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**FILED**

DEC 30 2008

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: D. Taylor Deputy

8 Attorneys for Plaintiff  
9 ANDREW NARRAWAY

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF MARIN

13 ANDREW NARRAWAY, an individual,  
14 Plaintiff,

15 vs.

16 JAMES DELBERT McCONVILLE, an  
17 individual, NICOLE McCONVILLE, an  
18 individual, SAPPHIRE PARK HOUSE  
19 CORPORATION, a California corporation,  
20 STEWART TITLE OF CALIFORNIA, INC., a  
21 California corporation, and DOES 1 through 10,  
22 inclusive,

23 Defendants.

CASE NO. *CV 086382*

**COMPLAINT:**

1. **BREACH OF CONTRACT;**
2. **BREACH OF CONTRACT;**
3. **FRAUD;**
4. **CONVERSION;**
5. **UNJUST ENRICHMENT;**
6. **BREACH OF FIDUCIARY DUTY;**
- and,
7. **CONSPIRACY.**

24 COMES NOW Plaintiff ANDREW NARRAWAY and alleges as against Defendants  
25 JAMES DELBERT McCONVILLE, an individual, NICOLE McCONVILLE, an individual,  
26 SAPPHIRE PARK HOUSE CORPORATION, a California corporation, STEWART TITLE OF  
27 CALIFORNIA, INC., a California corporation, and DOES 1 through 10, inclusive:

**GENERAL ALLEGATIONS**

- 28 1. Plaintiff ANDREW NARRAWAY (hereinafter "NARRAWAY"), is now, and was  
at all times relevant hereto, an individual residing in the City and County of San Francisco.
2. Defendant JAMES DELBERT McCONVILLE (hereinafter "JAMES"), is now, and  
was at all times relevant hereto, an individual residing in the County of Alameda.



1 Contra Costa County, commonly known as 126 Belle Avenue, Pleasant Hill, California, Assessors  
2 Parcel Number 170-241-011-7 (hereinafter "BELLE PROPERTY"), and described as follows:

3 PARCEL ONE:

4 THE SOUTH 85.60 OF THE NORTH 301.20 FEET OF LOT 29, MAP OF GRACELAND  
5 WALNUT HOME SITES, FILED JANUARY 11, 1929, MAP BOOK 21, PAGE 581,  
6 CONTRA COSTA COUNTY RECORDS.

6 PARCEL TWO:

7 RIGHT OF WAY GRANTED IN THE DEED TO CHARLES WILKINS, ET UX,  
8 RECORDED APRIL 26, 1955, BOOK 2521, OFFICIAL RECORDS, PAGE 145, AS  
9 FOLLOWS:

10 AN EASEMENT, AS APPURTENANT TO PARCEL ONE ABOVE, FOR A WATER  
11 PIPE LINE AND PURPOSES INCIDENTAL THERETO OVER THE EASTERN 2 FEET  
12 OF THE NORTHERN 201.5 FEET OF SAID LOT 29.

11 PARCEL THREE:

12 AN EASEMENT CREATED IN REFERENCE TO PARCEL ONE ABOVE IN THE  
13 DEED TO FRANCES H. QUARTERMAN, ET UX, RECORDED OCTOBER 24, 1955,  
14 BOOK 2634, OFFICIAL RECORDS, PAGE 361 FOR A WATER PIPE LINE AND  
15 PURPOSES INCIDENTAL THERETO OVER THE EASTERN 2 FEET OF THE  
16 PARCEL OF LAND DESCRIBED AS PARCEL ONE IN SAID DEED TO  
17 QUARTERMAN, 2634 OR 361.

15 PARCEL FOUR:

16 RIGHT OF WAY GRANTED IN THE DEED FROM VERNON P. NIELSON, ET AL TO  
17 CHARLES & MAY WILKINS, ET AL, RECORDED FEBRUARY 28, 1957, BOOK 2939,  
18 OFFICIAL RECORDS, PAGE 78, AS FOLLOWS:

19 A RIGHT OF WAY FOR A 1 ½" PIPE LINE ACROSS THE ACCESS ROAD TO SAID  
20 PROPERTY. PINE LINE IS TO RUN FROM LOT 29, GRACELAND WALNUT  
21 HOMESITES EASETERLY FOR A DISTANCE OF 20' AND APPROXIMATELY 134  
22 FEET NORTH OF THE CENTER LINE OF BEELLE AVE.

21 PARCEL FIVE:

22 RIGHT OF WAY GRANTED IN THE DEED FROM ANTHONY F. CORREO, ET AL  
23 TO CHARLES & MAY WILKINS, ET AL, RECORDED FEBRUARY 28, 1957, BOOK  
24 2939, OFFICIAL RECORDS, PAGE 79, AS FOLLOWS:

25 A RIGHT OF WAY FOR A 1 ½" PIPE LINE IS TO RUN ALONG MY NORTH  
26 PROPERTY LINE FOR A DISTANCE OF 100 FEET. LINE IS TO BE ONE FOOT  
27 FROM MY NORTH PROPERTY LINE AND BE BURIED A MINIMUM OF 18" DEEP.

28 A.P.N. 170-241-011-7

1           11.     In or about July 2004, in the County of Marin, State of California, Plaintiff  
2 NARRAWAY agreed to loan Defendant SAPPHIRE the sum of One Hundred and Thirty Thousand  
3 Dollars (\$130,000.00) in exchange for Defendant JAMES' agreement to execute a Promissory Note  
4 and a Deed of Trust securing said loan with the BELLE PROPERTY.

5           12.     In or about August 2004, Defendant JAMES and Clara McConville, as authorized  
6 representatives of Defendant SAPPHIRE, executed a Deed of Trust and Promissory Note for the  
7 sum of One Hundred and Thirty Thousand Dollars (\$130,000.00) secured by the BELLE  
8 PROPERTY in favor of Plaintiff NARRAWAY. Said Deed of Trust was recorded in the  
9 Recorder's Office of the County of Contra Costa on or about August 12, 2004, Document number  
10 2004-0311413-00.

11           13.     In or about January 2008, in the County of Marin, Defendant JAMES contacted John  
12 Lundy and asked for his assistance acquiring additional financing for the BELLE PROPERTY.  
13 Specifically, Defendant JAMES asked John Lundy to ask Plaintiff NARRAWAY to execute a Deed  
14 of Reconveyance for the August 2004 Deed of Trust and Promissory Note against the BELLE  
15 PROPERTY in exchange for Defendant JAMES' execution of a new Deed of Trust and Promissory  
16 Note in the same amount, also secured against the BELLE PROPERTY. The purpose of this  
17 Reconveyance was for Defendant JAMES, through his corporation, Defendant SAPPHIRE, to  
18 qualify for a new loan against the BELLE PROPERTY. Plaintiff NARRAWAY agreed to this  
19 request.

20           14.     Notwithstanding the representations promises of Defendant JAMES, on or about  
21 February 29, 2008, Defendant JAMES, as the authorized representative of Defendant SAPPHIRE,  
22 executed a Grant Deed transferring all right, title and interest in and to the BELLE PROPERTY to  
23 Marcus Jesus Campagna.

24           15.     Not knowing of the February 29, 2008 actions of Defendant JAMES, in  
25 furtherance of his agreement with Defendant JAMES, on or about March 5, 2008, Plaintiff  
26 NARRAWAY, in the County of Marin, executed a Substitution of Trustee and Deed of Full  
27 Reconveyance, said document being recorded in the Recorder's Office of the County of Contra  
28 Costa on or about March 12, 2008, Document number 2008-0052655-00.



1 SAID LINE OF ABBEY STREET 35 FEET 1-1/2 INCHES; THENCE AT A RIGHT  
2 ANGLE EASTERLY 93 FEET, 2 INCHES; THENCE AT A RIGHT ANGLE  
3 SOUTHERLY 35 FEET, 1-12 INCHES; THENCE AT A RIGHT ANGLE WESTERLY 93  
4 FEET, 2 INCHES TO THE POINT OF BEGINNING.

5 BEING A PORTION OF MISSION BLOCK 84.

6 ASSESSOR'S LOT 016, BLOCK 3566

7 21. In or about January 2004, in the County of Marin, State of California, Plaintiff  
8 NARRAWAY and Keith McVaney agreed to loan Defendant SAPPHIRE the sum of Three  
9 Hundred and Forty-Five Thousand Dollars (\$345,000.00) in exchange for Defendant JAMES' or  
10 his daughter, Defendant NICOLE's, agreement to execute a Promissory Note and a Deed of Trust  
11 securing said loan with the ABBEY PROPERTY.

12 22. In or about January 2004, Defendant NICOLE, as an authorized representative of  
13 Defendant SAPPHIRE, executed a Deed of Trust and Promissory Note for the sum of Three  
14 Hundred and Forty-Five Thousand Dollars (\$345,000.00) secured by the ABBEY PROPERTY in  
15 favor of Plaintiff NARRAWAY and Keith McVaney. Said Deed of Trust was recorded in the  
16 Recorder's Office of the County of San Francisco on or about May 12, 2004, Document number  
17 2004-H716212-00.

18 23. In or about July 2005, Defendant JAMES, as an authorized agent of Defendant  
19 SAPPHIRE, transferred all of Defendant SAPPHIRE's right, title and interest in and to the ABBEY  
20 PROPERTY to Defendant NICOLE.

21 24. In or about March 2008, Defendant NICOLE transferred all of her right, title and  
22 interest in and to the ABBEY PROPERTY back to Defendant SAPPHIRE.

23 25. Also in or about March 2008, in the County of Marin, Defendant JAMES contacted  
24 John Lundy and asked for his assistance acquiring additional financing for the ABBEY  
25 PROPERTY. Specifically, Defendant JAMES asked John Lundy to ask Plaintiff NARRAWAY  
26 and Keith McVaney to execute a Deed of Reconveyance for the January 2004 Deed of Trust and  
27 Promissory Note against the ABBEY PROPERTY in exchange for Defendant JAMES' execution  
28 of a new Deed of Trust and Promissory Note in the same amount, also secured against the ABBEY  
PROPERTY. The purpose of this Reconveyance was for Defendant JAMES and Defendant

1 NICOLE, through their corporation, Defendant SAPPHIRE, to qualify for a new loan against the  
2 ABBEY PROPERTY. Plaintiff NARRAWAY and Keith McVaney agreed to this request.

3 26. Also in or about March 2008, John Lundy, on behalf of Plaintiff NARRAWAY and  
4 Keith McVaney, delivered to Agnes Kantere, an employee of Defendant STEWART TITLE,  
5 escrow instructions directing her to have Plaintiff NARRAWAY sign a Substitution of Trustee and  
6 Full Reconveyance in exchange for Defendant JAMES and Defendant NICOLE signing a new  
7 Deed of Trust and Promissory Note secured by the ABBEY PROPERTY in favor of Plaintiff  
8 NARRAWAY and Keith McVaney.

9 27. On April 1, 2008, Plaintiff NARRAWAY executed the Substitution of Trustee and  
10 Full Reconveyance before Agnes Kantere. The signing of the Substitution of Trustee and Full  
11 Reconveyance was on the express condition that Defendant JAMES and Defendant NICOLE sign a  
12 new Deed of Trust and Promissory Note secured by the ABBEY PROPERTY in favor of Plaintiff  
13 NARRAWAY and Keith McVaney. Notwithstanding this condition, Agnes Kantere, as an agent of  
14 Defendant STEWART TITLE, failed and/or refused to have Defendant JAMES or Defendant  
15 NICOLE sign a new Deed of Trust and Promissory Note secured by the ABBEY PROPERTY in  
16 favor of Plaintiff NARRAWAY and Keith McVaney.

17 28. Notwithstanding the representations promises of Defendant JAMES, on or about  
18 April 25, 2008, Defendant JAMES, as the authorized representative of Defendant SAPPHIRE,  
19 executed a Deed of Trust and Promissory Note for the sum of One Million, One Hundred and Ten  
20 Thousand Dollars (\$1,110,000.00) in favor of Wachovia Mortgage, FSB. Said Deed of Trust was  
21 recorded by Defendant STEWART TITLE in the Recorder's Office of the County of San Francisco  
22 on or about April 30, 2008, Document number 2008-I575158-00.

23 29. Despite Plaintiff NARRAWAY's performance all obligations to be performed as  
24 agreed, none of Defendants JAMES, NICOLE or SAPPHIRE repaid the monies loaned by Plaintiff  
25 NARRAWAY and Keith McVaney and secured by the ABBEY PROPERTY as they agreed in the  
26 original written deeds of trust or promissory notes.

27 30. Plaintiff NARRAWAY is informed and believes and on that basis alleges that  
28 Defendant JAMES did not intend to perform any of the promises he made to Plaintiff

1 NARRAWAY with regard to the BELLE PROPERTY, the promises made were in fact false, and  
2 that the foregoing actions were taken with the actual intent to hinder, delay, and/or defraud  
3 Plaintiff NARRAWAY.

4 **FIRST CAUSE OF ACTION**

5 **(BREACH OF CONTRACT – BELLE PROPERTY:**

6 **Against Defendants JAMES and SAPHIRE)**

7 31. Plaintiff NARRAWAY hereby incorporates as if fully set forth at length herein,  
8 paragraphs 1 through 32, inclusive.

9 32. As a direct and proximate result of Defendants JAMES and SAPHIRE's breach of  
10 the Promissory Note and Deed of Trust securing by the BELLE PROPERTY, Plaintiff  
11 NARRAWAY has suffered damages in the amount of One Hundred and Thirty Thousand Dollars  
12 (\$130,000.00), together with interest thereon at the legal rate from and after January 1, 2006.

13 WHEREFORE, Plaintiff NARRAWAY prays for judgment against Defendants JAMES and  
14 SAPHIRE as hereinafter appears.

15 **SECOND CAUSE OF ACTION**

16 **(BREACH OF CONTRACT – ABBEY PROPERTY:**

17 **Against Defendants JAMES, NICOLE and SAPHIRE)**

18 33. Plaintiff NARRAWAY hereby incorporates as if fully set forth at length herein,  
19 paragraphs 1 through 34, inclusive.

20 34. As a direct and proximate result of Defendants JAMES, NICOLE and SAPHIRE's  
21 breach of the Promissory Note and Deed of Trust securing by the ABBEY PROPERTY, Plaintiff  
22 NARRAWAY has suffered damages in the amount of Three Hundred and Forty-Five Thousand  
23 Dollars (\$345,000.00), together with interest thereon at the legal rate from and after August 1, 2007.

24 WHEREFORE, Plaintiff NARRAWAY prays for judgment against Defendants JAMES,  
25 NICOLE and SAPHIRE as hereinafter appears.

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1 **THIRD CAUSE OF ACTION**

2 **(FRAUD: Against Defendant JAMES, NICOLE and SAPHIRE)**

3 35. Plaintiff NARRAWAY hereby incorporates as if fully set forth at length herein,  
4 paragraphs 1 through 36, inclusive.

5 36. In taking the foregoing actions, Defendants JAMES, NICOLE and SAPHIRE made  
6 promises that were false and one which they did not intend to perform. Specifically, Defendants  
7 JAMES, NICOLE and SAPHIRE acted with the actual intent to defraud Plaintiff NARRAWAY  
8 by a) requesting that Plaintiff NARRAWAY execute a Substitution of Trustee and Deed of Full  
9 Reconveyance when Defendants JAMES, NICOLE and SAPHIRE did not intend to give execute  
10 and record a new Promissory Note and Deed of Trust secured by the BELLE PROPERTY and  
11 instead intended to sell the BELLE PROPERTY; and b) requesting that Plaintiff NARRAWAY  
12 execute a Substitution of Trustee and Deed of Full Reconveyance when Defendants JAMES,  
13 NICOLE and SAPHIRE did not intend to give execute and record a new Promissory Note and  
14 Deed of Trust secured by the ABBEY PROPERTY and instead intended to obtain a new loan  
15 against the ABBEY PROPERTY.

16 37. As a proximate result of Defendants JAMES, NICOLE and SAPHIRE's fraud,  
17 Plaintiff NARRAWAY has suffered damages which are the natural, reasonable, and proximate  
18 results of the fraud, in an amount as of yet unascertained, but believed by Plaintiff NARRAWAY to  
19 exceed the sum of Four Hundred and Seventy-Five Thousand Dollars (\$475,000.00).

20 38. Plaintiff NARRAWAY is informed and believes and thereon alleges that the  
21 aforementioned acts of Defendants JAMES, NICOLE and SAPHIRE were willful, oppressive,  
22 malicious and despicable, and done with the deliberate intent to defraud and injure Plaintiff  
23 NARRAWAY and enrich Defendants JAMES, NICOLE and SAPHIRE. Accordingly, Plaintiff  
24 NARRAWAY is therefore entitled to punitive damages according to proof.

25 WHEREFORE, Plaintiff NARRAWAY prays for judgment against Defendants JAMES,  
26 NICOLE and SAPHIRE as hereinafter appears.

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1 **FOURTH CAUSE OF ACTION**

2 **(CONVERSION: Against Defendants JAMES, NICOLE and SAPPHIRE)**

3 39. Plaintiff NARRAWAY hereby incorporates as if fully set forth at length herein,  
4 paragraphs 1 through 40, inclusive.

5 40. Defendants JAMES, NICOLE and SAPPHIRE, in taking the actions alleged  
6 hereinabove, specifically retaining One Hundred and Thirty Thousand Dollars (\$130,000.00)  
7 originally loaned against the BELLE PROPERTY and Three Hundred and Forty-Five Thousand  
8 Dollars (\$345,000.00) loaned against the ABBEY PROPERTY, wrongfully took Plaintiff  
9 NARRAWAY's monies and converted the same to their benefit, resulting in damages and  
10 economic harm to Plaintiff NARRAWAY.

11 41. As a proximate result of Defendants JAMES, NICOLE and SAPPHIRE's  
12 conversion, Plaintiff NARRAWAY has suffered damages which are the natural, reasonable, and  
13 proximate results of the conversion, in an amount as of yet unascertained, but believed by Plaintiff  
14 NARRAWAY to exceed the sum of Four Hundred and Seventy-Five Thousand Dollars  
15 (\$475,000.00).

16 42. Plaintiff NARRAWAY is informed and believes and thereon alleges that the  
17 aforementioned acts of Defendants JAMES, NICOLE and SAPPHIRE, and each of them, were  
18 willful, oppressive, malicious and despicable, and done with the deliberate intent to defraud and  
19 injure Plaintiff NARRAWAY and enrich Defendants JAMES, NICOLE and SAPPHIRE.  
20 Accordingly, Plaintiff NARRAWAY is therefore entitled to punitive damages according to proof.

21 WHEREFORE, Plaintiff NARRAWAY prays for judgment against Defendants JAMES,  
22 NICOLE and SAPPHIRE as hereinafter appears.

23 **FIFTH CAUSE OF ACTION**

24 **(UNJUST ENRICHMENT: Against Defendants JAMES, NICOLE and SAPPHIRE)**

25 43. Plaintiff NARRAWAY hereby incorporates as if fully set forth at length herein,  
26 paragraphs 1 through 44, inclusive.

27 44. Defendants JAMES, NICOLE and SAPPHIRE, in taking the actions alleged  
28 hereinabove, specifically keeping One Hundred and Thirty Thousand Dollars (\$130,000.00)

1 originally loaned against the BELLE PROPERTY and Three Hundred and Forty-Five Thousand  
2 Dollars (\$345,000.00) loaned against the ABBEY PROPERTY, have unjustly retained Plaintiff  
3 NARRAWAY's monies at the expense of Plaintiff NARRAWAY, resulting in damages and  
4 economic harm to Plaintiff NARRAWAY.

5 45. As a proximate result of Defendants JAMES, NICOLE and SAPPHIRE's actions,  
6 Plaintiff NARRAWAY has suffered damages which are the natural, reasonable, and proximate  
7 results of such actions, in an amount as of yet unascertained, but believed by Plaintiff  
8 NARRAWAY to exceed the sum of Four Hundred and Seventy-Five Thousand Dollars  
9 (\$475,000.00).

10 WHEREFORE, Plaintiff NARRAWAY prays for judgment against Defendants JAMES,  
11 NICOLE and SAPPHIRE as hereinafter appears.

12 **SIXTH CAUSE OF ACTION**

13 **(BREACH OF FIDUCIARY DUTY: Against Defendant STEWART TITLE only)**

14 46. Plaintiff NARRAWAY hereby incorporates as if fully set forth at length herein,  
15 paragraphs 1 through 48, inclusive.

16 47. As the escrow holder who agreed to act pursuant to specific escrow instructions to  
17 have Plaintiff NARRAWAY sign a Substitution of Trustee and Full Reconveyance in exchange for  
18 Defendant JAMES and Defendant NICOLE signing a new Deed of Trust and Promissory Note on  
19 behalf of Defendant SAPPHIRE secured by the ABBEY PROPERTY in favor of Plaintiff  
20 NARRAWAY and Keith McVaney, Defendant STEWART TITLE was an agent and fiduciary of  
21 Plaintiff NARRAWAY and Keith McVaney. As the escrow holder, Defendant STEWART TITLE  
22 was obligated to carry out the instructions of Plaintiff NARRAWAY as a party to the escrow and,  
23 as such, had a duty of obedience, diligence and loyalty to Plaintiff NARRAWAY.

24 48. Defendant STEWART TITLE colluded and/or conspired with Defendants JAMES,  
25 NICOLE and SAPPHIRE to breach Defendant STEWART TITLE's fiduciary duty.

26 49. In taking the actions set forth above, specifically, by failing to comply with Plaintiff  
27 NARRAWAY's escrow instructions, Defendant STEWART TITLE breached its fiduciary duty  
28 owed to Plaintiff NARRAWAY.



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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff NARRAWAY prays for judgment against Defendants as follows:

1. For compensatory damages in the sum of according to proof;
2. For punitive damages according to proof;
3. For interest according to proof;
4. For costs and expenses of suit herein incurred; and,
5. For such other and further relief as the court deems proper.

Dated: December 30, 2008

LAW OFFICE OF BRENDAN P. BREWER

By: 

BRENDAN P. BREWER  
Attorneys for Plaintiff  
ANDREW NARRAWAY