

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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CHAIM MILLER and 49 DUPONT LOFTS LLC,	: Index No. 512723/2015
	: (Hon. Sylvia G. Ash)
Plaintiffs,	:
	: AMENDED VERIFIED
-against-	: COMPLAINT
	:
JOSEPH BRUNNER, ANMUTH HOLDINGS LLC,	:
and BLACK ROCK TITLE AGENCY,	:
Defendants.	:

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Plaintiffs, Chaim Miller and 49 Dupont Lofts LLC (collectively, "Miller"), by their attorneys, Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara & Wolf, LLP and Fisher & Fisher LLC, as and for their Amended Verified Complaint against defendants, Joseph Brunner, Anmuth Holdings LLC, and Blackrock Title Company, alleges as follows:

Nature of Action

1. This is an action to recover monetary damages in excess of \$15 million and declaratory relief as a result of defendants' breaches of two contracts with plaintiffs.
2. Defendant Brunner orchestrated a corporate shell game of three-card monte and fabricated documents in order to avoid his contractual obligations to plaintiffs. Brunner created multiple layers of corporations all of which were owned by him and engaged in multiple assignments of contract rights and membership interests with no legitimate purpose other than to deprive the plaintiffs of their contract rights. Brunner even went so far as to manufacture a document purportedly signed by Miller that appeared to relinquish his right to over \$10 million.
3. As a result of Brunner's deceptive practices, plaintiffs are entitled to money damages and declaratory relief from the defendants.

Parties

4. Plaintiff Chaim Miller is an individual residing in the County of Kings, State of New York.

5. Plaintiff 49 Dupont Lofts is a limited liability company organized under the laws of the State of New York.

6. Upon information and belief, defendant Joseph Brunner is an individual residing in the County of Kings, State of New York.

7. Upon information and belief, defendant, Anmuth Holdings LLC, is a limited liability company organized under the laws of the State of New York and maintains a place of business at 390 Berry Street, Suite 200, Brooklyn, New York 11249.

8. Upon information and belief, the sole member of Anmuth Holdings is Joseph Brunner.

9. Upon information and belief, Black Rock Title Agency is a foreign corporation with a principal place of business at 288A Cedarbridge Avenue, Lakewood, New Jersey. Upon information and belief, Black Rock is not licensed to do business in the State of New York.

Factual Background

Miller Develops a Relationship of Trust and Confidence with Brunner

10. This action involves some of the most prominent and prolific developers of Brooklyn real estate: defendants Brunner and Bo Jin Zhu.

11. Brunner, a member of the insular Hasidic community in Brooklyn, was identified in a recent article published in *The Real Deal* as a co-owner of Bruman Realty, which owns approximately 100 residential buildings throughout New York City and 10 office buildings

elsewhere. According to the article, Brunner is known as a “tough, shrewd businessman who is adamant that this go his way.” “ ‘If you step on the wrong toe, it’s going to hurt you, not him.’ ”

12. The same *Real Deal* article identifies Zhu as “something of a mystery developer” with a diverse portfolio of properties in Brooklyn.

13. Many members of the Brooklyn Hasidic community rely upon Brunner for his advice and guidance – particularly concerning legal matters.

14. One of those people was Miller. He and Brunner had a close, personal relationship that was developed over their time as Rabbinical study partners.

15. Through their social relationship and community involvement, Miller grew to trust Brunner and rely on his insight and information.

Brunner Contracts to Purchase 49 Dupont

16. Brunner, through a series of limited liability companies, was in contract to purchase the premises located at 49 Dupont Street, Brooklyn, New York (the “Property”), from 49 Dupont Realty Corp. pursuant to a written contract of sale dated June 8, 2012 (the “Contract of Sale”).

17. Brunner’s entity that was identified as the buyer of the Property in the Contract of Sale was Dupont Street Developers LLC. Upon information and belief, the sole member of Dupont Street Developers was another limited liability company known as Brooklyn Realty Holdings, LLC. Upon information and belief, Brunner was the sole member of Brooklyn Realty Holdings.

18. Brunner agreed to pay approximately \$20 million for the Property.

19. Upon information and belief, Brunner eventually effectuate a transfer of the contract rights from Dupont Street Developers to defendant Amnuth Holdings.

Brunner Agrees to Sell the 49 Dupont Street Contract of Sale to Miller

20. In or about June 2013 – approximately one year after Brunner signed his contract to purchase 49 Dupont – Brunner agreed to sell, or flip, his contract of sale to his friend Miller.

21. Miller formed 49 Dupont Lofts LLC for the specific purpose of receiving Brunner's rights to the 49 Dupont Street contract of sale.

22. Miller agreed to pay Brunner \$39 million for his contract rights. Thus, Brunner stood to gain \$19 million from the contract.

23. Miller intended to flip the contract again to a consortium of Chinese-based buyers led by Zhu for approximately \$49 million, such that the Zhu-led group would actually purchase the Property from 49 Dupont Realty.

24. Upon information and belief, when Brunner learned about Miller's plans to assign the contract to Zhu's group, Brunner was no longer satisfied with \$19 million profit he would earn from the assignment to Miller. He also wanted Miller's profits of over \$10 million.

25. Brunner, through a series of limited liability companies designed to shield his involvement, set about to steal Miller's contract with the Chinese investors.

Brunner Fabricates and Threatens Miller to Steal His Profits at 49 Dupont

26. Brunner told Miller it was illegal for him to assign the 49 Dupont Street contract of sale to Zhu's group. Instead, Brunner told Miller that he would assign his contract to Zhu's group for over \$49 million and he would give approximately \$11 million from that sale to Miller.

27. In this manner, Brunner assured Miller that he would secure Miller's profits from his contemplated sale of the contract to Zhu.

28. The agreement between Brunner and Miller is reflected in a writing dated January 28, 2014. Pursuant to that written agreement, Brunner and Miller canceled their assignment

contract and agreed to substitute Brunner's entity as the assignor under Miller's contract with Zhu's group.

29. In addition, Brunner agreed that Miller had introduced him to Zhu's group, and without that introduction, Brunner would have had no reason or ability to assign his contract of sale to Zhu's group.

30. Brunner agreed to pay Miller in excess of \$11 million, less Brunner's actual costs to obtain a letter of credit, upon his closing with Zhu's group.

31. Defendant Black Rock, which was the title company on the 49 Dupont Street sale, was also a party to Brunner and Miller's agreement. Black Rock agreed not to allow the closing between Miller and Zhu to occur unless Black Rock received irrevocable instructions from Brunner directing Black Rock to pay Miller in accordance with the terms of the contract.

Brunner Breaches His Obligation to Pay Miller Upon the Sale of 49 Dupont Street

32. In May of 2014, title to the 49 Dupont Street Property was transferred from 49 Dupont Realty Corp., the original owner identified in Brunner's contract of sale, to Dupont Street Developers LLC.

33. Upon information and belief, Brunner assigned Anmuth's contractual right to purchase the 49 Dupont Street property back to Dupont Street Developers LLC; however, at about the same time, Brunner transferred Brooklyn Realty Holdings' membership interests in Dupont Street Developers LLC to the group lead by Zhu prior to the transfer of title, such that upon the closing, Zhu's group controlled the property.

34. This is confirmed by publicly available documents showing that Zhu signed a \$25 million mortgage given to Maxim Credit Group, LLC on behalf of Dupont Street Developers.

35. Brunner orchestrated these multiple contract assignments and transfers of membership interests to hide the sale of property to Zhu's group in order to avoid his contractual obligations to Miller.

36. This transfer of title triggered Brunner's obligation to pay Miller up to \$11 million pursuant to their written agreement. Brunner, however, has not paid Miller pursuant to the contract.

37. In order to close with Zhu's group, Brunner gave Black Rock a fabricated document which purported to contain Miller's signature authorizing Black Rock to permit the closing.

38. Miller never consented to the closing of 49 Dupont Street involving Brunner and Zhu. Rather, Brunner used a signature page containing Miller's signature from a different document and appended it to the purported authorization letter to Black Rock.

39. Brunner has since taken the factually inaccurate position that he had no obligation to pay Miller because the contemplated closing with Zhu's group never took place.

40. The reality is that Zhu is currently in control of 49 Dupont Street, as reflected in mortgage and loan documents between Dupont Street Developers LLC, an entity controlled by Zhu as borrower/mortgagor, and Maxim Credit Group LLC, as lender/mortgagee.

41. Upon information and belief, Brunner also continues to have a direct or indirect ownership interest in 49 Dupont Street.

Brunner Borrows \$4.7 Million from Miller to Obtain a Letter of Credit

42. Apparently, a portion of the Property was listed on the New York State Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site No. 224136 known as the Former NuHart Plastic Manufacturing pursuant to Environmental Conservation Law § 27-1305

and was also listed on the NYSDEC Spills Database as Spill 06-01852 for petroleum discharge from a former underground storage tank.

43. As a result of these conditions, the seller, 49 Dupont Realty, was obligated to implement a remediation program pursuant to an Order on Consent and Administrative Settlement with the New York State Department of Environmental Conservation. Pursuant to the terms of the Contract of Sale, Brunner's entities assumed 49 Dupont Realty's responsibilities for implementing the remedial program under the NYSDEC Order and Petroleum Remedial Program and obtaining a certificate of completion from the NYSDEC.

44. To ensure Brunner's compliance with the terms of the remediation program, the contract of sale required Brunner to deliver to 49 Dupont Realty prior to the closing an irrevocable standby letter of credit in the face amount of \$2,000,000 naming 49 Dupont Realty as beneficiary to secure each and every indemnity or defense obligations required of Brunner in the contract of sale (the "Letter of Credit").

45. Upon information and belief, the contract of sale was amended several times, and at least one of the amendments increased the face amount of the Letter of Credit to \$4,700,000.

46. Upon information and belief, Brunner did not have adequate collateral to obtain the \$4.7 million Letter of Credit, so he borrowed that sum from plaintiff Miller and used the loan proceeds as collateral.

47. Using Miller's money as collateral, Brunner obtained the Letter of Credit from Investors Bank in May 2014. The original term of Letter of Credit expired on May 20, 2015.

48. On September 18, 2014, Brunner, acting through one of his many limited liability companies defendant Anmuth Holdings, and Miller entered into an Agreement Regarding Letter

of Credit (the “Letter of Credit Agreement”), which acknowledged that Miller has an interest in the funds used as collateral for the Letter of Credit.

49. Pursuant to the Agreement, Brunner agreed that, in the event Anmuth Holdings received a return of the collateral of \$4,700,000.00 that was given to Investors Bank as collateral security for the Letters of Credit, Anmuth Holdings was to promptly deliver and pay from that sum \$4,353,500.00 to Miller.

50. Thus, at the time the Agreement was entered into, Miller expected that he would receive the \$4.353 million he had loaned to Brunner no later than May 20, 2015, the expiration of the Letter of Credit.

51. That date has now passed, but Brunner has not returned to Miller his \$4.353 million.

52. Upon information and belief, Brunner obtained an extension on the Letter of Credit of an additional year. Brunner never notified Miller about this extension nor requested his permission.

53. Miller never agreed to any extension of the Letter of Credit.

54. Accordingly, Miller is entitled to the return of his \$4.353 million.

AS AND FOR A FIRST CAUSE OF ACTION
(Breach of Contract Against Anmuth – Profit from Sale)

55. Miller repeats and re-alleges each of the foregoing allegations as if fully set forth hereat.

56. The letter agreement dated January 28, 2014, between Anmuth Holdings LLC, Black Rock, and Miller constituted a valid and binding agreement.

57. Pursuant to the terms of that agreement, Anmuth agreed to pay Miller the gross sum of \$11,424,000, less any amounts actually incurred by Anmuth to obtain a letter of credit, upon the acquisition of title to 49 Dupont Street by Zhu’s group.

58. In May of 2014, Zhu's group obtained title to 49 Dupont Street.
59. Miller was therefore entitled to payment pursuant to the terms of the agreement.
60. Anmuth has breached the agreement by failing to pay Miller.
61. Miller has complied with all requirements of the agreement.
62. As a result of Anmuth's breach of the agreement, Miller has been damaged in an amount to be proven at trial but in no event less than \$11,424,000 together with interest and all other damages Plaintiff may prove as allowed by law.

**AS AND FOR A SECOND CAUSE OF ACTION
(Breach of Contract Against Black Rock – Profit from Sale)**

63. Miller repeats and re-alleges each of the foregoing allegations as if fully set forth hereat.
64. The letter agreement dated January 28, 2014, between Anmuth Holdings LLC, Black Rock, and Miller constituted a valid and binding agreement.
65. Pursuant to the terms of that agreement, Black Rock agreed not to allow any closing involving Zhu's group as buyer to take place unless it received irrevocable instruction from Anmuth directing it to deliver \$11,424,000, less any amounts actually incurred by Anmuth to obtain a letter of credit, to Miller's entity 49 Dupont Lofts.
66. In May of 2014, Zhu's group obtained title to 49 Dupont Street.
67. Miller was therefore entitled to payment pursuant to the terms of the agreement.
68. Anmuth never directed Black Rock to release the liquidated sum to 49 Dupont Lofts.
69. Upon information and belief, Anmuth provided Black Rock with a forged document purportedly from Miller authorizing the closing with Zhu's group to take place.

70. Black Rock never conducted any diligence to ensure that Miller had in fact authorized the closing.

71. Black Rock's failure to investigate the legitimacy of the document purporting to authorize the closing constituted gross negligence or willful indifference.

72. Miller has complied with all requirements of the agreement.

73. As a result of Black Rock's breach of the agreement and gross negligence or willful indifference, Miller has been damaged in an amount to be proven at trial but in no event less than \$11,424,000 together with interest and all other damages Plaintiff may prove as allowed by law.

AS AND FOR A THIRD CAUSE OF ACTION
(Breach of Contract Against Brunner – Letter of Credit)

74. Miller repeats and re-alleges each of the foregoing allegations as if fully set forth hereat.

75. The Letter of Credit Agreement constituted a valid and binding contract whereby, upon the release of the Letter of Credit and return of the collateral in the amount of \$4,700,000.00, Anmuth Holdings agreed to promptly deliver and pay \$4,353,500.00 to Miller.

76. Upon information and belief, all of the preconditions for repayment of an amount totaling \$4,353,500.00 to Miller, pursuant to the Letter of Credit Agreement, have been satisfied.

77. Anmuth Holdings has materially breached the Agreement by failing to promptly deliver and pay \$4,353,500.00 to Miller following the return to Anmuth of the collateral for the Letters of Credit.

78. Miller has complied with all requirements under the Letter of Credit Agreement.

79. By reason thereof, Miller has been damaged in an amount to be proven at trial but in no event less than \$4,353,500.00 together with interest and all other damages Plaintiff may prove as allowed by law.

**AS AND FOR A FOURTH CAUSE OF ACTION
(Declaratory Judgment)**

80. Miller repeats and re-alleges each of the foregoing allegations as if fully set forth hereat.

81. The Letter of Credit Agreement constituted a valid and binding contract whereby, upon the release of the Letter of Credit and return of the collateral in the amount of \$4,700,000.00, Anmuth Holdings agreed to promptly deliver and pay \$4,353, 500.00 to Miller.

82. The original maturity date of the Letter of Credit was May 15, 2015.

83. When Miller entered into the Letter of Credit Agreement, he did so based on the condition that he was received his money back in May 15, 2015.

84. Upon information and belief, Brunner extended the maturity date of the Letter of Credit without Miller's approval.

85. Upon information and belief, Brunner will continue to extend the maturity date.

86. Miller is entitled to a judgment declaring that Brunner and/or Anmuth are not entitled to extend the maturity date of the Letter of Credit without Miller's approval.

WHEREFORE, plaintiffs, Chaim Miller and 49 Dupont Lofts LLC, demand judgment against defendants as follows:

- (a) On its First Cause of Action, awarding money damages against Anmuth Holdings LLC in an amount to be proven at trial but in no event less than \$11,424,000;
- (b) On its Second Cause of Action, awarding money damages against Black Rock Title Agency in an amount to be proven at trial but in no event less than \$11,424,000;
- (c) On its Third Cause of Action, awarding money damages against Joseph Brunner in an amount to be proven at trial but in no event less than \$4,353,500;

- (d) On its Fourth Cause of Action, declaring that Brunner and Anmuth are not entitled to extend the maturity date of the Letter of Credit without Miller's approval;
- (e) On all causes of action, awarding interest, costs, and disbursements, along with such other and further relief as the Court deems just and proper.

Dated: February 9, 2016

ABRAMS, FENSTERMAN, FENSTERMAN,
EISMAN, FORMATO, FERRARA & WOLF, LLP

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VERIFICATION

STATE OF NEW YORK)
)ss.:
COUNTY OF KINGS)

CHAIM MILLER, affirms the following to be true under the penalty of perjury:

1. Based upon my religious beliefs, I am precluded from giving an oath.
2. I am an individual plaintiff in this action and am also a member of plaintiff 49

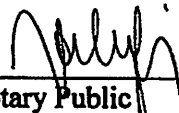
Dupont Lofts LLC.

3. I have read the annexed Amended Verified Complaint, know the contents thereof, and affirm that the allegations made therein are true, except as to matters alleged upon information and belief, and as to those matters, I believe them to be true.



Chaim Miller

AFFIRMED TO BEFORE ME THIS
9th DAY OF FEBRUARY, 2016



Notary Public

JACOB SCHLAFRIG
NOTARY PUBLIC, State of New York
No. 01SC6308778
Qualified in Kings County
Commission Expires July 18, 2018