

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION

MAINSTREET CAPITAL HOLDINGS, LLC, a
Florida limited liability company,

Plaintiff,

JURY TRIAL REQUESTED

vs.

Civil No.:

DEBARTOLO DEVELOPMENT, LLC, a
Delaware limited liability company, EDWARD
M. KOBEL, DK MAINSTREET, LLC, a Florida
liability company, DAVID J. PERLSTEIN, and
MAGNO AERE, LLC, a Delaware limited liability
company,

Defendants.

COMPLAINT

Introduction

1. In this action, Plaintiff sues its former business partners and related entities for sabotaging what would otherwise be a lucrative venture.

2. As more fully set forth below, Defendants fraudulently induced Plaintiff to invest in a venture whereby the parties would raise nine-figure sums and invest in real estate developments.

3. Due to their reputation in large real estate investments and developments, Defendant DeBartolo's participation in this venture, and the use of their name, was critical to the venture's success.

4. Defendants convinced Plaintiff to enter this venture by misrepresenting that they had already obtained a commitment from a major Canadian pension fund to invest \$40 million into the venture.

5. Defendants also misrepresented their track record of obtaining investments and successfully developing large real estate projects.

6. Defendants skipped or cancelled numerous meetings, refused to provide information required by large institutional investors, and otherwise thwarted the venture.

7. Then, Defendants suddenly announced that they would not proceed with the venture, and further announced that the venture could not continue to use their name even though it had already been extensively marketed under the DeBartolo name.

8. Defendants' abandonment of the venture rendered the original business plan unfeasible and Plaintiff's initial investment is now worthless.

Jurisdiction and Parties

9. This is an action for damages in excess of \$15,000 within the jurisdiction of this Court.

10. Mainstreet Capital Holdings, LLC ("Mainstreet") is a Florida limited liability company headquartered in Stuart, Florida. It is suing to assert its own claims against Defendants and also to assert claims which have been assigned to it by a group of individuals and entities who invested in the venture described below. (see Exhibit A attached.)

11. Defendant DeBartolo Development LLC ("DeBartolo") is a Delaware limited liability company, and is a real estate developer headquartered in Tampa, Florida.

12. Defendant DK Mainstreet LLC ("DK Mainstreet") is a Florida limited liability company. Defendant DeBartolo is the sole manager of DK Mainstreet.

13. Defendant Edward M. Kobel ("Kobel") is a Florida resident living and working in Tampa, Florida. Defendant Kobel is the manager and COO of DeBartolo.

14. Defendant Magno Aere, LLC (“Magno Aere”) is a Delaware limited liability company. Defendant David J. Perlstein (“Perlstein”) is the managing member of Magno Aere.

15. All of the Defendants are subject to the jurisdiction of this Court.

16. Defendant Kobel is a Florida resident.

17. Defendant DK Mainstreet is a Florida limited liability company performing its activities in the state of Florida.

18. Defendant DeBartolo is a Delaware limited liability company whose headquarters are in Tampa, Florida and it does business in Florida.

19. Defendant Magno Aere is a Delaware limited liability company, but as a member of DeBartolo Mainstreet Capital Partners, LLC (“DMCP”), it conducted its business in Florida and it breached its duties to Plaintiff in Florida.

20. Defendant Perlstein is a non-resident but he committed tortious acts and omissions in Florida, does business in Florida and is subject to Florida long arm jurisdiction.

21. Venue is proper in this Court because many of the acts and omissions complained of occurred in Hillsborough County, Florida.

Common Factual Allegations

22. Defendant DeBartolo is a real estate developer which has specialized in constructing, developing, operating and selling office buildings and shopping centers.

23. In 2014, DeBartolo became interested in expanding its presence in the multifamily residential sector of the real estate market in the Southeastern United States.

24. Todd Marshall and Craig Marshall were and are in the business of acquiring, developing, managing, operating and selling multifamily residential projects in Florida and elsewhere.

25. In the Spring of 2014, Todd Marshall and Craig Marshall were introduced to Defendants Kobel and Perlstein.

26. Defendant Kobel told Todd Marshall and Craig Marshall that Defendant DeBartolo was interested in a partnership with the purpose of establishing a fund of investment capital to invest and develop apartment complexes in the Southeastern United States, similar to other funds of investment capital which DeBartolo had invested in commercial real estate.

27. During this and at subsequent communications, Defendant Kobel presented Todd Marshall and Craig Marshall with written materials prepared by DeBartolo purporting to demonstrate huge successes in DeBartolo's past and present commercial real estate ventures.

28. Defendant Kobel represented to Todd Marshall and Craig Marshall that he, and DeBartolo, had unmatched expertise in these markets, and would be able to utilize that expertise in creating a new fund of investment capital to acquire, manage and sell apartment complexes.

29. Defendant Kobel further represented to Todd Marshall and Craig Marshall that he, and DeBartolo, had connections to all of the major financial institutions in the United States, including banks, pension funds and life insurance companies, and could provide entree to investment capital through those financial institutions and their customers.

30. Defendant Perlstein represented to Todd Marshall and Craig Marshall that he was a financier with long standing connections with wealthy New York investors and had extensive expertise negotiating with financial institutions as well as wealthy investors throughout the northeastern United States.

31. Todd Marshall and Craig Marshall explained to Kobel and Perlstein that prior to this venture, their experience was in multifamily residential complexes on a scale considerably smaller than the one proposed by Kobel.

32. Todd Marshall and Craig Marshall further explained that they were not capable on their own of raising hundreds of millions of dollars to acquire dozens of real estate projects and develop, refurbish and operate them prior to sale through such an investment fund.

33. From the outset, it was clear to all parties that the DeBartolo name, reputation, expertise and track record were the central force behind this venture. Without DeBartolo, there would be no possibility of raising the funds and no possibility of operating a venture on the scale that Kobel and DeBartolo had agreed to. In these conversations, Kobel proposed that this venture could take advantage of a symbiotic relationship between DeBartolo, which had the name, reputation, organization and commercial real estate track record, and Todd Marshall and Craig Marshall, who had the ability successfully to acquire, refurbish and operate multi-family real estate projects.

34. By June 2014, Kobel, Perlstein, Todd Marshall, and Craig Marshall had engaged in extensive conversations, and Todd Marshall and Craig Marshall indicated that they were interested in pursuing this type of venture, but only if Kobel and DeBartolo would actively work to attract the hundreds of millions of dollars in investment capital needed, and only if Kobel and DeBartolo would provide their name, reputation, experience and abilities to the venture. Defendants DeBartolo and Kobel agreed to do so.

35. On August 8, 2014, at DeBartolo's Tampa offices, Kobel met with Todd Marshall, Craig Marshall and Perlstein, and announced that the Ontario Public Service Employees Union Pension Trust ("OP Trust") a large institutional investor that DeBartolo had worked with in the past, would be the "first in," committing \$40 million at a 9% preferred annual rate, to provide the startup capital, operating capital, and sufficient funds to begin acquiring real estate for the venture.

36. Based upon these representations, as well as the extensive documentation which Kobel furnished to Todd Marshall and Craig Marshall reflecting the track record and expertise of DeBartolo and Kobel, Todd Marshall and Craig Marshall formed On Target Partners, LLC in August 2014 to serve as the managing member of Mainstreet.

37. Mainstreet was formed in September 2014.

38. Kobel, Perlstein, Todd Marshall and Craig Marshall agreed that Kobel and Perlstein would each contribute \$500,000 to the venture, and that Todd Marshall and Craig Marshall would raise \$500,000 which Mainstreet would invest in the venture.

39. On August 12, 2014, the DMCP Certificate of Formation was filed in Delaware.

40. On September 15, 2014, Mainstreet, as one of three managers, entered into the DeBartolo Mainstreet Capital Partners, LLC Limited Liability Company Agreement. The other two managers of DMCP were Defendants DK Mainstreet and Magno Aere. Each of the three managers invested \$500,000, which was to be utilized for startup capital and seed money for the investment fund.

41. In August or early September 2014, DeBartolo and Kobel furnished to Mainstreet additional written materials, including a "flipbook," which was so named because it opened at the top and the pages would flip accordingly.

42. Mainstreet was told that DeBartolo had utilized this flipbook in prior funds and that DMCP should utilize it in fundraising for DMCP's benefit. All the financial information about DeBartolo and its track records, expertise and ability was furnished by Kobel and DeBartolo, and was specifically approved by them for inclusion in the revised flipbook.

43. Mainstreet revised the flipbook to describe the DMCP venture, and DeBartolo and Kobel approved its contents. According to the revised flipbook, the DeBartolo name, reputation,

track record and expertise were the driving force behind the venture. By way of example, there was a section of the revised flipbook entitled “DeBartolo Development Track Record,” which included lists of prior projects which DeBartolo and Kobel represented as “illustrative...examples” of the DeBartolo track record. There were other sections entitled “DeBartolo Development”, “DeBartolo Legacy”, “Capabilities”, and “Featured Projects” all of which portrayed the venture as a DeBartolo venture. Within the DeBartolo Development “Track Record” section of the revised flipbook, DeBartolo and Kobel referred to DeBartolo’s returning “2.12 times equity multiple to its investors on thirty-seven projects over the past ten years,” which DeBartolo and Kobel also represented as “illustrative...examples.” The revised flipbook also referred to “DeBartolo Opportunity Fund I, LP” and “DeBartolo Opportunity Fund II, LP”, as well as other DeBartolo funds, all of which were described as enormous successes, and were portrayed as similar to the venture on which DMCP was embarking. (See Exhibit B, attached.)

44. During the Summer of 2014, DeBartolo and Kobel knew that Todd Marshall and Craig Marshall would furnish the flipbook and other materials containing similar representations to potential investors.

45. DeBartolo and Kobel knew that potential investors would be relying on the accuracy of the flipbook and accompanying information in making their investment decisions.

46. The flipbook and accompanying information were also central to Mainstreet’s decision to invest \$500,000 in DMCP.

47. Toward the end of 2014, after DMCP was formed and Mainstreet had invested \$500,000 in DMCP, Kobel advised that OP Trust had decided not to invest in DMCP.

48. By this time, much of the \$1.5 million invested by the three managers of DMCP had been spent.

49. One of DMCP's largest expenditures was approximately \$500,000 in payments to Kobel.

50. These payments to Kobel were essentially for his having brought the DeBartolo name, reputation, track record and expertise to DMCP.

51. DMCP's payments to Kobel were greatly disproportionate to the amount of work performed by Kobel.

52. With the news that the OP Trust would not be a source of investment capital, Mainstreet realized that in order for DMCP to raise additional investment capital, it would be even more important for Kobel and DeBartolo to utilize their relationships with large banks and financial institutions.

53. Kobel and DeBartolo reiterated to Mainstreet that they had extensive relationships with many of the world's largest banks and other financial institutions, specifically mentioning UBS, AG and Credit Suisse Group, and told Mainstreet that DMCP should concentrate on those banks.

54. In early November 2014, DeBartolo and Kobel prepared, and DMCP issued, a press release announcing that it had launched a \$150 million investment fund entitled "DeBartolo Main Street Quantum Fund I." That press release described in detail the DeBartolo track record, name and expertise.

55. DMCP hired counsel to prepare a private placement memorandum for "DeBartolo Main Street Quantum Fund I," purportedly to raise \$100,000,000, which portrayed the venture as relying on the experience and track record of DeBartolo and DeBartolo's involvement with DMCP to attract investors. These documents stressed and emphasized the financial information

and descriptions of DeBartolo which DeBartolo and Kobel had previously provided to Mainstreet for use by DMCP.

56. Defendants Kobel and DeBartolo approved the contents of the private placement memorandum.

57. In the Spring of 2015, Todd Marshall, Craig Marshall and Perlstein arranged numerous meetings with private and public financial institutions. Meetings with large international banks included but were not limited to UBS, Credit Suisse, Barclays, Deutsche Bank and BNY Mellon.

58. The meetings with the financial institutions occurred in New York and resulted in interest in the DeBartolo Mainstreet Quantum Fund I.

59. Most financial institutions wanted to meet Kobel at a subsequent meeting prior to deciding to invest.

60. Aside from a single meeting with UBS, Kobel failed to meet with any financial institutions on behalf of DMCP.

61. Although some of these meetings seemed to be opening doors to participation by those banks through their groups of wealthy private investors, none of them resulted in any investment capital for DMCP.

62. During the Spring and Summer of 2015, Credit Suisse and UBS seemed the most interested in DMCP.

63. Credit Suisse and UBS each requested detailed financial information from Kobel on DeBartolo, to verify the DeBartolo track record and specifics as to the purported success of prior projects.

64. Kobel instructed DeBartolo not to furnish much of the information requested by Credit Suisse and UBS, which ultimately left Credit Suisse and UBS without the ability to perform their due diligence, and precluded their recommending that any of their wealthy customers invest in DMCP.

65. Unable to raise money from the banks without providing the requisite information, Kobel instead proposed that DMCP focus its efforts on raising most of its investment capital from brokerage firms and directly from wealthy individuals and entities.

66. Perlstein and Mainstreet contacted numerous organizations and individuals, and Todd Marshall and Craig Marshall often met with Perlstein and/or Kobel regarding these investment prospects.

67. Nevertheless, by the Summer of 2015 not a single penny had been raised other than the \$1.5 million which the three managers of DMCP had invested in the venture.

68. The \$1.5 million already raised had been spent and additional seed money capital was needed.

69. Mainstreet contacted several individuals who had invested in projects in the past, furnished them with the revised flipbook, and a “Confidential Investor Memorandum” describing “DMCP Quantum Fund I Investors LLC.” (“Quantum Fund I”)

70. With DeBartolo’s and Kobel’s approval, these documents contained the same representations by DeBartolo, and in detail described the DeBartolo name, reputation, track record and expertise as the sole meaningful asset of DMCP.

71. Because of the aforementioned efforts, Mainstreet obtained \$800,000 of investment into Quantum Fund I. These investors, who have collectively invested \$800,000, have all assigned their claims against Defendants to Mainstreet. Exhibit A.

72. Perlstein located an investor who invested \$300,000.

73. In late 2015, DeBartolo and Kobel recommended that DMCP contact James Lockhart, a securities broker who managed Lockhart Capital LLC (“Lockhart”) in Tampa, Florida.

74. Lockhart had extensive prior dealings with DeBartolo and Kobel, and had previously helped them raise investment capital.

75. DeBartolo and Kobel directed Mainstreet to provide Lockhart with the same financial information and description of DeBartolo they had previously provided DMCP and Mainstreet.

76. Lockhart circulated this information to potential investors and in February 2016, Lockhart advised DMCP that it had raised \$5 million which it was holding in escrow.

77. In March 2016, Mainstreet representatives were scheduled to attend a meeting with Kobel and other DeBartolo employees and executives at the DeBartolo board room in Tampa, where they had met on prior occasions.

78. When the Mainstreet representatives arrived for the March 2016 meeting they were hastily rushed out of the DeBartolo offices by Kobel’s administrative assistant, who told them that Kobel would meet them at a nearby Panera Bread restaurant.

79. Shortly thereafter, Mainstreet representatives met with Kobel at Panera Bread. Kobel arrived in a t-shirt and shorts.

80. Kobel announced that he intended to remove the DeBartolo name from DMCP and refused to give a reason other than the “board” did not wish to proceed with DMCP or the investment fund which DMCP was to manage.

81. Mainstreet attempted, for the next two months, to persuade Kobel, DK Mainstreet and DeBartolo that this action by Kobel not only doomed the venture to an utter and complete failure, rendering the investments in DMCP totally worthless, but also stressed to all of the Defendants that as managers of DMCP and principals of managers of DMCP, they had fiduciary duties which they were breaching by insisting that the DeBartolo name, track record, expertise and reputation would no longer be available to DMCP. Mainstreet reminded them that DMCP had already spent in excess of \$2.5 million in organizational and administrative expenses, including in excess of half a million dollars paid to Kobel personally.

82. In response, Kobel and DeBartolo hired an attorney who wrote on their behalf that “DeBartolo Development LLC is no longer interested in the types of investments...and will not proceed” and further insisted that “all references to DeBartolo Development LLC be removed from any memorandum.”

83. In May 2016, James Lockhart advised Mainstreet that based on these actions by DeBartolo, Lockhart was refunding the money Lockhart held in escrow to his investors. On information and belief, that money has been returned to the investors who had given it to Lockhart.

84. In April and May 2016, Defendants Perlstein and Magno Aere refused, notwithstanding repeated requests by Mainstreet, to assist Mainstreet in addressing the DeBartolo, DK Mainstreet, and Kobel withdrawal of DeBartolo from DMCP. For those two months, Perlstein and Magno Aere failed to respond to letters and phone calls from Mainstreet.

85. The only written communication received from Perlstein providing any proposal at all was in late May 2016, in which Perlstein proposed to become the sole manager of DMCP,

and inexplicably offered, on behalf of DMCP, to release Kobel, DK Mainstreet and DeBartolo from any potential liability.

86. Defendants Perlstein and Magno Aere have refused, throughout the past twelve months, several requests by Mainstreet to allow DMCP to communicate with the Quantum Fund I investors. Under the DMCP operating agreement all actions by DMCP are required to be taken on the unanimous consent of all the DMCP managers. Because Perlstein and Magno Aere have refused to allow any of these communications, the Quantum Fund I investors have been kept in the dark by DMCP, and have only been given information by Mainstreet and not by DMCP.

87. Mainstreet has brought this action both for itself in connection with its \$500,000 investment in DMCP, and also on behalf of Quantum Fund I investors who invested a total of \$800,000 and who have assigned their claims to Mainstreet in order to bring this lawsuit.

88. Because of Defendants' misconduct, Mainstreet, and the investors whose claims have been assigned to Mainstreet, have also lost profits reasonably anticipated to exceed \$20 million when they invested.

89. All conditions precedent to suit have been performed or have occurred.

Count I
(Fraud)

90. This is a claim for fraud against Defendants Kobel, DK Mainstreet and DeBartolo.

91. Paragraphs 1 through 89 are realleged in support of this Count.

92. Beginning in the Spring of 2014, and continuing through early March 2016, Kobel, DK Mainstreet and DeBartolo misrepresented to Mainstreet and to the Quantum Fund I investors whose claims have been assigned to Mainstreet the track record of DeBartolo, its financial condition, financial success rate, its existing relationships with banks and other

financial institutions and potential investors, its willingness to proceed with DMCP, and the accuracy of information it would provide to financial institutions in order to raise \$150 million for DMCP and thereby the investment fund which DMCP was to manage.

93. On August 8, 2014, DeBartolo and Kobel misrepresented the \$40 million investment which they claimed that OP Trust had committed to DMCP, when, in fact, OP Trust had never committed to invest in DMCP.

94. Defendants Kobel, DK Mainstreet and DeBartolo further misrepresented, in written materials they furnished to Mainstreet, DeBartolo's financial success in prior projects, on numerous occasions including June 16, 2014, August 8, 2014, January 23, 2015, and April 9, 2015.

95. Defendants Kobel and DeBartolo knew that they would be required by each of the major banks with which they claimed to have relationships, to provide additional due diligence information as to the DeBartolo track record, financial success and expertise prior to any bank committing to any investment or recommending any investment to their customers.

96. Kobel and DeBartolo never intended to provide that information, as they knew that such information would demonstrate that DeBartolo's representations to Mainstreet and to the Quantum Fund I investors were false.

97. Because of the misrepresentations by Kobel, DK Mainstreet and DeBartolo, as to DeBartolo's financial success, track record and expertise, and because these Defendants refused to supply the detailed financial information requested by the banks, DMCP was unable to raise the substantial investment capital DeBartolo and Kobel had promised.

98. Further, these material misrepresentations by DeBartolo and Kobel to Mainstreet and DMCP inevitably led DeBartolo and Kobel to refuse to allow DMCP to continue to utilize

the DeBartolo name, reputation, track record and expertise in DMCP's activities as to the investment fund.

99. These actions by DeBartolo and Kobel rendered the Mainstreet and Quantum Fund I investments in DMCP worthless.

100. In making their investment decisions, Mainstreet and the Quantum Fund I investors reasonably relied on the correctness and accuracy of these false statements, and reasonably believed them to be truthful and correct.

101. These misrepresentations were material to the investment decisions of Mainstreet and the Quantum Fund I investors.

102. Mainstreet and the Quantum Fund I investors have each lost the entire amount of their investment as a result of the fraud perpetrated by Kobel, DK Mainstreet and DeBartolo.

Count II
(Negligent Misrepresentation)

103. This is a claim for negligent misrepresentation against Defendants Kobel, DK Mainstreet and DeBartolo.

104. Paragraphs 1 through 89 are realleged in support of this Count.

105. Beginning in the Spring of 2014, and continuing through early March 2016, Kobel, DK Mainstreet and DeBartolo misrepresented to Mainstreet and to the Quantum Fund I investors whose claims have been assigned to Mainstreet the track record of DeBartolo, its financial condition, financial success rate, its existing relationships with banks and other financial institutions and potential investors, its willingness to proceed with DMCP and thereby the real estate fund DMCP was to manage, and the accuracy of information it would provide to financial institutions in order to raise \$150 million for DMCP.

106. On August 8, 2014, DeBartolo and Kobel represented the \$40 million investment which they claimed that OP Trust had committed to DMCP, when, in fact, OP Trust had never committed to invest in DMCP.

107. Defendants Kobel, DK Mainstreet and DeBartolo further represented, in written materials they furnished to Mainstreet, DeBartolo's financial success in prior projects on numerous occasions including June 16, 2014, August 8, 2014, January 23, 2015, and April 9, 2015.

108. Defendants Kobel, DK Mainstreet and DeBartolo knew or should have known that these representations were false.

109. Defendants Kobel and DeBartolo knew or should have known that they would be required by any of the major banks with which they claimed to have relationships, to provide additional due diligence information as to the DeBartolo track record, financial success and expertise prior to any bank committing to any investment or recommending any investment to their customers.

110. Kobel and DeBartolo knew or should have known that providing that additional information would demonstrate that DeBartolo's representations to Mainstreet and to the Quantum Fund I investors were false.

111. Because of the misrepresentations by Kobel, DK Mainstreet and DeBartolo, as to DeBartolo's financial success, track record and expertise, and because these Defendants refused to supply the detailed financial information requested by the banks, DMCP's was unable to raise the substantial investment capital DeBartolo and Kobel had promised.

112. Further, these material misrepresentations by Kobel and DeBartolo to Mainstreet and DMCP inevitably led DeBartolo and Kobel to refuse to allow DMCP to continue to utilize

the DeBartolo name, reputation, track record and expertise in DMCP's activities as to the investment fund.

113. These actions by DeBartolo and Kobel rendered the Mainstreet and Quantum Fund I investors investments in DMCP worthless.

114. In making their investment decisions, Mainstreet and the Quantum Fund I investors reasonably relied on the correctness and accuracy of these false statements, and reasonably believed them to be truthful and correct.

115. These representations were material to the investment decisions of Mainstreet and the Quantum Fund I investors.

116. Mainstreet and the Quantum Fund I investors have each lost the entire amount of their investment as a result of the negligent misrepresentations by Kobel, DK Mainstreet and DeBartolo.

Count III

(Tortious Interference with Advantageous Business Relationship)

117. This Count seeks damages from Defendants DeBartolo and Kobel for tortious interference with the advantageous business relationship between Mainstreet and DMCP and between the Quantum Fund I investors, whose claims have been assigned to Mainstreet, and DMCP.

118. This Count also seeks damages from Defendants DeBartolo and Kobel for tortious interference with Mainstreet's advantageous business relationship with DK Mainstreet to operate DMCP.

119. Paragraphs 1 through 89 are realleged in support of this Count.

120. Mainstreet and the Quantum Fund I investors each enjoyed an advantageous business relationship with DMCP, that is, that they would invest in DMCP and receive returns based upon DMCP's success.

121. In March 2016, Kobel and DeBartolo knew of this advantageous business relationship between Mainstreet and the Quantum Fund I investors on the one hand and DMCP on the other.

122. Mainstreet also enjoyed an advantageous business relationship with DK Mainstreet to operate DMCP.

123. In March 2016, Kobel and DeBartolo knew of this advantageous business relationship between Mainstreet and DK Mainstreet to operate DMCP.

124. Despite their knowledge of Plaintiff's advantageous business relationships, DeBartolo and Kobel acted without justification to cause DK Mainstreet to destroy the value of DMCP, by directing DK Mainstreet to advise Mainstreet that DMCP must cease using the DeBartolo name, track record, expertise and abilities in DMCP's business.

125. Kobel and DeBartolo also caused DK Mainstreet to cease providing support to DMCP, despite initial assurances that the support would continue.

126. Due to this interference, Mainstreet's investment in DMCP and the Quantum Fund I investors' investments in DMCP were rendered worthless.

Count IV
(Breach of Fiduciary Duty)

127. This Count seeks damages for breach of fiduciary duty against all Defendants.

128. Paragraphs 1 through 89 are realleged in support of this Count.

129. Each of the Defendants, as either a manager of DMCP, or as the principal of a manager of DMCP, had fiduciary duties to Mainstreet, as a manager of, and investor in DMCP, including duties of loyalty and care.

130. Defendants Kobel, DK Mainstreet and DeBartolo breached their fiduciary duties by making the misrepresentations set forth herein, which induced Mainstreet to participate in the venture. The Defendants also breached their fiduciary duties by providing inaccurate and untruthful information to potential investors, which, ultimately led to DMCP's inability to raise money for the venture.

131. In March 2016, Defendants DeBartolo, DK Mainstreet and Kobel further breached their fiduciary duties to Mainstreet by refusing to allow DMCP to utilize the DeBartolo name, track record, expertise and abilities. This action rendered the Mainstreet and Quantum Fund I investors investments in DMCP worthless.

132. Defendants Perlstein and Magno Aere breached their fiduciary duties to Mainstreet when DK Mainstreet, DeBartolo and Kobel, as managers and principals of managers of DMCP, refused to carry out their fiduciary duties. Defendants Perlstein and Magno Aere were obligated to use all reasonable efforts to stop the other Defendants from destroying the value of DMCP. Instead, Perlstein and Magno Aere facilitated and allowed the other Defendants to walk away from their obligations to Mainstreet without any effort to prevent such wrongful conduct.

133. Defendants' breaches of their fiduciary duties to Mainstreet and the Quantum Fund I investors rendered their respective investments worthless and cause financial damages to Plaintiff.

WHEREFORE, Plaintiff demands judgment as follows:

- A. On Counts I and II, against Defendants DeBartolo, Kobel and DK Mainstreet, for compensatory damages, lost profits, and other incidental and consequential damages;
- B. On Count III against Defendants DeBartolo and Kobel for compensatory damages, lost profits and other incidental and consequential damages;
- C. On Count IV against all Defendants for compensatory damages, lost profits, and other incidental and consequential damages;
- D. On all Counts for interest, costs and for such other and further relief as to the Court may seem just and proper.

Filed: April 14, 2017.

Respectfully Submitted,

/s/Michael Paul Beltran
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