

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MARILYN JACOBS individually, and MARILYN JACOBS and MICHAEL JACOBS as TRUSTEES OF THE SHAYA JACOBS IRREVOCABLE TRUST and as TRUSTEES OF THE JACOBS FAMILY TRUST, and JOSHUA JACOBS d/b/a JFE,

Plaintiffs,

-against-

APPLE BANK OF SAVINGS,

Defendant.

Index No.

Date Filed: October 2, 2017

Summons

Plaintiffs designate New York County as the place of trial.

Basis of Venue: Plaintiff's Residence

Plaintiff(s) Residence: Michael Jacobs, 334 West 86th Street, Apt. 6A, New York, NY 10024

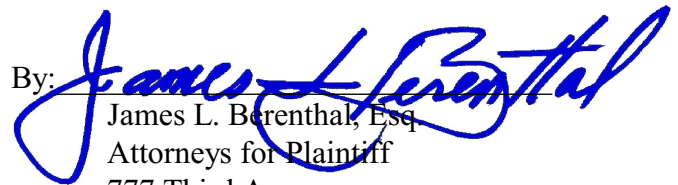
JURY TRIAL DEMANDED

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to serve upon plaintiff's attorney an answer to the complaint in this action within twenty days after the service of this summons, exclusive of the day of service or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
October 2, 2017

BERENTHAL & ASSOCIATES, P.C.

By: 

James L. Berenthal, Esq.
Attorneys for Plaintiff
777 Third Avenue,
Suite 22D
New York, New York 10017
(212) 302-9494

To: Apple Bank of Savings
122 East 42nd Street
New York, NY 10168

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MARILYN JACOBS individually, and MARILYN JACOBS and MICHAEL JACOBS as TRUSTEES OF THE SHAYA JACOBS IRREVOCABLE TRUST and as TRUSTEES OF THE JACOBS FAMILY TRUST, and JOSHUA JACOBS d/b/a JFE,

COMPLAINT

Plaintiffs,

INDEX NO.

-against-

APPLE BANK FOR SAVINGS,

Defendant.

Plaintiffs, MARILYN JACOBS individually, and MARILYN JACOBS and MICHAEL JACOBS as trustees of THE SHAYA JACOBS IRREVOCABLE TRUST and as trustees of THE JACOBS FAMILY TRUST (hereinafter “Jacobs Trust”), and JOSHUA JACOBS d/b/a JFE, by and through their attorneys, Berenthal & Associates, P.C., complaining of the Defendant, APPLE BANK FOR SAVINGS (hereinafter “Defendant” or “Apple Bank”), respectfully allege:

INTRODUCTION

1. Plaintiffs were damaged when monies were stolen from them through a Ponzi scheme that was carried out by an Apple Bank Vice President (V.P.) and manager within Apple Bank for over more than thirteen years. Supervision and compliance at Apple Bank were grossly inadequate, if not entirely absent. Throughout this time, the V.P. was given free rein to create forged documents, fictitious accounts and unauthorized transactions. Plaintiffs themselves finally uncovered the scheme and brought it to Apple Bank’s attention. This lawsuit is necessary because, despite repeated requests, Apple Bank has failed and refused to provide full disclosure of the details of the scheme and to make Plaintiffs whole for their losses.

THE PARTIES

2. At all times hereinafter mentioned plaintiff, Marilyn Jacobs was and is a natural person with an address at 1441-48th Street, Brooklyn, NY 11219.

3. At all times hereinafter mentioned plaintiff, Michael Jacobs was and is a natural person with an address at 334 West 86th Street, Apt. 6A, New York, NY 10024.

4. At all times hereinafter mentioned plaintiff, Joshua Jacobs was and is a natural person with an address at 17 Highland Drive, South Fallsburg, NY 12779 and does business under the name JFE.

5. At all times hereinafter mentioned plaintiff, the Shaya Jacobs Irrevocable Trust (hereinafter the “Shaya Trust”), was and still is a trust, duly organized and existing under and by virtue of the laws of the State of New York.

6. At all times hereinafter mentioned plaintiff, the Jacobs Family Trust (hereinafter the “Jacobs Trust”), was and still is a trust, duly organized and existing under and by virtue of the laws of the State of New York.

7. At all times hereinafter mentioned Marilyn Jacobs and Michael Jacobs were the trustees of the Shaya Trust.

8. At all times hereinafter mentioned, until September 2003, Michael Jacobs and Alexander Jacobs were the trustees of the Jacobs Trust. In September 2003, after the death of Alexander Jacobs, mentioned Marilyn Jacobs and Michael Jacobs were the trustees of the Jacobs Trust.

9. At all times hereinafter mentioned Defendant, Apple Bank, was and is a domestic

corporation formed and existing under the laws of the State of New York.

10. At all time hereinafter mentioned, Defendant, Apple Bank was and is a Mortgage Exempt Loan Services and Savings Bank, licensed and existing under the laws of the State of New York.

11. At all times hereinafter mentioned Apple Bank maintained an office at 122 East 42nd Street, New York, New York, located in New York County, City and State of New York.

12. At all times hereinafter mentioned, Defendant Apple Bank maintained its principal place of business in New York County, City and State of New York.

VENUE AND JURISDICTION

13. Venue is proper pursuant to C.P.L.R. §503 as Michael Jacobs is a resident of New York County and the Defendant's principal place of business is in New York County.

14. Jurisdiction is proper as the amount in controversy exceeds \$25,000.00 for each plaintiff.

ALLEGATIONS RELEVANT TO ALL CAUSES OF ACTION

15. At all times hereinafter Mentioned, Apple Bank operated a branch at 4519 13th Avenue, Brooklyn, New York.

16. At all times hereinafter mentioned Apple Bank employed Michael Benenfeld (hereinafter "Benenfeld") as a Vice President and manager at its 4519 13th Avenue, Brooklyn, New York location.

17. In or around 2001, Benenfeld, in his capacity as V.P. at Apple Bank, approached Joshua Jacobs, Marilyn Jacobs and Alexander Jacobs and recommended that they open one or more

accounts at Apple Bank for themselves, and that Marilyn Jacobs open one or more account at Apple Bank for the Shaya Trust and that Alexander Jacobs open an account at Apple Bank for the Jacobs Trust. Benenfeld represented that he would act as Apple Bank's liaison to Marilyn Jacobs and Joshua Jacobs for their banking needs.

18. Thereafter, in response to Benenfeld's recommendation, and in reliance on his representations, Marilyn Jacobs opened a savings account at Apple Bank for herself, individually, and for the Shaya Trust. Alexander Jacobs, in reliance on Benenfeld's representations, together with Michael Jacobs, opened a savings account at Apple Bank for the Jacobs Trust.

19. Plaintiff Marilyn Jacobs and her late husband purposely chose not to place their money into investment accounts. Instead, they chose to use regular savings accounts, where they reasonably expected to have the greatest degree of safety for their money. That is why they chose Apple Bank.

20. On or about 2002, Joshua Jacobs opened an account for his business, JFE, at Apple Bank.

21. Beginning in 2001 Marilyn Jacobs, and her late husband deposited millions of dollars into her account, and the Shaya Trust and the Jacobs Trust accounts at Apple Bank.

22. In response to Benenfeld's recommendation, and in reliance on his representations, Joshua Jacobs opened an account at Apple Bank for his business, JFE.

23. Beginning in 2002, Joshua Jacobs deposited hundred of thousands of dollars in his account at Apple Bank.

24. Thereafter, Benenfeld, in his capacity as a V.P. at Apple Bank, insisted that all

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