SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
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PENTHOUSE INTERNATIONAL, INC., DR. LUIS ENRIQUE FERNANDO MOLINA GALEANA, and THE MOLINA-VECTOR INVESTMENT TRUST,

Plaintiffs,

-against-

DANIEL STATON, MARC H. BELL, PET CAPITAL PARTNERS LLC, NAFT VENTURES I LLC, ABSOLUTE RETURN EUROPE FUND, and SUSAN DEVINE,

Defendants.

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COMPLAINT

Index No.

Plaintiffs Penthouse International, Inc. ("Penthouse"), Dr. Luis Enrique Fernando Molina Galeana ("Dr. Molina"), and The Molina-Vector Investment Trust (the "Molina Trust") (collectively, "Plaintiffs"), by their attorneys, Gersten, Savage, Kaplowitz, Wolf & Marcus, LLP, state for their complaint against defendants Marc H. Bell ("Bell"), Daniel Staton ("Staton"), Pet Capital Partners LLC ("Pet Capital"), NAFT Ventures I LLC ("NAFT Ventures"), Absolute Return Europe Fund ("ARE Fund"), and Susan Devine ("Devine") (collectively, "Defendants"), as follows:

NATURE OF THE ACTION

1. This action arises from Defendants' relentless and thus far unsuccessful effort to improperly seize control, by any and all means – no matter how deceitful – of General Media, Inc. and its subsidiaries (the "General Media Debtors") that are currently debtors-in-possession in a bankruptcy proceeding pending in the United States Bankruptcy Court for the Southern District of New York. The General Media Debtors own and operate "Penthouse Magazine" as well as the international "Penthouse" brand and trademarks.

2. Initially, Defendants, who were senior secured lenders to the General Media Debtors, fraudulently induced Plaintiffs to execute promissory notes, guarantees and general releases in favor of Pet Capital and ARE Fund for more than $10.3 million – though Defendants never actually paid Plaintiffs any sum of money – by concealing their own prior unlawful activities to thwart the plan of reorganization proposed by the General Media Debtors' and sponsored by the Plaintiffs (the "General Media Plan of Reorganization"). In addition, and as a material inducement for Plaintiffs to deliver their notes and guarantees, Defendants agreed that they would not, directly or indirectly, oppose the General Media Plan of Reorganization. Notwithstanding Defendants' deception and their agreement with Plaintiffs, Defendants embarked on an aggressive campaign to defeat Plaintiffs' efforts to obtain approval of the General Media Plan of Reorganization, including (i) directly interfering with sources of financing, (ii) causing misinformation to be furnished to the United States Bankruptcy Court about the General Media Debtors, (iii) wrongfully and secretly assigning General Media debt to Bell's friends, family and even attorneys, for the purpose of manipulating the vote on

Defendants' competing plan of reorganization, and (iv) actively negotiating and entering into agreements or understandings with other bondholders, creditors and financiers concerning the proposed plan of reorganization to be sponsored by Defendants, in direct violation of Defendants' contractual and other obligations to Plaintiffs.

3. Defendants' sole motive has been to seize control of Penthouse's General Media subsidiaries and, by virtue of the foregoing misconduct, they are on the verge of doing so. In fact, on August 6, 2004, Defendants revealed that they had entered into a deal whereby the General Media unsecured creditors and certain other persons and entities have agreed to support the Defendants' competing plan of reorganization, intended to vest control of the General Media Debtors with Defendants. Moreover, on August 9, 2004, Bell, acting on behalf of Defendants, verbally assaulted Robert Guccione, the Chairman and Chief Executive of the General Media Debtors, and threatened to ruin him financially, bankrupt him personally, evict him from his home, and move to have his attorneys disbarred, all if the General Media Debtors and Mr. Guccione did not support Defendants' proposed Plan of Reorganization as modified on August 6, 2004 and set for confirmation on August 11, 2004. The clear intent of the threatening telephone call was to influence the decision-making of Mr. Guccione as an officer of a company in bankruptcy and, in so doing, manipulate the outcome of the bankruptcy proceeding, as set forth below, in violation of 18 U.S.C. § 152(6). These actions represent further clear and unequivocal breaches of Defendants' duty to Plaintiffs, and demonstrate that they will stop at nothing to wrestle control of the General Media Debtors from the Plaintiffs.

4. By virtue of Defendants' conduct, Dr. Molina and the Molina Trust have been

damaged in the sum of more than $10.3 million, and Penthouse has incurred up to hundreds of millions in damages. Defendants should not be rewarded for their commercial piracy but, rather, should be punished and required to compensate Plaintiffs for the substantial damages and havoc they have wreaked.

PARTIES

5. Penthouse is a corporation duly organized and existing under the laws of the State of Florida; maintains its principal place of business in the State of Florida; and maintains a business office in the City and State of New York.

6. Dr. Molina is an individual residing in the Country of Mexico and, through the Molina Trust, is currently the largest Penthouse shareholder.

7. The Molina Trust is a trust duly organized and existing under the laws of the State of California, for the benefit of the members of the family of Dr. Molina. Dr. Molina is one of the trustees of the Molina Trust.

8. Upon information and belief, Bell is an individual purporting to reside in the State of Florida, is a business partner of Staton and, at all relevant times, Bell and Staton controlled and directed the activities and acted on behalf of Defendants PET Capital, NAFT Ventures, ARE Fund, and Devine; and, directly and/or through their affiliates, PET Capital, ARE Fund and NAFT Ventures are senior secured creditors of the General Media Debtors.

9. Upon information and belief, Staton is an individual purporting to reside in the State of Florida, is a business partner of Bell and, at all relevant times, Bell and Staton controlled and directed the activities and acted on behalf of Defendants PET Capital, NAFT Ventures, ARE

Fund, and Devine; and, directly and/or through their affiliates, PET Capital, ARE Fund and NAFT Ventures are senior secured creditors of the General Media Debtors.

10. Upon information and belief, PET Capital is a limited liability company duly organized and existing under the laws of the State of Delaware; purports to maintain its principal place of business in the State of Florida; owns certain senior notes and previously owned shares of preferred stock issued by GMI. The managing member of PET Capital is NAFT Ventures.

11. Upon information and belief, NAFT Ventures is a limited liability company duly organized and existing under the laws of the State of Delaware, and purports to maintain its principal place of business in the State of Florida. Upon information and believe Bell and Staton own 100% of the equity of NAFT Ventures.

12. Upon information and belief, ARE Fund is duly organized and existing under the laws of the State of Delaware; purports to maintain its principal place of business in the State of Florida; owns certain senior notes and previously owned shares of preferred stock issued by GMI.

13. Upon information and belief, Devine is an individual purporting to reside in the State of Florida, and previously owned certain shares of preferred stock issued by GMI.

THE RELEVANT FACTS

A. *The Bankruptcy and the Parties' Agreement*

14. The General Media Debtors filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code in August 2003, and this proceeding is pending in the United States Bankruptcy Court for the Southern District of New York.

15. In October 2003, the Defendants purchased the senior secured debt of the General Media Debtors at a substantial discount from face value and obtained control of the preferred stock for no additional consideration. Defendants simultaneously purchased a debtor-in-possession credit facility provided in August by third party lenders. Concurrently, Defendants successfully moved to remove the court-appointed chief restructuring officer and to terminate the engagement of the specialist firm, CRP. Defendants hand-picked a replacement chief restructuring officer from Seneca Financial who took control of the day-to-day affairs of General Media. Seneca and Bell issued a press release indicating their collaboration on General Media, though Seneca legally worked for the General Media Debtors, rather than for a specific constituent of a class of General Media creditors represented by the Defendants. Through Seneca, Defendants had established additional substantial influence over General Media.

16. Prior to March 2004, the Defendants structured a plan of reorganization and prosecuted the implementation of the plan on the General Media Debtors under threat of reprisal by the debtor-in-possession loan agreement, also not coincidentally owned by Defendants. Defendants sponsored a plan of reorganization which would have paid the unsecured creditors of the General Media Debtors less than 20% of their claims in cash and only approximately 50% of their total claims over a seven-year period. Defendants' proposed plan would have also wiped out Penthouse's equity ownership in the General Media Debtors, including the minority public shareholders of Penthouse. On or about March 4, 2004, the General Media Debtors, with the full support of Penthouse and Dr. Molina, filed a First Amended Joint Plan of Reorganization (the "First Amended Debtors' Plan") with the Bankruptcy Court. This plan provided for full payment

to all classes of creditors and no impairment to the Penthouse equity. As an apparent countermeasure, on or about March 11, 2004, in an effort to seize control of the General Media Debtors, PET Capital, ARE Fund, Devine and NAFT Ventures, on behalf of all Defendants, filed a competing plan of reorganization, significantly less favorable to the General Media Debtors' shareholders.

17. Pursuant to the First Amended Debtors' Plan, the General Media Debtors proposed, inter alia, to pay in cash 100% of the principal amount of all outstanding senior notes, along with all accrued interest and costs, and proposed to reinstate all shares of GMI preferred stock.

18. Dr. Molina committed to contribute approximately $38 million in order to fully fund the First Amended Debtors' Plan, and certain other institutional investors agreed to finance the remainder of the First Amended Debtors' Plan.

19. The general unsecured creditors of the General Media Debtors would have greatly benefited from the fully funded First Amended Debtors' Plan.

20. In contrast, Defendants' proposed plan of reorganization was nothing but a desperate attempt to stifle Plaintiffs' efforts to pay the creditors and responsibly conduct the business of the General Media Debtors.

21. As part of Defendants' scheme, on or about March 31, 2004, the Defendants, Pet Capital, NAFT Ventures, ARE Fund, and Susan Devine, all controlled by Bell and Staton, entered into an preferred stock purchase agreement with Plaintiffs (the "Agreement") whereby (i) Plaintiffs purchased from certain of the defendants shares of Series A GMI preferred stock

owned by PET Capital, ARE Fund, and Devine (the "Series A GMI Preferred"); (ii) Dr. Molina executed a promissory note in favor of PET Capital in the principal sum of $9,455,935.13 (plus interest), guaranteed by Penthouse and the Trust; (iii) Dr. Molina executed a promissory note in favor of ARE Fund in the principal sum of $792,406.85 (plus interest), guaranteed by Penthouse and the Molina Trust; (iv) Penthouse purported to release Defendants from certain lender liability and other claims; and (v) Plaintiffs and Defendants agreed that, by April 30, 2004, Penthouse and Dr. Molina would cause the General Media Debtors to file with the Bankruptcy Court the General Media Debtors' Second Amended and Restated Plan or Reorganization, which would not materially and adversely affect the treatment of any holders of senior notes of the General Media Debtors.

22. The parties to the Agreement recognized that, given the bankruptcy of the General Media Debtors, the shares of Series A GMI Preferred had no realistic value and would likely be either wiped out or reinstated with little prospect of repayment in connection with any plan of reorganization. Rather, all parties, including the Defendants, recognized that the purchase of the Series A GMI Preferred was "greenmail" to enable Plaintiffs to buy "peace" with Defendants and proceed with the Plaintiffs-sponsored General Media Debtors Plan of Reorganization. Accordingly, Plaintiffs expressly conditioned their purchase of the Series A GMI Preferred, and their execution of the promissory notes by Dr. Molina and guarantees by Penthouse and the Molina Trust, on the covenants by PET Capital, ARE Fund, Devine and NAFT Ventures to withdraw their proposed plan of reorganization and all other objections to the General Media Debtors' Plan of Reorganization; to support the such plan of reorganization; and prior to August

6, 2006 (when the Plaintiff-sponsored General Media Debtors' Plan of Reorganization was scheduled to be confirmed by the Bankruptcy Court) not to take any action, directly or indirectly, to oppose the General Media Debtors' Plan of Reorganization or to support any competing plan of reorganization sponsored by any third person or entity.

23. This, Defendants deliberately failed to do.

B. *Defendants' Gross Misconduct*

24. Defendants, led by Bell and Staton, breached their contractual obligations to Plaintiffs, and engaged in fraudulent conduct, in numerous respects.

25. Prior to entering into the Agreement, the General Media Debtors were faced with the prospect of initiating an asset sale pursuant to section 363 of the United States Bankruptcy Code, in connection with their proposed plan of reorganization. Additionally, the General Media Debtors needed to make a motion to the Bankruptcy Court to be relieved of sale requirements under certain Debtor-in-Possession Financing and Cash Collateral Orders.

26. Unbeknownst to Plaintiffs, however, Defendants, acting through Bell, surreptitiously contacted the committee representing the unsecured creditors of the General Media Debtors (the "Unsecured Creditors Committee") in March 2004 and advised it in writing that, upon any asset sale, Defendants would agree to pay any amount sufficient for the unsecured creditors to receive $6.5 million in cash (as opposed to the $2.0 million previously offered by Defendants to the unsecured creditors), provided the Unsecured Creditors Committee would oppose the General Media Debtors' Second Amended and Restated Plan of Reorganization and their motion for relief from the sale requirements.

27. Defendants deliberately concealed this action from Plaintiffs and thereafter fraudulently induced Plaintiffs to enter into the Agreement. The actions of the Defendants constitute bankruptcy fraud in direct violation of criminal statute 18 U.S.C. § 152(6), which provides for criminal penalties against any person who knowingly offers, receives or attempts to obtain any compensation or advantage for acting or forbearing to act in any case under Chapter 11.

28. Plaintiffs would not have entered into the Agreement had they known of Defendants' duplicitous conduct, or that Defendants never withdrew or retracted their understanding with the Unsecured Creditors Committee following execution of the Agreement with Plaintiffs.

29. Plaintiffs also just discovered that, prior to the foregoing, in or about January 2004, Bell, on behalf of Defendants, secretly assigned certain debt of the General Media Debtors to his friends, family and lawyers. Defendants engaged in this misconduct, which they long concealed, for the specific purpose of guaranteeing numerical control over the bond class of creditors, and manipulating any vote of the competing plans of reorganization.

30. After Plaintiffs and Defendants entered into the Agreement, Defendants breached several other material obligations, on several occasions.

31. Upon information and belief, Bell and Staton, on behalf of all Defendants, following execution of the Agreement, in or about April or May 2004, contacted Seneca Financial, the bankruptcy workout specialist, and induced Seneca Financial to write a letter to the Bankruptcy Court stating a negative, distorted view of the General Media Debtors' business and

financial condition and proposing that a trustee be appointed. Seneca's unauthorized memorandum, which was presented to the Bankruptcy Court upon the on-the-record prompting of the Defendants' counsel. The memorandum was presented to Defendants but not to the General Media Debtors for whom Seneca ostensibly worked for pursuant to court order. Defendants engaged in this improper conduct for the deliberate purpose of interfering with Plaintiffs' third party financing efforts with Post Advisory Group and others, and frustrating the timely approval of the General Media Debtors' Second Restated Plan of Reorganization.

32. In July 2004, Penthouse had reached agreement with Beate Uhse AG, a substantial public company, to make an investment of in excess of $30 million toward the General Media Debtors' Plan of Reorganization pursuant to a Commitment Letter executed between the parties, with the intention of replacing Dr. Molina's financing. The Commitment Letter was presented to the Bankruptcy Court. Upon information and belief, Bell and the other Defendants contacted Penthouse and Beathe Uhse the same morning and induced Beathe Uhse to withdraw its financial commitment to the General Media Debtors and enter into a deal backing Defendants and their improper effort to seize control of the General Media Debtors.

33. Subsequently, on August 6, 2004, at approximately 5:03 p.m., Defendants announced that, subject to the Bankruptcy Court's approval, they had a deal in place with the General Media Debtors' majority bondholders, the Unsecured Creditors Committee and certain other necessary parties concerning the reorganization of the General Media Debtors, vesting control of GMI and its subsidiaries squarely with Defendants.

34. Upon information and belief, Defendants repeatedly communicated with the

Debtors' other bondholders, the Unsecured Creditors Committee and the other necessary parties after March 31, 2004, and before August 6, 2004, in an effort to obtain approval for Defendants' competing plan of reorganization and to foster opposition to the General Media Debtors' Second Amended and Restated Plan of Reorganization.

35. Most recently, Bell, on behalf of Defendants, contacted Robert Guccione, the General Media Debtors' Chairman and Chief Executive Officer, and – despite the pendency of the Chapter 11 proceeding – verbally assaulted and threatened him, promising to ruin him financially, bankrupt him personally, evict him from his home, and seek to have his lawyers disbarred if he and the General Media Debtors did not support Defendants' proposed Plan of Reorganization, as modified on August 6, 2004. This conduct – endeavoring to manipulate the decision making of Mr. Guccione, an officer of a company in bankruptcy – represents another illustration of the lengths that Defendants' will go to in order to achieve their ends, even if they are unlawful as here.

36. Based on Defendants' wrongful actions, Dr. Molina (who has now withdrawn his financial commitment to the General Media Debtors by virtue of Defendants' actions) and the Molina Trust have been damaged in the amount of at least $10.3 million, representing their purported (and disputed) obligations under the promissory notes, and Penthouse has suffered hundreds of millions of dollars in damages, representing the enterprise value of the General Media Debtors, which have been improperly seized from Penthouse by Defendants.

FIRST CAUSE OF ACTION –
FRAUDULENT CONCEALMENT/FRAUD IN THE INDUCEMENT
(All Defendants)

37. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 36 above as though fully set forth herein.

38. Defendants, and each of them, had an obligation to inform Plaintiffs, prior to execution of the Agreement, that (i) Defendants surreptitiously offered in writing to the Unsecured Creditors Committee that Defendants would pay the unsecured creditors $6.5 million in cash, provided that the Unsecured Creditors Committee would oppose the General Media Debtors' Second Amended and Restated Plan of Reorganization and their motion for relief from certain sale requirements, (ii) Defendants secretly assigned General Media debt to Bell's friends, family and attorneys for the purpose of wrongfully manipulating the vote on Defendants' competing plan of reorganization, and (iii) Defendants had been maneuvering secretly to defeat the General Media Debtors' Plan of Reorganization.

39. Defendants breached their obligations by concealing the foregoing from Plaintiffs, and did so for the specific purpose of defeating the General Media Debtors' Plan of Reorganization and attempting to seize control of the General Media Debtors.

40. The foregoing omissions were material and knowingly concealed from Plaintiffs with the intent to defraud and deceive them.

41. Plaintiffs reasonably relied upon the facts presented by Defendants, and would not have entered into the Agreement, or executed the promissory notes, guarantees and releases referenced above, but for Defendants' fraudulent concealment.

42. By reason of Defendants' fraudulent concealment, Plaintiffs have been severely injured and are entitled to an award of compensatory damages in an amount to be determined at

trial but not less than $65 million, representing the enterprise value of the General Media Debtors, together with punitive damages in the sum of $100 million.

SECOND CAUSE OF ACTION – BREACH OF CONTRACT
(PET Capital, ARE Fund, Devine and NAFT Ventures)

43. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 42 above as though fully set forth herein.

44. Defendants PET Capital, ARE Fund, Devine and NAFT Ventures breached their express and implied contractual obligations owed to Plaintiffs under the Agreement by, inter alia, (i) failing to support the General Media Debtors' Second Amended and Restated Plan of Reorganization; (ii) opposing, directly and indirectly, the General Media Debtors' Second Amended and Restated Plan of Reorganization; (iii) supporting a proposed plan of reorganization competing with the General Media Debtors' Second Amended and Restated Plan of Reorganization; (iv) failing to disclose or withdraw their secret agreement with the Unsecured Creditors Committee; (v) causing Seneca Financial to portray the General Media Debtors' business and financial condition inaccurately to the Bankruptcy Court; (vi) inducing Beathe Uhse to withdraw its financial commitment to the General Media Debtors; and (vii) negotiating and agreeing with the General Media Debtors' other bondholders, the Unsecured Creditors Committee and certain other necessary parties, between March 31, 2004 and August 6, 2004, concerning the reorganization of the General Media Debtors and Defendants' effort to obtain approval for their proposed plan of reorganization and to foster opposition to the General Media Debtors' Second Amended and Restated Plan of Reorganization, as set forth above.

45. By reason of the foregoing breaches, Plaintiffs have been severely injured and

are entitled to an award of compensatory damages in an amount to be determined at trial but not less than the sum of $10.3 million, plus interest.

THIRD CAUSE OF ACTION –
TORTIOUS INTERFERENCE WITH CONTRACT/BUSINESS RELATIONS
(All Defendants)

46. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 45 above as though fully set forth herein.

47. Defendants Bell and Staton had knowledge of the Agreement and the terms thereof and acting in bad faith, for their own self-interest, purely from malice and without reasonable justification, intentionally caused PET Capital, ARE Fund, Devine and NAFT Ventures, which Bell and Staton control, to breach the Agreement by, inter alia, (i) failing to support the General Media Debtors' Second Amended and Restated Plan of Reorganization; (ii) opposing, directly and indirectly, the General Media Debtors' Second Amended and Restated Plan of Reorganization; (iii) supporting a proposed plan of reorganization competing with the General Media Debtors' Second Amended and Restated Plan of Reorganization; (iv) failing to disclose or withdraw their secret agreement with the Unsecured Creditors Committee; (v) causing Seneca Financial to portray the General Media Debtors' business and financial condition inaccurately to the Bankruptcy Court; (vi) inducing Beathe Uhse to withdraw its financial commitment to the General Media Debtors; and (vii) negotiating and agreeing with the General Media Debtors' other bondholders, the Unsecured Creditors Committee and certain other necessary parties, between March 31, 2004 and August 6, 2004, concerning the reorganization of the General Media Debtors and Defendants' effort to obtain approval for their proposed plan of

reorganization and to foster opposition to the General Media Debtors' Second Amended and Restated Plan of Reorganization, as set forth above.

48. In addition, all Defendants had knowledge of Beathe Uhse's and Dr. Molina's financial commitments to and business relationships with the General Media Debtors, and Plaintiffs, and acting in bad faith, for their own self-interest, purely from malice and without reasonable justification, intentionally caused Beathe Uhse and Dr. Molina to withdraw their financial commitments to the General Media Debtors.

49. Bell and Staton interfered with the Agreement, and all Defendants interfered with the business relationships between Beathe Uhse, Dr. Molina, the General Media Debtors and Plaintiffs, specifically in order to derail the General Media Debtors' Second Amended and Restated Plan of Reorganization and to facilitate Defendants' own seizure of control of the General Media Debtors, despite the fact that such plan was more beneficial to all creditors and equity owners of the General Media Debtors than any plan offered or sponsored by Defendants.

50. By reason of Defendants' tortious interference with the Agreement and the foregoing business relationships, Plaintiffs have been severely injured and are entitled to an award of compensatory damages in an amount to be determined at trial but not less than $65 million, representing the enterprise value of the General Media Debtors, together with punitive damages in the sum of $100 million.

WHEREFORE, Plaintiffs demand judgment against Defendants, jointly and severally, as follows:

(i) on the first cause of action, compensatory damages in an amount to be determined at trial but not less than $65 million, plus interest, together with punitive damages

in the sum of $100 million;

(ii) on the second cause of action, compensatory damages in an amount to be determined at trial but not less than $10.3 million, plus interest;

(iii) on the third cause of action, compensatory damages in an amount to be determined at trial but not less than $65.0 million, plus interest, together with punitive damages in the sum of $100 million;

(iv) the costs and disbursements of the action, including reasonable attorneys' fees; and

(v) such other and further relief as may be just and proper.

Dated: August 12, 2004

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