



NEW YORK STATE SENATOR

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## Sen. Klein, Joined by Dozens of Victimized Bronx Homeowners, Announce Filing of Class Action Lawsuit Against Deceptive Contractors

JEFFREY D. KLEIN December 20, 2013

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**BRONX, NY**– Standing on the steps of the Bronx County Supreme Court, Senator Klein, joined by dozens of Bronx homeowners and Assemblyman Marcos Crespo (D-Bronx), announced that a lawsuit charging fraud, conspiracy, breach of contract and negligence had been filed against members of an elaborate scheme targeting first time, minority homeowners. Homeowners allege that the defendants, working in concert, (referred to as

the “Tota-Kash Group” in the complaint), bilked them for millions of dollars by inducing them to purchase homes in the Bronx without valid certificates of occupancy and with shoddy workmanship.

When the homeowners first contacted Senator Klein’s office earlier in the fall, each homeowner reported a nearly identical timeline of events, all punctuated with a series of interactions where members of the Tota-Kash Group intentionally misrepresented the true condition of their homes, conspired against the homeowners ability to rectify defects and deficiencies and exploited each victim’s inexperience in financial matters.

**Senator Klein said:** "These hard-working New Yorkers were robbed of the American Dream. These families were caught in a perfect storm of lies and deception that cost them not only their paychecks, but of a safe and happy home this holiday season. When scheming contractors prey on aspiring homeowners, they need to know that we will hold them accountable.

“This group's deception may not be limited to the Bronx. That's why I'm opening my office doors on January 16th to victims beyond the Bronx who may have fallen victim to this same scheme. Together, we can put an end to the unlawful and greedy actions of this group, and prevent them from taking advantage of innocent homeowners everywhere.”

Working with Senator Klein’s office and the homeowners’ attorney, the homeowners are requesting action on behalf of themselves and any other victims of the Tota-Kash Group who come forward. At the press conference, Senator Klein urged any additional victims of this scheme to contact his office. In January, Senator Klein will be hosting a meeting for additional victims who are seeking legal action and are interesting in joining the lawsuit as plaintiffs. It is largely believed that members of the Tota-Kash Group continue to perpetrate this scheme in other areas of the Bronx and Queens.

The scheme outlined in the lawsuit filed Friday morning depicts an elaborate plan to target homeowners who, as first time homebuyers, were easier to push into transactions not favorable to them. At each closing, the Tota-Kash Group advised the plaintiff that the house had a temporary certificate of occupancy and the final certificate of occupancy would be available within 90 days of a closing. The homeowner would then sign the contract of sale

and made a substantial down payment towards the home. While awaiting a final certificate of occupancy, the homeowner became the subject of several actions by the Department of Buildings regarding the construction of their homes and their lack of certificates of occupancy.

At the time of transfer to homeowners, the homes contained, and continue to contain:

(i) deterioration of the roofs which caused water penetration through the roofs into the walls and interiors of the buildings, water damage, mold and leaks in the buildings and individual apartments;

(ii) improper plumbing causing uneven heat, boiler leaks, rust and low water pressure;

(iii) improperly installed windows and doors which cause drafts and results in excessive heating and cooling bills during the winter and summer time;

(iv) insufficient sealants that allow water and mold contamination and leakage every time it rains, causing severe structural damage; and

(v) improperly installed sewage systems causing constant back leakage of sewage, clogging and congestion of toilets.

Upon learning of these violations, the Tota-Kash Group would refer the homeowner to the defendant attorneys, who would assure them there was nothing to worry about and that the violations would be dealt with properly. At the urging of the Tota-Kash Group, the homeowner would retain one of the defendant attorneys to represent them before the Department of Building. These attorneys would then become non-responsive to plaintiffs, which led to substantial fines and penalties from DOB.

The class action lawsuit makes the following legal claims:

(i) Civil RICO (i.e., defendants engaged in a criminal enterprise to defraud these minority-homeowners);

(ii) breach of contract;

(iii) breach of implied warranty of habitability;

(iv) conspiracy;

(v) attorney malpractice; and

(vi) negligence.

**Assemblyman Marcos A. Crespo** said: "Consumers are under constant attack by shady business operations. The virtual collapse of the housing market due to the fuzzy math of Walls Street executives and ongoing scams targeted at homeowners needs increased vigilance. Our courts system has been given the tools to help homeowners fight these scams and abuse of consumers. Homeowners have my full support on this issue. I applaud Senator Klein for helping to raise public awareness of this problem and his ongoing work to protect all consumers."

**Attorney for Class Action Lawsuit, Andre Ramon Soleil, Esq.** "The litany of offenses committed against these innocent homeowners is totally inexcusable. Today, I filed this class action lawsuit not just for the plaintiffs listed in the complaint, but also on behalf of their families and other victims who have been subject to the illegal actions of the Tota-Kash Group. I believe that the facts of the case will speak for themselves and that justice will prevail."

**Bronx Homeowner Johanny De La Cruz** said: "For too long, homeowners like me have been told we have no legal recourse. As we stand together today with Senator Klein and our attorney, we are showing that we do have access to justice and will stop at nothing to prevent what happened to us from happening to others."

**Bronx Homeowner Luis Nieves** said: "I just wanted a chance at the American Dream – to own a home and raise my children there. Unfortunately, this ordeal has caused me to take time off of work – with no pay - and spend thousands of dollars paying fines, contractors and legal fees. We are here today because we want justice – we want them to pay for what they did to us and make sure that this doesn't happen to anybody else."

Additional victims who are interested in learning more should call Senator Klein's office at 718-822-2049. Senator Klein will make legal counsel available between 3 - 8pm January 16<sup>th</sup> at the Hutchinson Metro Center in the Bronx.