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## **Judge merges racketeering lawsuits**

### **Defendants include 'Duddie' Massad**

**By Thomas Caywood TELEGRAM & GAZETTE STAFF**

**WORCESTER—** A federal judge has combined three related racketeering lawsuits against local businessman David G. "Duddie" Massad, Commerce Bank & Trust Co. and others into one mega-suit seeking \$118 million in damages.

The previously separate lawsuits involve loans made to two local developers and their wives, who claim they were cheated out of millions through illegally high interest rates and other allegedly shady business practices ranging from mail fraud to extortion. Lawyers for the defendants say many of the allegations already have been shot down in state court.

Mr. Massad, who operated area car dealerships, is the chairman of Commerce Bank. The newly consolidated lawsuit also targets several small finance companies associated with Mr. Massad or Southboro businessman Marcello Mallegni.

The main parties in the acrimonious legal battle, defendant Mr. Massad and plaintiff Nicholas J. Fiorillo of Worcester, heatedly denounced each other in separate interviews yesterday.

"It's just an abundance of the most ridiculous misstatements and lies you've ever heard," Mr. Massad said. "In the end the court will decide, and I'm sure it will be OK, because it's just the most outlandish things."

He went on to call the lawsuit "disgraceful," and characterized Mr. Fiorillo as a failed developer.

For his part, Mr. Fiorillo was equally blunt in trumpeting the judge's order as an incremental victory in his legal fight against Mr. Massad, whom he described in court papers as a former family friend and financial backer.

"Finally justice will be served against a gentleman that has hidden his true colors for his entire life," Mr. Fiorillo said. "I'm doing this and litigating this for every other person he's ever taken advantage of."

U.S. District Judge F. Dennis Saylor IV ordered the three cases to be rolled into one civil action on Friday, a step Mr. Massad's lawyers had opposed.

"The consolidation of these three actions is intended to promote efficiency and reduce inconvenience and cost," Judge Saylor wrote in his order, adding that any of the parties to the three formerly separate cases still have the right to seek dismissal of the amended case.

Two of the cases were filed by Mr. Fiorillo and his wife, Tracy Krowel. The third was brought by Worcester developer Robert Depietri Jr. and his wife, Kimbry. The damages sought in all three cases come to \$118 million.

The other defendants include Mr. Massad's daughter, local lawyer Pamela Massad, and the Northboro firm Gamewell Realty Inc. Ms. Massad is listed a director of Gamewell Realty in state corporation records.

Boston lawyer Ian Crawford — who represents Mr. Massad, Ms. Massad and Gamewell Realty — downplayed the significance of the consolidation.

"I think it's just a pure procedural order. The judge wants some way to get a handle on these

three cases, so he's sort of putting them together," Mr. Crawford said.

He said he planned to renew a previously filed motion to dismiss one of the separate cases to cover parts of the amended, combined case. That motion is scheduled to be heard at a hearing in late February.

"Part of the case was already brought by Mr. Fiorillo in state court, and he lost. He's already filed these claims, they've been adjudicated, and he lost, so he shouldn't have the right to do it again in federal court," Mr. Crawford said.

If the judge approves his motion to dismiss, Mr. Crawford said, "it won't resolve the whole amended case, but it would resolve some of the claims against some of the defendants."

However, Mr. Fiorillo's lawyers called the order to combine the cases a significant step forward for their side.

"It's exactly what we wanted to happen. It shows how significant these cases are," said lawyer Jeffrey A. Denner.

Another lawyer in the firm, Robert S. Sinsheimer, added that he will fight any attempts by the other side to get the case dismissed.

"We are very confident that this case will continue to stand," Mr. Sinsheimer predicted.

Commerce Bank President Brian W. Thompson declined to discuss the specifics of the allegations against the bank, saying it doesn't comment on pending legal matters.

"We've reviewed our records thoroughly and are confident that the bank's position against the allegations will prevail," Mr. Thompson said.

The amended complaint, which covers more than 90 pages, alleges the various defendants acted together to defraud the plaintiffs by charging illegally high interest rates and demanding kickbacks on loans. In Mr. Fiorillo's case, the dispute dates back to his 2002 purchase of the former Airline Lewis window blinds plant at 267 Shrewsbury St. in Worcester with money he borrowed from a finance company tied to Mr. Massad.

Several defendants had yet to be served with the amended complaint as of this week, including Mr. Mallegni and two other lenders connected to him and Mr. Massad: LBM Financial Inc. and Wolfpen Financial LLC, both of Marlboro.

Several former defendants in one of the individual lawsuits have been dropped from the combined case: paralegal Renee L. Tierney; lawyers Howard D'Amico, Kirk Binder and Philip Coppinger; and Commerce Bank executive Paul S. Lesniewski.

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