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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

HUDSON HEIGHTS DEVELOPMENT, LLC, :
a Limited Liability Company of New Jersey, :
and ROLANDO CRIBEIRO, individually, :

Plaintiff, :

V. :

BRIAN STACK, Individually and as Mayor :
of the City of Union City, CITY OF UNION :
CITY, UNION CITY MAYOR & COUNCIL :
UNION CITY, MARTIN MARTINETTI, :
Individually and as the Sub-Code Official :
of the City of Union City, :

Defendants. :

DOCKET NO.

CIVIL ACTION

COMPLAINT AND
JURY DEMAND

Plaintiffs, Hudson Heights Development, LLC, a Limited Liability Company of New Jersey and Rolando Cribeiro, residing at 309 39th Street, in the City of Union City, Hudson County, New Jersey, by way of complaint against the Defendants say:

INTRODUCTORY ALLEGATIONS COMMON TO ALL COUNTS

I. THE PARTIES

1. Hudson Heights Development, LLC (hereinafter “Hudson Heights”) is a Limited Liability Company formed in the State of New Jersey and the former owner of property located at 115-119 37th Street in the City of Union City, Hudson County, New Jersey.

2. Rolando Cribeiro (hereinafter “Criberio”) was one of the original purchasers of a portion of the property which is the subject matter of this lawsuit, as well as one of the principles of Hudson Heights Development, LLC, the former owner of the property located at 115-119 37th Street, in the City of Union City, Hudson County, New Jersey (the “Property”).

3. Defendant, City of Union City, (hereinafter “Union City”) with offices located at 3715 Palisade Avenue, Union City, New Jersey, is a municipal corporation and corporate body politic of the State of New Jersey, established to provide, inter alia, essential governmental services for the health, safety and welfare of all of its citizens.

4. Defendant, Union City Mayor & Council, is the governing body of the Defendant, Union City (hereinafter “Union City Governing Body”) and is authorized to pass, adopt, amend or repeal Defendant Union City’s ordinances, pursuant to *N.J.S.A. 40A:60-6*.

5. Defendant, Brian Stack, (hereinafter “Stack”) was at all relevant times cited in this Complaint the Mayor of the City of Union City. Pursuant to *N.J.S.A. 40A:60-5*, the Mayor is the chief elected representative of Defendant, Union City, and authorized to execute and enforce, with certain limited exceptions, the laws of Defendant, Union City.

6. Defendant, Martin Martinetti (hereinafter “Martinetti”), was at all relevant times to the events cited in this Complaint, the Sub-Code Official of the City of Union City.

II. JURISDICTION AND VENUE

7. Plaintiff’s claims arise, in part, under the Civil Rights Act, 42 *U.S.C.A.* Section 3601 *et seq.*, and under the Fifth and Fourteenth Amendments of the United States Constitution as incorporated to the individual States. Accordingly, jurisdiction is appropriate, pursuant to 28 *U.S.C.A.* Sections 1331 and 1343. The amount in controversy, exclusive of interest and costs, exceeds the jurisdictional amount. Plaintiff’s State common law claims are subject to the pendent

jurisdiction of this Court. Venue in this Court is appropriate, pursuant to 28 *U.S.C.A.* Section 1391.

8. Plaintiff, Criberio, at the age of 17, began working for his uncle as a helper at his uncle's carpet store, Padano Carpets, at 3406 Bergenline Avenue in Union City, New Jersey. At the time, 1980, he had recently immigrated to the United States, having survived a perilous journey from Cuba, where he spent five days on a raft, without food or water , before being rescued by the U.S. Navy.

9. Within a few years, Criberio learned the carpet trade and became a carpet installer with his own helpers. At the time, he was only 19 years of age. In 1982, he married Odalys Turucet. Two children, Dennis and Daisy were born of their marriage.

10. In 1984 at the age of 21, Criberio, with the help of his family, opened Palacios Carpet at 3813 Palisade Avenue, Union City. He was soon befriended by the then Mayor Bruce Walter, (hereinafter "Walter"), who became his mentor. By 1986, at the age of 23, Plaintiff purchased the building across the street from City Hall at 3801 Palisade Avenue in Union City, where he and his father operated both a grocery store, at that location, as well as the carpet store next door. Criberio worked up to 16 to 17 hour a day between the two businesses.

11. In recognition of his hard work, his contributions to the community, as well as the improvements he made to the property he owned, Mayor Walter appointed Plaintiff as a Commissioner to the Parking Authority. At the time, Criberio, at the age of 24, became the youngest person ever to be appointed to that board. Eventually, Plaintiff became the Chairman of the Parking Authority, a position he held through a number of administrations.

12. In 1998, Mayor Walter fell ill and was replaced by then Assemblyman Rudy Garcia (hereinafter "Garcia"). Garcia had been Criberio's personal attorney before he became

Mayor, and by virtue of their personal relationship, their similarity in age, and background – they both were refugees from Cuba – Criberio became even more involved in the community, and in particular, the Cuban immigrant community.

13. In the years that followed Plaintiff became a vital part of the community. In 1999, during the highly publicized Elian Gonzalez crisis, he was asked to travel to Florida to meet with State and local officials. From there, he travelled to Washington, DC to meet with Federal officials in an attempt to prevent the return of the young child to Cuba. In 2005, he was invited to the White House where he met President George W. Bush.

14. These events and others, were publicized in the local media, which further enhanced his reputation in the community that he served.

15. In 2000, Defendant, Stack, then a community activist ran for mayor against then Mayor Garcia. Although it was a close and hotly contested race, Garcia won that election. Throughout that period, and in the succeeding years, Plaintiff established a relationship with Defendant, Stack, whose efforts, during the campaign he both admired and respected.

16. By the year 2001, Plaintiff's flooring company had expanded into a sizable business. It was during that period – after Stack had lost the election, and was unemployed – that Stack came to see Plaintiff at his store in West New York. Although Stack was Garcia's opponent in the election, Criberio was instrumental in convincing Garcia to give Defendant, Stack, a position in Garcia's administration. On more than one occasion, then Mayor Garcia voiced his displeasure to Criberio, perceiving him, in his words, as a "protector" of Stack. A few years later in 2002, when Garcia stepped down as Mayor, Stack was selected as Garcia's replacement.

17. After Stack became Mayor, he consolidated his control of City Hall by demoting or eliminating persons who he either perceived to be or happened to be loyal to former Mayor Garcia, or who, in Stack's eyes, posed a potential threat to him. Despite his efforts on Stack's behalf, Criberio, who was on friendly terms with both Stack and Garcia, resigned as Chairman of the Union City Parking Authority. In the ten years that he held the position as Chairman, Criberio never collected a salary, or reimbursement for the vehicles he used to conduct Parking Authority business. Nor was he, at any time, provided with any financial benefits to compensate him for the service he rendered to the community. During the ten year period that he served as Chairman, he supervised the disposition of over 50 million dollars of Parking Authority funds without a whisper of impropriety.

18. By 2001, Plaintiff had attained a degree of financial success which allowed him to begin to invest in several properties in Union City and West New York. In the following two years, Criberio became a close friend of the Mayor of West New York, Silverio "Sal" Vega, ("Vega") who like Plaintiff, had emigrated from Cuba. In 2006, Mayor Vega appointed Plaintiff as the Chairman of the West New York Parking Authority.

19. In the next several years, (2002-2004) Plaintiff invested in properties located at 3611-3623 Park Avenue in Union City, 37th Street & Park Avenue and 115 39th Street in Union City.

COUNT ONE

20. In early 2005, Criberio and his friend and business associate, Medardo Perez, entered into a Contract of Sale to purchase vacant land located at 115-117 37th Street, in Union City, with the intention of building four, three family homes. Although Criberio and Perez's plan for development was modest in size and scope, it did represent a significant increase in the

number of units Criberio hoped to develop. Although his previous application to the Zoning Board (involving four and six unit projects) resulted in unanimous site-plan approval from the Union City Zoning Board), Cribiero went to see Stack to obtain his personal approval of the project.

21. Criberio's visit to Defendant, Stack, was not, in his view, ceremonial. As with his previous smaller ventures, he felt it obligatory to meet with the Mayor **before** seeking site plan approval and variance relief from the Zoning Board of Union City. Despite Criberio's long relationship with Stack, and his support of Stack's various civic causes, he took nothing for granted.

23. In his meeting with the Stack, Criberio and Perez showed the Mayor the schematics which had been prepared by C.P. Architects, the architectural firm retained by Criberio. After a review of the schematics, Stack bluntly told Criberio and Perez that the property that they had purchased on Park Avenue was particularly suited for a multi-unit development. Not only multi-unit development but high-rise development. Stack also told Criberio and Perez that he wanted not only to "increase the tax revenues in the City", but that he envisioned Park Avenue as "Union City's Boulevard East", a reference to a higher end location in a neighboring town, just blocks away.

24. Criberio and Perez left the meeting as though a bombshell had been dropped on them. They were not developers, but persons of modest resources, who had already purchased two properties that were now useless in the present state.

25. And so, given the Mayor's directive, Criberio and Perez had two significant problems. First, they did not have the financial resources to purchase the additional properties which were necessary to complete such a project. Second, they did not have the money or the

banking connections to fund the construction of such a project once the properties were purchased. And so they began to look for a partner. In due course, they entered into a partnership with Charles Gus (“Gus”) and Christopher Kalani (“Kalani”), with whose financial help, Criberio and Matardo were able to acquire four (4) additional parcels of land and to arrange for the financing of a multi-unit building.

26. Gus’s participation was critical since he not only had the financial resources but also the banking connections and the personal credit to secure financing for the proposed project. He also had the business background and acumen to assure the project’s success.

27. By mid-2005, after the purchase of the additional properties, Criberio, Perez, Gus and Kalani formed Hudson Heights, with the intention of developing the property, consistent with Stack’s directive in order to insure the project’s approval before the Union City Zoning Board.

28. For almost a year after their meeting with Stack, Criberio and Gus worked tirelessly with their experts, who would later testify as traffic experts and planners. They also retained the law firm of Alonso and Navaretto to represent Hudson Heights in its application for site plan approval and variance relief before the Zoning Board.

29. In late 2005, at a time prior the filing of their application for site plan approval, Criberio, again met with Stack with the completed architectural drawings for a 12 story, 98 unit building. Defendant, Stack seemed very satisfied with the plan presented to him and gave Criberio his unqualified blessing.

30. In December, 2005, Hudson Heights filed its application with the Union City Zoning Board for site plan approval of a 98 unit structure and variance relief.

31. The hearing of Hudson Heights’ application was held in December, 2005. INthat

hearing, the Zoning Board heard and considered the testimony of Albert Arencibin, an architect, licensed in the State of New Jersey, who was accepted as an expert in site planning and architectural design.

32. The Board also heard and considered the testimony of Christiano Pereira, a Professional Planner licensed in the State of new Jersey, who was accepted as an expert in the field of professional planning.

33. Mr. Arencibin testified that Hudson Heights had a relaxed burden of proof with regard to positive criteria” and that it did not have to reconcile the deviation with the Master Plan because the proposed plan was permitted as a multi-family residential use.

34. Plaintiff’s experts also testified that Hudson Heights met the purposes set forth in the Municipal Land Use Law, *N.J.S.A. 40:55DD-2*, which included encouraging the appropriate use and development of all lands in the state in a manner which would promote the public health, safety, morals and general welfare. By virtue of the appropriate design of this property to accommodate the building, the Applicant, so Plaintiff’s expert testified, achieved this aspect of the MLUL. Second, by providing a positive response to an emerging need for housing within Union City, the additional housing would help revitalize this area of Union City.

35. Mr. Acencibia further testified that the Applicant’s project would provide adequate light, air and open space, particularly from a physical design point of view, and especially when compared to the criteria and requirements for a D-3 conditional use variance. These improvements would also promote a desirable visual environment, by utilizing creative development techniques and good civic design. By virtue of the fact that Union City has an adequate road system and other infrastructure to accommodate a building of this size, the purposes of the MLUL would also be met.

36. The fourth special reason advanced by Mr. Arencibia was that the Applicant's project would accommodate the needs of Union City's residents by providing additional housing. He noted that there had been a recognition by the Zoning Board as reflected in its decisions over the preceding five (5) year period that there is a need for additional housing opportunities in Union City and that the proposed project supported area wide revitalization by providing new housing.

37. Mr. Arencibia also reconciled the Applicant's project, as a use variance application, with the Master Plan. The recognition of the needs for additional housing was embodied in the objectives set forth in Union City's 2000 Master Plan Reexamination Report. As such, Mr. Arencibia opined that the proposed residential project was consistent with the prior planning and zoning, particularly since this property would be completely residential.

38. On January 6, 2006, on the same day of the hearing, the Zoning Board unanimously approved by, voice vote and without debate, the application of Hudson Heights, for site plan approval and variance relief pursuant to *N.J.S.A. 40:55D-70(c)* and *N.J.S.A. 40:55D-70(d)* to build 98 condominium units on the property located at 115-119 37th Street. The approved building consisted of nine residential stories over one parking level located on the ground floor and additional parking levels located underground. The memorializing Resolution was signed on May 12, 2005.

39. An amended Resolution reducing the number of units to 96 was approved on February 9, 2006

40. Following the approval by the Zoning Board, Criberio and his associates instructed its architectural firm, C.P. Architects, located at 224 61st Street, West New York, New

Jersey, to prepare the construction drawings. Due to the size and scope of the project, this process was not completed until 2008.

41. Consequently, in December, 2006, Hudson Heights, through its attorney, requested the first of several extensions of the approvals which had been granted by the Zoning Board. On April 12, 2007, the Board granted a one year extension. A second extension was granted by the Zoning Board on May 8, 2008.

42. In due course, representatives of Hudson Heights met with Defendant, Martinetti to discuss the issuance of building permits so that Hudson Heights could begin construction. Martinetti, in anticipation of receiving complete documentation, including final construction plans, permitted Plaintiffs to begin excavation of the property, subject to his subsequent review of the architectural drawings.

43. By 2008, Criberio, Gus, Perez and Kalani had invested over three million dollars in the land acquisition phase of the project. Hundreds of thousands of dollars more were spent on revised drawings and architectural plans.

44. In addition, material changes were made from the original plan to build 96 units on the premises. By June, 2009, Hudson Heights, had altered that plan in order to qualify for the Low Income Housing and Tax Credit Program, commonly known as 86/20.

45. On June 15, 2009, Kalani wrote the Mayor advising him that Hudson Heights had decided to construct the building pursuant to the 80/20 program and asking for his “cooperation” by notifying “all appropriate city agencies of the rights the project is entitled to and the responsibilities it is subject to.”

46. Commencing in 2008, Plaintiffs had also begun the lengthy and expensive process of excavating the entire property. When excavation was completed, Plaintiffs returned to Martinetti

to obtain building permits. Although the Zoning Board had unanimously approved the project, and Martinetti had permitted Hudson Heights to commence excavation, the necessary permits to begin construction were never issued by Martinetti.

47. This began a series of lawsuits which unfolded over a period of three years, first straining Criberio, Perez, Gus and Kalani's available resources and ultimately, causing financial ruin to Hudson Heights, Criberio and Perez. Hudson Heights' losses not only included their initial \$3,000,000.00 investment in the project, but substantial additional losses of over \$3,000,000.00, which were incurred by the time Hudson Heights was forced to sell the property.

48. The losses referred to above were the direct result of Plaintiffs' inability to obtain construction permits, which compelled Plaintiffs to continue to borrow money from Mariner's Bank in order to salvage the project. By 2010, after a mountain of litigation to compel the issuance of permits, it had become clear to the principles of Hudson Heights that there were forces at play, unknown to them, which would continue to prevent them from ever obtaining permits.

49. By this time, Gus and Perez had concluded that Criberio, was, in one way or another, the cause of their plight. Gus was uncertain whether Criberio had secretly conspired with others to "steal" the project or whether there were other persons who were involved and what their objectives might be. Gus considered Martinetti's possible involvement in the scheme to divert the project to others, but could not reasonably reconcile that view with Martinetti's authorization to permit him to proceed with excavation. Nothing made sense to Gus.

50. Gus ceased all communications with Criberio in **2010** and did not speak to him again until October, 2014, after Criberio learned the true cause of the project's demise Criberio called Gus to arrange a meeting.

51. As Criberio's financial condition worsened, his depression deepened and his life began to spiral out of control. As early as 2008, Criberio began to feel the strain of financial duress when construction was post-poned. Clearly, Criberio was unprepared for the delays which were not unusual in such a large scale project.

52. In mid-March, 2010, Criberio was admitted to the psychiatric unit at Hackensack Medical Center. It was during this time that his wife, fearful that their son would see him in a state of complete despair when he returned home, brought his clothes and personal belongings to his mother's house.

53. Criberio never returned to his home in Hillsdale after his release from the hospital in 2010. After his second hospitalization, his wife divorced him and later remarried. By 2010, all that remained of Criberio's former life were faded memories of what was. In June, 2010, one of the investors in Hudson Heights, Abel Hernandez, although not a named member of Hudson Heights, who also had lost everything, came to Criberio's office with a gun and threatened to shoot himself in Criberio's presence.

54. In May, 2013, Criberio was arrested for giving a bank officer a free rental apartment and \$6,000 in exchange for the bank officer extending his line of credit, an act of stupidity stemming from Criberio's fear that bank financing would be withdrawn.

55. Because of his community ties, the federal agents in charge of the case attempted to use Criberio as a source of further arrests in Union City. One of their potential targets he was told, was the Mayor of Union City himself, who Criberio felt an obligation to protect.

56. On February 16, 2014, Criberio pled guilty to the federal offense of bribery. He was sentenced in the Federal District Court by the Honorable Peter Sheridan to five months in the Metropolitan House of Detention in Brooklyn. He served his sentence and was released from

prison on July 16, 2014. Upon his release, Criberio began six months of community service at Holy Family Church as a condition of his release.

58. On February 12, 2014, several days prior to his incarceration, Criberio received a call from Stack who commiserated with him about the tragic turn of events in his life. Criberio told Stack he was very appreciative of him taking the time to call. Stack also told Criberio that he needed someone with “roots” in the Cuban community, and that if he needed a job after he was released from prison, he would hire him on his staff. Given the implications of such an offer – hiring a soon-to-be convicted felon for a high profile job – Criberio was truly touched by the boldness and generosity of the Mayor’s offer to him. In the same conversation, Stack, in responding to Criberio’s separation and divorce from his wife, also mentioned that when he was out of jail he would fix him up with “a friend of Mercedes”, Stack’s girlfriend. About a month earlier,(in January, 2014) Criberio had encountered Stack during a snow removal effort on Bergenline Avenue, in Union City, where they engaged in some small talk, shook hands and parted as friends. On neither occasion, did Criberio have any idea why the Mayor was so friendly or the reasons for the Mayor’s extending a helping hand to him. That reason only became clear as events unfolded, after his release from prison.

59. Upon his release from prison on July 16, 2014, Plaintiff was a broken man. Everything he had worked for over the past 30 years was gone: his home, his family, his reputation in the community, his business and all his financial resources. Even more crippling than his own financial ruination was the responsibility he felt for the loss of everything his partners had worked for - their life savings, their homes, their grand-children’s educations – all of it – gone.

60. In early September, 2014, about two months after Plaintiff's release from prison, while consulting an attorney, Louis Zayas (hereinafter "Zayas") on an unrelated matter (involving a grievance against a clothing store), Zayas mentioned to Criberio that he had represented a Board of Adjustment attorney, Mateo Perez, (the son of Mateo Perez, from whom Criberio had now been estranged for over four years) in a case against Stack. Zayas told Criberio that Perez told him about a conversation Perez had with Stack, his former boss. In that conversation, at a time when Perez was the attorney for the Board of Adjustment, and Martin Martinetti was the Chief Code Official, Stack told Perez that he would "destroy" Criberio and everybody associates with him.

61. At that point, Criberio asked Zayas for a copy of the Complaint that Zayas had filed on behalf of Perez. Sure enough, the Complaint contained a statement by Perez about a conversation he had with Stack in October, 2010, in a restaurant where, according to Perez, Stack expressed his belief that Plaintiff was behind an incident which had occurred at an outdoor event in April or May of that year when an "unknown person" according to the Complaint filed by Zayas "flew an airplane over the event, trailing a banner about Mayor Stack's sex exploits, high crime and high taxes, lies and cheating the public."

62. Just as Zayas said, according to the Perez Complaint, Stack said that he would "destroy" Criberio and "everyone around him." Perez's Complaint further stated that **after** that conversation, "Stack prevented Plaintiff's father from obtaining a certificate of occupancy for a closing on a building that Plaintiff's father was selling, causing Plaintiff's father to lose about one million dollars."

63. Criberio did not need to put 1 + 1 together to make 2. He immediately knew that Mako Perez, Sr. lost everything in their venture. What he did not know was that the Mayor by

virtue of his connection with Martinetti conspired with Martinetti to assure the destruction of Hudson Heights.

64. Criberio responded to Zayas in shock and disbelief. For years, he could not understand how the project the Mayor had demanded be built had withered and died without the issuance of building permits. “Could”, he asked Zayas, “the Mayor have really done this? Could he really have been so petty as to destroy my life by telling Martinetti not to issue permits” – after the Mayor insisted that we alter our plan to build four three family units and turn the project into a multi-unit building? And after he and Perez had exhausted their life savings – and did everything the Mayor told them to do? Could the Mayor really have cut them off at the knees?

65. When Criberio left Zayas’ office, he spent several days pondering how it was possible that the Mayor, who was informed every step of the way of the project’s development, and consistently gave his blessing to the project, (especially when the project was altered in 2009 to provide low and moderate income housing to the area’s residents), could have set out to destroy him and his associates - people who were completely innocent of any wrongdoing, because the Mayor wrongfully assumed that Plaintiff had embarrassed him? His own life in ruins, Criberio now swore to himself that he would get answers.

66. In late September, Criberio made two telephone calls. First to Matardo Perez, formerly a close personal friend, whom he had not spoken to in over four years, and from whom he had separated on very unhappy terms after Perez had lost his life savings,, and had attributed the cause of his financial ruin to lie at Criberio’s doorstep.

67. The second call was made to Gus, who was also estranged from Criberio, and had been for over four years. Until Criberio was sentenced to prison, Gus had harbored a deep

suspicion that Criberio was somehow implicated in the disaster which had resulted in losses of over \$3,000,000 to Hudson Heights.

68. Criberio told Gus about his conversation with Zayas, about the lawsuit which had been filed, and, in particular, the statement of the Board of Adjustment attorney that the Mayor had threatened to destroy him and everyone around him. Gus's first response to Criberio was that – he was relieved to know that he was not insane – that all of his nightmares about unknown forces in the universe which had conspired against him had a simple logical source – a person in a position of power with the most banal of motivations, who abused his power in order to destroy another person and everyone around him, because “he was personally offended by a banner.”

69. For years, Gus had tried to salvage the project, not only investing an enormous amount of time and energy in the project, but millions of dollars of his own money. All to no avail. And now he found out why.

70. Gus recalled the indignity of being forced to sell the Hudson Heights property and watch the buyer, submit virtually the identical plans to Martinetti that Hudson Heights had worked years to complete, plans that were accepted by Martinetti. And now, he learned it wasn't even “politics”, but “pettiness.”

71. Criberio, for his part, always knew that Stack micromanaged every phase of development of real estate in the City of Union City. He also knew from personal experience, that Stack viewed the City of Union City as his personal fiefdom.

72. On September 26, 2014 after he had spoken to Gus and Perez, Criberio reached out to Ralph Lieber (hereinafter “Lieber”), who, he recalled, had his own run-in with the Mayor. From his conversation with Lieber, he learned that Lieber was one of the principals in a lawsuit entitled *Palisades Towers, LLC, et al vs. Brian Stack, et al.*, which had been filed in the United

States District Court in Newark. In that lawsuit, Lieber and his associate, Patrick Chen, had accused Stack of sabotaging their application for site plan approval before the Union City Zoning Board. They (Lieber and Chen) had, according to the lawsuit, conducted a detailed inquiry into the decisions of the Union City Zoning Board and had found that “all Zoning Board decisions were predetermined and subject to the control of Mayor Stack.”

73. In their lawsuit against the Mayor, Lieber and Chen had alleged that members of a municipal agency, the Zoning Board, betrayed the public trust and breached their sworn duties in order to advance the Mayor’s private agenda. They alleged that those members simply raised their hands when they were told what to do and never even bothered to ask “whose interest am I representing.” Finally, they contended that the Mayor subverted the public interest and sabotaged the zoning process, by stripping its members of the independence which was the cornerstone of public service.

74. In their attempt to prove these allegations, Lieber and Chen first obtained information relating to the donors of the Defendant, Mayor’s, various campaigns for reelection and his various political action committees and civic associations that generated substantial income on his behalf. They then cross-checked the list of donors to those organizations against the decisions of the Zoning Board to see whether any of the successful applicants before the Zoning Board had made donations to those organizations. The results of Lieber and Chen’s investigation were striking and virtually dispositive on the issue of whether the Mayor was peddling his influence. With very few exceptions, **all** successful applicants before the Zoning Board had made substantial donations to Defendant’s reelection campaigns or his political action committees – in most cases within months of the decisions before the Zoning Board.

75. From Criberio’s review of Lieber’s lawsuit against the Mayor, and his

communications with Lieber, the conclusion Lieber had drawn was that Stack controlled all Zoning Board decisions, had been corroborated by at least two former members of the Zoning Board in testimony taken under oath in separate legal proceedings. In the matter of *New Jersey Schools Construction Corp. v David Lopez*, Docket No. L-6174-04, John Medina, a former member of the Zoning Board, together with other members of the Zoning Board, voted to approve the Lopez application (the subject matter of the lawsuit) for site plan approval on September 11, 2003. In Medina's deposition in the lawsuit instituted by the New Jersey Schools Construction Corporation against David Lopez, Medina testified that the Lopez zoning application was pre-determined and in fact, directed by Martinetti, who was acting on behalf of Mayor Stack. Medina also testified that "maybe an hour before the meeting, the Mayor "would tell me how to vote". That was "always the case". I was there for "several years". When I first started, Brian would tell me, you know what to vote on in the agenda." He would hand write it on the agenda".¹ After Martinetti became the construction code official, Mayor Stack would say "just listen to Marty."

76. The Lopez case was instrumental in showing the interplay between Martinetti, the Mayor and the Zoning Board. In Lopez, the applicants (Lopez and his family) owned a parking lot which was vacant for 12 ½ years. It was valued at approximately \$350,000. With the acquiescence (if not the active misfeasance) of the Zoning Board, the lawsuit alleged that the applicants were able to purposely inflate the value of their property, forcing the taxpayers to pay over a million dollars **more** for the property that it was actually worth. The Lopez' were substantial contributors to the Mayor's various campaigns and as Medina's deposition testimony showed, his application was approved by the Zoning Board at the direction of the Mayor.

¹ Sometimes, if the Mayor wasn't certain as to what he wanted to do, he would write "T" (for table) alongside of the application.

77. The Zoning Board heard the Lopez Brothers' variance application on September 11, 2003. As detailed in David Spatz's August 8, 2003 memo to the Board, the application required ten (10) variances, including a use variance, a parking variance and numerous bulk variances. The only witness who testified on behalf of the application was the Lopez Brothers' architect, Alan Feld. Feld testified that he was testifying as an architect, not as a planner. Thus, there was no testimony offered from a licensed planner to explain why both a use variance and numerous bulk variances should be granted. The transcript of the hearing was stark evidence of the perfunctory manner in which the application was presented, reviewed and approved. The transcript (referred to in the litigation against Stack), revealed that little to no testimony was provided as to **why** most of the variances were requested, much less needed – other than to fulfill the Lopez Brothers' desire to develop every square inch of the previously vacant lot with a non-permitted use that was not inherently “beneficial,” a standard requirement for approval in such cases.

78. In reviewing Lieber's complaint and the deposition testimony take in his case, Criberio was particularly struck by the testimony of Ramiro Franco, a former member of the Zoning Board from June, 2000 to June 2003, who mentioned in his Certification the corrosive interplay between the Mayor, Martinetti (acting in his capacity as the Construction Code Official) and the Zoning Board. Franco stated as follows:

“4. While I was a member of the Zoning Board, Mr. Martinetti would inform us how to vote on applications, and agendas would be brought into the meetings with predetermined decisions that would then be followed by the Board. After being appointed to Construction Code Official, Mr. Martinetti continued to attend Zoning Board meetings. He would meet with members of the Zoning Board prior to the meeting, and predetermined agendas continued to be brought into the Zoning Board meetings.

5. It was always that the predeterminations regarding applications

before the Zoning Board were made by Mayor Brian Stack. In fact, if there was any uncertainty about how to vote on an application, the Zoning Board would wait for a decision from Mayor Stack and/or Mr. Martinetti before proceeding.”²

79. To Criberio, the implications stemming from Lieber’s investigation, including the testimony of two former Zoning Board members, Medina and Franco, was devastating and far-reaching. Simply stated, Criberio now recognized that both the approval process before the Union City Zoning Board, as well as the process of obtaining permits, which presumably was the province of Martinetti, were jointly directed and choreographed by both the Mayor and Martinetti.

80. While Criberio knew that potential contributions were funneled to the Mayor’s various campaign chests and political action committees and civic causes, his own experience as Chairman of the Parking Authority was very positive, with members exercising their independent civic responsibility. He did not know, and was, therefore, surprised to learn, that members of the Zoning Board were simply surrogates for the Mayor, who sleepwalked through their duties. As to why their allegiance was not to the citizens of Union City, but to its Mayor, and as to why they were nothing more than the collective echo of the Mayor’s every whim, he later learned that in most cases, it was about serving to preserve their jobs.

81. Simply put, Criberio now knew Board approvals and permits are for sale in Union City. He knew that developers who contributed to the Mayor’s various war chests were rewarded with unanimous decisions for their projects, despite the fact that they may not have satisfied any of the Board’s stated criteria for approval. Through the creation of the Mayor Brian

² Ramiro Franco, in the lawsuit entitled Palisades Towers, LLC, et al vs. Brian Stack, et al., provided the Plaintiff in that lawsuit with a copy of a 2001 Zoning Board Agenda. On the agenda sheet, there were applications for Zoning Board approval which are marked T, which stood for “table”. (Mr. Franco indicates that the T means have the matter adjourned until the Mayor decides what to do).

Stack Civic Association, (hereinafter the “Civic Association”), Defendant had created a culture, the primary purpose of which was to promote, protect and maintain his political power in Union City, the 33rd District in particular, and in Hudson County politics in general. Those few dissenters who refused to “play the game,” like Lieber and Chen, or those not savvy enough to even know the game is being played, risked almost certain rejection. He also now knew that Martinetti was Stack’s agent, his instrument to implement his will, and in particular, his will that Hudson Heights would never be issued the necessary permits to construct the building that was approved by the Zoning Board.

82. This lawsuit alleges that the Mayor unlawfully and vindictively retaliated against Hudson Heights, Criberio, and by association, Perez, Gus and Kalani, with his willing ally, Martin Martinetti. Stack did so because he wrongly assumed Criberio had orchestrated an event, which embarrassed him in the eyes of the public. As a Mayor who famously stated “this is my city” such an act was not to be tolerated.

83. Hudson Heights, Criberio and the other principals, are not alone in their claim of retaliation by Stack. Other lawsuits have been filed against Mayor Stack, which allege that Defendant, Stack, harassed and retaliated against city employees who have supported his opponents, or who have refused to make monetary contributions to his political action committees, generally called “Gala Events” which involve the sale of tickets to raise money for his campaign.³ In *Chasmera v The Union City Board of Education*, for example, it was alleged that Ms. Chasmera was denied tenure after three years of impeccable performance. Why? Ms. Chasmera alleged that one of her relatives was campaigning for Mayor Stack’s opponent at the same time that she failed to make contributions to the Stack campaign.

³ Most of the lawsuits involve civil rights violations, the Law Against Discrimination or tort defamation cases.

84. In *Perez v. Stack*, Mateo Perez filed a lawsuit in the Superior Court in Hudson County, New Jersey, claiming that he was terminated from his position as Union City Library Attorney at the direction of the Mayor as a direct result of his exercise of his right of “freedom of speech and political association.”

85. These lawsuits and others including an action against who was arrested at the order of the Mayor, have established a pattern in the City of Union City, a pattern that shows that any presumed wrong against the Mayor has consequences, be they loss of a job, or the destruction of a life – or many lives.

COUNT ONE

86. Plaintiffs repeat and reallege each of the allegations contained herein and incorporate same as if set forth at length.

87. The denial of Plaintiff, Hudson Heights’ continued requests for the issuance of construction and other necessary permits was the direct and proximate result of unlawful interference by the Mayor of the City of Union City, in violation of his oath of office, in conspiring with, instructing and/or inducing Martinetti to disapprove Plaintiffs’ application for permits, in a deliberate and calculated manner, designed to deprive Plaintiffs of the equal protection of the law in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, the due process clause of the United States Constitution.

WHEREFORE, Plaintiffs demand judgment as follows:

- (a) Actual and compensatory damages in the amount of \$2,700,000.00;
- (b) consequential damages;
- (c) punitive damages, equal to five times the award of compensatory damages, pursuant to N.J.S.A. 2A:15-5.9;

- (d) counsel fees;
- (e) costs of suit; and
- (f) such other and further relief as the Court deems appropriate.

COUNT II

88. Plaintiffs repeat and reallege the allegations contained in this Complaint and incorporate same herein by reference as if set forth at length herein.

89. Defendants, Stack and Martinetti, by their unlawful conduct, were the active and primary cause of Plaintiffs' injuries which include substantial financial losses resulting from the rejection of the application of Hudson Heights for the approval of permits.

90. By virtue of their conduct, their violation of their oaths of office, the indiscriminate retaliation against persons who Mayor Stack perceived to be political enemies, Plaintiffs have been deprived of their civil rights under Article I of the New Jersey Constitution, which requires that all persons similarly situated be treated alike and that no state or a subdivision shall deny the equal protection of the laws to its citizens.

91. As a result of Stack and Martinetti's conduct, Hudson Heights sustained economic losses of over \$6,000,000 and future losses representing the fair and reasonable profits Plaintiff, Hudson Heights, would have obtained, but for the unlawful conduct of Defendants.

WHEREFORE, Plaintiffs demand judgment as follows:

- (a) Actual and compensatory damages in the amount of \$6,000,000.00;
- (b) consequential damages;
- (c) punitive damages, equal to five times the award of compensatory damages, pursuant to N.J.S.A. 2A:15-5.9;
- (d) counsel fees;

- (e) costs of suit; and
- (f) such other and further relief as the Court deems appropriate.

COUNT THREE
Violation of the Civil Rights Act

92 Plaintiffs repeat and reallege each of the allegations herein and incorporate same by reference as if set forth at length.

93 The unauthorized conduct of Stack and Martinetti was taken pursuant to the exercise of the governmental duties under the color of state law within the meaning of 42 *U.S.C.* §1983 resulting in the deprivation of both Federal and Constitutional rights, and as a result, Stack and Martinetti and the City of Union City, are liable to the Plaintiffs under that section of the law.

WHEREFORE, Plaintiffs demand judgment as follows:

- (a) Actual and compensatory damages in the amount of \$6,000.000.00;
- (b) consequential damages;
- (c) punitive damages, equal to five times the award of compensatory damages, pursuant to N.J.S.A. 2A:15-5.9;
- (d) counsel fees;
- (e) costs of suit; and
- (f) such other and further relief as the Court deems appropriate.

COUNT FOUR
Tort Claims Act

94. Plaintiffs repeat and reallege the allegations contained in this Complaint and incorporate same herein by reference as if set forth at length.

95. By conspiring with Martinetti to deprive Plaintiffs of their right to permits,

Defendant has committed egregious misconduct beyond the scope of his employment, and has forfeited his immunity from liability conferred by *N.J.S.A. 59:3-5*.

96. By reason of such wanton and willful misconduct, Defendant, Stack, with knowledge of existing conditions and conscious from such knowledge that financial injury would likely or probably result from his conduct, and with reckless indifference to the consequences, consciously and intentionally committed a wrongful act in violation of his sworn duties, thereby producing an injurious result.

97. Consequently, Defendant is liable for damages under *N.J.S.A. 59:3-14* of the tort Claims Act.

WHEREFORE, Plaintiffs demand judgment against Defendant as follows:

- (a) Actual and compensatory damages;
- (b) consequently damages;
- (c) punitive damages equal to five times the amount of compensatory damages awarded, pursuant to *N.J.S.A. 2A:15-5.9*;
- (d) counsel fees;
- (e) costs of suit; and
- (f) such other and further relief as the Court deems appropriate.

COUNT FIVE
Intention Infliction of Emotional Distress

98. Plaintiffs, Cribiero and Hudson Heights, repeat and reallege each of the allegations contained in this Complaint and incorporate same herein as if set forth at length.

99. Stack's extreme and outrageous conduct, in first inducing Cribiero and Hudson Heights to seek approvals for a 98 unit project and then sabotaging their collective efforts, was beyond the bounds of decency and intolerable in a civilized community. Stack was motivated by

both malice and pettiness with the avowed intent to “destroy” Criberio and “anyone associated with him.” His actions were the direct and proximate cause of severe emotional distress suffered by Criberio, over a period of four years, resulting in his hospitalization in a psychiatric institution on two separate occasions, requiring continuing medication and therapy for years thereafter.

100. Ultimately, Defendants’ conduct resulted in the loss of Criberio’s family, his home, his friends, his associates and his reputation leading ultimately to his financial ruin.

101. In particular, his former wife, deposited all his worldly possessions at his mother’s one room apartment in 2011 at 1954 37th Street, North Bergen, New Jersey so effected was she by Plaintiff’s Criberio’s change in behavior. To this day, Criberio never returned to his former residence where his former wife resides with her husband, who she married after she divorced Plaintiff in 2012.

WHEREFORE, Plaintiff, Criberio, sees judgment against Defendants as follows:

- (a) compensatory damages,
- (b) punitive damages equal to five times the amount of compensatory damages awarded, pursuant to N.J.S.A. 2A:15-5.9,
- (c) attorneys’ fees, interest and costs of suit.

COUNT SIX
Civil Conspiracy

102. Plaintiffs repeats and realleges each of the allegations contained in this Complaint and incorporate same herein as if set forth at length.

103. Plaintiff, Criberio alleges that Stack and Martinetti engaged in conduct which constitutes a civil conspiracy. Specifically, Stack and Martinetti wrongfully agreed, between themselves, to commit an act by unlawful means, designed to inflict an injury upon Criberio, and

his associates.

104. Defendants are jointly liable for their wrongdoing and the resultant damages caused by them.

WHEREFORE, Plaintiff Criberio seeks judgment against Defendants jointly and severally and in the alternative for:

- (a) compensatory damages,
- (b) punitive damages equal to five times the amount of compensatory damages awarded, pursuant to *N.J.S.A. 2A:15-5.9*,
- (c) attorneys' fees, interest and costs of suit.

On or about 2004, my business partners and I acquired a property at 315 Manhattan Ave UC, NJ which was Former Mayor Bruce Walter's residence. At the time of seeking approval for that project I approached Mayor Stack with the idea of building a small monument in Mayor Bruce Walter's honor being that this was his house. Even though Mayor Walter was deceased for many years, Mayor Stack was very adamant he said that if I proceeded my approvals with any type of recognition he would make sure I would not get any approval for the project. When the project was completed without any type of recognition to the former Mayor it was a total success until this day it is one of the most well built and exclusive buildings in the city. Mayor Stack at some point asked me for him to have access to this building to show other developers as an example to use to develop in other parts of the town. From he asked me that he wanted to live in one of the apts, and in that pursuit he applied pressure on me , he wanted to live one of the condo units. Since some of those condo's were sold for over \$900,000.00 my attorney Alvaro Alonso came to the conclusion that he would never qualify to be able to live in that building. When I told him it was impossible to accommodate his needs to live there he suggested to me to sell him a unit a lower price. Again I went back to my attorney and to the banker that was holding the construction loan on the building, Michael D. Nofrio. They both agreed that selling a unit a lower price to him would have been detrimental to the other buyers in the building.

On or about 2007 Mayor Sal Vega of the town of WNY and Mayor Stack, found themselves seeking the same position as the state Senator for the 33rd District in the state of NJ. This was beginning of the nightmare that became my life. Even though for all those years, I was always

accommodating Mayor Stack's wishes, now because my main office was in WNY, and the Mayor of WNY was my friend and fellow Cuban something that it applied for the US Senator Menendez and US Congressman Albio Sires and Former Mayor Rudy Garcia now Mayor Stack perceived me as a person on the other side of the fence. Instead of asking me for favors or money, he would send the zoning board members to pick up bigger checks letting me know in a non-subliminal way something that I already knew. That he had total and absolute control over those boards. At the time that both men were seeking the same office, Mayor Stack was perceiving me as an ally and supporter of Mayor Sal Vega and that put me and my partners in a very bad position being that the majority of our savings and our credit lines were invested in Mayor Stack and Union City at his advice. Seeking peace between these two Mayors, and in the best interest of myself and my partners we had a meeting one Sunday afternoon in my house. In attendance was, Mayor Stack, Mayor Vega, Mayor Turner, Congressman Albio Sires, US Senator Robert Menendez and business man and closest adviser to Mayor Stack, Mr. Tony Hector. In that meeting peace was made between Mayor Stack and Mayor Vega, and I was able to translate to my partners who were completely innocent to this situation aware that a true agreement was reached between these two Mayors and that our investments in Union City were for the time safe.

On or about that time period one of the biggest high schools in the state of NJ was built on the former location which was Roosevelt Stadium. This was a project that cost over \$250 Million with a football field on top of the school. The inauguration of this event was immeasurable magnitude to Mayor Brian Stack. Since so much was riding on the completion of this project and everyone from Congressmen, Senators to Governors were in attendance on the football field

of the high school. For more than 3 hours that the inauguration took place at the precise moment when they started to announce all the dignitaries a small airplane was flying over with a banner attached stating that Brian Stack was corrupt and hired taxes. Something that infuriated him so much so that he lost total control of the event. At the time that this took place I was on vacation with my family in Brazil. One of Mayor Stack's advisor and close friend Tony Hector, called me on my cell phone and advised me that the Mayor was furious with me and that he was blaming me for this embarrassment and what had taken place. This was a tremendous problem for me, a life and death problem because I was aware that by he being angry with me, this would be a death sentence financially to my partners and myself. The next day I gathered my family together and flew back to the US on the next available flight.

When the plane landed in Houston TX I called Tony Hector, Mayor Stacks advisor and advised him that I was back in the US and that I wanted to clarify this situation immediately. Four hours later, as my flight was landing in Newark International Airport as soon as the pilot allowed access to cell phones my phone rang and it was Mayor Stack. I guess he had been calling me for hours. The conversation took what to me felt like hours. it was one sided, him yelling and screaming at me that he would not stop until he destroyed me, my partners and my family. He accused me of betraying him and of paying for that plane. That evening and many after that this conversation played in my head. That same day I reached out for Senator Menendez and explained to him the situation I reached out for Medardo Perez and also explained the situation. Since my other partners were out of state people I didn't want to alarm them of the gravity and the embarrassment that I felt after doing so much for this man for so many years to be put in this situation.

Since I was well aware of how vindictive and dangerous Stack was, and not only having my life but my partners lives in his hands this situation sent me to the hospital twice, I was hospitalized, I became suicidal and I was on medication along with extensive therapy years after that. I hired a consultant David Mademeir who was a pilot, and an ex elected official and a man of the upmost integrity to try to find out who had paid for this. Since he explained to me that he was going to find a flight log for that plane it should not have been an issue, but after spending thousands of dollars he was not able to tell me anything about the plane.

A short time after that US Senator Robert Menendez at my request arrangement a meeting with then Mayor/Senator, Mayor Vega, Merardo Perez and myself at the "W" Hotel in Hoboken, NJ. In that meeting after an hour or so Brian Stack agreed with us that he was not going to pursue in any of threats to me or to anybody else in town. For a few years after that our project in Union City for one reason or another permits were never issued, causing financial ruins for myself and my partners since we had invested over \$6 Million dollars and borrowed another astronomical amount of money. As a result of not being able to obtain construction permits my partner and I kept borrowing money from Mariners Bank. In this stage of anxiety, I was treated by Dr. Gerald in Hackensack Hospital (psychiatric ward) more that once. During that period of time, my wife divorced me and I lost my family and my relationship with my children has never been the same. During that period of time without being able to obtain construction permits and no where to go, I committed a Federal Crime of bribing a banker at Mariners Bank Joseph Dominguez by giving him a free rental apartment and \$6,000.00 cash for the purpose of extending the construction line and the loan one more year. This culminated in being charged

by the United States of America, Federal Bureau of Investigation for bribing a bank officer. This culminated with the total destruction of my life as I knew it for the last 30 years. Once I was charged and since I always have been a law abiding citizen and an admirer of this country I took responsibility for my actions and pleaded guilty to the charges which resulted in jail sentence of 5 months which I did at Metropolitan Detention Center in Brooklyn, NY where I was a model visitor and never got into any issues even though it was an extremely dangerous place.

My last contact with Senator/Mayor Brian Stack was early February of this year where we spoke on the phone for a few minutes, and he offered me a job once I completed my prison sentence.

21. In 2007, as Criberio prospered, he and his family moved to Hillsdale, New Jersey, into a three bedroom, single family home.

31. For his part, Criberio took nothing for granted – notwithstanding his long and mutually beneficial relationship with Stack. Even during the period of time when the properties were acquired, Criberio and his partners continue to support Stack’s various civic projects they included Criberio donating a Grand Piano to the Music and Art Classrooms in one of Union City's, newest schools.

32. Criberio’s financial support to the Mayor’s projects extended, on one occasion, to helping a young Dominican student with special needs obtain a computer. The value of this particular computer was over \$3,000.00. For a reason unknown to Plaintiff, the computer could not be sold, but only leased from the manufacturer. Although Plaintiff resisted entering into a long-term lease at that time, Defendant, Stack, called him, pleading with him to “get this thing done.” Defendant, Stack, also told Plaintiff he was “going to have a ceremony with the Dominican Community, awarding the computer to the student.” Criberio acquiesced, acquired the computer and sent it to Defendant, Stack.

