Mallegni was more prepared than ever to make the pitch to Bradley of how it would be much better to have the Defendants as 50% partners than to borrow the money and make all the profit himself. Bradley could tell Mallegni really wanted in on this deal, but still politely refused Defendants offer and asked to schedule the closing.

79. Immediately thereafter, Bradley was contacted by Norris who told him “the deal is off and say good-bye to your \$20 grand.” To not lose his deposit and all the time and money spent developing the house plans, Bradley again found himself giving in to the Defendants strong-arm tactics as they extorted 50% of the deal from him.

80. Defendants tried to calm Bradley down by explaining that with all the deals they had together and a whole new round of exceptional projects they had heard that Bradley was working on, that this project would be a fast and guaranteed substantial return to Bradley and he would have to do very little to receive it. Mallegni explained that he would run the project as he literally lived right around the corner and would go by everyday and night. He then said that he had Massad lined up to buy it and that he would do the whole deal at conventional bank rates with Hudson Bank for Savings as he did not want to use Commerce if Duddie was going to buy it. He then told Bradley that by “going along with these terms will really put you ‘in’ with us and you can go concentrate on all these other deals and we’ll fund them all.”

81. The deal closed in February of 2002 and was promised to start immediately with Mallegni running the project. Weeks turned into months and the much anticipated spring market came and went. Bradley was screaming foul once as again as there was no conventional financing in place, only Defendants hard money rates accruing as the project was immediately set back a year.

82. Finally a contract was signed with American Homes to start construction in September of 2002. The project got off to fast start and generated lots of serious interest, even though it was supposedly already sold. It looked like the deal could not miss as planned.

83. Months later, Bradley realized construction had come to a crawl and then eventually a complete stop. He was outraged that it now appeared they were going to miss the spring of 2003 sales market. He demanded an accounting of the project. He was devastated to see that Mallegni, in a move that was way out of character for him, had grossly overpaid the contractor. Bradley estimated the contractor had about \$150,000 worth of work to fulfill his contract and complete the house ready for sale, while Mallegni had again misappropriated all but \$25,000 left in the budget. Bradley screamed "He's never coming back to finish, why would he? He's completely upside down?" Bradley then learned the builder, Kevin Shutinski, was another borrower of the Defendants and had another project in Middleboro that was completely upside down with the Defendants' money and that was why Defendants continuously misappropriated funds from the Whale Road house to his other project.

84. This "can't miss" project now had a bad stigma in the marketplace and that too was now on the way down. The job dragged on and went unfinished, missing the

summer of 2003 and into another winter. The overpaid contractor neglected to pay the utility bills and in January of 2004, the brand new substantially completed multi-million dollar home completely froze up and the majority of the pipes exploded. This caused tremendous damage to be repaired and caused the house to be the laughing stock of this small well heeled community, further devaluing the property in an already sinking market.

85. In the summer of 2004, Mallegni said someone had introduced him to an extremely wealthy individual that he felt would buy the house. He described him as a major art and antique dealer named Santo Arcuri and that “we should take whatever we can get and get out of this disaster.” Bradley couldn’t believe they were having this conversation over two years after Mallegni had said he would sell the house to Massad for \$3.2Million in the summer of 2002. He told Bradley to “wine and dine this guy and not lose the sale because Duddie is pissed about this deal and wants his money back.” There was a lawsuit against the contractor and the landscaper and Bradley agreed it was a disaster and met with Arcuri.

86. Mallegni then told Bradley that Arcuri was involved in a great many other acquisitions and that he was going to have to help him purchase the property and sign it over to Arcuri thereafter. He then produced only a yellow legal pad with his handwriting to explain to Bradley that there was over \$2.4 Million owed on the project. Bradley laughed, saying that no matter how you calculate that, that amount is impossible. Mallegni said, “Duddie’s ready to shoot us both on this deal and I’m not kidding, since it was kind of my fault, I’ll try to get this guy to buy it at \$1.8-2 Million or whatever I can

get for it and eat the rest...but, you have to sign off on it.” Bradley told Mallegni that he was insane to sell that house for that kind of money, even after all that had happened to it.

87. Once again, the Defendants began to put extreme pressure on Bradley to concede to a sale to Mallegni/Arcuri before Arcuri walked from the deal. It was not until at another scheduled closing on an unrelated matter wherein Bradley was to receive some desperately needed personal monies to survive on that Defendants threatened to “blow up that deal and you won’t see a dime and you’ll lose your house”, that Defendants extorted Bradley’s signature to sign off on his interest in the Whale Road property as well as his interests in the 415 Main Street property.

88. Soon thereafter, Bradley learned that Arcuri was a “straw” in several other mortgage fraud deals he had co conspired with Defendants on and that they quickly resold the property at Whale Road, defrauding Bradley out of almost a \$500,000 profit even at the usurious rate and bogus pay off figure on the first mortgage.

The Moors / Provincetown Loan

89. Back around the time of the Whale Road acquisition in early 2002 when Defendants were offering to fund more projects for Bradley in exchange for 50% of that project, Bradley had been going after a development deal in Provincetown. The project was fully permitted and approved to build 8 luxury townhouses with beautiful panoramic vistas at the very tip of Cape Cod by knocking down a landmark restaurant called The Moors that was closed and abandoned.

90. The property was for sale for \$2.3 Million and project had already cleared years of permitting issues and was ready to build. Bradley negotiated the sale down to the extremely advantageous price of \$1.9 Million predicated on the ability to close

quickly in the off season. Bradley immediately put up a \$10,000 deposit and put the deal under agreement.

91. Bradley then packaged up the deal and presented it to the Defendants who all loved the deal. There was hardly ever any new construction in “P-Town” at that time, the location and views were nothing short of spectacular and it catered to the high end market. Once again, Defendants promised to “make it up on this deal and give it to you at 12% and 2 points, we just have to see it and if it is what you say, you’re all set.”

92. Bradley rode with Mallegni and Norris to do a site inspection. Upon arriving, the Defendants were blown away. Along the way, Bradley informed them that he intended to cut DiMento in for a minority percentage of the proposed P-Town project as he had done a great deal of work, like Bradley, as a partner for free in all the Main Street projects, unlike the Defendants who constantly paid themselves, as he felt he was “getting screwed.” Bradley told them he had taken DiMento through the whole package and that he was excited that it finally looked like he would make some “real money” on a “home run project.” Bradley said he had never seen the Defendants respond so positively before to any project. Defendants committed to making the loan on the spot and congratulated Bradley for “out doing yourself this time Robert.”

93. Once again the deadline for closing this project approached. Once again the delay tactics approached and Bradley was in jeopardy of losing his deposit and the best deal to date. Bradley had to beg for several extensions to close on the project. Both DiMento and Bradley hounded the Defendants to fulfill their promise to timely fund the closing.

94. Knowing they could never even try to again change the deal on Bradley, Norris this time chose to make the call to DiMento. DiMento informed Bradley that, sure enough they want to change the deal and “want 50% or they’re not doing it and your money is once again at risk, they want to meet us here at my office and explain what a great deal it’s going to be for everyone.” Bradley was furious, as was DiMento. Defendants came and presented that for 50% of the deal they would get the cheapest money, guarantee they would build it faster and cheaper than anyone and again do all the work, encouraging Bradley and DiMento to focus on some new development opportunities Bradley was consulting on in the City of Boston. They said Bradley is “too busy and can’t run all these deals, we’ll set it up like Whale Road.” Bradley told Defendants that Mallegni was too busy and that P-Town was way out of the way and that they would screw it up if they didn’t have the time. Norris then said “I’ll run this deal; I’ll take responsibility for it and devote as much time as necessary to see it through.” He looked right at both DiMento and Bradley and told them, “You guys are going to make millions of dollars for doing nothing.” They said they had just started their own site work and construction company with one of their biggest clients; Kevin McManus called MKM Development (as in Marcello, Kevin, and Michael) and could start right away.

95. Again confronted with losing yet another deal and deposit and seeing DiMento again get short changed from the Defendants, Bradley conceded to the demands of the Defendants. Bradley screamed that he could not get any more extensions and that the deal had to close fast. Mallegni and Norris pleaded for Bradley to buy some more time, saying over and over that “it’s not our money, it’s Duddie’s and we have a ton of it out. We’ll get him to do the loan but he’s going to want to see it first, stall the seller until

we can get him there and we can close the next day.” Eventually that is what happened and the deal closed.

96. The project got off to a horrible start as Mallegni, on behalf of the partnership, signed a deal for McManus, then going by the name of Everest Construction, to build the project. Everest immediately set the project back months by doing all the site work and grading completely wrong. Everything Everest did was all done at the wrong elevations. It was so bad that it had to be completely re-done four times. The small wealthy community watching the first new project in some time could not understand what the developer’s problem was. Bradley complained constantly to fire McManus and sue for damages. Norris issued his standard response to Bradley, “It is what it is, what do you want me to tell ya?”

97. Bradley soon learned that McManus had been spread way too thin by the Defendants and that he was running projects the Defendants had loaned to into the ground all over New England. Bradley learned much later that McManus had been partners with the Defendants on numerous other deals and had gone bankrupt and was being charged with fraud in other cases. Bradley and DiMento could not believe the Defendants would bring such a person into this deal to destroy it so fast or how Norris could lose complete control of the project as he did.

98. Bradley then realized that Mallegni was again misappropriating funds and allowing McManus / Everest to get paid for much more work than they had performed. Bradley demanded Norris stop payments and bring action against Everest. Norris issued his standard response. Bradley further learned that McManus, Mallegni and Norris were

doing their own version of accounting to try to help McManus straighten out his many unrelated problems at the great expense of the P-Town project.

99. The project was now quickly developing a horrible stigma around it in the very closely knit circles of Provincetown. These condominiums that were anticipated to sell for \$1 Million each from the onset of the project, now were garnering very little interest and costing the partnership substantial losses. To further add insult to injury, the Defendants refused to replace almost \$2 Million of their hard money they left in the deal, now accumulating at a default rate and stripping away any and all profits the project could have generated. Bradley now felt that dealing with attorney Norris about his completely messed up construction job was a complete waste of time. He then began to consistently confront Mallegni to work together to try to salvage the project. Mallegni did not like Bradley's constant involvement to try to rectify the situation. Bradley demanded that Mallegni and Massad either drop their rates or their percentages in the deal. Mallegni told Bradley, 'You mention that to Duddie and he'll make one phone call and they'll be no more Robert Bradley, back off, we'll fix it.'

100. The project was originally projected to sell out within 12-15 months and generate a net profit of in excess of \$4 Million. In the end, the project had been completely extorted by the Defendants from the plaintiff. The Defendants demanded and had complete control to fleece the project by misappropriated construction funds and usurious interest rates and purposely dragged it out for over three years to assure that Bradley and DiMento never received any monies whatsoever. Defendants never brought any action against McManus or Everest for damages for breach of contract even though

he was fully insured and they promised Bradley and DiMento they would do so on a regular basis.

The \$1,200,000 655 Corp. Loan

101. In February of 2003, Plaintiff was approached by an attorney friend, Frank Kirby, and his client Francis Fraine asking that Plaintiff assist them with a property known as 655 East 2nd St. Mr. Fraine stated that he had a Loan with defendant Wolfpen Financial that he was having problems with and asked that plaintiff assist in getting financing to remove defendant Wolfpen from the deal. Bradley was to receive 25% of 655 Corp.

102. Plaintiff only recently found out through an action by Shamus Holding LLC that a Trust was formed on March 13, 2002 called 655 Corporation Voting Trust and that all existing shares of 655 Corp stock were transferred to defendant Mallegni as Trustee of the trust and that he controls 655 Corporation to this day.

103. Defendants Mallegni and Depetri intentionally withheld this information and deceived plaintiff into entering into this deal. Mallegni stated that he was getting a lot of grief from Depetri and needed Plaintiff to enlist another party, Bernard Laverty to enter the deal and to help get a loan to take out Wolfpen.

104. Wolfpen was charging very high usury rates even though the loan was not registered with the Attorney Generals office. The loan was accruing at a rate in excess of 32%.

105. Bradley introduced Linda Moulton, then Vice President of General Bank to Mallegni, Fraine and Laverty seeking a take out and construction loan. General Bank, after reviewing the financing request stated that the Borrowers needed more equity in the

project. Lavery allowed General Bank to use his primary residence in Marshfield as additional collateral.

106. Mallegni offered to leave \$1,200,000 of equity into the project and defendant Mallegni said he would accrue the interest. Even though the Note stated that monthly payments were to be made, Mallegni told Bradley, Fraine and Lavery the monthly interest payments could accrue.

107. Mallegni stated that he needed to have LBM loan 655 Corp the \$1,200,000 to both satisfy the General Bank requirement and to satisfy Depetri. It was not until the recent Shamus LLC lawsuit against the Defendants that plaintiff found out that the transfer of funds was a complete sham.

108. On May 14, 2003, General Bank closed the Construction loan with 655 Corp. and started funding the construction.

109. Mallegni immediately placed a \$1,200,000 loan at 16% and 4 pts with a loan term of 4 months on 655 East Second St. after plaintiff closed the General Bank loan. Plaintiff was never informed prior to, during or after by the Defendants Mallegni or Depetri that they held all the voting rights to 655 Corp. Plaintiff only recently found this out through an action by Shamus Holding LLC. In September of 2003 LBM made an allonge to the original note extending the maturity date to April 9, 2004 and increased his principal on the note by \$48,000 of accrued interest. Defendant LBM accrued the interest until April 9, 2004 at which time the rate and fees went to 32%. LBM never expected any monthly payments from 655 Corp. and was to be repaid from the sales of the units.

110. In April 2004, Lavery was approached by Mallegni and Norris and asked to help finish a house on Harbor Bluff Road in Hyannis, that defendant Wolfpen had a

loan on. This was a Bradley loan and Mallegni stated that his partner Depeitri was mad and wanted out.

111. Lavery went to the property to meet Bradley along with their GC Paul Donovan to see what he could do to finish the project. Mr. Donovan finished the project and the property was sold as previously described in this complaint.

112. Mallegni told Lavery that there was a \$418,000 shortfall and that it needed to be placed on 655 East 2nd St. so they wouldn't lose any money. Lavery told the Defendants that the shortfall was not his responsibility and that he had no interest or obligation to any loan on Harbor Bluff Road.

113. Mallegni said Depeitri wanted his money and that Mallegni was not going to make up the difference. Lavery told Defendants that he felt they "screwed" Bradley and that after what they did to him on that deal they probably owed Bradley money. Mallegni told Lavery that if he did not agree to put the shortfall interest from Harbor Bluff on 655 East 2nd St, LBM Financial would foreclose on all of Lavery's loans and that Mallegni and Massad would take control of all the properties. Lavery had no choice but to agree to this extortion and allow a mortgage to be placed on 655 East 2nd St.

114. On January 27, 2006, Mallegni wanted to consolidate 3 mortgages that Defendants had on 655 East 2nd St. and placed a new \$2,432,000 mortgage on the property. One of the mortgages paid off was the extorted \$418,000 interest shortfall from Harbor Bluff Road.

115. The payoff of that accruing interest bogus loan that then became a principal loan was over \$750,000 dollars. Mallegni and Massad effectively extorted over \$700,000 dollars from 655 Corp. and also took reportable interest and converted it to

principal thus avoiding having to claim the interest to the IRS. Lavery has asked Norris for copies of all closing documents but has not received them as of yet. Defendants delays in funding the loans and the extortion of monies has cost 655 Corp. to lose \$4,000,000 in profits from the timely sale of units on this project alone.

116. On February 1, 2008 plaintiff was served a Demand Letter seeking payment in full of the \$1,200,000 mortgage that defendant LBM left into 655 Corp. LBM is demanding \$4,949,774.59, for which they have refused to give an accounting to plaintiff. Plaintiff received an accounting of the loan and disputes all the alleged amounts due.

The \$3,250,000 First Street Loan

117. In or around October of 2003, plaintiff approached LBM about a project located at 401 West First St in South Boston. The project was a substantial proposed mixed use building with 1st floor commercial space, garaged parking and 45 luxury lofts above. Mallegni loved the project and agreed to fund the acquisition and bring plaintiff and Lavery to Commerce Bank for financing. On December 22, 2003 plaintiff and partners closed on the property with a Mortgage in the amount of \$3,250,000 for a six month period at a rate of 16% from LBM. Lavery was the principle borrower and majority stockholder and again, Bradley was a Guarantor and was to receive 25% of the project in its controlling entity, Geneva LLC.

118. In November of 2005 the permits were going to expire on the project and LBM asked what the plaintiff needed to do to protect the permits.

119. Plaintiff explained to Mallegni that the building needed to be demolished and Mallegni agreed to fund the demolition. Plaintiff proceeded to hire a demolition