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BILL OF COMPLAINT.

**In Chancery of New Jersey**

*To the Honorable Edwin Robert Walker, Chancellor of the State of New Jersey:*

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The complainant, Israel Silverstein of the City of Newark, County of Essex and State of New Jersey, respectfully shows that:

1. That on or about the twenty-eighth day of June, 1923, this complainant and the defendant Paul Wolf entered into an oral agreement wherein and whereby complainant and the defendant, Paul Wolf, were to jointly buy real estate in the State of New Jersey and to erect and construct thereupon such buildings as complainant and the defendant, Paul Wolf, might thereafter determine upon, and were to further engage in the general contracting and building business, and whereby it was further agreed that the complainant and the defendant, Paul Wolf, were to share equally in the profits of the said venture.

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2. In pursuance of the said agreement mentioned in paragraph one hereof complainant and the said defendant, Paul Wolf, did purchase on June 28, 1923, from Harry Tapper and Katie Tapper, his wife, certain vacant lands in the City of East Orange, County of Essex and State of New Jersey, more particularly described as Parcel One in Schedule A hereto annexed and made part of this complaint. The complainant contributed his one-half share in and to the purchase price paid to the said Harry Tapper and Katie Tapper, his wife, for the deed of conveyance embracing the lands and premises here-

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*Bill of Complaint.*

inabove mentioned and the defendant, Paul Wolf, contributed his one-half portion of the said consideration money. For convenience and by agreement between the said complainant and the said defendant, Paul Wolf, title to the said premises was taken in the name of the defendant, National Realty and Construction Company, a corporation already existing under the laws of the State of New Jersey, and of which corporation the said defendant, Paul Wolf, was the principal stockholder, president and executive head, and in which company this complainant held no stock whatsoever. Thereafter the said complainant and the said defendant, Paul Wolf, in the name of the National Realty and Construction Company, did erect and construct upon the premises mentioned and described in this paragraph, a two-story brick building on the said premises, containing eight apartments and six stores and also seven garages. Complainant and the defendant, Paul Wolf, defrayed the costs necessary for the erection of the said buildings. Upon the completion of the buildings herein mentioned the defendant, National Realty and Construction Company, with the consent of this complainant, mortgaged the said lands and premises herein mentioned to the Guarantee Building and Loan Association for \$65,000.00. Thereafter, to wit, on the tenth day of June, 1924, the said defendant, National Realty and Construction Company, sold and conveyed the said premises mentioned in this paragraph to one Fred Brandman, and the proceeds of said sale were paid to the said defendant, National Realty and Construction Company, or to the said defendant, Paul Wolf.

Complainant charges that he is the owner of and entitled to one-half of the rents, issues and

*Bill of Complaint.*

profits of the real estate mentioned in this paragraph and in one-half of the proceeds of sale or disposition thereof.

3. In furtherance of the agreement mentioned in paragraph one hereof, complainant and the defendant, Paul Wolf, purchased on June 2, 1924, from one John Haskell and Martha Augusta Haskell, his wife, vacant lands in the Town of Irvington, County of Essex and State of New Jersey, and more particularly hereinafter described and called Parcel 2 in Schedule A attached hereto and made part of this complaint. Consideration money for this deed was paid out of the funds derived as profit from the sale of the premises mentioned in paragraph 2 hereof, and for convenience and by agreement between complainant and the defendant, Paul Wolf, title to the said premises herein mentioned was taken in the name of the defendant, National Realty and Construction Company. Thereafter the complainant and the defendant, Paul Wolf, in the name of the National Realty and Construction Company erected and constructed on premises mentioned in this paragraph a two-story brick building containing twelve apartments and six stores. Upon the completion of the said building, to wit, on the sixth day of January, 1925, the said defendant, National Realty and Construction Company, mortgaged the said lands and buildings mentioned in this paragraph to Joseph Baime, which mortgage was recorded on January 7, 1925, in the Essex County Register's Office in Book K 53 of Mortgages for said County on page 158. On March 31, 1925 the defendant, National Realty and Construction Company, did, for good and valuable consideration sell and convey the lands and buildings mentioned in this paragraph

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*Bill of Complaint.*

to one Sarah Coplan, the said Sarah Coplan paying at the time of closing title certain sums in cash and did execute to the National Realty and Construction Company for the balance of the consideration money a mortgage in the sum of \$25,000 and a mortgage in the sum of \$5,000, these two mortgages being recorded on April 4, 1925 in the Register's Office of Essex County respectively in Book N 53 of Mortgages for said County on page 514, and Book N 53 of Mortgages for said County on page 515. The aforesaid mortgage for \$25,000 the National Realty and Construction Company did transfer and assign on April 30, 1925 to the Merchants Securities Company.

Complainant charges that he is the owner and is entitled to one-half of the rents, issues and profits of the real estate mentioned in this paragraph and in one-half of the proceeds of sale or disposition thereof.

4. In furtherance of the said agreement mentioned in paragraph one hereof, complainant and the defendant, Paul Wolf, did, on July 12, 1924, purchase from one Erwin E. Marshall and Sarah E. Marshall, his wife, and E. Furman Hooper and Anna A. Hooper, his wife, certain vacant land in the City of East Orange, County of Essex and State of New Jersey, more particularly described and set forth as Parcel 3 in Schedule A hereto annexed and made part of this complaint. The consideration money advanced to the said grantors in the deed mentioned in this paragraph was paid from the rents, issues and profits or from the moneys derived from the sale or disposition of the said parcels mentioned and described in paragraphs 2 and 3 hereof, and for

*Bill of Complaint.*

convenience, and by agreement between the complainant and the defendant, Paul Wolf, title to the premises mentioned in this paragraph was taken in the name of the defendant, National Realty and Construction Company. Thereafter the complainant and defendant, Paul Wolf, did, in the name of National Realty and Construction Company, erect and construct on the premises mentioned in this paragraph, a four-story brick building containing twenty-seven apartments and six stores. Upon the completion of the said building herein mentioned, to wit, on November 20, 1925, the said defendant, National Realty and Construction Company, did—mortgage the lands and buildings mentioned in this paragraph to the Fidelity Union Title & Mortgage Guaranty Company for \$110,000, and which said mortgage was on November 23, 1925 recorded in the Register's Office of Essex County in Book D 56 of Mortgages for Essex County on page 213, and the defendant, National Realty and Construction Company, did, on January 20, 1926, mortgage the said lands and buildings mentioned in this paragraph to one Louis Amada for \$40,000, which said mortgage was recorded on January 20, 1926 in the Register's Office of Essex County in Book S 56 of Mortgages for said County on page 249.

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Complainant charges that he is the owner of and entitled to one-half of the said rents, issues and profits of the said lands and buildings mentioned in this paragraph and is the owner of one-half of the said lands and buildings mentioned in this paragraph.

5. In furtherance of the agreement mentioned in paragraph one hereof complainant and the defendant, Paul Wolf, did, on April 1, 1926 pur-

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*Bill of Complaint.*

chase from the Berwyn Estates, a corporation of New Jersey, certain vacant lands in the Town of Bloomfield, County of Essex and State of New Jersey, and which are more particularly described and set forth as Parcel 4 on Schedule A hereto attached and made part of this complaint. The

10 consideration money advanced to the grantors for the deed herein mentioned was paid out of the rents, issues and profits or out of the proceeds of sale and disposition of the premises mentioned in paragraphs 2, 3 and 4 hereof, and for convenience and by agreement between the complainant and defendant, Paul Wolf, title to the same was taken in the name of the defendant, National Realty and Construction Company. Thereafter complainant and the defendant, Paul

20 Wolf, did, in the name of the National Realty and Construction Company erect and construct on the premises herein mentioned a four-story brick building containing forty-two apartments. Upon completion of the said building, to wit, on the sixteenth day of August, 1926, the defendant, National Realty and Construction Company, mortgaged said lands and buildings mentioned in this paragraph to the National Commercial Title & Mortgage Guaranty Company for \$160,000,

30 which said mortgage was recorded on August 17, 1926 in the Register's Office of Essex County in Book R 58 of Mortgages for said County on page 259. The said defendant, National Realty and Construction Company did thereafter, to wit, on January 31, 1927, mortgage the said lands and buildings mentioned in this paragraph to the Clinton Investment Co., a corporation of New Jersey, for \$40,000, which said mortgage was, on February 1, 1927 recorded in the Register's Office of Essex County in Book N 60 of Mortgages for

40 said County on page 258.

*Bill of Complaint.*

Complainant charges that he is the owner of and entitled to one-half of the said rents, issues and profits of the said lands and buildings mentioned in this paragraph and is the owner of one-half of the said lands and buildings mentioned in this paragraph.

6. In furtherance of the agreement mentioned in paragraph one hereof complainant and the defendant, Paul Wolf, did in and about the year 1924 enter into an agreement with one S. Miller to alter and renovate for the said S. Miller a certain building owned or occupied by him at No. 307 Mulberry street, Newark, New Jersey, at an agreed contract price of \$6,800. This agreement was completed by the complainant and the defendant, Paul Wolf, and the moneys due under said contract were paid by the said S. Miller to the said defendant, Paul Wolf, or to the defendant, National Realty and Construction Company. On this contract with S. Miller the complainant and the defendant, Paul Wolf, made a profit, the amount of which is unknown to this complainant at this time.

Complainant charges that he is entitled to one-half the profit made under and by virtue of this agreement with S. Miller.

7. In furtherance of the agreement made in paragraph one hereof the complainant and the defendant, Paul Wolf, entered into an agreement with one A. C. Galm and/or the Twin Gables Realty Company, a corporation of New Jersey, to sufficiently erect and finish for the said A. C. Galm and/or Twin Gables Realty Company in accordance with plans and specifications submitted by them, a four-story brick apartment house on their premises at Riverside avenue,

*Bill of Complaint.*

Red Bank, New Jersey, at an agreed price of \$100,000 or more. The contract herein mentioned made with A. C. Galm and/or Twin Gables Realty Company was completed by the complainant and the defendant, Paul Wolf, and the moneys due under said contract were paid to the  
10 said defendant, Paul Wolf, or to the defendant, National Realty and Construction Company.

The complainant says that on this contract a profit was made but that the amount of same is at the present time unknown to this complainant.

Complainant charges that he is entitled to one-half of the profit made on this contract.

8. In furtherance of the agreement mentioned in paragraph one hereof complainant and the  
20 defendant, Paul Wolf, did, in or about the year 1928 enter into an agreement with one Benjamin Gutterman to alter and renovate for the said Benjamin Gutterman building owned or occupied by him at premises No. 82 Prince street, Newark, New Jersey, at an agreed price of \$4,500.00. Complainant and the defendant, Paul Wolf, completed the work under this contract, and the moneys due and payable under the said contract were paid by the said Benjamin Gutteramn to the said de-  
30 fendant, Paul Wolf, or to the defendant, National Realty and Construction Company. Complainant says that a profit was made on this contract but that the amount of same is at the present time unknown to this complainant.

Complainant charges that he is entitled to one-half of the profit made under and by virtue of this contract.

9. Complainant says that the defendant, Paul  
40 Wolf, and the defendant, National Realty and

*Bill of Complaint.*

Construction Company at all times had knowledge of the complainant's interest and right in and to the said four parcels of real estate heretofore mentioned in this complaint and of the three contracts hereinbefore mentioned in paragraphs 6, 7 and 8 and that the defendant, National Realty and Construction Company, at all times had knowledge that it was holding and did agree to hold the said lands and real estate, the said rents, issues and profits thereof, and the cash, and the purchase money mortgages and bonds accompanying the same received upon the sale and disposition of the said premises mentioned and described in paragraphs 2 and 3 hereof in trust for the said complainant and the said defendant, Paul Wolf, and at all times it was understood and agreed between the said complainant and the said defendant, Paul Wolf, and the defendant, National Realty and Construction Company, that the said National Realty and Construction Company would upon the request of the complainant convey and deliver to him his one-half share in and to the real estate so held by it in trust for the said complainant and the said defendant, Paul Wolf, and would assign or deliver to the said complainant his one-half of the rents, issues and profits and of the proceeds of sale of the real estate and of the profits made under and by virtue of the said agreements mentioned in paragraphs 6, 7 and 8.

10. Complainant has frequently demanded from the said defendant, Paul Wolf, and the said defendant, National Realty and Construction Company an account of the said profits and of the rents, issues and profits of the said real estate hereinabove mentioned, and the payment of the share thereof to which complainant was and

*Bill of Complaint.*

is entitled under and by virtue of the terms of the agreement mentioned in paragraph one, and has frequently demanded from the said defendant, National Realty and Construction Company, that it, the said defendant, National Realty and Construction Company, convey by proper deed or  
10 deeds of conveyance to the complainant, complainant's one-half share in and to all the real estate still remaining in the name of the defendant, National Realty and Construction Company, and to which said one-half share in said real estate complainant is entitled under and by virtue of the terms set out in the agreement mentioned in paragraph one hereof. But the said defendants, Paul Wolf and National Realty and Construction Company have failed and refused and  
20 still fail and refuse to render such an account to complainant and the said defendant, National Realty and Construction Company, has failed and refused and still fails and refuses to make such conveyance of complainant's one-half share in the said real estate, and complainant has received no money from the said defendants, Paul Wolf and National Realty and Construction Company, for or on account of the said profits, and has never received from the said defendant, National Realty  
30 and Construction Company deed or deeds conveying to him, the said complainant, the one-half share complainant holds in said real estate.

Complainant is without remedy in the courts of law and therefore prays:

1. That the said Paul Wolf and National Realty and Construction Company who are the defendants to this suit may answer this bill of complaint and each statement therein made.

*Bill of Complaint.*

2. That the said defendants, Paul Wolf and the National Realty and Construction Company may be ordered and decreed to make a full and true discovery and disclosure of the rents, issues and profits and of the proceeds of sale of the said real estate mentioned and described in Schedule A of this complaint and of the building contracts mentioned in paragraphs 6, 7 and 8 of the said complaint. 10

3. That the said defendants, Paul Wolf and National Realty and Construction Company may be required to make an accounting for the profits since the inception of the enterprise mentioned and set forth in paragraph one and of all the receipts and expenditures by them on account of said enterprise since its inception; and of the present financial condition of the said enterprises and of the assets of the same, and where and how located and invested and by whom held or possessed; and that they may be ordered and decreed to pay complainant his rightful share of the moneys which may be found owing by them to the complainant on such accounting. 20

4. That the defendants, Paul Wolf and the National Realty and Construction Company may be decreed to hold title to the real estate and the rents, issues and profits thereof, and the proceeds of sale of said real estate, and the profits on the said building contracts in trust for the complainant for his one-half interest in the same. 30

5. That a writ of subpoena may issue commanding said defendants to answer this bill of complaint and to abide by such decree as this Court may make in the premises. 40

*Bill of Complaint—Schedule A.*

6. That the complainant may have such further relief as this Court may deem equitable and just.

KLEIN and KLEIN,  
Solicitors for and of Counsel with Complainant.

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## SCHEDULE A.

## PARCEL ONE:

Being all those tracts or parcels of land and premises, lying, being and situate in the City of East Orange, County of Essex and State of New Jersey, and more particularly described as follows:

20 First Tract: BEGINNING on the Easterly line of Sunnyside Terrace at a point distant Southwesterly 640 feet from the intersection of said Easterly line of Sunnyside Terrace with the Southerly line of Mountainview Avenue if both said lines were extended and running thence (1) Southwesterly along the said Easterly line of Sunnyside Terrace one hundred fourteen feet and seventy one-hundredths of a foot more or less to the northerly line of South Orange Avenue; 30 thence (2) Southeasterly along said line of South Orange Avenue 25 feet; thence (3) Northeasterly parallel with the first course one hundred fourteen feet and ninety six one-hundredths of a foot more or less to the Southerly line of lot #492 on said plan; and thence (4) Northwesterly along the Southerly line of lot #492, 25 feet to the point and place of BEGINNING.

40 Second Tract: BEGINNING in the northerly line of South Orange Avenue at a point distant Southeasterly 25 feet from the corner formed

*Bill of Complaint—Schedule A.*

by the intersection of said Northerly line of South Orange Avenue with the Easterly line of Sunnyside Terrace and runs thence (1) North-easterly and parallel with Sunnyside Terrace one hundred fourteen feet and ninety-six one-hundredths of a foot more or less to the Southerly line of lot #492 as shown on said plan; thence 10  
 (2) Southeasterly along the Southerly line of lot #492 seventy five feet; thence (3) Southwesterly and parallel with the first course one hundred fifteen feet and seventy three one-hundredths of a foot more or less to the northerly line of South Orange Avenue and thence (4) Northwesterly along said Northerly line of said South Orange Avenue seventy five feet to the point or place of BEGINNING.

Known as lots 493-494-495 upon the "Amended 20  
 Map of Property of East Orange Terrace, Incorporated in 1910 and filed January 15, 1910 in the Essex County Register's Office.

## PARCEL TWO:

All that certain tract or parcel of land and premises, lying, being and situate in the Town of Irvington, County of Essex and State of New Jersey, and more particularly described as follows: 30

BEGINNING at a point in the Southerly line of Clinton Avenue distant fifty one feet and sixty six one-hundredths of a foot Westerly from the Westerly line of Maple Avenue as now laid out; thence South 37 degrees West one hundred three feet and eleven one-hundredths of a foot; thence North fifty two degrees forty six minutes West fifty feet; thence South 37 degrees West ten feet and eighty one one-hundredths of a foot; thence 40

*Bill of Complaint—Schedule A.*

North 52 degrees 46 minutes West fifty feet; thence North 37 degrees East one hundred two feet and thirty one-hundredths of a foot to the aforesaid line of Clinton Avenue and; thence along the same South 59 degrees 41 minutes East one hundred feet and sixty eight one-hundredths of a foot to the place of BEGINNING.

## PARCEL THREE:

Being all those tracts or parcels of land and premises, lying, being and situate in the City of East Orange, County of Essex and State of New Jersey and more particularly described as follows:

BEGINNING on the Easterly line of Fairmount Terrace at a point distant Southwesterly 640 feet from the corner formed by the intersection of the Southerly line of Mountainview Avenue with said Easterly line of Fairmount Terrace, if both lines were extended until they intersect and thence runs (1) Southeasterly at right angles to Fairmount Terrace 96 feet to a point corner to lot #380 on said plan; thence (2) Southwesterly parallel to Fairmount Terrace and along the line of lot #380 one hundred nine feet and eighty one-hundredths of a foot to the northerly line of South Orange Avenue; thence (3) Northwesterly along the northerly line of South Orange Avenue by a curve with a radius of three thousand fifty-four feet and seventy six one-hundredths of a foot, ninety six feet and ten one-hundredths of a foot to a corner formed by the intersection of the said northerly line of South Orange Avenue with the Easterly line of Fairmount Terrace; and thence (4) Northeasterly, along said Easterly line of Fairmount Terrace, one hundred fourteen feet

*Bill of Complaint—Schedule A.*

and forty-four one-hundredths of a foot to the point or place of BEGINNING.

Being lots 381-384 on map entitled "Amended Map of property of East Orange Terrace, Incorporated, East Orange, New Jersey and filed April 18, 1911 in the Register's Office of Essex County in case No. 640.

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## PARCEL FOUR:

Being all those tracts or parcels of land and premises, situate, lying and being in the Town of Bloomfield, County of Essex and State of New Jersey and more particularly described as follows:

First Tract: BEGINNING at a point in the Southerly line of Park Avenue which point is distant forty feet Westerly from the Westerly line of land now or formerly of Mary G. (F.) Chitterling, measured along said Southerly line of Park Avenue, and which point is also the northeast corner of land of said party of first part; thence (1) South 21 minutes East along line of lands of said party of first part 157 feet more or less to line of land now or formerly of John D. Hazen; thence (2) along the northerly line of land now or formerly of said John D. Hazen South 78 degrees 43 minutes East 40 feet to land now or formerly of Chitterling; thence (3) along said Chitterling's line in a northerly direction 157 feet more or less to the Southerly line of Park Avenue aforesaid; thence (4) Westerly along said Southerly line of Park Avenue forty feet to the point and place of BEGINNING.

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Second Tract: BEGINNING at a point in the Southerly line of Park Avenue and which point is distant 100 feet Westerly from the Westerly

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*Bill of Complaint—Schedule A.*

line of land now or formerly of Mary G. (F.) Chitterling, measured along said Southerly line of Park Avenue and which point is also the north-east corner of land now or formerly of Ella K. Seymour; thence (1) South 21 minutes East along the Easterly line of land now or formerly of said Ella K. Seymour one hundred fifty seven feet and seventy four one-hundredths of a foot to the Northerly line of land now or formerly of John D. Hazen; thence (2) along the northerly line of land now or formerly of said John D. Hazen South 78 degrees 43 minutes East sixty feet to a corner; thence (3) northerly and parallel with the first course one hundred fifty seven feet more or less to the Southerly line of Park Avenue aforesaid; thence (4) Westerly along said Southerly line of Park Avenue sixty feet to the point or place of BEGINNING.

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## ANSWER OF DEFENDANT, PAUL WOLF.

IN CHANCERY OF NEW JERSEY.

*Between*ISRAEL SILVERSTEIN,  
*Complainant,**and*PAUL WOLF and NATIONAL  
REALTY AND CONSTRUCTION  
COMPANY, a corporation of  
New Jersey,*Defendants.*

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*On Bill, &c.**Answer of  
Defendant,  
Paul Wolf.*

The defendant, Paul Wolf, of the City of Newark, County of Essex and State of New Jersey, answering the complainant's bill of complaint, says: 20

(1) He denies paragraph one of the bill of complaint.

(2) He admits that the premises set forth in paragraph two of the bill of complaint were purchased by the National Realty and Construction Company, the erection of the building by the National Realty and Construction Company, and the sale thereof by the National Realty and Construction Company, but denies that the complainant has, or is entitled to any interest or any of the profits of said lands and buildings, and denies all of the other allegations contained in said paragraph two of the complainant's bill of complaint. 30

(3) He admits that the premises described in paragraph three of the bill of complaint, were 40

*Answer of Defendant, Paul Wolf.*

10 purchased by National Realty and Construction Company, and that the building was erected upon said lands by said National Realty and Construction Company, and that the said premises were mortgaged and sold by the said National Realty and Construction Company, and the mortgage assigned as set forth in said paragraph three, but denies that the complainant has, or is entitled to any interest or any of the profits of said lands and buildings, and denies all of the other allegations contained in said paragraph three of the complainant's bill of complaint.

20 (4) He admits that the premises described in paragraph four of the bill of complaint were purchased by the National Realty and Construction Company, and that the building was erected and the mortgage taken by the said National Realty and Construction Company, but denies that the complainant has, or is entitled to any interest or any of the profits of said lands and buildings, and denies all of the other allegations contained in said paragraph four of the complainant's bill of complaint.

30 (5) He admits that the premises described in paragraph five of the bill of complaint were purchased by the National Realty and Construction Company, and the building was erected and the mortgage taken by said National Realty and Construction Company, but denies that the complainant has, or is entitled to any interest or any of the profits of said lands and buildings, and denies all of the other allegations contained in said paragraph five of the complainant's bill of complaint.

40 (6) He denies paragraph six of the bill of complaint.

*Answer of Defendant, Paul Wolf.*

(7) He admits that the contract set forth in paragraph seven of the bill of complaint was made by the National Realty and Construction Company, but denies that the complainant has, or is entitled to any interest or any of the profits in said contract, and denies all of the other allegations in said paragraph seven of the bill of complaint. 10

(8) He denies paragraph eight of the bill of complaint.

(9) This defendant denies all of the allegations in paragraph nine of the bill of complaint.

(10) This defendant denies all of the allegations in paragraph ten of the bill of complaint.

(11) This defendant denies that he had any partnership agreement with the said complainant, and denies that the complainant is entitled to any interest or any of the profits in the various lands and buildings and contracts set forth in the complainant's bill of complaint, and that the complainant therefore is not entitled to any accounting, and therefore prays that the said bill of complaint be dismissed with costs. 20

NATHAN ERLICH,  
Solicitor for Defendant, Paul Wolf. 30

**ANSWER OF DEFENDANT,  
NATIONAL REALTY AND CONSTRUCTION  
COMPANY.**

IN CHANCERY OF NEW JERSEY.

10 *Between*

ISRAEL SILVERSTEIN,  
*Complainant,*  
*and*

PAUL WOLF and NATIONAL  
REALTY AND CONSTRUCTION  
COMPANY, a corporation of  
New Jersey,  
*Defendants.*

*On Bill, &c.*

*Answer of  
Defendant,  
National  
Realty and  
Construc-  
tion Com-  
pany.*

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National Realty and Construction Company, a New Jersey corporation, with its principal office in the City of Newark, New Jersey, answering the complainant's bill of complaint, says:

(1) Neither admits nor denies paragraph one of the bill of complaint, but leaves the complainant to his proof.

30 (2) It admits the purchase by it of the premises described in paragraph two of the bill of complaint, the erection of the building by it, the mortgaging and sale of same by it, but denies that the complainant has, or is entitled to any interest or any of the profits of said lands and buildings, and denies all of the other allegations contained in said paragraph two of the complainant's bill of complaint.

40 (3) It admits the purchase by it of the premises described in paragraph three of the bill

*Answer of National Realty & Construction Co.*

of complaint, the erection of the building by it, the mortgaging and sale of same by it, but denies that the complainant has, or is entitled to any interest or any of the profits of said lands and buildings, and denies all of the other allegations contained in said paragraph three of the complainant's bill of complaint. 10

(4) It admits the purchase by it of the premises described in paragraph four of the bill of complaint, the erection of the building by it, the mortgaging by it, but denies that the complainant has, or is entitled to any interest or any of the profits of said lands and buildings, and denies all of the other allegations contained in said paragraph four of the complainant's bill of complaint. 20

(5) It admits the purchase by it of the premises described in paragraph five of the bill of complaint, the erection of the building by it, the mortgaging by it, but denies that the complainant has, or is entitled to any interest or any of the profits of said lands and buildings, and denies all of the other allegations contained in said paragraph five of the complainant's bill of complaint. 30

(6) This defendant denies paragraph six of the bill of complaint. 30

(7) It admits the making by it of the contract set forth in paragraph seven of the complainant's bill of complaint, but denies that the complainant has or is entitled to any interest or any of the profits in said contract, and denies all of the other allegations contained in said paragraph seven of the complainant's bill of complaint. 40

*Answer of National Realty & Construction Co.*

(8) This defendant denies paragraph eight of the bill of complaint.

(9) This defendant denies all of the allegations in paragraph nine of the bill of complaint.

10 (10) This defendant denies all of the allegations in paragraph ten of the bill of complaint.

(11) This defendant denies that it had any partnership agreement with the said complainant, and denies that he has any interest in this defendant, and denies that the complainant is entitled to any interest or any of the profits in the various lands and buildings and contracts set forth in the complainant's bill of complaint, and that the complainant therefore is not entitled to any accounting, and therefore prays  
20 that the said bill of complaint be dismissed with costs.

NATHAN ERLICH,  
Solicitor for Defendant, National  
Realty and Construction Company.

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**DECREE FOR ACCOUNTING.**

IN CHANCERY OF NEW JERSEY.

*Between*

ISRAEL SILVERSTEIN,

*Complainant,*

*and*

PAUL WOLF and NATIONAL  
REALTY AND CONSTRUCTION  
COMPANY, a corporation,

*Defendants.*

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*On Bill, &c.*

*Decree for  
Accounting.*

This cause coming on to be heard in the presence of Klein & Klein, solicitors of the complainant, and Nathan Erlich, solicitor of the defendants, and the Court having examined the pleadings and having taken proofs orally and in open court, and having heard and considered the arguments of counsel thereon, and being satisfied of the truth of all the matters and things set forth in the bill of complaint heretofore filed by the complainant, and being satisfied that the complainant and the defendant, Paul Wolf, entered into an oral agreement wherein and whereby the complainant and the defendant, Paul Wolf, were to jointly buy real estate in the State of New Jersey and were to erect and construct thereupon such buildings as the complainant and the defendant, Paul Wolf, might thereafter determine upon and that the complainant and the defendant, Paul Wolf, were to further engage in the general contracting business, and that the said complainant and the said defendant, Paul Wolf, were to share equally

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*Decree for Accounting.*

10 in the profits and losses of the said venture and  
in furtherance of their partnership arrangements  
the legal title to all the real estate purchased  
by the said complainant and the said defendant,  
Paul Wolf, was taken in the name of the de-  
fendant, National Realty & Construction Com-  
pany, and is held by the defendant, National  
20 Realty & Construction Company, for the benefit  
of the complainant and the defendant, Paul  
Wolf; and that the said defendants, Paul Wolf  
and National Realty & Construction Company  
have never accounted to the said complainant  
for his interest in the said partnership property,  
nor for the moneys received by the said defend-  
ants from the partnership business, nor for the  
profits and or the losses of the said partnership  
or of any part thereof, and that the said defend-  
ants have paid no moneys to the said complain-  
ant on account of the net profits, if any, so  
due to him from the said partnership;

It is, on this 29th day of October, 1929,  
ORDERED, ADJUDGED and DECREED, that the said  
complainant and the said defendants, Paul Wolf  
and National Realty & Construction Company,  
and each one of them, account under oath, for  
the moneys received and paid into the said  
30 partnership as conducted by the said complain-  
ant and the said defendant, Paul Wolf, and  
for all moneys so disbursed and received by  
each of them in connection with the said part-  
nership, and for the moneys had and received  
from the mortgages executed by the said de-  
fendant, National Realty & Construction Com-  
pany, on the said lands and premises mentioned  
and described in the bill of complaint, and for  
the moneys received from the sale of two of  
40 the parcels mentioned and described in the bill

*Decree for Accounting.*

of complaint, and for the moneys had and received from the building contracts mentioned and described in the bill of complaint and for the moneys had and received by way of rents from the said real estate mentioned and described in the bill of complaint, and for the profits and losses of the said partnership received by or chargeable to each and every one of them since the twenty-seventh day of April, 1923, and that each and every one of them make a true and full discovery and disclosure of all the moneys disbursed and all the moneys received from the said partnership by and chargeable to each and every one of them, and that each and every one of them make a true and full discovery of all the profits and or losses of the said partnership and of the present condition of the said partnership, and of the assets of the said partnership held by the said complainant and by the said defendant, Paul Wolf, and held by the said defendant, National Realty & Construction Company, for the benefit of the said complainant and the said defendant, Paul Wolf, and where and how located and invested, and by whom held or possessed, before John A. Bernhard, Esquire, one of the special masters of this court, to whom the matters and things are hereby referred to be ascertained by and reported on by him.

And it is further ORDERED, that the said Master report what balance, if any, appears to be due from the complainant to the defendant, Paul Wolf, and what balance, if any, appears to be due from the defendant, Paul Wolf, to the complainant, and what balance, if any, appears to be due from the said defendant, National Realty & Construction Company, to the said complain-

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*Decree for Accounting.*

ant, and the said defendant, Paul Wolf, respecting the transactions herein mentioned.

10 And it is further ORDERED, that the complainant, Israel Silverstein, on his part, and the defendants, Paul Wolf, and National Realty & Construction Company, jointly, on their part, are required to give bond to the Chancellor in the penal sum of \$1,000, with sufficient sureties, conditioned to pay such fees and disbursements as shall become due to the Master taking the account under this decree.

And it is further ORDERED, that the said Master make his report to this court with all convenient speed; and all further equity is reserved until the coming in of the said Master's report.

20 Respectfully advised,

JOHN H. BACKES,  
V.-C.

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## NOTICE OF APPEAL.

IN CHANCERY OF NEW JERSEY.

*Between*ISRAEL SILVERSTEIN,  
*Complainant,**and*PAUL WOLF and NATIONAL  
REALTY AND CONSTRUCTION  
COMPANY, a corporation,  
*Defendants.**On Bill, &c.**Notice of  
Appeal.*

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Notice is hereby given that the defendants,  
Paul Wolf and National Realty & Construction  
Company appeal to the Court of Errors and  
Appeals, in the last resort in all causes from  
the decree for accounting and partnership, made  
by the Chancellor, on the advice of Vice-  
Chancellor John H. Backes, which decree bears  
date October 29, 1929.

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Dated November 8, 1929.

NATHAN ERLICH,  
Solicitor of Defendants.

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I conceive there is good cause for appeal in  
the above-stated cause.

NATHAN ERLICH,  
Of Counsel with Defendants.

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**PETITION OF APPEAL.**

NEW JERSEY COURT OF ERRORS  
AND APPEALS.

10	ISRAEL SILVERSTEIN, <i>Complainant-Respondent,</i>  <i>and</i>  PAUL WOLF and NATIONAL REALTY & CONSTRUCTION Co., a corporation, <i>Defendants-Appellants.</i>	}	<i>On Appeal from Chancery.  Petition of Appeal.</i>
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20 *To the Honorable, the Court of Errors and Appeals, in the Last Resort in all Causes:*

The petition of Paul Wolf and National Realty & Construction Co., a corporation, the defendants in the above-stated cause, respectfully shows:

30 (1) Petitioners find themselves aggrieved by a decree for accounting made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, which decree bears date October 29, 1929, and does

ORDER, ADJUDGE and DECREE, that a partnership exists between the defendant, Paul Wolf, and the complainant, Israel Silverstein, and that the said defendants, Paul Wolf and National Realty & Construction Co., and each one of them, account under oath for the moneys received and paid into the said co-partnership, as conducted by the said complainant, and the said defendant, Paul Wolf, and for all moneys so disbursed and received by each of them in connection with

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*Petition of Appeal.*

the said partnership, and for the moneys had and received from the mortgages executed by the said defendant, National Realty & Construction Co., on the said lands and premises mentioned and described in the bill of complaint, and for the moneys received from the sale of two of the parcels mentioned and described in the bill of complaint, and for the moneys had and received from the building contracts mentioned and described in the bill of complaint, and for the moneys had and received by way of rents from the said real estate mentioned and described in the bill of complaint, and for the profits and losses of the said partnership received by or chargeable to each and every one of them since the twenty-seventh day of April, 1923, and that each and every one of them make a true and full discovery and disclosure of all the moneys disbursed and all the moneys received from the said partnership by and chargeable to each and every one of them, and that each and every one of them make a true and full discovery of all the profits and or losses of the said partnership and of the present condition of the said partnership, and of the assets of the said partnership held by the said complainant, and by the said defendant, Paul Wolf, and held by the said defendant, National Realty & Construction Co., for the benefit of the said complainant and the said defendant, Paul Wolf.

(2) Petitioners appeal from the said decree for accounting, upon the ground that the same is erroneous for these reasons:

1. The evidence proved that there was no partnership contemplated or existing between the defendant, Paul Wolf and the complainant, Israel Silverstein.

*Petition of Appeal.*

2. That there was no evidence from which the Court could find that the defendant, National Realty & Construction Co., held the property in trust for the benefit of the complainant, and the defendant, Paul Wolf.

10 3. That there was no instrument in writing declaring that the defendant, National Realty & Construction Co., held the property in trust for the benefit of the complainant and the defendant, Paul Wolf, and that the finding that the National Realty & Construction Co., holds such property as trustee for the benefit of the complainant and the defendant, Paul Wolf, is against the statute of frauds.

4. The bill of complaint should have been dismissed as against both defendants.

20 (3) Petitioners therefore, pray that the said decree of the Chancellor may be reversed, set aside, and for nothing holden, and that petitioners may have such other relief as to this Court may seem equitable.

NATHAN ERLICH,  
Solicitor for and of Counsel  
with Petitioners.

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## ANSWER TO PETITION OF APPEAL.

NEW JERSEY COURT OF ERRORS  
AND APPEALS.

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*Between*ISRAEL SILVERSTEIN,  
*Respondent,*  
*and*PAUL WOLF and NATIONAL  
REALTY AND CONSTRUCTION  
COMPANY, a corporation of  
New Jersey,  
*Defendants-Appellants.*

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*On Appeal  
from the  
Court of  
Chancery.*

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*Answer to  
Petition of  
Appeal.*

The answer of Israel Silverstein, the above-named respondent, to the petition of appeal of Paul Wolf and National Realty and Construction Company, a corporation of New Jersey, the above-named appellants.

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This respondent, not admitting the truth of all or any of the matters in the said petition of appeal contained for answer thereto nevertheless admits that a decree was on October 29, 1929, made and entered in the Court of Chancery of New Jersey, in the above-entitled cause, for the purpose in said petition mentioned and as therein set forth; but as to the substance and form of said decree, this respondent begs leave to refer thereto when the same shall be produced.

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This respondent is advised and believes that the said decree is agreeable to equity; and that the evidence proves that a partnership existed between the defendant-appellant, Paul Wolf,

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*Answer to Petition of Appeal.*

and the complainant-respondent, Israel Silverstein, that there was evidence from which the Court could find that the defendant-appellant, National Realty and Construction Company, held the property in trust for the benefit of the complainant-respondent, and the defendant-appellant, Paul Wolf, and that the evidence on which the Court found that the defendant-appellant, National Realty and Construction Company held the property in trust for the benefit of the complainant-respondent, and the defendant-appellant, Paul Wolf, was not within the provisions of the statute of frauds; and he prays that such decree may be affirmed with costs to be taxed in favor of this respondent.

KLEIN & KLEIN,  
20 Solicitors for and of Counsel with Respondent.

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*Israel Silverstein, direct.*

**TESTIMONY.**

IN CHANCERY OF NEW JERSEY.

<p><i>Between</i></p> <p>ISRAEL SILVERSTEIN,  <span style="float: right;"><i>Complainant,</i></span>  <i>and</i></p> <p>PAUL WOLF,  <span style="float: right;"><i>Defendant.</i></span></p>	}	10
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Transcript of stenographer's notes of testimony in the above-entitled cause, taken before Hon. John H. Backes, Vice-Chancellor, at the Chancery Chambers, Newark, New Jersey, on the 23rd day of September, A. D. 1929, at 10 o'clock in the forenoon. 20

Appearances:

Messrs. Klein & Klein, Emil Klein, Esq. (present), solicitors for the complainant.

Nathan Erlich, Esq., Benjamin M. Weinberg, Esq., solicitors for and of counsel with defendant Paul Wolf and defendant National Realty & Construction Co. 30

ISRAEL SILVERSTEIN, the complainant, being duly sworn, testified as follows:

*Direct examination* by Mr. Klein.

Q. Mr. Silverstein, what is your business?

A Building.

Q Do you know the defendant Paul Wolf?

A Yes, sir.

40

*Israel Silverstein, direct.*

Q Did you ever have any dealings with him regarding building operations? A Yes, sir.

Q When was that? A That was in 1923.

Q What did these buildings consist of?

10 Mr. Weinberg: I think we ought to have the arrangement, first.

Q What arrangement did you make with Paul Wolf regarding these building operations you had with him? A I made arrangement with Mr. Wolf that we bought a lot of Mr. Tepper and we agreed on the price, and we went into Mr. Erlich's and he represented us in drawing up the agreement. Now, Mr. Wolf made a suggestion to Mr. Erlich that this lot should be bought in my own name—the contract should be made  
20 on my name, and then when the title will pass, the title—then the title should be given to the National Realty and Construction Company; and at the same time, the National Realty and Construction Company should make out a half interest to me, to be held in Mr. Erlich's office as escrow.

Q Well, what arrangement did you make with Mr. Wolf about this lot? What were you to do with it? A We should buy the lot and then  
30 each one should give a half of the deposit.

Q Then what were you to do?

The Court: Go on and tell the story.

The Witness: Now, then when we bought the lot Mr. Wolf, present in Mr. Erlich's office, give to Mr. Tepper a check of \$500, and on the same day I give to Mr. Wolf a check to National Realty Company of \$250.

40 The Court: That was your share of the purchase of the lot?

*Israel Silverstein, direct.*

The Witness: Yes, sir.

The Court: What was the lot to cost?

The Witness: Cost eleven-nine or twelve-nine.

The Court: What?

The Witness: \$12,900 or \$11,900.

10

The Court: This \$500—

The Witness: Five hundred dollars was a deposit.

Q And what arrangement did you make with Mr. Wolf regarding what was to be done with that lot once it was taken over? A We should start and work on it. Mr. Erlich made a search at the time.

The Court: What was your arrangement?

20

The Witness: To build on it. We went ahead right away, and we started.

Q What arrangement about building was had? A What do you mean?

Q What did you say to him and what did he say to you about going ahead with the building? A Well, we should go ahead with that building in partnership.

30

Q What arrangement— A The arrangement was that I supposed to get a half interest in the National Realty and Construction Company.

Q Well, what were you to pay into the National Realty and Construction Company? A At that time I put in \$250 as deposit of the lot.

Q Were you to put in any more money? A After I did put in.

Q Did you at that time agree to put in any more? A Yes, sir.

40

*Israel Silverstein, direct.*

Q What was Wolf to put in? A The same thing, half.

Q Whatever you put in he was to put in? A Yes.

10 The Court: To build this house?  
The Witness: Yes.

Q Now, what was to be done regarding the actual building, was any arrangement made with respect to that? A Then when we started the building, the first thing, we didn't have so much cash, we went ahead right away and arranged a temporary mortgage with the New Jersey of \$40,000, and then we kept on getting payments and going ahead with the construction.

20 The Court: What arrangement was there as to profits and losses.

The Witness: Profits, half interest in the National Realty and Construction Company.

The Court: What?

The Witness: Half interest in the profits and half of the loss.

30 The Court: In the property?

The Witness: In whatever is loss I supposed to stand half.

The Court: In the property?

The Witness: In the property, yes.

Q What was the first parcel that was bought?  
A The first parcel was at South Orange avenue and Sunnyside Terrace.

40 Q That was purchased from whom? A Mr. Harry Tepper.

*Israel Silverstein, direct.*

Q I show you a contract for the purchase of land in East Orange. Do you identify that? A Yes, that is my signature.

Q And that was for the Tepper lot? A Yes, sir.

Mr. Klein: I offer that.

10

The Court: Who is it between?

Mr. Klein: Made between Harry Tepper and Katie Tepper, his wife, vendor, to Israel Silverstein, vendee.

The Court: Silverstein?

Mr. Klein: Yes, sir.

(Marked Exhibit C 1.)

Q You said before you paid half of the deposit money? A Yes, sir.

20

Q I show you check dated April 27, 1923, to the order of P. Wolf for \$250, and signed by Israel Silverstein. Do you identify that check?

A Yes, sir, Mr. Wolf made out that check—

The Court: Is that the check for the deposit?

The Witness: Yes, sir, that is the one.

The Court: All right.

30

(Marked Exhibit C 2.)

Q Now, Mr. Silverstein, when it came to proceeding with the building on this lot, what was done between you and Mr. Wolf regarding that?

A Then we went out and tried to get—when we started, you know, we tried to go out and give out to some concerns material—we arranged in certain places material, and all material went on our both names as partners.

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*Israel Silverstein, direct.*

Q Well, what arrangement was made regarding the actual construction work? A Actual construction? That we should go ahead and build the building and as partners in the building, and as far as the building went ahead we paid and received the money from the—

10 Q Well, did you have any plans drawn? A Yes.

Q Who drew the plans? A Mr. Edwin Warren, the architect.

Q Who ordered the plans to be drawn? A The both of us. We went in both of us.

Q And what arrangement was made towards the supervision of the work on the construction work? A I should be taking care of the building and he should be on the outside, arranging outside mortgages for money, and so on.

20

The Court: He was to look after the finances?

The Witness: Yes, sir.

The Court: And you were the constructor?

The Witness: Yes, sir.

The Court: What became of it?

30 The Witness: We sold it.

The Court: Did you give the contract out to a general contractor, or was the work done by you and Wolf?

The Witness: What do you mean a general contractor?

Q Was there a general contract or was the work done by you and Wolf? A It was a general contract.

40

*Israel Silverstein, direct.*

Q With whom was the general contract? A It was, the general contract, was with the National Realty and Construction Company, Wolf as president.

Q Well, the National Realty was the owner?

A Yes, sir.

Q Who was the general contractor? A I. 10

Q So that a general contract was drawn between the National Realty and Construction Company, as owner, and yourself, as general contractor? A Yes, sir.

Mr. Klein: If your Honor please, at this moment I have four general contracts that were filed in the Essex County Clerk's office, and there is a young lady here. May I introduce them all at one time and connect them up later? 20

The Court: Call for them.

Mr. Klein: I will get them and show them to the witness.

Q Do you identify that building contract, Mr. Silverstein? A Yes, sir.

(Marked Exhibit C 3.)

Q That was for the Sunnyside Terrace? A 30 Yes, sir.

Mr. Klein: I offer that in evidence.

Mr. Weinberg: Just wait a second.

Q Now this is a general contract for what property, Mr. Silverstein, That is Clinton avenue, Irvington? A Yes.

(Marked Exhibit C 4.)

*Israel Silverstein, direct.*

Q I show you a contract for an apartment house at South Orange avenue. Do you identify them? A South Orange avenue and Fairmount Terrace.

10 (Marked Exhibits C 5 and C 6, respectively.)

The Court: Are they all contracts made by you?

The Witness: Yes, sir.

Mr. Klein: I tried to get certified copies but couldn't get them today. I have abstracts off the record to help the stenographer identify the numbers.

The Court: Identify them on the record.

20 Mr. Klein: General contract for building between National Realty & Construction Company, as owner, and Israel Silverstein, as general contractor, for premises at the northeast corner of South Orange avenue and Sunnyside Terrace, East Orange, New Jersey, dated the 17th day of July, 1923, filed in the County Clerk's Office in Essex County on July 18, 1923.

The Court: Consideration?

30 Mr. Klein: Seventy thousand dollars.

The Court: All right.

Mr. Klein: And designated in the Clerk's Office as Contract No. 1915 for that year.

The Court: Now, the next one?

40 Mr. Klein: General contract for building between National Realty & Construction Company, as owner, and Israel Silverstein, as general contractor, dated June 28, 1924, for the erection of two buildings at premises 1010-1016 Clinton avenue, Irvington, for a

*Israel Silverstein, direct.*

total of \$64,600. Filed in the Clerk's Office of Essex County on July 2, 1924, and designated as Instrument No. 1932 for that year. General contract for building between National Realty & Construction Company, as owners, and Israel Silverstein, as general contractor, dated March 23, 1925, for the erection of an apartment house and stores at South Orange avenue and Fairmount Terrace, East Orange, for \$145,000. Filed March 27, 1925, in the Clerk's Office of Essex County and designated as Instrument No. 646 for that year. General contract for building between National Realty & Construction Company, as owners, and Israel Silverstein, as general contractor, dated April 8, 1926, for the erection of a four story brick apartment house at 70 Park avenue, Bloomfield, New Jersey, for \$180,000. Filed in the Clerk's Office of Essex County, April 15, 1926, and designated as Instrument No. 792 of that year.

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Q Now on this first contract, Mr. Silverstein, the National Realty & Construction Company, as owner, and yourself as general contractor, undertook this agreement to erect this apartment house? A Yes, sir.

30

Q Did you do any work with respect to this agreement? A Yes, I did.

Q Did you finish the job? A Yes, sir.

Q And who bought the material for this job? A Wolf and Silverstein.

Q And what arrangement was made with respect to the purchase of material between yourself and Wolf? A We went into creditors and

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*Israel Silverstein, direct.*

placed ourselves as Wolf and Silverstein or Silverstein and Wolf on the credits as partners.

Q And were goods shipped by these material houses to this job in particular? A Yes, sir.

Q Do you know to whom the bills were sent?  
A Bills were sent—some were sent to me, some  
10 were sent to Mr. Wolf.

Q Do you know how they were made out? A They were made out to Silverstein and Wolf, Wolf and Silverstein, National Realty Company, some of them.

Q What money did you get on this contract?  
A The first payment I had something like \$5,800, was the first payment from Mr. Cohen. That was from the New Jersey Mortgage Company—I don't know exactly the name.

20 Q That money came from the mortgagee? A Yes, from the temporary mortgage.

Q What money did you get after that? A After that, Mr. Wolf collected all the rest of the payments.

Q And when the building was mortgaged with the permanent mortgage, who collected the money? A Mr. Wolf.

Q Did you get any of it? A No.

30 Q When the building was sold who got the money for it? A Mr. Wolf.

Q Did you get any of it? A No, I did not.

The Court: What did you do with the money that you got for the contract?

The Witness: I paid it out to labor and so on.

The Court: Why was the title to this property taken in the name of the corporation?

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*Israel Silverstein, direct.*

The Witness: That was the suggestion of Mr. Wolf.

The Court: As a matter of convenience?

The Witness: For convenience.

The Court: Why were the contracts made out in your name with the company? 10

The Witness: That was the legal advice from Mr. Erlich, a lawyer.

The Court: For convenience?

The Witness: He says, "You don't go out to cheat anybody and then you wouldn't have no trouble to go ahead and get all kinds of releases," and that is the way it was. We paid everybody.

The Court: Convenience? 20

The Witness: Convenience.

Q Now, the parcel which you bought from Tepper, did you know that the title was going to be taken in the name of the National Realty? A Yes, I did.

Q What was said between yourself and Wolf with regard to that? A He said, "We will make out"—at the same time when the deed was taken over from Tepper to National Realty & Construction Company, at the same time it was drawn up partnership—half interest in the National Realty Company—National Realty & Construction Company, and these papers was supposed to be held in escrow in the lawyer's possession, because the lawyer says if this comes a publish—you see, the contract wouldn't be any good. 30

Q What contract? A The general contract between National Realty and myself. 40

*Israel Silverstein, direct.*

The Court: I don't get the first part of that.

A (Answer read by the stenographer.)

Q Whose suggestion was it that the title be taken in the name of the National Realty & Construction? A The suggestion was Mr. Wolf's, when the title was taken over—if the agreement was made at that time was the arrangement already made with the National—I should get the contract between me and Tepper and the National Realty should get the title and the National Realty & Construction Company, and at the same time, Mr. Wolf said, "The National Realty & Construction Company will make out a general contract between the National Realty and yourself." And I asked the lawyer if that will be right, because I didn't have any lawyer; we went in both of us, to Mr. Erlich at that time, and I said, "Will that be all right, Mr. Erlich?" He said, "Yes. Why not? So long you get papers to show that you are a partnership in the National Realty & Construction Company, and everything will be all right."

Q Well, did you suggest to Mr. Erlich that a corporation be formed? A Yes, I did.

Q And what was said about that? A I said, "Which way we will arrange that?" Mr. Wolf said, "What is the use to go to work and spend money on a different company; I got a company in existence; the only thing is, we will give you a share, a half interest in the company," and I think it will be fair, and there is no use spending any money to organize a different company.

Q Now, Mr. Silverstein, how did it come about that the general contract was drawn be-

*Israel Silverstein, direct.*

tween the National Realty & Construction Company, as owner, and yourself, as the builder? How did that come about? A How does that come?

Q Whose suggestion was that? A That was Mr. Wolf's.

Q And what did you say about that to him? A I told him if the lawyer advises me it is all right, I am satisfied. 10

Q Was the lawyer's advice sought? A Yes, sir. He said, "It is all right."

Q And after his advice it was drawn and the arrangement went through? A Yes.

Q Now, what money did you get out of the general contract on this job? A I only got the first payment of Mr. Cohen. 20

Q And you disbursed that? A Yes, sir.

Q For what purpose? A For labor, and so on.

Q Did you spend any other money in erecting this building? A Well, I paid out to diggers, I paid to the architect \$100—Mr. Warren.

Q Was that your money? A Yes, sir.

The Court: Did you pay any more on the purchase price than the \$250? 30

The Witness: No, extra that.

The Court: Did you pay any more on the purchase price except the \$250?

The Witness: I couldn't remember.

The Court: The first deposit. You bought a lot for eleven or twelve thousand dollars. Did you pay any more on the lot than the \$250?

The Witness: Yes, I did. 40

*Israel Silverstein, direct.*

Q What was the balance of the cash on the purchase price of that contract? A I think supposed to get a thousand dollars or so.

Q Altogether? A Altogether.

10 The Court: Did you pay your share?  
The Witness: Yes, sir.

The Court: You paid the other \$250?  
The Witness: Yes.

Q How did you pay the other \$250, Mr. Silverstein? A I paid him in cash, I think to Mr. Wolf: No, I think I paid him a check.

20 The Court: He paid the remaining \$250 and you paid him a check for your share?  
The Witness: Yes.

Q When the building was sold, Mr. Silverstein, were you present? A Yes, sir.

Q At the arrangement made to sell it? A Yes, sir.

Q To whom was the building sold? A To a fellow by the name of Brantman.

30 Q Were you consulted with respect to the sale of the property? A Yes, as far as the price arranged, the both of us, for how much to sell.

Q And the sale was made after you and Wolf came to an agreement? A Yes, sir.

Q Were you present at the drawing of the agreement of sale? A Yes, sir.

Q Do you know where it was drawn? A I think it was drawn—Mr. Joe Cohen's—I don't know the first name—Cohen's office.

40 Q Is he a lawyer? A A lawyer, yes.

*Israel Silverstein, direct.*

Q Were you present when title was passed?

A Yes, sir.

Q Do you know where that was? A That was in the same place.

Q And do you know where the purchase money went? A It went—well, he received the money—Mr. Wolf received the money.

10

Q You didn't get any part of it? A No.

The Court: What was done with the money? Was there a profit?

The Witness: It was a profit.

The Court: What was done with it?

The Witness: We took in a different parcel right away.

The Court: You bought another property?

20

The Witness: Yes, Clinton avenue—it is between Maple and Gray streets.

The Court: Is that one of these contracts?

The Witness: Yes.

Q Do you know from whom that parcel was bought? A Which one? The next one?

Q Yes. A The next one was bought, I guess, in the Bonding Company, who was the agents.

30

The Court: Out of the profit you bought another property and erected another building in the same way?

The Witness: In the same way.

The Court: And that contract is on record?

The Witness: Yes, sir.

40

*Israel Silverstein, direct.*

The Court: And then out of the proceeds of the first—or out of the second—you bought a third, and then out of an accumulation of the first, second and third, you bought a fourth?

The Witness: Yes, sir.

10

The Court: And put up buildings in the same way?

The Witness: Yes, sir.

The Court: Need we go any further on that on the question of partnership? Do you want to go into details?

Mr. Klein: I think the defense will admit these properties were bought. We come in and we admit—

20

The Court: I was just trying to cut the time down. Do you want to go into the details of each item?

Mr. Weinberg: Unless your Honor thinks, from this very meager proof, that a partnership has been established, and that cannot be overcome by anything the defendant says.

30

The Court: Oh, no. Up to the present time, he makes out a prima facie case.

Mr. Weinberg: That is not all you require. Don't you require an absolute finding, after hearing the facts of both sides, and make a decree that there has been a partnership, before you come to the accounting?

40

The Court: You misconceive what I have in mind. He is now going on to tell about the other operations, which are mere repetition of this first.

*Israel Silverstein, direct.*

Mr. Weinberg: I get now what your Honor means. Your Honor wanted to know whether Mr. Klein felt called upon—

The Court: Whether you want to go any further.

Mr. Weinberg: That I don't care, whether he does or does not. I will just cross examine as far as he went. 10

The Court: Proceed. It will take a lot of time.

Mr. Weinberg: I say I will cross examine as far as he has gone now, and I do not think it will be necessary for him to go further, as your Honor thinks.

The Court: Is it conceded that the second and third and fourth operations were substantially the same as the first, if the first existed? 20

Mr. Weinberg: No, I don't think so.

The Court: Proceed.

Q Mr. Silverstein, out of the money that was received from the Brantman sale—

Mr. Weinberg: May I interrupt, to shorten this? If he can show, outside of just these general statements of his, that there was enough profit out of the first to buy the second, and there was enough profit out of the second to buy the third, and there was enough rents coming in out of the third to buy the fourth—the third and fourth are still on hand—if he can show, outside of general statements, then I would not ask him to go any further with his proof. 30

The Court: My own notion is, if the second, third and fourth operations are a 40

*Israel Silverstein, direct.*

continuation of the first, and this testimony was not controverted, that a resulting trust arose which inhered to the second, third and fourth, requiring an accounting.

10 Mr. Weinberg: I agree with your Honor entirely, with the exception as it may arise from the statement I made in the opening, my idea being a complication due to the fact that the law of resulting trusts is somewhat changed by the fact that the title went into a third person and not in either of the parties.

The Court: Do not argue it.

20 Mr. Weinberg: I say, with that difference, I agree with your Honor. I am not satisfied to let go, and I know your Honor won't force me to come to a prompt conclusion on that point.

Mr. Klein: My evidence, your Honor, is cumulative. I have at least twenty witnesses under subpoena. So, if Mr. Weinberg insists, I will proceed right along.

Mr. Weinberg: I won't ask you to go to the extent of calling twenty witnesses.

30 Q Mr. Silverstein, with the money that was gotten out of the sale to Brantman, what did you and Wolf do next? A We bought the Clinton avenue parcel.

Q When the question came up with respect to the purchase of that, what was said between you and Wolf with regard to money for the purchase of it? A Well, when we sold to Brantman this first parcel on South Orange avenue and Sunnyside Terrace, he made up a statement that was around \$16,000 was profit.

40

*Israel Silverstein, direct.*

Mr. Weinberg: I object, your Honor. He has drawn a lot of conclusions from matters that should be in writing with respect to bills that were rendered and now a statement shown as profit. That is dangerous stuff. He ought to prove that.

The Court: Proceed. Objection overruled. 10

The Witness: He showed me a statement that he made over \$16,000. He says we wouldn't need any more money of our own and we will put it in the next parcel and go ahead the same way we done with South Orange avenue and Sunnyside Terrace.

Q I show you a batch of papers that purport to be a statement— 20

The Court: Ask him whether that is the statement.

The Witness: That is the statement, yes, sir.

Q Who gave you that? A Mr. Wolf.

(Marked Exhibit C. 7.)

Q Now, the Clinton avenue, Irvington, parcel, was purchased, and title taken in whose name? 30

A On the National Realty & Construction Company.

Q Were you present when the arrangements were made to buy the lot? A Yes, sir.

Q And were you present when title was taken?

A When title was taken I was on the job already.

Q And when it was bought did Wolf consult you? A Yes, sir. 40

*Israel Silverstein, direct.*

Q And it was bought after the two of you agreed? A Yes, sir.

Q Who took care of the legal work for you?  
A Mr. Erlich.

10 Q And what did you proceed to do with the lot once you acquired it? A To build a building on it.

Q Plans were drawn? A Yes, sir.

Q And the contract was drawn? A Yes, sir.

Q And the same procedure was had as in the first job? A Yes, sir.

Q Did you get any money out of that contract? A No, I did not.

Q At any time? A No, only except wages we took ourselves.

20 Q Well, what arrangement did you have about wages with Mr. Wolf? A We drew a certain amount—he drew a certain amount out of the bank for the labor to be paid out—

The Court: No. For yourself.

The Witness: And then for ourselves.

The Court: How much did you draw out?

The Witness: On certain jobs we drew out \$50 a week, certain \$75—no, \$60—certain jobs.

30

Q Did he get as much as you? A Yes, sir.

Q And how was material bought for this job on Clinton avenue?

The Court: The same way?

The Witness: The same basis, Silverstein and Wolf, Wolf and Silverstein.

The Court: And the third?

40

The Witness: The same way.

*Israel Silverstein, direct.*

The Court: And the fourth?

The Witness: The same.

Q Did you get any money out of any of these jobs?

The Court: The four contracts are those that were here? 10

The Witness: Yes.

The Court: And you now offer them in evidence?

Mr. Klein: Yes, sir.

Q And all the land, title to the land was taken in the name of the National Realty?

A Yes, sir.

Q That is for Sunnyside, Fairmount— 20

The Court: For the four of them.

The Witness: For all the four, yes.

The Court: Did you ever have an accounting?

The Witness: No.

Q Did you ever ask for one? A I did.

Q Now, did you ever work at the job at Riverside avenue, in Red Bank? A Yes, sir. 30

Q Do you know what the nature of that job was? A This job was supposed to be taken on Silverstein and Wolf's contract, but I was on the job immediately, as soon as the job started, and the contract was made on the National Realty & Construction Company.

Q With whom was that contract made? A With the Twin Gables.

Q And what did you erect at Riverside avenue for Twin Gables? A The contract sup- 40

*Israel Silverstein, direct.*

posed to be a three-story building, and then after it was decided by the owner in addition we put up a four.

Q Do you remember the price of that contract? A I couldn't exactly say how much was the price. The contract will show.

10 Q How was material bought for that job? A Material was bought—material was delivered from Newark and was bought on our both names, and some material he went down in Red Bank and he arranged with one concern, Thompson Macon Material, and with the Monmouth Lumber Company. Then he took it in his own name.

Q In the name of Paul Wolf? A Paul Wolf or National Realty & Construction Company.

20 Q That job was finished? A Yes, sir.

Q And you actively supervised the construction? A Yes, sir.

Q Did you get any of the money out of this contract? A Only got wages.

Q That is the same arrangement that you had with him, you drew a little each week? A Yes.

Q Now, was there work done by you and Mr. Wolf for a Mr. Miller on Mulberry street, also? A Yes, sir.

30 Q What was the nature of that job? A That was only an alteration job and the time we built South Orange avenue and Fairmount Terrace, and he told me that he got a job for a party by the name of Mr. Miller on Mulberry street, supposed to be an alteration, a cellar to be digged out, a chimney was built in, and so on, and we finished that job, too.

Q Did you supervise the work? A Yes, sir.

Q Did you get any money from Miller for it? A No, only got wages.

40

*Israel Silverstein, direct.*

Q From whom? A Mr. Wolf collected the money.

Q And you mean you drew wages from the fund that you had between you? A Yes.

Q Now, did you ever do any work at the property owned by Mr. Gutterman at Prince street, Newark? A Yes, sir, I did. 10

Q What arrangement? A He arranged with Mr. Gutterman we should fix up one big store, we make him two. That is what we did. On the end we paid out laborers—

The Court: Did you do that job with the other repair jobs?

The Witness: Yes.

The Court: He said what? 20

The Witness: I asked him if he gets any money. He said, "Mr. Gutterman will pay me all in one bunch."

Q Did you ever get any money from Mr. Gutterman? A No, I did not.

The Court: Were you drawing your wages from the firm all that time?

The Witness: Yes. 30

The Court: And so was Wolf?

The Witness: Yes.

Q Did you do any other work in the building line while you were doing these jobs with Mr. Wolf? A No, sir.

Q Do you know whether Mr. Wolf did? A Mr. Wolf? He didn't do anything, too.

Q In other words, both of you devoted your time to these jobs? A Yes. 40

*Israel Silverstein, cross.*

The Court: What is your trade?

The Witness. Carpenter.

The Court: What is Wolf's?

The Witness: Mason.

10 *Cross examination by Mr. Weinberg.*

Q Mr. Silverstein, will you please tell us what was the commencement of this so-called partnership arrangement between you and Mr. Wolf? How did it start, and what were the contributions of the thing to be?

(Discussion off of the record.)

20 Q Tell us what were the negotiations or arrangements which led up to this partnership?

The Court: How did you happen to go in with this Wolf?

30 The Witness: I will explain it. I met—Mr. Tepper, the owner of the first parcel, met me, and he offered me a lot on Sunnyside Terrace and South Orange avenue. I went down and I looked at it and I liked it. And at the same time, I builded on 24 Park avenue for myself. And then I liked the property. And at the same time, Mr. Wolf passed by the job, and I knowed him from before, and we started to talk. He says, "What are you doing?" I told him Mr. Tepper offer me a lot to buy and I think I like him, I am going to buy. He says, "Well, let us go in in partnership." I said, "All right." I says, "Do you want to look at it?" I went down in the machine and took him over and he liked it, too. He said, "Let

40

*Israel Silverstein, cross.*

us go out and get together on the price.” We got together with Mr. Tepper and we arranged the price and we went to Mr. Erlich to draw an agreement. A question came by the agreement. He says, “Now, you take the agreement on your own name, and after we will transfer that on the National Realty & Construction Company.” I say, “What for is that?” He said, “I will tell you: I got an idea that you should be a general contractor and the National Realty & Construction Company should act as owners.” I says, “Where will I come in?” “Well, I will give you a half interest in the National Realty & Construction Company.”

Q Then you mean to tell us that you bought this land in partnership with Mr. Wolf before you had decided what you were going to build on it? A At the same time we decided—yes—we didn’t decide right away, but he says, “Now we will buy up that lot. We will give Mr. Tepper a deposit on it and then we will arrange how this arrangement will be made,” because I wanted it should be done on Silverstein and Wolf or Wolf and Silverstein, as partners.

Q What was Wolf and Silverstein going to do? What business were they going into, in general? A To build.

Q To build what? A To build houses, apartments, anything.

Q Apartment houses? A Apartment houses.

Q Did you talk about that before you mentioned closing title to the Tepper lot? A No, sir.

Q Didn’t you speak about going into operations rather heavily? A First we arranged the

*Israel Silverstein, cross.*

lot and then we talked about what to make with it.

Q Did you only agree to go in partnership on the Tepper lot, nothing else in mind? A If there is profit we will go ahead. He said, "She will stand up."

10 Q You did talk about going into a partnership business with Mr. Wolf for the building or construction of apartment houses, didn't you? A We did.

Q Now, what was the arrangement with Mr. Wolf, so far as any moneys that you had to put up? Did you talk about that? Did you talk about how much he and you would contribute toward the partnership? A Yes.

20 Q What was said about that? A He says, "We will give each one an equal part."

Q How much were you each to put up, if you spoke about that at all? A The first time, \$500 apiece. First time.

Q Was that enough to buy the lot? A He said, "We will go out and we will get a temporary mortgage."

Q You knew about the Tepper lot first, didn't you? A Yes.

30 Q You knew how much it cost? A Yes.

Q You knew how much cash was required? A Yes.

Q How much cash was required? A Was required \$1,000.

Q Is that all? A Five hundred dollars deposit and the rest we give for closing of the deed.

Q Don't you know there was actually paid in cash something around \$2,500 or more? A Twenty-five hundred dollars?

40

*Israel Silverstein, cross.*

Q Yes. That is the cash, plus a little mortgage, I would say, that was afterwards paid off. There was something like twenty-five or twenty-six hundred dollars stuck in that lot in cash, isn't that so? A I couldn't remember that.

Q All you know is, you put in \$250? A And the rest on the passing of title.

10

Q Did you ever pay more than \$250 in all of the operations that your so-called partnership had? A Yes, sir.

Q How much did you pay after that \$250? A Then after I paid—

Q How much? A In the operation of the lot or general?

Q In any of the operations. A Oh, I paid about \$1,500 to the digger. I paid about \$200 for plans, and I paid to iron men, Goldberg Iron Works—

20

The Court: He means, on the purchase price. How much more did you pay on the purchase price?

The Witness: We give \$500 deposit and the rest we paid when the closing title.

The Court: How much did you pay when you closed title?

The Witness: I paid in there \$500—another \$250.

30

Q How did you pay that? A I paid it in checks.

Q Have you got your checks? A Yes, I got.

Q Have you got checks to show your payments?

Mr. Klein: I have numerous checks that were given to Paul Wolf individually, or to

40

*Israel Silverstein, cross.*

National Realty & Construction Company, over a period of two or three months from the inception of this agreement.

Mr. Weinberg: I am asking for some information regarding these payments. I don't know what these checks refer to.

10

Q Have you anything to show the amount of money you contributed towards the purchase?

A Well, I was kept a book by Mr. Wolf and me.

Q Have you got anything? A I haven't got any more than these checks.

Q What checks? A Checks which I produced.

20 Q Now you are referring to something we don't see.

Mr. Weinberg: Will your Honor give us a minute's time to make him produce something?

The Court: Proceed.

(Mr. Klein produces checks.)

Mr. Weinberg: That doesn't answer my question.

30

Q Your best recollection, Mr. Silverstein, is that you paid on account of the purchase price of the Tepper lot, as I understand you, \$500?

A Yes, sir.

Q Two hundred and fifty dollars at one time and two hundred and fifty dollars on the closing. Do you know how much cash was required to pass title? A To pass title?

Q Yes. A I think it was required—it was required, I think, \$1,000, if I recall, at the time.

40

*Israel Silverstein, cross.*

I cannot recollect exactly; it is four or five years.

The Court: Where is the contract?

Mr. Klein: It is in evidence.

The Witness: The contract is right here.

The Court: Go on.

10

Q Whatever it was, you only recall having paid \$500, that is true? A Yes, sir.

Q Now, when I asked you a question before as to whether you had paid any other moneys on account of the partnership, you started to tell us regarding certain payments. I am asking you now whether those payments that you made were out of your own moneys, or whether they were out of moneys that you got from the company on account of these contracts? A I drew all money out of my own bank.

20

Q You spoke before of having received \$5,800. A I paid that out to labor.

Q And are those the payments that you have been speaking of now? A No, that is different.

Q You received large sums of money from the National Realty Company at different times, didn't you? A I didn't receive, as far as I know.

30

Q Do you want me to ask you regarding those things check by check? A Yes, sir.

Q To save time, will you just look at this packet of checks that are made to the order of I. Silverstein by the National Realty & Construction Company? Just to save time, look at all of those, A I would like my lawyer to look up the dates when it was and explain it to me.

40

*Israel Silverstein, cross.*

Q Just look at those checks and they will tell you what you want to know. A This check offsets this one. The \$700 one, have you got it down there, Mr. Klein?

Q Will you look at that whole package there, first? A Yes, it is made out to me. This  
10 \$1,000 offsets to Mr. McCleve of the same date—  
McCleve—if you have got it down there.

Q Don't ask him anything while I am speaking to you, please. We will get the record mixed up. A That is made out to me—

Mr. Weinberg: Your Honor doesn't know what he is referring to?

The Court: I do not think I care.

20 Q I want to know, just generally, whether you received the money covered by that package of checks? A Yes, sir, and these checks I received and I paid it out. It was made out in my name, but I paid it out to certain material men.

Q Now I show you a package of notes with checks corresponding to the amounts, the notes that are made by you to the order of Reed & Company. They are material supply men, aren't they? A Yes, sir.  
30

Q None of your notes that were given by you to the material supply company were paid by you at all, but were return for non-payment and then paid by the National Realty Company. Look at these and please don't mix them up. A I remember those notes was paid by the National Realty, because he was the financier.

Q They paid all these obligations you incurred in buying building material for those buildings? A Yes, sir.  
40

*Israel Silverstein, cross.*

Q Is that right? A Yes, sir.

Q And they amount to something over \$2,000, if you remember. Now, I show you a package of notes aggregating a considerable sum of money, made by you to the order of the National Realty Company, none of which were paid by you. A Yes. That was accommodation notes. 10

Q Without explaining— A Yes, I received those notes; I signed them.

Q Now, did you pay anything out of your own pocket or out of your own bank account toward any of the operations that were conducted by the National Realty Company? A Explain it to me.

The Court: You weren't listening. Did you pay anything out of your own pocket toward these buildings? 20

The Witness: Only on the first job I paid out.

Q And was it out of the money that you had received from the National on these what I might be pleased to term "dummy contracts"? A The first job I only paid out what I had in the bank, and after, when he starts to handle the finance, I didn't have any money in my bank, but he kept on paying the bills that came to the partnership. 30

The Court: Did you get your money back—

The Witness: Yes, sir.

The Court: That you advanced?

The Witness: No, sir, I did not.

Q Have you got any account of the money that you personally advanced out of your 40

*Israel Silverstein, cross.*

pocket, aside from the money you had received from the National or Mr. Wolf? A We kept an account in a book, but I haven't got it, he has got it.

10 Q We will take the only payment that I recall you spoke of, that was made to you on account of those four different construction jobs. If I recall right, you said there was only \$5,800 paid to you. A Something like that.

Q And that was the only payment ever made to you as general contractor? A Yes, sir.

Q That \$5,800 you paid out for labor or material? A Yes, sir.

Q All but probably a hundred dollars or so? A Maybe more, I don't know exactly.

20 Q But substantially that whole sum was paid out by you, and that is the only money paid out on account of labor or material or anything else? A Yes.

Q So that while you were the general contractor named in this contract, as a matter of fact, very little if any money was ever paid to you on those contracts? A That is the only money that I received.

30 Q Now, you offered a paper here, C. 7. What do you say this is? What is this supposed to be, this exhibit?

The Court: A statement of the first operation.

The Witness: That was made out by Mr. Wolf—

The Court: A statement of the first operation?

40 The Witness: Of the first operation, yes. He shows where he received and he paid.

*Israel Silverstein, cross.*

Q This is supposed to show the cost of the building and the profit that was made from it, is that correct? A Yes, sir.

Q Now, when you talked about this partnership was anything said about who was to raise all the money—who was to put in all the money necessary to put up a building? A At that time by the first building, especially when we bought that parcel, right away we went ahead and we raised a temporary mortgage, and we didn't need any of our own moneys so much. We paid out until the temporary mortgage—until the cellar was up, and then we received the first payment. 10

Q Did you borrow enough money to pay for the cost of putting up this apartment house, the cost of the land, and all? A Some of it we give notes. 20

Q Did you receive enough money that way to pay for the cost of construction? Was no money put in by anybody? A There wasn't much money put in at any time.

Q Who put it in? A About three or four thousand dollars, we put in.

Q Who put that in? A Both of us.

Q How did you put it in? A Put it in while I was paying out payments, and then I counted up against it, he pays out and counted up against me. 30

Q Have you anything to show that you ever made any payments towards putting up this building? A Yes, I paid out—

Q I am not asking you what you did. Have you got anything to show that when we get to it? A To who?

Q To anybody, to material men or to the general construction funds? A To labor I got, to contractors, yes; to diggers and architects— 40

*Israel Silverstein, cross.*

Q Listen, Mr. Silverstein—

The Court: He is telling you.

Q I first asked you whether you put in any money at all of your own. A Yes, sir.

10 Q Now, my other question is whether you have anything to show that you put up any money from your own pocket? A I got checks.

Q That is all I want to know, without asking any particulars. When you started in this business were any wages agreed on? A The first job we didn't draw any wages.

Q How long did you work without any wages? A I drew from my own money for myself.

20 Q Didn't you even start to draw money from Mr. Wolf before you even started to work? A I drew money from Mr. Wolf?

Q Yes. A If I did draw money, it was only a lending proposition and I paid him right back.

The Court: Did you draw any money for your work?

30 The Witness: For my work? No, I did not.

Q Now, without asking you to show me anything, I ask you a general question whether you paid back the moneys represented by the checks that I first showed you, the first package of checks that I showed you. A Some of those checks were counted in in the time as wages.

40 Q Well, you propose to show that this money that was given to you by the National has been accounted for by you; that is, you can show

*Israel Silverstein, cross.*

what you did with that money. That is what your propose to show in this trial? A The thing is, he kept the books. We had it in every check, every item.

Q If the books are true, they ought to show you had given back money that he advanced to you, or the National advanced to you? A Yes, sir. 10

Q When did you start to receive wages? A We start to receive wages on the next job—on the Clinton avenue job.

Q And you worked without receiving any money at all? A On the first job? Yes, sir, until about the finish of the building—maybe about a couple of times, we received wages.

Q Now, the property, as I recall, was purchased on April 27, 1923, wasn't it? A Yes, sir. 20

Q Will you tell me what the check for \$300 to your order on that very same day means? A I got a check down there that offsets the same thing.

Q What was it for? What do you take \$300 for? A It was a loan between ourself. It was some kind of an arrangement and I give him a different check for \$300 right away. 30

Q Was it a loan or just some kind of an arrangement where you were swapping checks? A He give me a check and I think I gave him a check. I don't know whether I got it or not.

Q Do you remember when the first parcel was sold? A Yes, sir.

Q When? A It was sold around—it was in the spring, I remember.

Q Of the next year? A Of the next year. 40

*Israel Silverstein, cross.*

Q Will you tell me what this \$700 was that was given to you by the National in August, 1923, if it wasn't for wages or advanced on account of something? A Yes, I guess I got a check to offset this one.

10 Q Were you just exchanging checks? A No. He lended me and I give him back.

Q Nine days later there is another check to your order for \$1,000. Is that also an accomodation? A This check was paid out to me and I give to McCleve a check for \$1,000.

Q Who is McCleve? A McCleve, the lumberman.

Q September before the property was sold you had \$300 again? A Yes, sir.

20 Q Was that another that was given to you for any personal purpose? A That was given to me and I paid out some items on the building.

Q What they are you are ready to show, are you? A No, I haven't got no check for that one.

Q Well, you will be prepared to show what you did with those moneys? A If I got the books I will see the items there. He has got the books.

30 Q His books will show what all of this money— A I will see if that is the same book.

Q What you mean to tell his Honor is that Mr. Wolf or the National has books which should show what this money was for? A Yes, day books.

Q Does that apply to all of these other payments, such as \$1,000 more that same month to you? A Yes.

Q And \$1,000 more two months later? A Yes.

40 Q And so forth? A Yes.

*Israel Silverstein, cross.*

Q You don't know offhand what these moneys were given to you for? A Offhand, no.

Q You don't know whether they were for your personal— A They went into the building, I know that.

Q You know that they went into the building? A Yes. 10

Q First the money went to you and then into the building? A Then I paid it out, yes, sir.

Q Now, will you just tell us when your wages started. A Wages started around—around July or August.

Q Of the year you bought the first parcel? A Of the year 1923, yes.

Q Do you know whether Wolf drew any wages? A I don't know. He got the money. 20

Q Was there any agreement between you and Wolf that he was to draw wages? A We were supposed to draw equal a share of wages, but we did not draw on the first parcel because we didn't have it. We only put it in the building until the payments will come.

Q How about the second building, did you draw money on the second building? A Yes, sir.

Q For wages? A Yes, sir. 30

Q How much a week? A The second building we drew—

Q You, I am asking. A I guess it was around fifty or sixty dollars a week.

Q Who paid you that? A We drew a certain amount of money.

Q Don't say "we." I am asking you about yourself. How much did you get? A I got fifty or sixty dollars a week.

Q Who paid it to you? A Mr. Wolf. 40

*Israel Silverstein, cross.*

Q Did you thereafter continue to get wages regularly through Mr. Wolf? A Yes, sir.

Q Through all of the other operations? A Yes, sir.

Q Sometimes you got more than fifty or sixty dollars? A The highest was in Red Bank, \$90 a week.

Q Because you were out of the City? A Yes.

Q And up until you finished your work you were still on a wage basis with him, weren't you? A No.

Q You were getting wages? A I was getting wages while I was working.

Q And you don't know whether or not he was receiving any wages? A I don't know anything.

The Court: What was your arrangement about it?

The Witness: The arrangement was I should get—

The Court: As to him, what arrangement was there as to what he should get?

The Witness: He should get the same amount as I got.

Q What was he doing? A Well, I don't know what he done; he had all the money.

Q What work was he doing? A In the winter time we didn't do. While we were working—

Q Did he do any labor himself? A No. Where, around the buildings?

Q Yes. A Himself?

Q Yes. A He only was financial business.

*Israel Silverstein, cross.*

Q He was the boss, he wasn't working and drawing any wages himself? A Yes, he is supposed to draw wages.

Q For being the financial man? A No, just as a partner.

Q Have you any other statement besides the one that you put in evidence which is intended to show what your dealings amounted to? A We had books—I haven't got anything to show except the first contract and the checks what I paid out personally. The rest was been put in books with me and Mr. Wolf, and I don't know if he has got them. If he wants to produce them, all right, I will look at them and see. Another thing, I haven't got it. 10

Q Then that is the answer to my question, that you never received any statement except the one that you put in evidence? A That is the one he made up from the first parcel. 20

Q I think his Honor asked you whether you ever asked him for any accounting on these different transactions.

The Court: Counsel did. I asked if there had been one and he asked if he had asked for one.

Q You asked for an accounting after the first building was done? A Yes, sir. 30

Q And you got it? A I got this one.

Q Did you ask for an accounting after the second building was done? A Yes.

Q Did you get it? A No.

Q Did you ask for an accounting for the third building? A I didn't get it.

Q Nor for any other one? A No.

Q Yet you continued on? A Yes. 40

*Israel Silverstein, cross.*

Q And this thing started some six years ago? A 1923, yes.

Q When was the last time you demanded an accounting before you had your attorney bring suit? A In between the times I demanded, and he kept on laying me off—laying me off one  
10 summer and went away to Bradley and built a bungalow down there, and he wasn't on the job for a certain time unless maybe a week came around, and he laid me off the next job, but the more I went in and I saw I couldn't get out and I stuck with it.

Q What couldn't you get out? A I couldn't get out either way.

Q You had no money in there, did you? A I had my money down there and my labor for  
20 five years or six years.

Q Well, you were paid for your labor. A Well, my nerves, my interest, my time.

Q You want to be paid for your nerves? That is why you couldn't pull out after the first or second jobs were done and he gave you nothing; you couldn't pull out on account of your nerves? A What do you mean?

Q Did you have any money of your own that went in after the first operation? A I had.

Q How much, can you tell us, in all, that you  
30 have actually got into this property, or any of these properties at all, not asking you to account for profits, but how much out of your own pocket? A We only put in about two or three thousand dollars apiece.

Q I am asking you, how much did you put in? A I put in half as much as he did.

Q And the National itself, you don't know how much it put in? A The National?

Q Yes. A Well, that is what he put it in.  
40

*Israel Silverstein, cross.*

Q You knew the National was in business before these operations commenced? A I don't know if they had. After, when we went up to the lawyer, he said he has got a company in existence. I don't know if they done any building or not; maybe got a house on the name, I don't know at that.

10

Q You don't know what property that corporation had or what it has got now, outside of this? A Now I know he has got one.

Q Besides this property? A Yes, he had one, yes.

Q Was there anything said when you spoke about going into partnership about who would go on the bonds? A On the bonds?

Q Yes, that you would have to give when you borrowed money. You weren't to go on any of those bonds, were you? A Yes, I was supposed to go on the bond of the general contract.

20

Q Did you go on any bonds that had been given? A No, I did not.

Q Some of those properties have got two mortgages on, haven't they? A Yes, sir.

Q There was nothing said about that at the start? A No.

Q May I just ask you one question: Isn't it so that when you first got together with Mr. Wolf you spoke about a partnership and he told you that he would be willing to go into the building game with you if you would produce \$25,000 against the \$25,000 that he or the company would put up? A Didn't said a word to me, because we had enough money when we sold the first parcel.

30

Q Before he ever built the first building, wasn't it talked about you would need a large amount of money to go into these big building

40

*Israel Silverstein, re-direct.*

operations that were proposed? A Nothing was said.

Q So he started in on your \$500 contribution? A Yes, and then we raised a temporary mortgage.

Q You mean, the National did? A The  
10 National Realty.

Q You had nothing to do with it? A I did, according to the way the arrangement was.

Q I mean, you had nothing to do—you didn't solicit the loans and you didn't back it up? A I didn't solicit the loans, but the understanding was that I should be in it.

*Re-direct examination by Mr. Klein.*

Q Mr. Silverstein, the total amount of the  
20 building contracts was \$459,600? A Yes, sir.

Q Did you get any amount like that from the National Realty? A No.

Q I show you a check dated April 27th—

The Court: I am not going into the matter of accounting.

Mr. Klein: No, but to offset the offer of the checks that Mr. Weinberg made.

30 The Court: He said they swapped checks or changed checks or borrowed money. Are you going to controvert this man's story on the question of partnership?

Mr. Weinberg: Yes, sir. That was indicated in my last question.

*Harry Tepper, direct.*

HARRY TEPPER, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

Q Mr. Tepper, in 1923 you owned a vacant lot at the northeast corner of South Orange avenue and Sunnyside Terrace, East Orange? A Yes, sir. 10

Q And to whom did you sell that land? A To Mr. Silverstein.

Q Do you know to whom that was drawn? A Yes, sir, it was drawn to a corporation.

Q Now, when the title was passed, Mr. Tepper, who was present? 20

The Court: Was anything said in your presence about a partnership?

The Witness: No, I can't recollect. I don't quite remember.

Q Was Mr. Wolf present at the closing? A Yes, sir.

Q Was Mr. Silverstein present? A Yes, sir.

Q Who gave you the check? A I really don't even remember that, but I can't say that. 30

Q To whom did you first show the lot for sale? A To Mr. Silverstein.

Q Was it Mr. Silverstein that brought Mr. Wolf around? A Yes.

Mr. Klein: That is all.

Mr. Weinberg: That is all.

*Henry J. Ruck, direct.*

HENRY J. RUCK, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

10

Q Mr. Ruck, where are you employed now?

A Secretary of George F. Perry & Sons.

Q Is that a material house? A Masons material.

Q How long have you been employed there?

A I am in that firm fourteen years.

Q Generally, what are your duties, Mr. Ruck? A Secretarial work—secretary to the corporation.

20

Q Do you have anything to do with the establishing of credit for customers? A Yes, sir.

Q Do you know Mr. Silverstein, who was on the stand before? A No, sir, I do not.

Q Do you know Mr. Paul Wolf? A Yes, sir.

Q Do you see him in the court room? A Yes, sir.

30

The Court: He knows him. Go on.

Q Has your company an account on its books in the name of Israel Silverstein? A No.

Q Has it an account in the name of Paul Wolf? A No, sir.

Q Has it an account in the name of Silverstein and Wolf? A Wolf and Silverstein.

Q Who authorized you to open the account?

40

The Court: How did you happen to open that account?

*Henry J. Ruck, direct.*

The Witness: Mr. Wolf came into our office and made the arrangements.

The Court: Tell us about it.

The Witness: He had a job on South Orange avenue and he needed some metal laths, and we served that account as Wolf and Silverstein on the suggestion of Mr. Wolf to our office. 10

Q And were the materials furnished on South Orange avenue and Sunnyside Terrace job? A Yes, some of the material, not all of it.

Q Did you furnish any material for Wolf and Silverstein at Clinton avenue, Irvington?

A A few.

Q Did you sell them any material for South Orange avenue and Fairmount Terrace, East Orange? A Yes, sir. 20

Q And for premises at 64-68 Park avenue, Bloomfield? A Yes, sir.

The Court: Who ordered it?

The Witness: Mr. Wolf.

The Court: In the name of Silverstein and Wolf?

The Witness: In the name of Wolf and Silverstein. 30

The Court: I didn't get your occupation.

The Witness: Secretary of George F. Perry & Sons.

The Court: Engaged in what business?

The Witness: Masons' materials.

Q Did you sell Wolf and Silverstein mason material and supplies at Riverside avenue, Red Bank? A No, sir. 40

*Edward Phillips, direct.*

Q Do you recall whether you sold them any for a property owned by Miller at Mulberry street? A No, sir.

Q On the property of Gutterman on Prince street? A No, sir.

Q Is the bookkeeper of your company here?  
10 A No, sir.

Q Have you got the books with you? A No, sir.

*Cross examination by Mr. Weinberg.*

Q You say Mr. Wolf gave you an order to charge the material to Wolf and Silverstein? A Yes, sir.

Q Have you got your books showing that you so charged? A No, sir, I was not requested.  
20

Q When did you look at your books? A After Mr. Klein requested me to come down as a witness.

Q This morning? A Saturday.

Q You know it is a fact that you have it charged to Wolf and Silverstein, and not to the National, or Wolf individually? A Yes, sir.

Q Your books wouldn't show anything different from what you have now stated? A No.  
30

---

EDWARD PHILLIPS, a witness produced on behalf of complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

Q Mr. Phillips, where are you employed? A Harrison Supply Company.  
40

*Edward Phillips, direct.*

Q They are a material supply house? A Building material.

Q Located where? A In Harrison, New Jersey.

Q How long have you been with them? A Since the inception of the company.

Q How long is that? A Ten years. 10

Q What are your duties there, Mr. Phillips?  
A An officer of the concern.

Q Have you anything to do with the establishing of credit for customers? A Yes.

Q Has your company an account in the name of Wolf and Silverstein? A Silverstein and Wolf.

Q Who authorized—how was that created?  
A Mr. Silverstein and Mr. Wolf came in the office about 1923 and opened an account under the name of Silverstein and Wolf. 20

Q You say Mr. Wolf was present?

The Court: That is what he said.

Q Do you recall where materials were shipped to from your company and charged to them? A Practically all of their jobs in this vicinity.

Q Have you the bookkeeper here? A Yes. 30

Q Are those sheets from— A They are sheets from our ledger.

The Court: They are sheets in the name of Silverstein and Wolf?

The Witness: Yes, sir.

The Court: Captioned that way?

The Witness: Yes, sir.

(Marked Exhibit C. 8.)

*Edward Phillips, cross.*

Mr. Weinberg: In trying to shorten this case, I did not get the testimony, because—

10 The Court: The same as before, that Wolf and Silverstein came there to his place and established a credit in the name of Silverstein and Wolf, and as a result of that, they sold material to Wolf and Silver-  
 20 stein for all of their jobs and so entered them on their loose leaf ledger which the witness produces in evidence and which is offered.

*Cross examination by Mr. Weinberg.*

Q Do your entries show who paid the money? A No, our entries wouldn't show  
 20 that. The majority of the checks were paid by the—

The Court: By the company?

The Witness: The National Realty Company, Paul Wolf, either President or Treasurer.

Q All of the checks that came to you were signed that way, weren't they? A I can't say  
 30 that. I would say most of them.

Q You don't remember anybody else's check distinctly, do you? A I don't remember that, no.

Mr. Weinberg: I guess that is the fact, that all checks, no matter how charged, were made out in the name of the National.

The Court: How many more witnesses  
 40 have you of this kind?

*Benjamin Sternich, direct.*

Mr. Klein: Six, seven, eight, nine—I subpoenaed a member of the firm and the book-keeper.

The Court: All on the same line, showing Wolf and Silverstein established credit as partners and as a result of that credit materials were furnished on these jobs? 10

Mr. Klein: Yes. And I have one witness I think I can put on right away to show the statement made in this court that will bind the defendant Wolf.

The Court: Do you want him to call the other merchants?

Mr. Weinberg: He just says he has one witness that will bind us.

The Court: He said he had many others. Do you want him to call them or will you admit that it can be proved? 20

Mr. Weinberg: It would help me to influence my client, an action that will save time, if he will go ahead with a little more proof.

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BENJAMIN STERNICH, being duly sworn according to law, on his oath testified as follows: 30

*Direct examination by Mr. Klein.*

Q Mr. Sternich, what is your business? A Plumbing and heating contractor.

Q For yourself? A Yes, sir.

Q Did you ever do any work for Israel Silverstein and Paul Wolf? A Yes, sir. 40

*Benjamin Sternich, cross.*

Q Where did you do work for them? A We have our books here.

The Court: Where did you do work for them?

10 Q Did you do work at Sunnyside? A South Orange avenue and Sunnyside; Bloomfield, Park avenue; Twin Gables, Red Bank.

Q And when you undertook to do the work who requested or authorized you to do it? A Mr. Wolf.

Q In whose name did you carry the account? A Silverstein and Wolf.

Q How did that come about? A They walked in my office and I thought that he was a partner with Mr. Wolf.

20 Q Not what you thought. What did Mr. Wolf say to you or Mr. Silverstein when they were at your office? A They submitted plans and I gave them an estimate.

Q They both were there? A They both were there.

Q What did Mr. Wolf say to you? A He would let me know in a few days.

Q Who told you to open the account in the name of Wolf and Silverstein? A Mr. Wolf.

30 Mr. Klein: That is all.

*Cross examination by Mr. Weinberg.*

Q The books will show that you charged the account in the manner you have spoken of? A Yes, sir.

Mr. Klein: I will offer the books. We have them here.

(Marked Exhibit C. 9.)

*David Levy, direct.*

DAVID LEVY, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

Q Mr. Levy, what business are you in? A Sash and door business. 10

Q For yourself or a corporation? A Levy Brothers Company, a corporation.

Q And you are a member of the company? A Yes, sir.

Q Do you know whether your company has an account in the name of Wolf and Silverstein?

A Silverstein and Wolf.

Q How did it come about that you opened such an account? A Well, they gave me a job and I opened the account. 20

Q Who gave you the job? A Well, the first job I got from Silverstein and then he brought in Mr. Wolf.

Q Did you talk to Mr. Wolf about the account? A Oh, sure. I used to talk to the two of them.

The Court: What was said?

Q What did he say to you about that? A About the account? 30

Q Yes. A Well, they told me they opened the account for the two of them. That was for the next job.

The Court: Who did?

The Witness: Mr. Silverstein and Wolf.

The Court: What did Wolf say, or Silverstein, about opening the account? 40

*David Levy, direct.*

The Witness: They just gave me the order to open the account in the name of Silverstein and Wolf.

The Court: What job was that?

The Witness: That was Clinton avenue.

10 Q Did you do work for them or supply material on South Orange avenue and Fairmount Terrace, East Orange? A Yes, sir.

Q Did you supply material at Park avenue, Bloomfield? A Yes, sir.

The Court: Did you run this account in the name of Silverstein and Wolf?

The Witness: Yes.

The Court: Did you submit any bills?

20 The Witness: Yes, sir.

The Court: To whom?

The Witness: Silverstein and Wolf.

The Court: Who did you send them to?

The Witness: I think we used to send the bills to the two of them.

The Court: Both of them?

The Witness: Duplicate copies.

The Court: Of each of them?

30 The Witness: Yes.

The Court: But bills were made out in the name of Silverstein and Wolf?

The Witness: Yes.

The Court: Were they paid?

The Witness: I still have a balance coming.

40 Q Did you supply any material for Riverside avenue, Red Bank? A Yes, sir.

*David Levy, cross.*

The Court: Silverstein and Wolf?

Q Did you supply any material for Mulberry street? A I couldn't say, unless it is here.

Q Have you got the account there? A I have.

10

Mr. Klein: I offer the account in evidence.

(Marked Exhibit C. 10.)

*Cross examination by Mr. Weinberg.*

Q Your records show that the material was charged to the name of Wolf and Silverstein, do they? A Silverstein & Wolf.

Q But that is what your record shows? A Yes.

20

The Court: As shown by the witness. He has his record here.

Q The account begins July 8, 1924 and runs through to—any way, it runs as far as February, 1928.

The Court: Did you send out monthly bills?

30

The Witness: Yes.

The Court: In the name of who?

The Witness: Silverstein and Wolf.

Q Payments were made by the National Realty Company? A National Realty.

---

40

*Morris McNish, direct.*

MORRIS MCNISH, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

10

Q Mr. McNish, you are bookkeeper for A. C. Gonn Hardware concern in Newark? A I had charge of the account; I was secretary of the corporation.

Q You kept the books? A We had a bookkeeper, but I was responsible for them.

Q Did you have an account or have you an account on those books in the name of Wolf & Silverstein? A Yes.

20

Q Do you know how that account came to be opened? A I wasn't with the company when the account was opened.

Q Do you know how it was opened? A No.

The Court: Opened on your books first in what name?

The Witness: Wolf & Silverstein.

The Court: Silverstein & Wolf?

30

The Witness: Wolf & Silverstein, we have.

Q Now, do you recall to what jobs material was delivered in that name? A Yes, I recall a job, an apartment building in East Orange, on the corner of South Orange avenue above Hillcrest Terrace—I don't know the exact street.

The Court: Did you send out bills?

The Witness: We sent out bills.

40

The Court: Monthly bills?

*Morris McNish, direct.*

The Witness: Monthly bills.

The Court: In the name of—

The Witness: Wolf & Silverstein.

The Court: Who did you send them to?

The Witness: I believe they were sent to the attention of Wolf.

10

The Court: Addressed to Wolf & Silverstein, attention of Mr. Wolf?

The Witness: Attention of Mr. Wolf.

The Court: How long did that account run?

The Witness: It ran—my recollection is, from 1923 up until 1929.

Q Mr. McNish, was that account charged with material furnished to Riverside avenue, Red Bank? A Yes. 20

Q And that was the building that Mr. Gonn himself was interested in the erection of? A Yes.

Q He was a member of the company that was owner of the property? A That is right.

Q Mr. McNish, have your books an account in the name of Israel Silverstein alone? A Yes.

Q And have you an account in the name of Paul Wolf alone? A Yes. 30

The Court: Are these the books?

The Witness: These are the books.

Mr. Klein: I offer them in evidence.

(Marked Exhibit C. 11.)

*Joseph J. Corn, direct.*

JOSEPH J. CORN, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

10 Q Mr. Corn, you are an attorney of this State? A I am.

Q You represent A. C. Gonn, Inc.? A I did.

Q You were put in charge of the collection of accounts open on their books? A I was.

Q And have you an account that you were to take care of in the name of Wolf & Silverstein? A I have.

20 Q Will you tell us what you did with respect to the collection of that account. A I wrote to Wolf & Silverstein on February 11, 1929, addressed the letter to 251 Osborne Terrace, Newark, New Jersey, asking for payment of the account of \$3,712.69.

Q Who came to see you?

The Court: What happened? Go on.

30 The Witness: Mr. Wolf came in and said that this account should be shown as a credit on the accounts due to the National Realty Company from Twin Gables Realty Company for the erection of the apartment house at Riverside avenue, Red Bank. I told Mr. Wolf I couldn't see how we could credit the account of Wolf & Silverstein in favor of a corporation, National Realty; and he told me that the corporation was Wolf & Silverstein, and that even if this account is credited there would still be a  
40 balance due to the National Realty. First

*Joseph J. Corn, cross.*

he stated that the amount of \$3,712.69 was an overcharge—there was an overcharge of about \$100. I asked him to get me a statement showing the balance due on that Red Bank job, and he did bring me a statement. He showed on that statement a credit for \$3,604, to take care of this A. C. Gonn bill, and then he stated there was still a balance of some \$5,000 coming due to him. 10

Q Was that account paid? A No.

Q What took place after that? A Why, there was a suit started by National Realty against the Twin Gables Realty and Mrs. Gonn to collect this five thousand odd dollars which he claims still to be due.

Q And the complaint in that suit, was there any account attached? A There was. 20

Q Did that account give credit for the Wolf & Silverstein balance due?

The Court: The bill will show that.

Mr. Klein: I wanted him to see it and then I will offer the bill in evidence.

(Marked Exhibit C. 12.)

The Court: Offer in evidence files of National Realty & Construction Company, complainant, and Twin Gables Realty Company, defendant, folio 73/139. 30

*Cross examination by Mr. Weinberg.*

Q What was the answer that was filed by the defendant?

The Court: It is on the record.

Mr. Weinberg: I never saw it before. 40

*George Ottley, direct.*

Q Do you know what the answer was? A The answer was that we did not owe any balance.

Q The action was against whom, defendant? A Twin Gables—the defendants are Twin Gables Realty Company and Ola E. Gomm.

10

The Court: Was it in equity?

The Witness: In equity, yes, sir.

The Court: For what?

The Witness: Claiming that there was a creditor is suit without a judgment. We also filed an answer that the Court had no jurisdiction of the case.

Q Who brought the action? A National Realty Company, as complainant.

20

Q There is nothing on those pleadings to indicate whether or not four certain properties, built here and in Red Bank, were built by the National or built by Silverstein & Wolf, is there?

A Oh, no.

Q It won't shed any light on that subject?

A No, except as to this amount—

The Court: No.

30

---

GEORGE OTTLEY, a witness produced in behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination* by Mr. Klein.

Q Mr. Ottley, where do you reside? A At 80 Race street, Bloomfield.

40

*George Ottley, cross.*

Q What is your occupation? A Special clerk for the Globe Indemnity Insurance Company.

Q Did you ever act as superintendent of an apartment house? A I did.

Q Where? A 68 and 70 Park avenue, Bloomfield. 10

Q Do you know who the owner of that place was?

Mr. Weinberg: I object to that.

The Court: Do you know?

The Witness: Yes, sir.

Q Who employed you as superintendent on that place? A Silverstein & Wolf. 20

Q Well, whom did you talk to when you got the place? A Why, I first met Mr. Silverstein through his son-in-law, and he asked me if I would like to be superintendent of this apartment, and I told him yes. So he said, "You will have to come see my partner, Mr. Wolf, and if we can agree to have you, why, you can have the job." So I made arrangements to see Mr. Wolf and of course, at the time, both were present. And Mr. Wolf and Mr. Silverstein agreed that I could take the place. 30

*Cross examination by Mr. Weinberg.*

Q You were eventually discharged, though, by Wolf, weren't you? A Yes, I was eventually discharged by Wolf.

Q Wolf was the man who hired you, wasn't he? A No, I was hired between both.

Q Both standing there after Silverstein referred you to Mr. Wolf? A Yes, he said that. 40

*Louis Gerber, direct.*

Q Who is he? A Mr. Silverstein.

Q But when it came to the discharging, Wolf did it? A Well, it was between—

*Re-direct examination by Mr. Klein.*

10 Q Did you collect rents there? A I did.

Q Whom did you turn them over to? A Wolf always came for the rent, and when Mr. Wolf couldn't come Mr. Silverstein came.

Q And you turned the money over to him? A Either one.

Q How long were you in that place? A About a year.

Q Was there ever any repairs or work done in that place after the tenants got in there? A  
20 There was.

Q Who came around to inspect the place for those repairs? A Mr. Silverstein.

Q Who did them? A Mr. Silverstein.

Mr. Klein: That is all.

---

30 LOUIS GERBER, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

Q Mr. Gerber, what business are you in? A The brick business.

Q Do you know Paul Wolf and Israel Silverstein? A Yes, sir.

Q Did you ever sell them any material? A  
40 Yes, sir.

*Louis Gerber, direct.*

Q Have you got an account on your books in the name of Wolf & Silverstein? A Yes.

Q How did it come about that you opened such an account? A Well, I was told to.

Q By whom? A By Wolf & Silverstein, when I sold them the stuff.

Q And did you deliver any material to premises at South Orange avenue and Sunnyside Terrace? A Yes. 10

Q Did you deliver to Clinton avenue, Irvington? A That is right.

Q Did you deliver to South Orange avenue and Fairmount Terrace? A Yes, sir.

Q Did you deliver to 68 Park avenue, Bloomfield? A That is right.

Q Did you deliver any material at Riverside avenue, Red Bank? A No. 20

Q Or to the place of Miller on Mulberry street? A No.

Q Or the place of Gutterman on Prince street? A No, sir.

Q Have you your books here? A Yes, sir.

The Court: Are these the books?

The Witness: That is right.

The Court: Show them to Mr. Weinberg.

Mr. Weinberg: The books show the charges are in the name of Wolf & Silverstein. 30

(Marked Exhibit C. 13.)

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*Isidore Sperber, direct.*

· ISIDORE SPERBER, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

10

Q Mr. Sperber, what business are you in?  
A Lumber salesman.

Q For whom do you work? A E. W. McCleve & Sons, Harrison.

Q In your duties as salesman did you ever sell building material to Silverstein & Wolf or Wolf & Silverstein? A I sold to Mr. Silverstein.

20 Q Did you ever sell to Paul Wolf? A Well, our account started with Silverstein and then it turned over to Silverstein and Wolf.

30 Q How did that come about? A We sold to Silverstein on his first job that he built in Bock avenue, a two family house for his own use, and one to sell; and his next job he started Silverstein and Wolf, but our company was satisfied with Silverstein's credit and we did not change the books, we just left it on Silverstein's account and then when we had to collect the money I chased both Silverstein and Wolf and we had to wait until this National company gave Mr. Silverstein a check and he gave us his own check. Every time that was done.

Q Did you ever talk to Paul Wolf about the material that was to be shipped on this South Orange avenue job? A No.

Q Did you ever have any conversation with him at all? A Yes, I did.

40 Q And what was that conversation about?  
A Well, on his following job I went after him

*Isidore Sperber, direct.*

and he gave me a chance to figure, and I have a quotation that I figured at that time, in 1926.

Q Those are your own figures? A Yes.

Q What did you say to Wolf and what did he say to you at that time? A Well, I was interested that I collect the money on the last job of Silverstein & Wolf that this Mr. Silverstein sent me to Mr. Wolf, "to see my partner about his next job." He says—he hasn't got his full amount.

10

The Court: Did you see Wolf?

The Witness: Yes.

Q Who gave you the order? A I didn't get the order any more.

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Q Did you give the figure to Mr. Wolf? A Yes, sir.

The Court: Who was the figure addressed to?

The Witness: Silverstein & Wolf, and I have a copy of it.

The Court: Where is it?

The Witness: Here (witness produces paper), but I didn't get the job.

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(Marked Exhibit C. 14.)

The Witness: This was on the Bloomfield job.

The Court: Is that one of the four contracts?

Mr. Klein: Yes, your Honor.

The Court: What did Wolf say when you gave him that?

The Witness: It was too high.

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*Isidore Sperber, cross.*

Q Did you figure any other jobs for him? A No.

Mr. Klein: That is all.

*Cross examination by Mr. Weinberg.*

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Q Who requested the estimate? A Mr. Wolf.

Q Did he tell you who was going to pay you?

A Yes.

Q Who? A Silverstein & Wolf.

Q Did Silverstein & Wolf ever pay you? A No.

Q You were paid everything by the National Realty? A By Mr. Silverstein, his own personal checks.

20

Q What is your firm? A E. W. McCleve & Sons.

Q If that is so, is your last statement true? Let me show you some thirty-odd hundred dollars' worth of money paid to your firm and ask you if these checks do not show that the National paid you directly. A Well, we have some checks—

30

Q Answer the question. Don't those checks show that the money—

The Court: Some of the money.

The Witness: Some would be, yes.

Q Those checks show. I don't know anything about any other ones. You just made a statement that the money was paid to you by Silverstein. I am asking you now— A As I say now, some of the checks—

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*Isidore Sperber, cross.*

The Court: Those checks indicate that some of the money was paid by the National?

The Witness: Yes.

Q Now, how much money, do you know, was ever paid to you by Silverstein? A Well, I can't recollect that when I didn't take along the books. 10

The Court: That was on the first job?

The Witness: Yes, sir, on the very first job.

The Court: I mean the money he paid you was on the first job?

The Witness: The second job.

The Court: Which job is this? 20

The Witness: This is the second job.

The Court: You didn't get the second job.

The Witness: I had the first job from Silverstein that he wasn't partners with Wolf, and this is the second job that Silverstein was altogether in business, as much as I know. To me that was the second job.

Q You made no record in your cash book who paid you the money? A I am not the bookkeeper. 30

Q You are only the salesman? A That is right.

Q You don't know who paid money to your house? A I do know. We went to collect money—I went with Mr. McCleve. We went lots of times to Mr. Wolf to ask him for the money. Silverstein sent us to Wolf and Wolf to Silverstein. 40

*Isadore Bernstein, direct.*

Q You do know some checks were given your firm that were made out by Silverstein? A Yes.

Q That you are sure of? A Yes.

Q Naturally, he should have those checks, if that is true? A I should think so.

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Mr. Weinberg: That is all.

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ISADORE BERNSTEIN, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

20 *Direct examination by Mr. Klein.*

Q What is your business, Mr. Bernstein? A Builders' hardware.

Q In business for yourself? A Yes, a partner.

Q What is the name of your company? A Bernstein & Winarsky.

Q Did you ever sell any materials or have you an account on your books in the name of Wolf & Silverstein? A I haven't got it on the books, only the first job was paid cash by check, and the second, it was only \$32. I didn't get paid yet for it.

30

Q Did you keep any record at all of the materials you sold them? A It was only sold for \$32, temporarily.

The Court: Who bought it?

The Witness: Mr. Silverstein and Mr. Wolf; they came in and asked if I should

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*Max Udin, direct.*

give them the goods for the Prince street job.

Mr. Klein: Cross examine.

Mr. Weinberg: That is all.

The Court: Which job was it?

The Witness: The contract job on Prince street. 10

MAX UDIN, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

Q You are a member of the firm of Baron & Udin? A Yes, sir. 20

Q What does your company sell? A Builders' hardware.

Q Has your company an account on its books in the name of Wolf & Silverstein? A Silverstein & Wolf or Wolf & Silverstein.

Q For materials billed them on building operations? A Yes, sir.

Q How did it come about that they opened such an account? A I met Mr. Silverstein and Wolf on the South Orange avenue job and I asked them where they buy their materials. They told me they buy from A. C. Gonn. I asked Mr. Silverstein and Wolf to buy some materials from me, to give me a chance. They say yes, but they didn't give me. Finally, when I followed up the job on Park avenue, they were about at finishing hardware, and I seen Mr. Wolf. He told me, "You will have to go to my partner, Mr. Silverstein; he buys the hardware." 30 40

*Max Udin, cross.*

Finally, when they buy hardware, I met Mr. Wolf again and he said, "Mr. Silverstein is going to come down and pick out the hardware." And he did come down some time in the evening with samples of the hardware, and after that I supplied for the Park avenue job.

10 Q Did you supply them for any other job?

A No, sir.

Q Do you keep books? A No.

*Cross examination by Mr. Weinberg.*

Q You knew the firm of Wolf & Silverstein, did you? A Yes, I knew their building.

Q Had you ever done business with them before? A No, sir.

20 Q You didn't know the firm then, as far as building? A As far as the building is concerned, I didn't know them, but I knew they were builders and buy their materials in different places.

Q Do you know how long they have been building together? A For the last four or five years, since I have been in business myself.

30 Q When was it you approached them on this job? A I approached them on the job at Bloomfield, the last job, I believe.

Q When was that? A That was about, I imagine—about two years ago.

Q You never heard of the National Realty? A No, sir.

Q So you extended credit to these two individuals, Wolf & Silverstein? A Yes, sir.

Q You have known both of them? A Yes, sir.

40 Q You were paid for whatever you sold? A Yes, sir.

*Max Mandel, direct.*

Q Except the last bill? A Always paid.

Q Except the last one? A That is paid for.

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MAX MANDEL, a witness produced on behalf  
of the complainant, being duly sworn accord- 10  
ing to law, on his oath testified as follows:

*Direct examination* by Mr. Klein.

Q Mr. Mandel, what is your business? A  
Lathing.

Q Did you ever do any work for Paul Wolf  
and Israel Silverstein? A Yes, sir.

Q Where did you do work for them? A I  
done three jobs; two on South Orange avenue,  
and Clinton avenue. 20

Q Who asked you to do the work? A I  
asked Wolf, first, and Wolf told me I should ask  
Silverstein; if the job has not been given out,  
they were going to give it to me.

Q Did Wolf say anything about payments?  
A No, he didn't say a thing. When we are en-  
titled, we got to get it; we generally get it every  
Saturday.

Q Did you finally get the job? A I did get  
the job. 30

Q Were you paid? A Yes.

Q Who paid you? A I asked for money to  
Wolf. Wolf said, "You will have to see Silver-  
stein, how much you are entitled to get," and  
I used to get it Saturday mornings.

The Court: Who did you get it from?

The Witness: From Wolf. Wolf signed  
the checks, but Silverstein was present with  
him. 40

*Max Mandel, cross.*

*Cross examination by Mr. Weinberg.*

Q You knew you were dealing with the National Realty & Construction Company, didn't you, Mr. Mandel? A I never knew it.

10 Q How many checks do you suppose you got from the National Realty & Construction Company? A I don't know. I worked for them all three jobs. That took quite some time. But I knew I was dealing with Wolf & Silverstein.

Q I show you a batch of approximately fifteen checks, starting with October, 1923, and ask you if you did not get those checks—and they are all made by the National Realty & Construction Company? A Yes.

20 Q That is true, isn't it? A I am not saying they owe me any money, but I used to get from Wolf and Silverstein.

The Court: You got those checks?

The Witness: Yes.

Q And they are all National? A They are, yes.

Q You didn't know you were dealing with the National? A No.

30 Q Never asked them as to how they came to be giving you checks of the National? A No.

Q You knew very well that you were dealing with the National Realty & Construction Company all the time? A I have been dealing with Wolf for about eighteen years even before.

Q Representing the National Realty & Construction Company? A I never knew how he would write checks, I knew him personally himself.

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*Hyman Mendlen, direct—cross.*

Q You knew Mr. Wolf personally, himself?

A Yes, sir.

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HYMAN MENDLEN, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows: 10

*Direct examination by Mr. Klein.*

Q Mr. Mendlen, what is your business? A Iron contractor.

Q For yourself, or have you a company? A For myself.

Q What is the name—a corporation, or yourself? A No, individually, as Standard Iron Works. 20

Q Did you ever do any iron work for Wolf & Silverstein? A Yes, sir.

Q Have you got an account on your books in the name of Wolf & Silverstein? A Yes, sir.

Q How did it come about that you opened such an account? A Well, Wolf and Silverstein came into my office and offered me the job.

Q What job was that? A It was the one in Bloomfield and one on South Orange avenue—I don't recall all the numbers. 30

The Court: Did you do the work?

The Witness: Yes, sir.

*Cross examination by Mr. Weinberg.*

Q Have you an account individually against Paul Wolf? A Well, not lately. 40

*Aaron Kalarsh, direct.*

Q What does your book show? Look at them, please. A In the books is Wolf & Silverstein trading as National Realty & Construction Company, since 1925.

10 Mr. Klein: I offer the books in evidence.  
(Marked Exhibit C. 16.)

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AARON KALARSH, a witness produced on behalf of the complainant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Klein.*

20 Q Mr. Kalarsh, what business are you in?  
A Iron contractor.

Q For yourself? A Yes, sir.

Q What is the name of your company? A New Jersey Iron Works.

Q Did you ever do any iron work for Wolf & Silverstein? A Yes.

Q Where did you do that work? A One job in Red Bank.

Q Red Bank? A Yes.

30 Q Do you keep books? A No.

Q To whom did you send the bill? A You ask me for books? A Yes, sir.

Q Have you got them here? A No.

Q In whose name did you charge the Red Bank work? A Wolf & Silverstein.

40 Q How did it come about that you did that?  
A The first time they came in, they came in both together, and they brought a plan and they took an estimate, and as soon as they took the estimate they told me they will let me know

*Paul Wolf, direct.*

about the job. Then a few days later they came again, both, and they give me the job.

Q Did you do the work? A Yes.

Q You got paid? A Yes, sir.

Mr. Klein: That is all,

Mr. Weinberg: That is all. 10

Mr. Klein: That is all of the witnesses I have at the present time.

The Court: There won't be any future time. Put your witnesses on or rest your case.

Mr. Klein: I think I overlooked putting in the contract between the National Realty & Construction Company and the Twin Gables. Mr. Corn had that. Through some oversight, he walked out with it. It is in his possession. 20

The Court: I cannot wait.

COMPLAINANT RESTS.

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CASE FOR DEFENDANT.

PAUL WOLF, the defendant, called as a witness on his own defense, being duly sworn according to law, on his oath testified as follows: 30

*Direct examination by Mr. Weinberg.*

Q Mr. Wolf, what is your business? A Builder.

Q How long have you been such? A About since 1906—twenty-three years. 40

*Paul Wolf, direct.*

Q Where do you live? A Right here in Newark.

Q You are one of the defendants in this action? A Yes, sir.

Q You are connected with the National Realty & Construction Company? A Yes, sir.

10 Q And have been for how long? A Since 1914.

Q And that corporation is owned by you, is it? A No, by my wife. I got one share in it.

Q You have one, and she has the rest? A And Mrs. Wolf got the rest.

Q And it has been that way since it started? A Yes, sir.

Q Do you know Silverstein? A Yes, sir.

20 Q How long have you known him? A Well, I know him about ten years, maybe—or eight years.

Q You knew he was a builder? A I know he is a carpenter, yes.

Q What are you? A I am by trade a mason.

Q Have you followed the work of a mason? A No, sir, just contracting and building.

30 Q Now, you tell his Honor your version of how you came to engage in any operations with Mr. Silverstein which it is claimed commenced in the year 1923. A Well, I met Mr. Silverstein. He was building two 2-family houses on Bock avenue. One he lives in and one he sold it. And we started to talk about it. He wants to go in to build. I asked him, "Have you got any money?" He says, "Oh, yes, I will have some money, I put it in these houses, and one house I sold it, practically, and the other I am going to get some mortgages on; and then I got

40 a jitney bus running from Market street and I

*Paul Wolf, direct.*

am negotiating with the Public Service to buy, and I will have quite some money." I says, "Well, how much money could you accumulate?" He said, "About \$25,000." I said, "All right, I will put in twenty-five and you will put in twenty-five. That will be fifty, and we will start in." So he started to tell me about a lot on South Orange avenue from Mr. Tepper. I told him Mr. Tepper—I met Mr. Tepper a couple of weeks ago and Mr. Tepper told me that from the same lot. I say, "I think it is a good neighborhood, maybe we will put up something." He said, "All right." So I went down to take a look. And after I met him again I says, "Listen here: what I am telling you before this, I am buying the lot, quite some money will be required. Will you be in a position to come in?" He said, "Oh yes. You go ahead and buy the lot."

We went down and buy the lot. When it comes to give a deposit, he says he hasn't got any money now, he is going to get money from mortgages. I took out a check of \$500—National Realty, rather—and we gave a deposit. In the same day he came down I think he gave me \$150 or \$250. That was not towards the lot, because I gave him a check back right away the same day, April 27, 1923. I got the check right here. Before it was started anything—after, why, during the time I told him, "We got to take title to the property; have you got any money yet?" He said, "No, I didn't get any money yet." I said, "What are you going to do?" He says, "Well, I don't know what to do. If we can't take title we will have to lose the deposit." I said, "What do you mean by losing the deposit?" "Well," he said, "I can't see any other way." He says, I will tell you what

*Paul Wolf, direct.*

I will do," he says, "you take title—you get a company, let the company take title"—his own suggestion—he says, "and I will start as soon as I finish up the job; I will start under conditions. If I will come in with my money what I promised you, \$25,000, you will accept me as a partner any time, and if not, you should know I am getting \$75 a week." I says, "Well, it is suitable to me." So when it comes to take title, the National Realty & Construction Company took title and gave a check at that time, \$1,200, or around twelve or thirteen hundred dollars, to take title. He didn't give a nickel towards that. I took title and arranged everything. And he started again to borrow money to get in money from mortgages; otherwise, he says, he can't finish his Bock avenue. And I kept on giving him checks from the National Realty. He is to come in with money, but he never showed that he comes in with money, although I always told him, "What are you going to do?" So, he started to give me notes, and every time the notes came due he came around here and I had to go ahead and pay off the notes. He said, "I will tell you what I will do: Reed & Company, we will buy face brick and I will pay for them, and that will be for my partnership." I say, "All right, do any way, so long you come in with the money," and he did gave notes to Reed, and when it comes due the notes it was protested and he didn't pay. And when he couldn't pay Reed & Company came around and they threatened to file a lien on it, so what I couldn't see out of it I had to pay. I took the check and paid the notes. So I kept on paying and he drawed out money, so the result was I asked him, "Listen here, Mr. Silverstein"—it

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*Paul Wolf, direct.*

was in my house; he came over; I used to give him orders what to do—"what is going to be the result? Do you want to remain as a partner or do you want to stay as a salary man?" He said, "What do you care? You are paying me \$75 a week; you didn't sign anything; we didn't make any contract any time I will come in with the amount I promise. You will accept me as a partner from that time." So I was waiting all the time he should come in and sell the jitney bus, and he sold his bus and he never showed any money and it remains that way. At the same time, I thought he came in as a partner and I kept on paying him all the time, and I thought he will come in with his money. So I didn't want to go ahead and make any charges, and that is the way we kept along. He didn't tell me never that he wants to be a partner. The first thing, I got a summons in court. He never came to ask for an accounting, never say anything.

Q Well, he shows a paper here that he claims is an account that you rendered to him regarding the first transaction? A I never made this account up. I don't know where he got it from.

Q Look at it and tell us whether your company made up such an account and handed it to him? A No, sir, I never made this account, and I don't know where he got that account from.

The Court (To witness:) Do you keep books?

The Witness: I keep some small books for each job separate.

The Court: Did you keep books on those jobs?

*Paul Wolf, direct.*

The Witness: Well, I keep the books in general with the National Realty.

The Court: Do those items correspond with your books?

The Witness: Some of them would correspond.

10 The Court: Who kept the books?

The Witness: Myself.

Q And you have those books, and you can compare them when you have time? A If I have time enough to look at it.

Q This is the first time you saw that? A This is the first time I see this statement.

Q You say he never asked you for an accounting? A Never.

20 Q At any time? A Never.

Q And you didn't know he was claiming a partnership until he filed his papers in this suit in this Court? A This last April when I was laying sick in bed, you know, was happened an accident in that Terrace building where an explosion was, and I got burned; and all of a sudden, when I was laying in bed, he filed the papers. He never came up to see or nothing.

30 Q That is the first time you knew he was claiming a partnership? A Yes, sir, it was.

Q Now, it has been proved here fairly substantially—and I daresay correctly—that charges for some or much of this material have been to the firm of Silverstein & Wolf or Wolf & Silverstein. Can you tell us how that came about? A Well, the intention to the company when he came in the first time and he said he was going to bring the money, was he started up to work, and I paid him \$75 a week, and he  
40 recognizes—he said he is going to be a partner;

*Paul Wolf, direct.*

he will bring the money. So we start up the account under those conditions, because he gave me notes and I thought those notes would be good.

Q So you started as Wolf & Silverstein, or whatever it was; you started that way? A Yes, sir. 10

Q With the idea, as I understand you, that when he actually brought in his \$25,000, he would be a partner? A Yes.

Q And that, up until that time, he was just an employee? A That is all. He didn't bring in any money at all.

Q Now, how about your drawing wages; did you draw down wages? A I didn't draw regular wages, no. Whenever I needed a couple of dollars, I took it like I always did. 20

Q Now, you have a great many checks and notes, have you not? A Yes.

Q Signed either by Silverstein or indorsed by your firm? A Yes.

Q And so forth. Now, without asking you to go into that just now, I want to ask you generally whether or not, so far as your accounts will show and so far as you personally now know, did Mr. Silverstein ever put in any money at all into any of these ventures? A No, sir, he never put in anything. 30

Q He has given you a number of checks from time to time? A These checks what he gave me was the time he took \$5,700 from the temporary mortgage and he gave checks back. Then I gave him checks—

Q By that you mean that \$5,800— A It was only \$5,700.

Q (Continuing) —that he spoke about that you paid him under this construction contract? A Yes. 40

*Paul Wolf, direct.*

Q And he paid you money out of that \$5,700?

A Yes.

Q That would still be your money—the corporation's money? A Yes.

Q I am asking you whether he laid out any money of his own in any of these deals? A  
10 No, he didn't lay out any money. If he gave me a check I gave him right away back a check in exchange, or so on, but he never gave money to this proposition at all.

Q How soon after you commenced your operations did you start paying him wages? A I started paying the same week, as soon as he came around, because the first couple of weeks he didn't come down at all; he was finishing on Bock avenue his own houses and I was staying  
20 on the job myself.

Q Now, you started him at \$75 a week? A Seventy-five dollars a week.

Q Did it remain that? A It remained it all the time.

Q Well, when he did the Red Bank job— A I gave him \$90 because he says it was an outside job and he had to pay for rooming there.

Q Did you notify your supply men or material men to deliver merchandise to the Red Bank job and to make the charges on that job  
30 against both of you? A No, only where he was an old charge from Newark, that was the only man who supplied material. The others are my own account.

Q Up to what time did you still negotiate with him, so far as his becoming a partner was concerned? A Negotiating the last year, around fall; in fall, around September—October. He used to come down to me and ask if I got  
40 any work that we are going to start, because

*Paul Wolf, direct.*

the intention I had to buy another corner here in Newark, and I drew plans, even—

Q I didn't ask you that, and his Honor isn't interested in your intentions. Do I understand that your negotiations with him to become a partner were kept open until the time that he was to put in this \$25,000; in other words, until he put in his contribution he was simply a workman? A Yes, sir. 10

The Court: Until last fall; was that kept open for him until last fall?

The Witness: It was kept until last fall.

The Court: Or is it still open?

The Witness: Well, it would be still open, because I bought another lot and made plans and he could come in this one here on Shepard avenue. 20

Q In other words, he did not contribute his \$25,000 up to the time the first property was sold; he was not in on that? A No.

Q And if he contributed after that, he would be in on every deal that you had after that time? A Yes.

Q You say he never put in his \$25,000, or any part of it? A He did nothing. 30

Q Now, that is the whole story, in general, as to this matter, is it? A I have got here these checks, sir.

Q Yes, you have a lot of checks, I know. A Where I took title to the other parcels.

Q The first payment on account of the purchase of this first tract was made on April 27, 1923, and on that date you gave Tepper \$500?

A Yes, sir. 40

*Paul Wolf, direct.*

Q On the same day I notice you gave Silverstein \$300. A Yes, sir.

Q What was that for? A For exchanged checks, I suppose, when he gave me a check and I gave him back a check.

10 Q Then the check he gave you was no part of the purchase price? A No.

Q Now, in the month of August of the same year, while that building was going on, you seem to have given him a check for \$700. Will you tell us what that was for? A Well, this was an exchanged check.

Q Will your books show when you get into it? A Well, some checks will show that.

20 The Court: Have you got all your check book stubs?

The Witness: Maybe some of them. I got small check books, and maybe I got them; maybe not. But I will try to look them up, all of them. Now, here is when I took title, that check.

Q When you took title, how much did you pay to take title? A There is the check, eleven or twelve hundred dollars.

30 Q Then shortly thereafter there was a small purchase money mortgage that was paid off? A Yes, I paid off eleven hundred dollars.

Q All these payments were made by the National Realty? A Yes.

Mr. Weinberg: Substantially, the question before your Honor, is, whether or not Silverstein put in a nickel in these transactions.

40 The Witness: He didn't put in a nickel.

*Paul Wolf, cross.*

Mr. Weinberg: Cross examine.

(At this time a recess was taken until two o'clock in the afternoon.)

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AFTERNOON SESSION, 2 P. M.

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PAUL WOLF, resumed.

*Cross examination by Mr. Klein.*

Q Mr. Wolf, when the first parcel was bought from Mr. Tepper, how much money did Mr. Silverstein give you toward the deposit? A I don't think he give any towards the deposit.

Q Did he give you this check—that is, Exhibit C 2? A Yes, he gave me that check. 20

Q What was that for? A I gave him back a check.

Q How much? A Three hundred dollars.

Q That is for \$250. A Yes.

Q I show you a check dated the same date as the first one I showed you, made out to I. Silverstein for \$300, signed by I. Silverstein, indorsed by I. Silverstein and indorsed by you and deposited in your account. Can you explain that check? A He must have needed cash. I gave him cash for it. 30

Q You gave him cash? A Yes, on my bank.

Q Or is that in turn for the \$300 check you gave him on the same day? A I don't think. He needed cash, because I don't see the necessity to go ahead changing around checks with him.

The Court: Is that Silverstein's check? 40

*Paul Wolf, cross.*

Mr. Klein: That is made out by Silverstein to his own order and indorsed by him and indorsed by Paul Wolf and deposited by Paul Wolf.

10 The Witness: Not deposited, cashed, because his bank was away down in some other direction. He needed cash, so he gave my check for cash.

Q Now, here is a check dated August 18, 1923, to the order of cash, for \$1,275, signed by I. Silverstein, indorsed by the National Realty & Construction Company, and deposited by that company. Explain that check. A This check is the return what he got—he got some money off that mortgage of the \$5,800—\$5,700—he kept  
20 on paying off with his checks to me.

The Court: How is that?

The Witness: He took \$5,700 from the mortgage money, the payment of the National Realty & Construction Company, and then he started to pay off the \$5,700 back again.

Q Check dated August 25th, made to the  
30 order of the National Realty & Construction Company, signed by I. Silverstein, for \$500, and deposited. A That is the same thing, for the \$5,700.

The Court: I don't understand the \$5,700. Where did he get it?

40 The Witness: The National Realty & Construction Company took a mortgage of the New Jersey Mortgage Company, and he had a general contract on the record,

*Paul Wolf, cross.*

and they insist upon give the first payment to the contractor, so they went to work and gave it to him, the \$5,700, and he went to work and used it and put it in his own bank deposits and gave me back the payment of \$5,700.

The Court: Why should he give you back the payment? 10

The Witness: Because that was my money.

The Court: Your money for what?

The Witness: For the mortgage, for the property, Sunnyside Terrace property.

The Court: That is the property you were putting the house up on? 20

The Witness: Yes. He stated himself that he got \$5,800, but that was \$100 an error. He stated himself even.

Mr. Weinberg: He used the words "we took a mortgage." He means the National Realty gave a mortgage. The mortgagee advanced this first payment of \$5,700, but insisted, inasmuch as there was a general contract, that that money should go to the contractor towards the cost of constructing the house, and therefore, your Honor, bearing in mind that this a dummy contractor—after the contractor, Mr. Silverstein, who was simply the contractor on paper, got that \$5,700, he is now telling you that Silverstein gave the money back to him, which instead of having the money go around a circle might have been paid directly by the mortgagee to him—this \$5,700. Instead of going to Mr. Wolf or the National, it went 30 40

*Paul Wolf, cross.*

to the contractor, and from the contractor back to Mr. Wolf.

The Court: From the contractor back in instalments?

Mr. Weinberg: That I don't know.

10 The Witness: Instalments he gave me, yes.

Q There is a check here dated July 17th to the order of the National Realty & Construction Company for \$500, made by Silverstein and indorsed by the National. Explain that check. A The same way.

Q The same thing? A The same thing. And then I gave him some checks—exchanged some checks what I got checks against it to  
20 change it around.

Q There is a check dated July 21, 1923, to Paul Wolf for \$1,000, indorsed by Paul Wolf and the National Realty. A I will show you a check, exactly the same thing, because he didn't want to go ahead and go to his bank so far; he needed cash for his own use; he builded himself that time two houses on Bock avenue and needed the money, so I cashed—I cashed his check for \$1,000 and I gave him back a check. We ex-  
30 changed checks.

The Court: What?

The Witness: I cashed my check for \$1,000, I gave it to him and get the cash from the bank and changed around. I got checks against these, every one of them.

Q Mr. Wolf, wasn't it a case of putting  
40 money into the treasury of the National Realty & Construction Company, and Silverstein was

*Paul Wolf, cross.*

putting in some money to help out the National?

A Never.

Q That isn't true? A No.

Q But it is true that Silverstein had money in the bank—money enough to cash his checks with you? A Well, he says he is getting money from the mortgage company, and he had enough money to pay for his own property.

10

Q So that it was true that he had money? A Well, he didn't tell me; he told me he didn't have no money. He didn't gave it to me.

Q But you were willing to cash these checks for him. Now, you said before that he gave a note to A. S. Reed & Company for bricks, and that you paid the note. Do you know how you paid the note: A Here is the note with checks.

20

Q Well, how was it paid, do you know? A I paid with checks.

Q With your checks? Did you give it to A. S. Reed & Company? A Yes, and five dollars to the Union Trust; I took it from the bank.

Q In whose bank did you pay it? A In the Fidelity Union Trust.

Q You didn't leave the money at Silverstein's bank? A Well, I gave Silverstein once \$2,000 to take care of some papers. There is a check for it.

30

Q I show you a note for \$400, made October 29, 1923, by Silverstein to A. S. Reed & Company. A October 29th? That was for his own houses. He bought some bricks from Reed & Company.

Q That is the way you explain it? A Yes.

Q But that note was paid at the bank—at Silverstein's bank? A Well, I don't know. I gave it to him. I suppose they paid it.

40

*Paul Wolf, cross.*

Q Here is a note for \$800, dated February 3, 1923, made by I. Silverstein to the National Realty. A February 23d?

Q February 23, 1925, rather. Why was that note given to the National Realty Company? A He never paid the note.

10 Q But he gave the National a note? A He gave the note; he will say he is going to meet—he says, “Here is notes.” I got a whole bundle of notes—

The Court: These are things which are the subject of the accounting, aren't they? Why bring them in now?

Mr. Klein: This witness has testified Silverstein put no money in. I want the picture before your Honor that these men were contributing money back and forth; they were helping each other on this job.

The Court: How is this helping you?

Mr. Klein: If he can explain what it is.

The Court: How is it helping your case?

Mr. Klein: I think by the cumulation of this, your Honor may see that Silverstein at least put money in at times, and he pledged his credit for the National Realty; and he certainly would not do that as a mere foreman or workman on the job. Of course, that is for your Honor to decide, whether he believes that. This witness has flatly stated that Silverstein contributed no money. He explains the only money Silverstein contributed was money he got from a mortgage payment.

The Court: He says there was a tentative partnership that still exists if Silverstein puts up \$25,000. That is what he says.

40

*Paul Wolf, cross.*

Mr. Klein: Now, our story is that we have put in as much as Wolf has put in, and that from the very beginning the operation was small; that money was borrowed as they went along, and that from these moneys they were able to proceed to the completion of each and every job. 10

The Court: Go on.

Q Can you explain that note? A He gave me notes to come in as a partnership, and he says, "You will accept my"— I said, "What good is the notes?" He says, "Well, these notes will be paid; that is the time we are going to draw partnership papers what we agreed upon." This note never was paid. This note never was paid and he got it back unpaid. 20

Q Did you agree to take him in for the \$800? A No, sir. I got about \$20,000 notes over there that I pay in the bank myself.

Q Here is another note for \$450, July 20th. A Why did he scratch out the names? What good is the note? This wasn't paid.

The Court: Please answer the question and nothing more.

The Witness: This I gave him back the note. The note came due and was not paid and scratched out the name. 30

Q It was put in the bank? A Yes, but he didn't put it in the bank.

Q You put it in the bank? A Yes.

Q You paid it? A Yes.

Q Why did you take this note? A He said he is going to meet until he accumulates what we agree of \$25,000, and when he pays all the 40

*Paul Wolf, cross.*

notes and everything, we are going to draw partnership papers.

Q Wasn't that note given to raise money for the National Realty & Construction Company?

A The National Realty didn't need those notes, because his notes was refused in the bank many times.

Q Well, it was discounted, wasn't it?

The Court: Please be careful. You said this note was discounted.

The Witness: I don't know if this note was discounted.

The Court: And then you say it was refused.

The Witness: In the Broad & Market Bank it was refused. Maybe it was another bank. I got an account in another bank, the Newark Trust Company, or the National Realty Company gets credit himself of forty to fifty thousand dollars in the bank. We got it today, the National Realty, and that time we had it and we don't need his notes.

Q Now, Mr. Wolf, that note was dated July, 1926, wasn't it? A Yes.

Q Now, here is a note for \$400, dated September, 1926, made to the National Realty. Was that note discounted? A I believe it was.

Q Why was that note given to you? A The same consideration. All the notes, I got about \$20,000 more notes there that was given some consideration that I had to pick them up and pay every one of them.

Q Do you know whether this note was a renewal of this one of \$450? A I don't know that. I don't remember that.

*Paul Wolf, cross.*

Q I show you a note dated November of that year for \$350. Was that discounted? A That was discounted, yes.

Q Do you know whether that note was a renewal— A What was the first note?

Q The first note was \$450, in July? A July? 10

Q The next note was \$400, in September. A Well, I think this is what—here is the note. There will be another note of \$500, my first note; and these small notes paid me \$10 a week, to take off from his salary, and I gave him \$500 check.

Q Then he paid you something on these notes? A On these small notes; that was a personal accommodation to him; he wants some money; he says I should take off ten dollars from every week his salary, and it kept on reducing from \$500 to \$350, and then he stopped it and never paid it no more. 20

Q I thought you said before, Mr. Wolf, that this note was taken— A Eight hundred dollars was taken in consideration and then I got \$20,000 more notes where he always gave as partnership, because he had the intentions of getting some money.

Q What was the \$450 note given for? A First there is a \$500 check for that. 30

Q That is a loan? A Yes.

Q Why did you take these notes, if they were never paid? A Well, when I went in already with the notes and I advanced the money, and he showed me sources where he is going to get money, he is going to sell the jitney bus to the Public Service for seven or eight thousand dollars, and he showed me he has got a second mortgage, he is going to sell it, he is going to get in all this money, so I took it for granted. 40

*Paul Wolf, cross.*

The Court: Why did you take so many notes for small sums?

The Witness: These was small sums I gave him, \$500; I didn't take any other small ones.

10 The Court: You said he gave you some notes towards the \$25,000.

The Witness: He didn't give me small mortgages towards the \$25,000. Thirty-five hundred dollars, \$2,000, \$5,500.

The Court: But you took them at different times?

The Witness: I took them at different times.

The Court: And they were not paid?

20 The Witness: They were not paid.

The Court: Did you advance the money to him on them?

The Witness: I advanced the money.

The Court: On the notes?

The Witness: On some notes.

Q On those notes that he gave you towards contributing to the capital, did you give him the money on those notes?

30

The Witness: No, I didn't give him the money.

The Court: What did you do with them?

The Witness: I went to my bank and had them discounted, and then when it came due I had to pay it again. He use to come back. I asked Mr. Silverstein what was I going to do with the notes. He said, "Well, I am sorry; I did not get the money in yet; best thing, I will give you another note."

40

*Paul Wolf, cross.*

The Court: For how much?

The Witness: For the same amount.

The Court: Some two or three thousand dollars?

The Witness: For \$3,000, for \$2,000, for \$2,500, for \$1,500.

10

The Court: Did you at one time have notes equal to \$25,000?

The Witness: No, I didn't have equal to \$25,000. It was around \$18,000, \$19,000, \$20,000—something like that.

The Court: Go on.

Q Now, these notes that you took you put in the bank? A I put it in the bank.

Q You got money from the bank? A Yes.

20

Q With that money you were paying on your houses—paying wages? A Well, I borrowed at the bank—I had to be prepared as soon as it came due I had to make them good. I can't take—

Q These were the notes that Silverstein gave you? A Yes, but I couldn't take out all the money.

The Court: When Silverstein habitually fell down, why did you take his notes at all towards this contribution?

30

The Witness: Well, I tell you: I had faith in that man.

The Court: Well, you certainly lost faith at some time, didn't you, when note after note went to protest or dishonor?

The Witness: So I told him. He asked me the question, "What do you have to worry? That was the agreement, \$75 a

40

*Paul Wolf, cross.*

week. If I do not meet my obligation I am not partner no more." That is what he told me.

10 Q Mr. Wolf, how much cash did you put into the first operation? A The first operation I believe I put it in about over \$20,000.

Q Over \$20,000? A Yes.

The Court: Was that money you got on mortgages?

The Witness: No, that was my money. I got only a building and loan \$65,000, and the rest of it I put it in cash.

Q Now, the first money that was paid in was the \$500 deposit, wasn't it? A Yes.

20 Q Now, how much money did National Realty have in the bank on that date? A That day? I think they had it fifteen or twenty thousand dollars cash in it, and then I took a check, Bessie Wolf invested a check, \$8,000 or \$10,000, and distributed towards the National Realty & Construction Company; she gave her own personal check for eight or ten thousand dollars.

30 Q Where did you bank that day—the National Realty? A The Newark Trust Company.

Q Now, when the question of partnership came up, you offered to form the partnership with Wolf, didn't you? A I didn't offer him, he asked me.

Q He offered it to you? A Yes.

Q And you made him a counter proposition? A Yes.

40 Q Now, how much money did you have on hand to go into this operation? A How much money I had?

*Paul Wolf, cross.*

Q Yes. A I told you fifteen to twenty thousand dollars.

Q To your own personal deposit? A No, not my personal deposit, no.

Q National Realty? A Yes, sir.

Q And all you had was one share of stock in that company? A Yes. 10

Q Then how did you personally expect to raise \$25,000 to match Silverstein's \$25,000?

A Well, I could borrow—my wife had money; she give it to me all I want.

Q Your wife had the money? A Yes.

Q Well, did you ever put the money in yourself? A Who, me?

Q Yes. A Yes, sir.

Q You put it in—Paul Wolf put it in? A Yes, I put it in. 20

The Court: Where did you get it?

The Witness: I had that time, I was interested in Lincoln Construction Company and we had a property—I had a property and my share that time came out, I think ten or twelve thousand dollars, and I went to work—this money I went to work and used it. 30

Q When did you put it in? A I put it in right away when I started going operations.

The Court: Put it in the partnership?

The Witness: National Realty put it in.

The Court: Did you put it in the partnership?

The Witness: Well, I would put it in the partnership, yes. 40

*Paul Wolf, cross.*

The Court: You put \$20,000 in the partnership?

The Witness: I didn't put in \$20,000 right away, but I put it in—National Realty put more than \$20,000.

10 The Court: No. You were in partnership with Silverstein?

The Witness: Well, we did not form—

The Court: How much did you put into that partnership? You said he was going to put in \$25,000. How much did you put in on the go-off?

The Witness: On the go-off I deposited right away my money in The National Realty & Construction Company—

20 The Court: How much did you put in?

The Witness: Well, I think ten or fourteen thousand dollars.

The Court: Where did you get it?

The Witness: At that time I sold a piece of property, Lincoln Construction Company, to a woman by the name of Marder.

The Court: Where did you deposit that to the credit of the partnership?

30 The Witness: I deposited it in the National Realty & Construction Company.

The Court: What for? Why didn't you put it in the partnership account?

The Witness: We did not have a partnership account. It wasn't formed a partnership that time. It wasn't made up from partnership until he bring his money.

40 The Court: You started right away building, and to buy these lands, and you took

*Paul Wolf, cross.*

the title to the lands in the name of Silverstein?

The Witness: No.

The Court: The contracts?

The Witness: Yes.

The Court: The equitable title you took in his name? 10

The Witness: Yes, but after, as long as he says he cannot bring the money, I refuse to go ahead any further. I said, "All right, you change the land to the National Realty & Construction Company."

The Court: What was the profit on the first job?

The Witness: The profit on the first job, about six or seven thousand dollars. 20

The Court: That statement shows a higher profit than that. Look at it.

The Witness: I looked at it.

The Court: How much does that show the profit to be?

The Witness: I don't know where the profit would be there.

Q The last sheet. A It don't say no profit; it says, "Balance on hand, 1924, \$16,122." 30

Q Mr. Wolf, you said before that you paid off the mortgage that was to be paid off to Tepper. A Yes.

Q Here is a statement. On this statement there is a notation, June 11th, or thereabouts, H. Tepper, mortgage, \$1,186.18. A I got a check there for that.

Q But that came out of the moneys on this operation? A No, sir. 40

*Paul Wolf, cross.*

Q Of the money that was put into this job?  
A No, sir, I never—it never came out from that operation at all.

Q Mr. Wolf, you say you put in about \$11,000 cash of your own money into the National Realty? A Yes.

10 Q With which to go ahead with this? A Yes.

Q Why then did you get a construction mortgage of \$40,000? A Well, with \$25,000 I cannot complete a building. Buildings cost more than \$85,000. I cannot complete with \$25,000.

Q Well, then, was it necessary that Silverstein bring his \$25,000? A Positively it was necessary.

Q As a matter of fact, before the building was completed, you put on the permanent loan, didn't you? A No sir, after completion.

20 Q After completion? A The building was entirely completed.

Q How much was due creditors at the time the building was completed? A Very little.

Q How little would you say? A I don't know. About five or six thousand dollars—I don't think as much as that.

Q So that you tell us that you were successful in completing this operation with your own money and \$40,000 construction money? A Yes, sir.

30 Q So then you really did not need Silverstein's money? A Well, he didn't give it to me. What could I do?

Q Well, it seems you could have gotten along without it. A I had to get along. I scraped up whatever I could get along with it. I borrowed from Bessie Wolf and I put in my own money with the National Realty—we had to get along.

Q And you did carry Silverstein's notes? A  
40 But I paid it back.

*Paul Wolf, cross.*

Q But that is the reason you took it, to raise money on these operations? A Yes, to come in equal partners.

Q To help you put this building up? A Yes.

Q Well after you finished and you had so much cash left over— A Cash left over?

Q Yes. You had a \$40,000 construction mortgage to pay off? A Yes. 10

Q And \$5,000 you owed creditors? A Yes.

Q How much was the permanent loan? A Sixty-five thousand.

Q So that you had about \$25,000 cash? A I didn't had so much.

Q Or \$20,000? A I didn't had so much. I don't remember how much cash it was left, but—

Q You put a second mortgage on that, too, didn't you? A No, sir. 20

Q No second? A No.

Q Now, was any of the money that was in the Sunnyside Terrace job used to pay for a lot at Clinton avenue, Irvington? A No, sir, that was my own money.

Q That was your own money? A Yes.

Q Was any of that money used to buy the Fairmount Terrace lot? A I bought it at the same time, as soon as Lincoln avenue and Fairmount Terrace was practically two months apart, at the same time I bought both parcels. 30

Q And wasn't money from the Sunnyside Terrace job used to pay for a deposit on those two lots? A What do you mean by Sunnyside Terrace money?

Q Well, the money that is figured in this statement. Wasn't some of this money used to put a deposit on the other two? A I don't know what you figure by the statement, but I bought it as I always bought it, took from the National 40

*Paul Wolf, cross.*

Realty & Construction Company's funds and paid for it.

Q On this sheet in this statement, Mr. Wolf, there is an item marked April 3rd or May 3rd, deposit for Clinton avenue lot, \$500; deposit for Fairmount Terrace lot, \$500. A Well, I got  
10 checks over there.

Q That is true, then, that was what was paid as a deposit? A Well, I paid it; I got checks there.

Q That money came out of the Sunnyside Terrace job? A I don't know that. I wouldn't say it did come out.

Q Now, there was another mortgage put on top of that construction mortgage, wasn't there, one to Israel Diamond?

20

The Court: What property?

Mr. Klein: Sunnyside Terrace.

A Yes.

Q There was another mortgage made to Israel Diamond? A Yes.

Q Do you know how much that mortgage was for? A That mortgage was \$10,000, while—he was the one from the building and loan, from the  
30 Guarantee Building & Loan Association, and the Guarantee Building & Loan Association did not have no money and I needed the money, so he says, "Here is \$10,000 until the Guarantee Building & Loan Association give you the money and I will take back the \$10,000."

Q What did you need this money for? A To straighten it out things, and we bought the other lots and everything.

Q And to pay for material? A Well, pay  
40 for material, and we bought the lots again. We have to settle it a deposit.

*Paul Wolf, cross.*

Q And labor? A Labor was paid already; everything was paid; I paid it before.

Q You said before, with your money and \$40,000 you were able to finish the building and only owe \$5,000 to creditors? A Five to six thousand dollars; but we start to buy some other lots, I couldn't live empty; and then Mr. Silverstein's notes came back and I was short in the bank and I did not want my bank to make a holler and I had to go without it, so I had to make good notes. I had to be prepared with money all the time.

10

Q So you didn't actually finish on your own money? A I finished on my own money, but I had to go and meet for the notes and pay off the notes what he discounted.

Q Why didn't you borrow it from your wife? You said she had \$25,000 in the National Realty. A No, I didn't say \$25,000. She borrowed nothing. The \$8,000 check she got and \$10,000.

20

Q When you bought this lot you consulted with Mr. Silverstein, didn't you? A When I bought that lot? When I bought—before I bought the lot I hesitated with him—we talked about it.

Q Now, when you sold to Mr. Brandman the Sunnyside Terrace parcel, did you consult Silverstein before the sale? A No, sir.

30

Q He was present at the closing, wasn't he? A I don't know if he was or not, but I think he was; on account he was on the record as general contractor they want to sign him a release, that is all they want him.

The Court: Did he agree to sell that property?

The Witness: He didn't say nothing.

40

*Paul Wolf, cross.*

The Court: At the price he got?

The Witness: I didn't ask him at all.

The Court: Did you report to him the price you got?

The Witness: No.

10 Q Did you consult him when you bought the Fairmount Terrace parcel? A I didn't consult him. I only tell him I am going to buy some other property to build and if he produces still the money—if he is going to bring \$25,000—I will take him in even at the parcel.

Q Did he bid as a contractor on this job? A No.

Q He was building this for you? A That was the agreement, that he was going to get \$75  
20 a week if he don't produce the amount agreed upon, and otherwise he will stay away—he will stay for the \$75 or \$90 a week.

Q And what arrangement was made about Park avenue, Bloomfield? A The same arrangement all the way through.

Q And you were still discounting his notes at the same time? A Well, he said he will try to make it good, because he is selling his jitney bus, and he said he has got a couple of mortgages  
30 from Penis & Penis, and he will get in the money and will make it good; the other note wasn't any good, but this will positively be good.

The Court: How much was that?

The Witness: \$3,500.

The Court: That was a long way from \$25,000.

The Witness: That was several notes, about ten to fifteen thousand dollar notes,  
40 all the time.

*Paul Wolf, cross.*

The Court: And you used them in the bank?

The Witness: Yes. He told me I should discount them.

The Court: Who paid the discount?

The Witness: I.

10

The Court: What did you do with the money?

The Witness: With the money it was laying in the bank.

The Court: What?

The Witness: It was laying in the bank.

The Court: You discounted his note for \$15,000 and let the principal lay in the bank and you paid the discount?

The Witness: And I paid the discount and everything.

20

The Court: That was repeated how often?

The Witness: Oh, it was repeated a long time that way.

The Court: You are a pretty good business man, aren't you?

The Witness: I am.

The Court: You know what interest means?

30

The Witness: I know I pay a lot of interest.

The Court: You expect me to believe that you left this principal sum in the bank untouched?

The Witness: Your Honor, I will show statements where I had \$25,000 balance standing all the time.

40

*Paul Wolf, cross.*

The Court: If you didn't need the money why did you have these notes discounted and pay the discount?

The Witness: He told me I should discount.

10 The Court: But you didn't need the money.

The Witness: I thought we going in operation again, we going in to build again, so to be ready.

The Court: Go on.

Q On the Twin Gable job at Red Bank Mr. Silverstein supervised that work, didn't he? A Supervised? He was working like other jobs. I supervised the job myself all the time, every job.

20 Q What did he do on that job? A He tended to the carpenters.

Q Did you have any other foreman on that job? A Well, I didn't need it. I was there myself and I used to go away a couple of hours and I left it there was a mason—I made one of the masons head man and one of the laborers head man.

30 Q Do you know who the foreman was on the job at Red Bank? A Laborers I had Jimmie, an Italian fellow. He knows himself.

Q Was there a Mr. Simon on that job? A Mr. Simon was a workingman and worked like Mr. Silverstein.

Q For wages? A For wages, yes.

40 Q And what did you get out of this operation in the way of money while these jobs were being put up? A Well I don't know. Whenever I needed money I took it. It took it a hundred dollars or five hundred dollars or two hundred dollars—I didn't count it.

*Paul Wolf, cross.*

Q Well, how did you get the right to take the money? A Well, it is my money, it is the National Realty & Construction Company.

Q You only own one share of stock? A Well, the rest is my wife's; my wife gives me the privilege.

10

The Court: How is it you only hold one share of stock in that company?

The Witness: That was organized that way and my wife got the shares, I think.

The Court: Why did you only get one share?

The Witness: Because she put it in most of the money that time.

The Court: You didn't put in any, did you? 20

The Witness: I put in for one share.

The Court: One hundred dollars?

The Witness: Yes.

The Court: Trading in your wife's name, are you?

The Witness: No.

The Court: Why did you go around with Silverstein to see various contractors and represent to them that you were in partnership? 30

The Witness: They used to come—

The Court: Why did you go around with him and represent to them that Silverstein and you were in partnership?

The Witness: I thought he meant business, and after I thought—

The Court: This thing was going on four years. 40

*Paul Wolf, re-direct.*

The Witness: It was going on five years.

The Court: And all the time you thought he meant business?

The Witness: To the last one I did not doubt him, because he told me he is going to meet his obligation and I did not touch it.

10

The Court: What obligation?

The Witness: Twenty-five thousand dollars he will come in to meet it half way, we put it in and straighten it out.

*Re-direct examination by Mr. Weinberg.*

Q I show you a note given by Silverstein to the National Realty Company, dated November, 1924, at three months, for \$1,000, which note  
20 would come due on February 3, and ask you whether or not that note was paid by Silverstein or whether you paid it? A The National Realty paid for it.

Q When I say "you," I am, of course, referring to the National. A Yes.

Q Another note, given on April 15, 1925, for \$1,200, which note was due four months thereafter, making it due August 17, 1925, and I ask  
30 you whether or not, according to this charge slip of the bank, he paid it or the National paid it? A The National paid it.

Q And another note dated August 9, 1926, for \$3,000, due in three months; I ask you whether that note was paid by him or whether it was paid by the National? A The National paid it.

Q There is just the discount number on it, and I have no check for that. A The National paid.

Q The note of December 21, 1925, given by  
40 Silverstein to the National for \$1,500, which,

*Paul Wolf, re-direct.*

with interest amounted to \$1,520 on December 21, 1925. Was that paid by you or by him? A That was paid by National.

Q Still another note for \$4,000, dated September 16, 1926, given by Silverstein to the National, which note was charged to you on January 14th for \$4,082. A Yes, sir. 10

Q That indicates, does it, that he did not pay it, but you did? A I paid it.

Q And another note I show you, dated November 9, 1926, for \$2,500, which came due on February 10th, which amounted to \$2,537.50, with interest. That seems to have been charged to you, also? A Yes.

Q Silverstein paid nothing on account of that note. Here is a note for \$350, dated January 18, 1927. A That was not paid. 20

Q That note came due March 1, 1927, and amounted to \$353.50. Was that paid by the National also? A That was paid by the National.

Q Note of February 9, 1927, by Silverstein to the National for \$2,000, which came due on March 9th and amounted, with interest, to \$2,030. Was that paid by Silverstein or the National? A By the National. 30

Q The note of March 24, 1927, for \$1,500 at three months. That note came due June 23, 1927, and amounted, with interest, to \$1,522.50. Was that paid by Silverstein? A Paid by the National.

Q Now, I have a number of others the same way. I don't know whether I should proceed or not, but perhaps I will. May 9, 1927, note for \$1,500, given by I. Silverstein to the National, which note came due on August 9, 1927, and 40

*Paul Wolf, re-direct.*

amounted, with interest, to \$1,522.50. Was that paid by the National? A Paid by the National.

Q Note dated June 25, 1927, three months, for \$1,000, which amounted, with interest for three months, to \$1,015. Was that charged to the account of the National and paid by it? A  
10 Paid by the National.

Q Note of August 10, 1927, for \$1,500, due in three months, which came due on November 10, 1927, and amounted, with interest, to \$1,522.50. Was that paid by Silverstein? A Paid by National.

Q Also note dated November 15, 1927, for three months, \$1,000, amounting with interest on its due date to \$1,015. Was that paid by you or by him? A By the National.

20 Q Note dated March 5, 1928, for \$2,000, on the Broad and Market National Bank, and another dated on the same day for the same amount, drawn on the Liberty Trust Company. Have you anything to say about those two notes being for the same amount on the two different banks? A This note he drew—

Q When you say "this," tell his Honor what you are talking about. A The Broad and Market Bank note. He drew the Broad and Market note for \$2,000, and after I came in he looked it up. I say, "You are not a depositor in the Broad and Market?" He said, "Oh, no." So instead of this note, he gave on the Liberty Trust Company.

Q So the Liberty Trust Company note was given to take the place of the one that was drawn on the Broad and Market National Bank? A Yes, sir. It was marked "Insufficient Funds" from his bank.

40

*Paul Wolf, re-direct.*

Q Well, they are all marked that—or some of them are. I show you a charge on the same date, March 15, 1928, against your concern of \$2,040, and I do not know whether there is any connection between that charge of \$2,040 and these two notes that you speak of. Apparently there is not, so what does that charge represent? Is there another note for that amount? A Yes. 10

Q Oh, I have that. There is a note of November 15, 1927, due in four months, for \$2,000, which was due on March 15, 1928, and amounted with interest, to \$2,040. That was taken up by you? A Yes, that was taken up.

Q Now, this note of \$2,000 that you refer to that was given first on the Broad and Market and then afterwards on the Liberty, that came through on June 15, 1928, and amounted, with interest, to \$2,030. That was also paid by you? A That was paid by the National. 20

Q Now, were there any notes that were ever given by Mr. Silverstein to you or the National that were ever paid by him? A No, he never paid any notes.

The Court (to witness:) Do I understand you to say that all of these notes shown to you by your counsel were given by Silverstein in contribution of his \$25,000 capital? 30

The Witness: Yes, sir.

The Court: And not one of them paid?

The Witness: No.

Mr. Weinberg: I offer this packet in evidence.

The Court: Each of them you had discounted?

The Witness: Yes, sir.

(Received and marked Exhibit D-1.) 40

*Paul Wolf, re-direct.*

Q Now, I show you a note from Mr. Silverstein to A. S. Reed & Company, one of the material men, for \$620, note dated July 7th. I show you a check for the same amount exactly, bearing date October 6, 1924, given by the National Realty to the order of — A Of the Fidelity, I think.

Q Given to your own order. A Yes, but I handed it over—a certified check.

Q Yes, a certified check. Did you pay that note of Silverstein's to Reed for material? A Yes.

Q And I find here a note of Silverstein's to the same company for \$272.50, and a check of the National to the Fidelity for \$276.60, there being a note on the note, "Interest amounting to \$4.10, making the amount." Did you, therefore, pay the money to the material man? A Yes, sir.

Q A note given by Silverstein to the Reed Company on July 16, 1924, for \$246, \$4.92 added thereto as interest, amounting to \$250.92, for which amount, or for \$250.90—2c short—there is a check to the Fidelity bank. Was that also in payment of Silverstein's note to Reed? A Yes, sir.

Q Note dated July 7, 1924, given by Silverstein to Reed, due in 150 days, amounting to \$641.65, which seems to be associated with a check for \$643.99. Is that the amount of the note, plus the protest fees thereon? A Yes, sir.

Q Which was paid by your company to Reed directly? A Yes, sir.

Q As appears by the check? A Yes.

Q And the last one in the Reed transaction that I have is a note dated August 9, 1924, at five months, given by Silverstein to Reed for \$272.50, with interest amounting to \$279.31, and

*Paul Wolf, re-direct.*

I ask you if that was paid by that check of the National on January 8th? A Yes.

Q The exact—same amount? A Yes, sir.

Q It is indorsed by you? A Yes, sir.

Q And then what became of it? A Certified check—they wanted a certified check.

Q What did you do with that? A I gave it 10  
to the Fidelity.

Q Where the note was? A Where the note was in possession.

Q That was due in the Liberty Trust? A Yes, but the Fidelity held that note.

Q It was sent over to the Fidelity for collection? A Yes, gave to collect to the Fidelity.

Mr. Weinberg: I offer that batch of checks and notes in evidence.

20

(Marked Exhibit D-2.)

Q Do you know of a dollar that was ever paid by Mr. Silverstein to the Reed Company or to any other material man, but did not come out of the \$5,700 that you say was advanced already?

A Well, he paid on his own account—he builded it himself a couple of houses, and he paid checks, but not for this house—

Q Not referring to what he did for his own 30  
bills, but on these four or six transactions. A Not on these bills.

Mr. Klein: He paid the digger.

The Witness: I paid the digger. I got checks for it.

Mr. Weinberg: I offer in evidence the batch of checks about which we spoke this morning, fifteen checks made by the National Realty & Construction Company to

40

*Paul Wolf, re-direct.*

the order of I. Silverstein. I think I spoke about all of them, but I will run them off.

Q The first one, April 27, 1923, from you to Silverstein, for \$300; that you have already spoken about? A Yes.

10 Q One of August 20, 1923, to Silverstein, for \$700. A That was in exchange. He needed cash money, so he gave me another check and this check I gave him and he cashed it right here downtown in the bank.

Q So he should have a check to your order for the same amount? A Yes, sir; he gave me a check to the same order.

Q August 9, 1923, the National gave him a check for \$1,000. Do you remember what that was for, whether that was in exchange for another check? A I can't recollect; exchange or loan, or something.

20

Q Will your books show that? A The books will show, I suppose.

Q September 15, 1923, check to the order of Silverstein for \$300. A That was given to him for a loan.

Q September 21, 1923, check to his order for \$500. A Also for a loan.

30 Q These payments were made to him, according to the date, before the first parcel was sold? A Yes, sir.

Q The first being sold June 11, 1924? A Yes, sir.

Q Now, I show you another check, dated September 24, 1923, for \$500. A That was a loan.

Q Then we have November 30, 1923, for \$1,000. A That was a loan, too—to be able to finish his house to get in money and straighten it out with me.

40

*Paul Wolf, re-direct.*

Q June 24, 1924, \$500. A The same thing. I gave him right along.

Q July 7, 1924, for \$100. A Some checks was in exchange and some checks I loaned him.

Q We have another one, July 24, 1924, for \$300; September 3, 1924, for \$150; then we come to a check of May 15, 1925, for \$2,000. 10  
What was that? A This check here: I had to go to Bradley, and I told Silverstein—I said, “Listen here”—

Q What was it for? A That he should pay the payroll; “And here is a check for \$2,000.” So he said, “All right,” but after it happens I came for the payroll and after I asked it the money, he said, “You go ahead and pay; I will pay you back.” So from that check he only paid me \$800 and \$1,200 remained difference. 20  
He said he needed it for his own use.

Q Now, was the second parcel sold up to that time? A No, sir.

Q Now, we have a check of May 18, 1926, for \$500, a check of July 16, 1926, for \$200. A The same thing.

Q And one of April 30, 1927, to his order for \$50. Now, were any of these checks accompanied by any statement from you, either spoken or written, showing they were payments on account of any profit you either made on the property or expected to make before you sold it? 30  
A No.

The Court: Did he pay you back all the loans?

The Witness: Well, except one loan of \$500—well, he didn't pay me all the loans back; no, he did not. He said he is going to straighten it out when he straightens out the rest of it. 40.

*Paul Wolf, re-direct.*

The Court: Straightens out the rest of what?

10 The Witness: When he brings \$25,000; when he is going to get in—he is going to get \$10,000 in New York, he has got a mortgage, he has got a bus to sell to Public Service—

The Court: How much does he owe you?

The Witness: Well, he owes me about, I guess, \$2,500—something like that.

The Court: How much?

The Witness: Around \$2,500.

The Court: And he is going to straighten that out when he brings you the \$25,000?

20 The Witness: Yes, he is going to straighten out everything.

The Court: Is that what he promised?

The Witness: Yes.

The Court: If he brought you \$25,000 he would bring you the \$2,500 he owed you?

The Witness: Yes.

Q The purchase of the Clinton avenue property, that is, the second parcel, was it not? A Yes.

30 Q It was known as the Marshall property?

A Yes.

Q Payment on account of the deposit was made by your company to bond? A Yes.

Q And the amount due on passing of title was \$2,123.95; was that also paid by the National? A Yes, that was paid by the National.

40 Q I don't know whether you can tell at this time or not: Was this money paid out of the proceeds of the sale of the first parcel or was it

*Paul Wolf, re-direct.*

independent money of yours? A I don't remember.

Q Well, the deposit was made April 2, 1924, which was two months before the sale of the first property. That ought to be self-evident.

A Well, that was paid out from the National Realty funds. There was no profit that time yet. 10

Q And the other one, the check in payment dated June 12, which is one day after the date of the sale, as I recall it, of the first parcel. So, can you tell whether that came out of the proceeds? A That did not come out of the proceeds.

Mr. Weinberg: I offer those in evidence.  
(Marked Exhibit D-3.)

Q Who is the Berwyn estate; what parcel is that? A Bloomfield. 20

Q That was the fourth parcel, the last one?

A That is the last one.

Q Check of the National Realty to the order of Berwyn Estate, \$1,726; what was that for?

A That was settlement of the lot. I got another one for \$1,000 for the deposit.

Q Now, in addition to these checks that I showed you regarding the Marshall property, I find two other checks to the order of Marshall, one for \$500, dated May 7, 1924, and the other to Marshall, for \$1,469.45, July 15, 1924. Were they in payment—on account of the payment of the second parcel? A Yes. That was the third parcel already. 30

Q Now, it is before the second parcel was bought this check is dated? A Yes.

Q The check is dated May, 1924—one of those checks—which is before the first parcel was sold. 40

*Paul Wolf, re-direct.*

The Court: Was the first parcel sold?

The Witness: No.

The Court: Was the second parcel ever sold?

The Witness: No.

10 Q Wasn't the second parcel sold? A Only when I bought—

Q It was not sold at any time? A Oh, yes, the second parcel was sold; yes—right; later on, it is sold.

Q After that date? A Yes, much later.

Q The first check dated April 27, 1923, for \$500, to the order of Tepper, was the deposit on the first parcel? A Yes, sir.

20 Q And the next check to the order of Tepper is dated July 18, 1923, for \$88.15? A That was a mortgage paid off. You got the other one.

Q Was the mortgage paid off before you took title? A No.

Q That was the payment on passing of title, wasn't it? A You got another check for passing title.

Q Check dated June 11, 1924, for \$1186.18. A That was the mortgage.

30 Q So the first two payments of \$500 and \$898 were for the purchase of the lot? A Yes.

Q And the other check was for the paying off of the purchase money mortgage that had been given? A Yes.

Q Now, was there any money of Silverstein's included in any of these payments? A No, sir.

Mr. Weinberg: I offer these.

Marked Exhibits D-4, D-5 and D-6, respectively.

*Nathan Erlich, direct.*

NATHAN ERLICH, a witness produced on behalf of the defendant, being duly sworn according to law, on his oath testified as follows:

*Direct examination by Mr. Weinberg.*

Q Mr. Erlich, you are an attorney, practicing in Newark? A Yes. 10

Q And have been for a number of years. Do you recall any of these transactions concerning the National Realty or Mr. Silverstein, or both? A Nothing so far as their personal transactions are concerned.

Q Have you any recollection of discussing a partnership agreement between Silverstein and Mr. Wolf or National Realty Company? A At no time. 20

Q Was there anything ever said about the title to the new property going into the name of the National Realty Company, the deed for which would be held in escrow by you? A Never anything mentioned of any property being held in escrow by me, or any papers being drawn or held in escrow by me.

Q Do you know of any agreements that were made between Mr. Wolf, representing the National, and Mr. Silverstein, regarding any partnership? A No. I know nothing at all about that. 30

*Mrs. Irene W. Leisten, direct.*

MRS. IRENE W. LEISTEN, a witness produced on behalf of defendant, being duly sworn according to law, on her oath testified as follows:

*Direct examination by Mr. Weinberg.*

10

Q You are the daughter of Mr. Wolf? A Yes, sir.

Q Do you know Mr. Silverstein? A Yes, sir.

Q Did they ever discuss the matter of any partnership in your presence? A Yes, sir.

Q And hearing? A Yes, sir.

Q Will you tell us what was said—and when?

A Well, I think it was in the spring of 1923. Why, Dad had just purchased the parcel—I think on South Orange avenue—and he had paid the first payment and Mr. Silverstein had given him a note—

20

Q What? A A note, I think it was. And Dad had asked him when he would pay that note. He said, "Well, I have no money now, but I will pay some other time." Any way, I think it was Dad asked him about the \$25,000 to come in as his partner. He said, "Well, I haven't got anything now. Why worry about it? I am just a workingman, working under you. As long as you pay me my salary as a workingman until I put in my capital, and then we will be partners."

30

Q Did you hear this discussion once, or more than once? A Oh, several times; many times. He always gave Dad notes and renewed them all the time. He always came up to the house to renew them or tell them he couldn't pay it, or he didn't sell his bus—I don't just recall, but I know there was a bus and house and mortgage.

40

*Israel Silverstein, in Rebuttal, direct.*

Q Did you keep any books or records of the National Realty? A No, but I made up the payroll for Dad several times, and when I made up the payroll I made up a \$75 envelope for Mr. Silverstein as just a workingman.

Q Did you make up a pay envelope for your father? A No, sir. 10

Q Who kept the other books, outside of the payroll, of that company? A Well, I don't know.

Q Did your father? A I don't know—well, sometimes I helped him with the payroll.

Q Do you own stock in this company? A No, sir.

Mr. Weinberg: That is all.

DEFENDANT RESTS

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COMPLAINANT'S REBUTTAL TESTIMONY

ISRAEL SILVERSTEIN, complainant, recalled.

*Direct examination* by Mr. Klein.

Q Mr. Silverstein, was there ever that arrangement or agreement between you and Mr. Wolf that you were to furnish \$25,000 capital in this venture? A No, sir. 30

The Court: Before you were to become a partner?

The Witness: No, sir.

The Court: What were these notes given for?

Q What were these notes given for? A These notes was given to Mr. Wolf by me as an ac- 40

*Israel Silverstein, in Rebuttal, direct.*

commodation, to have the money to turn around and pay off certain material and labor and so on.

The Court: To finance the operations?

The Witness: Yes, in the construction.

10 Q Who paid for the digging on South Orange avenue? A I did.

Q Did you ever say to Mr. Wolf, in the presence of his daughter, that you were willing to stick on this job at the salary you were getting until the time came when you could raise \$25,000 to put into the business?

The Court: And that you were not to be a partner until then—or words to that effect?

20 The Witness: I never did, and I never mentioned any words while the daughter was there, because she was working at that time and was never there at any arrangement.

Q Were you the foreman on this job? A On which one do you mean?

Q Sunnyside Terrace? A No.

Q Were you foreman on Fairmount Terrace?

30 A No.

Q Were you foreman on any of the jobs?

A No.

The Court: What did you do—supervise the work?

The Witness: Well, I was acting as a partner and I had a foreman.

The Court: You bossed the foreman?

The Witness: Yes, I bossed the foreman.

BOTH SIDES REST.

*Opinion of Vice-Chancellor.*

### OPINION.

The Court: The existence of a copartnership, it seems to me, cannot be fairly questioned. The dozen and more merchants who testified to the admissions of the defendant of his partnership relations with the complainant, and of their dealings with the two as partners, powerfully supports the complainant's claim of a co-partnership. The defendant admits much that tends to that view but says that the partnership was tentative, conditioned upon complainant contributing \$25,000 capital. 10

They are mechanics; the complainant a carpenter, the defendant a mason. Each had engaged in building operations. The complainant made the approach and they joined forces in the spring of 1923. During the four years that followed they built four apartment houses, one in East Orange and three in Newark. They contracted for another in Red Bank, and took other jobs in their line. Their first purchase was a lot in East Orange, bought of one Tepper for \$12,000 on a cash payment of \$1,000, or \$1,500, and a mortgage for the balance. Each paid his share. The contract ran to the complainant, but the title was taken in the name of the defendant's company, National Realty & Construction Company, under which he had been operating and of which he held one share, his wife the balance. It was boom time in real estate; money was plenty, bonuses were large and lenders rash—with other people's cash. The scheme of operation was this: A contract by the complainant, as builder, with the company to build for a fancied price was put on record. Fictitious, it had the appearance of bona fides and established credit for mortgage 20 30 40

*Opinion of Vice-Chancellor.*

loans. The two jointly, as partners, bargained with material houses, and, with loans on mortgage and materials on credit, they finished the first building, for which they readily found a buyer, at a profit. The net in cash was over \$16,000, shown by the defendant's account rendered the complainant. The second and third and fourth lots were bought and buildings put upon them with partnership profits of those previously sold. The fourth remains unsold and the defendant has possession and claims it as his own. He says that the complainant was only a workman at a weekly wage, and that the arrangement was not to be a co-partnership until the complainant produced \$25,000, and, as I understand him, upon that event the partnership was to come into existence automatically and to relate to the beginning of the combination; and he brings his daughter to corroborate him. I have no confidence in either. All the circumstances point to a partnership. The complainant gave four years of time and labor, supervising the structures. True he drew wages; but so did the defendant; that was the arrangement. If he was merely an employee, why the four contracts by him with the defendant's company to build the apartment houses? Why his numerous notes to the company and many checks? Dealings of that kind are not usually those of employee and employer. The defendant claims that the notes were given for the promised capital and, not having been paid, there was no partnership. I think that is a pure fabrication, if not worse; for instance, he says he discounted the notes and let the money lie in bank untouched and unused only to take them up, upon the complainant's default, when they matured. This he did, and himself paid the discount

*Opinion of Vice-Chancellor.*

throughout the four years! Hardly. They appear to me to have been accommodation paper for the purpose of financing the various operations. Why, when the first building was finished and sold did the defendant render an accounting? It seems strange, if there was no co-partnership, that there should be an accounting. The defendant, it is true, denies he gave a statement, but, query: where did the complainant get the figures? The defendant admits that they correspond with the entries at least, some do, in his book.

10

If it is found, on an accounting, that the defendant contributed more than the complainant, of course, there will be an allowance for the excess, and if he did not draw as much as the complainant in wages that will be equalized. There will be an accounting before a master.

20

The National Realty & Construction Company was a mere convenience of the defendant to carry on the co-partnership business. The fact that title to the various tracts was taken in the name of the company, and that title to one is still held by it, is no obstacle to an accounting and to compel the company to respond. As already said, in the purchase of the first plot of ground there was an equal contribution of the purchase price and a resulting trust arose in favor of co-partnership. With the proceeds of the sale of that one, the second was purchased and so the third and fourth, and a resulting trust arose all down the line. The purchase of real estate was merely incidental to the co-partnership, and if either the partners had held the title, they, as partners, would have been obliged to answer for, as between them it would be regarded as personal property. The company stands in no better position. It holds the legal title in trust for the

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*Opinion of Vice-Chancellor.*

equitable owners—the co-partners, because the co-partners paid the purchase price at the time title was taken.

Mr. Weinberg: That is the difficulty; your Honor must find the company is trustee for the complainant and defendant.

10 The Court: I have already so found. The real estate is regarded as personal property, as between the partners; the partnership having paid for the real estate, the title to which was taken in the name of the company, the company must respond to the co-partnership. A decree will be advised.

20

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*Exhibit C. 1.***EXHIBIT C. 1.**

ARTICLES OF AGREEMENT, made the twenty seventh day of April in the year of Our Lord One Thousand Nine Hundred and Twenty Three.

BETWEEN Harry Tapper and Katie Tapper, his wife, of the City of Newark in the County of Essex and State of New Jersey party of the first part; 10

AND Israel Silverstein of the City of Newark in the County of Essex and State of New Jersey party of the second part;

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Twelve Thousand, Nine Hundred Dollars, lawful money of the United States, to be paid and satisfied as hereinafter mentioned, and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by the said party of the second part, doth agree to and with the said party of the second part, that they the said party of the first part, will well and sufficiently convey to the said party of the second part, his heirs and assigns, by Deed of Warranty free from all encumbrance, except as hereinafter mentioned, on or before the first day of June, 1923, next ensuing the date hereof, all that lot, tract, or parcel of land and premises, hereinafter particularly described situate, lying and being in the City of East Orange in the County of Essex and State of New Jersey 20 30

Being the tract of land on the northeast corner of South Orange Avenue and Sunnyside Terrace, having a frontage of one hundred feet on South Orange Avenue, and a depth of one hundred and fifteen feet more or less. 40

*Exhibit C. 1.*

It is hereby agreed, that if the restrictions covering said premises do not permit the building of stores or business property, or more than a one story building, then the deposit paid herein shall be returned.

10 Parties of the first part are not the owners of the northeast corner of said South Orange Avenue and Sunnyside Terrace, having a frontage of twenty-five feet on South Orange Avenue, and a depth of one hundred and fifteen feet more or less on Sunnyside Terrace, and if they should fail to procure title to said corner, then the deposit herein paid shall be returned.

Conveyance to be made subject to restrictions of record, excepting as hereinabove set forth.

20 Party of the second part is to pay the taxes on the inside seventy-five feet, and the interest on the Fifty Five Hundred Dollar mortgage, hereinafter referred to, from May 1, 1923.

30 AND the said Israel Silverstein, for himself, his heirs, executors and administrators, doth covenant, promise and agree to and with the said party of the first part, their heirs, executors, administrators and assigns, that he the said party of the second part, will pay and satisfy, or cause to be paid and satisfied, unto the said party of the first part, the said sum of Twelve Thousand, Nine Hundred Dollars, lawful money as aforesaid, as and for the purchase money of the foregoing described land and premises, in the following manner, that is to say:

On Execution of this agreement for which  
this is also a receipt.....\$ 500.  
On delivery of deed, cash.....\$  
On Bond and Mortgage, same containing  
40 usual interest, tax, assessment, insurance

*Exhibit C. 1.*

and default clauses, and an agreement not to claim credit on the interest payable on the bond and mortgage, by reason of any tax assessed, or to be assessed against the premises, with interest at 6% payable semi-annually for two years .....\$5500.

10

Fifty Nine Hundred Dollars by a bond secured by a mortgage in that sum, covering the afore-said premises, to bear interest at the rate of six per cent per annum, payable semi-annually, payable in one year from the date of settlement and delivery of deed, and to contain a covenant by the party of the first part, who will be the mortgagee in said mortgage, that upon the payment of Forty Five Hundred Dollars, he will procure a release of one-third of said premises, including the corner, from the lien of both the Fifty Five Hundred Dollar and Fifty Nine Hundred Dollar mortgage, and that upon the payment of Four Thousand Dollars, he will procure the release of any inside one-third of said premises from the lien of both the Fifty Five Hundred Dollar and Fifty Nine Hundred Dollar mortgage. (It being the intention of the parties hereto, that in drawing said releases, the frontage shall be considered as being on South Orange Avenue, and shall run the entire depth.) Said bond and mortgage to contain the usual thirty days interest, and sixty days tax and assessment default clauses, and a clause that the entire mortgages may be paid off at any time, with interest to date of payment; and the balance of One Thousand Dollars to be paid in cash, on the date of settlement and delivery of deed.

20

30

And the said party of the first part hereby agrees to pay to a commission of

% on the pur- 40

*Exhibit C. 1.*

chase price aforesaid, said commission to be paid in consideration of services rendered in consummating this sale; said commission to be paid upon delivery of deed.

10 AND IT IS FURTHER AGREED, by the parties to these presents, that the said party of the second part, his heirs and assigns, may enter into and upon the said land and premises on the date and day of settlement next ensuing the date hereof, and from thence take the rents, issues and profits to his and their use.

20 AND IT IS FURTHER AGREED, by the parties hereto, that the said Deed of Warranty shall be delivered and received at the office of Nathan Erlich, #31 Clinton Street, Newark, N. J., between the hours of ten o'clock in the forenoon and four o'clock in the afternoon on the said date and day of settlement next ensuing the date hereof.

The rents of said premises, insurance premiums, water rents, taxes, and interest on Mortgage, if any, shall be adjusted, apportioned and allowed as of the day of delivery of said deed.

30 Gas and electric fixtures, gas stoves, hot water heaters and chandeliers, carpets, linoleum, mats and matting in halls, screens, shades, awnings, ash cans, heating apparatus, if any, and all other personal property appurtenant to or used in the operation of said premises is represented to be owned by seller and is included in this sale.

The risk of loss or damage to said premises by fire or otherwise until the delivery of said deed is assumed by the party of the first part.

40 In case the premises shall suffer injury beyond the ordinary wear and tear, the party of the first part, shall repair the damage before the date set for delivery of said deed or make an appropriate deduction from the purchase price herein stated.

*Exhibit C. 1.*

It is understood and agreed that the buildings upon said premises are all within the boundary lines of the property as described in the deed therefor, and that there are no encroachments thereon and that the buildings comply with municipal ordinances and regulations and the provisions of the New Jersey State Tenement House Act as enforced by the State Board of Tenement House Supervision, to be shown by the report of the department or board enforcing the same where such ordinances, regulations and said act apply. 10

It is expressly understood and agreed that the title to the land and premises hereby agreed to be conveyed is not derived from any Martin Act proceedings or any Act for the Sale of Land for non-payment of the municipal taxes or assessments. 20

If at the time for the delivery of the deeds, the premises or any part thereof shall be or shall have been affected by an assessment or assessments which are or may become payable in annual installments of which the first installment is then due or has been paid, then for the purposes of this contract all the unpaid installments of any such assessment, including those which are to become due and payable after the delivery of the deed, shall be deemed to be due and payable and to be liens upon the premises affected thereby and shall be paid and discharged by the seller thereof, upon the delivery of the deed. 30

AND for the performance of all and singular the covenants and agreements aforesaid, the said parties do bind themselves and their respective heirs, executors and administrators; and they hereby agree to pay, upon failure to perform the same, the sum of 40



*Exhibit C. 2.*

voluntary act and deed, FREELY, without any fear, threats or compulsion of her said husband.

CONTRACT

For the Sale of Property. 10

Harry Tapper, et ux,

*To*

Israel Silverstein.

Dated, April 27, 19

**EXHIBIT C. 2.** 20

LIBERTY TRUST COMPANY

447 Central Avenue

Newark, N. J. April 27 1923

Pay to the Order of P. Wolf \$250 00/xx

Two hundred and fifty 00/xx.....Dollars

I Silverstein

No. 50

Endorsements—P. Wolf—For deposit 30

National Realty & Const

Paid—4-1-23.

Received payment through the Newark Clearing

House prior indorsements guaranteed Apr 30

1923 Newark Trust Co. No. 1

*Exhibit C. 3.*

**EXHIBIT C. 3.**

ARTICLES OF AGREEMENT Made the seventeenth day of July One Thousand Nine Hundred and Twenty-three

10 BETWEEN National Realty and Construction Company, a corporation, of the City of Newark County of Essex and State of New Jersey of the First Part;

AND Israel Silverstein of the City of Newark County of Essex and State of New Jersey of the Second Part:

20 WITNESSETH, FIRST—The said party of the second part, does hereby for himself, his heirs, executors and administrators, covenant, promise and agree to and with the said party of the first part, its successors or assigns, that he said party of the second part its successor or assigns, shall and will for the consideration hereinafter mentioned on or before the fifteenth day of October, 1923, well and sufficiently erect and finish the new building on the northeast corner of South Orange Avenue and Sunnyside Terrace, East Orange, New Jersey new Building agreeable to the Drawings and Specifications made by Edward V. Warren Architect, and signed by the said parties  
30 and hereunto annexed, within the time aforesaid, in a good workmanlike and substantial manner, under the direction of the said owners, and, also, shall and will find and provide such good, proper and sufficient materials of all kinds whatsoever, as shall be proper and sufficient for the completing and finishing of all the work works of the said BUILDING mentioned in the annexed Specification for the sum of Seventy Thousand Dollars

*Exhibit C. 3.*

AND the said party of the first part does hereby, for itself, its successors covenant, promise and agree, to and with the said party of the second part, his executors and administrators, that it the said party of the first part, shall and will in consideration of the covenants and agreements being strictly performed and kept by the said party of the second part as specified, well and truly pay or cause to be paid unto the said party of the second part his executors, administrators and assigns, the sum of Seventy Thousand Dollars, lawful money of the United States of America, in manner following:

First payment: When foundation up and first tier of beams laid; Ten Thousand Dollars. 10

Second payment: When second tier of beams laid, Ten Thousand Dollars. 20

Third payment: When roof is on, Ten Thousand Dollars.

Fourth payment: When floors laid and partition set, Six Thousand Dollars.

Fifth payment: When all rough plumbing and steam fitting in, Four Thousand Dollars.

Sixth payment: When brown coat is on, Eight Thousand Dollars.

Seventh payment: When white coat is on, Four Thousand Dollars. 30

Eighth payment: When plumbing and heating fixtures on job, Four Thousand Dollars.

Ninth payment: When standing trim on (except doors) Three Thousand Dollars.

Tenth payment: When doors hang, first coat of paint in interior and exterior tile work complete and plate glass in stor fronts, Six Thousand Dollars. 40

*Exhibit C. 3.*

Last payment: When completed and accepted by owners, Five Thousand Dollars.

PROVIDED, that in each of the said cases, a certificate shall be produced, signed by the said  
 , to the effect that the work is done in accordance with said Drawings and Specifications, said certificate, however, in no way lessening the  
 10 total and final responsibility of the Contractor; neither shall it exempt the Contractor from liability to replace work, if it be afterwards discovered to have been done ill, or not according to the Drawings and Specifications, either in execution or materials.

AND IT IS HEREBY FURTHER AGREED BY AND BETWEEN THE SAID PARTIES:

FIRST.—The Specifications and Drawings are  
 20 intended to co-operate, so that any works exhibited in the Drawings; and not mentioned in the Specifications, or VICE VERSA, are to be executed the same as if they were mentioned in the Specifications and set forth in the Drawings to the true meaning and intentions of the said Drawings and Specification, without any extra charge whatsoever. Copies thereof certified by the Architect to be true copies shall be furnished to the Contractor.

30 SECOND.—The Contractor, at his own proper costs and charges, to provide all manner of materials and labor, of every description for the due performance of the work as per specifications herewith submitted.

THIRD.—Should the Owner at any time during the progress of the said BUILDING request any alteration, deviations, additions or omissions, from the said contract, it shall be at liberty to do  
 40 so, and the same shall in no way affect or make

*Exhibit C. 3.*

void the contract, but will be added or deducted from the amount of the contract, as the case may be, by a fair and reasonable valuation.

FOURTH.—Should the Contractor, at any time during the progress of said works, refuse or neglect to supply a sufficiency of materials or workmen, the Owner shall have power to provide materials and workmen, after three days' notice in writing being given, to finish the said works, and the expense shall be deducted from the amount of the contract. 10

FIFTH.—Should any dispute arise respecting the true construction or meaning of the Drawings or Specifications, the same shall be decided by Edward V. Warren and his decision shall be final and conclusive; but should any dispute arise respecting the true value of the extra work, or of the works omitted, the same shall be valued by two competent persons—one employed by the Owner, and the other by the Contractor—and those two shall have power to name an umpire, whose decision shall be binding on all parties. 20

SIXTH.—The Owner shall not, in any manner, be answerable or accountable for any loss or damage that shall or may happen to the said works, or any part or parts thereof respectively, or for any of the materials or other things used and employed in finishing and completing the same. 30

SEVENTH.—No alterations or extra work shall be done without a written order from the Owner, approved by the owner and an express agreement in writing as to the cost.

EIGHTH.—The Owner will insure the building in the joint names and interest of himself and the Contractor against loss or damage by fire, in 40

*Exhibit C. 3.*

such sums as may from time to time be agreed upon with the Contractor to cover work and materials used in the building and around the premises, and the policies to be made payable to Owner and Contractor, as their interest may appear. The Contractor shall see to it that this insurance is satisfactorily effected.

10

NINTH.—All work and materials, delivered on the premises to form part of the works, are to be considered the property of the Owner, and are not to be removed without his consent; but the Contractor shall have the right to remove all surplus materials after the completion of the works.

20

TENTH.—Neither the Contractor nor the Architect shall, without the written consent of the Owner, have authority to vary, alter, amend or change this contract, or any of the Plans or Specifications herein referred to.

ELEVENTH.—Whenever building permits shall be required by any municipality, or be necessary under any law, ordinance or other regulation, to the erection, alteration or repair of any building, the same shall be procured by the Owner.

30

TWELFTH.—That the said Contractor shall produce and deliver to the Owner, the release of all persons who may then have furnished materials or done work on said building, who may have a lien on such building and the land whereon the same is erected, releasing their lien on such building and the land whereon the same is erected, with affidavit by said Contractor thereto annexed, that no person or persons other than those named in said release, have any lien upon such building or land for work done or materials furnished for the erection thereof accord-

40

ing to the statute.

*Exhibits C. 4—C. 5.*

IN WITNESS WHEREOF, the said parties to these presents have hereunto set their hands and seals the day and year above written.

National Realty and Construction Company  
(L. s.) Paul Wolf—Pres't.  
(L. s.) Israel Silverstein

Signed, Sealed and Delivered  
in the presence of  
Bessie Wolf  
Secretary

10

Attest

Seal National Realty and Construction Company  
Incorporated  
Dec. 1914

**AGREEMENT**

For Building.

Filed July 18, 1923.

20

**EXHIBIT C. 4.**

Exhibit C. 4 is a building agreement made between the same parties as Exhibit C. 3, dated June 28, 1924, for all of the work necessary to complete the erection of the buildings at the premises #1010-1016 Clinton avenue, Irvington, New Jersey, for the sum of \$37,300 each.

30

**EXHIBIT C. 5.**

Exhibit C. 5 is a building agreement made between the same parties as Exhibit C. 3, dated March 23, 1925 for all of the work necessary to complete the erection of the building at the north-east corner of South Orange avenue and Fairmount Terrace, East Orange, New Jersey, being #867 South Orange avenue, for the sum of \$145,000.

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*Exhibit C. 6—C. 7.***EXHIBIT C. 6.**

Exhibit C. 6 is a building agreement made between the same parties as Exhibit C. 3, dated April 8, 1926, for all of the work necessary to complete the erection of the building at #70  
 10 Park avenue, Bloomfield, New Jersey, for the sum of \$180,000.

**EXHIBIT C. 7.**

## ACCOUNTS PAYABLE.

	1923.			
	Aug.	4	Gerber .....	\$ 400.00
20			Stone .....	300.00
		11	Pay-roll .....	711.25
		13	Harrison Supply .....	338.24
			cement blocks.....	190.00
		18	Goldberg .....	100.00
		25	Pay-roll .....	1,167.20
		28	" " .....	274.50
		29	McClave .....	1,000.00
	Sept.	1	Gerber .....	347.25
			Pay-roll .....	700.00
30		8	" " .....	575.00
		15	" " .....	300.00
		18	Water .....	6.45
		21	Gerber .....	200.00
			Carter .....	1,000.00
			Bldrs. Mat. Sup. Co.....	500.00
		22	Pay-roll .....	700.65
			Stone .....	300.00
		26	Harrison Supply.....	110.02
			S. Reid & Co.....	500.00
40			Brush .....	.65

## Exhibit C. 7.

	28	Gasoline .....	.44	
		Carter .....	1,000.00	
		Shilling .....	225.00	
	29	Pay-roll .....	756.20	
Oct.	1	Screen Wire .....	1.00	
	6	Pay-roll .....	334.50	
		Carter .....	500.00	10
	13	Manduck .....	300.00	
		Shilling .....	225.00	
		Truck for scaffolds.....	3.00	
		Pay-roll .....	448.25	
	14	Broom .....	.85	
	15	Warran, for note.....	100.00	
	17	Pails and dabe.....	1.85	
		Bellbe Transfer Co.....	20.00	
	19	“ “ “ .....	10.00	
		Goldberg .....	25.00	20
		Manduck .....	200.00	
	20	Harrison Supply.....	912.48	
		Pay-roll .....	846.35	
		Gerber .....	204.00	
	22	Bellbe Transfer Co.....	20.00	
		N. Erlich .....	120.00	
	25	2 rolls paper.....	3.30	
	27	Pay-roll .....	741.05	
	29	S. Reid and Co.....	404.00	
		B & L application fee.....	15.00	30
		Bellbe Transfer Co.....	10.00	
	30	“ “ “ .....	10.00	
		Blders Mat. Sup. Co.....	500.00	
Oct.	30	Flink & Flink.....	133.33	
		Igoe Bros.....	22.00	
		4 plasterers .....	120.00	
Nov.	1	Metal lat.....	7.00	
		Plasterer .....	54.00	
	3	Pay-roll .....	749.60	
		Stone .....	200.00	40

*Exhibit C. 7.*

		Pete cement .....	50.00
		signs .....	3.00
		Carter .....	2,000.00
	6	Ashes .....	10.00
	8	Baker Const. Co. (Int)....	165.00
	9	Goldberg .....	50.00
10	10	Pay-roll .....	622.25
	12	Carter .....	1,000.00
	14	Lines .....	.90
	16	Whitewashing .....	25.00
	17	American Oil Sup. Co.....	62.97
		Sunday Call .....	2.95
		Pete cement .....	200.00
		Lempert—stairs .....	150.00
		Pay-roll .....	547.00
	19	Evening News .....	29.40
		Leases and file.....	1.75
20	24	Pay-roll .....	365.00
		Sunday Call .....	1.95
	23	Schtiller & Plevy.....	200.00
	30	McClave .....	1,000.00
	Dec. 1	Coal .....	11.00
		Pay-roll .....	294.00
		Carter .....	500.00
		Manduck .....	100.00
		Neilson B. Conover.....	100.00
		Lempert .....	100.00
30	3	Levy Bros. ....	1,000.00
		B & L application fee.....	15.00
	4	M. Chopik .....	300.00
		Evening News .....	22.96
	7	Insurance .....	200.00
	8	Goldberg .....	50.00
		1 bundle shingles .....	1.95
		Pay-roll .....	346.00
	10	Plaster boards .....	5.00
		Beaverboards & plaster....	12.64
40			

*Exhibit C. 7.*

	12	Tile .....	300.00	
	14	Schilling .....	200.00	
		Chopik .....	300.00	
		Carter .....	500.00	
		Schtiller & Plevy.....	100.00	
		Pay-roll .....	255.00	
	18	B & L application fee.....	15.00	10
	19	Chopik .....	200.00	
	20	Union Lighting Fix. Co.....	200.00	
	20	Pay-roll .....	253.50	
	27	Inspector's hat .....	4.40	
		Sunday Call .....	1.95	
		Evening News .....	8.40	
		Laborer .....	3.00	
	29	Pay-roll .....	160.00	
		Plate glass .....	600.00	
		Floor scrapers .....	100.00	20
1924.				
Jan.	2	2 pails & brushes.....	3.60	
		coal .....	54.00	
	3	beaverboards .....	1.44	
		Evening News .....	11.80	
	4	B & L application fee.....	15.00	
	5	Pay-roll .....	94.00	
		Galm—hardware .....	150.00	
	9	Water .....	8.80	
	10	Floor scrapers .....	15.00	30
		Chopik .....	200.00	
	12	Pay-roll .....	99.00	
		Evening News .....	8.62	
	14	Geller Roofing Co.....	150.00	
	17	Roof Cement .....	1.30	
	18	Union Lighting Fix. Co.....	200.00	
		Reliable Window Shade....	57.00	
		Schilling .....	100.00	
	19	Chopik .....	200.00	
		Notice blanks .....	.20	40

*Exhibit C. 7.*

		22	Lempert—stairs .....	75.00
		25	Evening News .....	14.40
		30	Cellar pump .....	16.00
		31	Plumber & pipes.....	8.60
	Feb.	2	Nipples & Coupling.....	.55
		4	Neilson B. Conover.....	62.25
10			Chopik .....	150.00
		5	Evening News .....	5.76
		6	Schilling .....	50.00
		7	Garbage man .....	.60
		8	Goldberg .....	55.00
		9	Manduck .....	54.00
		15	Weather-strips .....	.30
			Chopik .....	75.00
		16	Diamond committee fee ....	9.00
		28	Chopik .....	50.00
20	Mar.	1	Schtiller & Plevy .....	200.00
			Geller Roofing Co.....	225.00
			Union Lighting Fix. Co.....	200.00
			Diamond .....	1,000.00
		3	Levy Bros. ....	1,000.00
			McClave .....	1,000.00
			Harrison Supply .....	1,500.00
			Blders Mat. Sup. Co.....	700.00
			Barrett—gas ranges .....	334.65
		4	N. J. Mortgage Co.—Int....	1,200.00
30		5	Chopik .....	100.00
		6	Rothenberg—curtains .....	3.00
		7	Charles Hood—Bldg. Loan..	335.52
			E. Heyman—Insurance.....	325.00
			W. Barnett—front washing.	72.00
		8	Lempert—stairs .....	85.00
			W. Gibbe—painting .....	10.00
		12	Chopik .....	40.00
		17	Schofield—renting flat .....	5.00
		21	Laborer .....	3.00
40		22	Pempert—stairs .....	75.00

## Exhibit C. 7.

	25	Laborer .....	.75	
		Tiling .....	105.00	
	27	Laborer .....	1.25	
	28	Levy Bros. ....	500.00	
		McClave—lumber .....	500.00	
Apr.	1	Laborer .....	1.25	
	8	Bellbe Transfer Co. ....	10.00	10
		8 bags cement. ....	6.38	
	11	Guarantee B & L. ....	650.00	
	12	Stone .....	200.00	
		Laborer for concrete. ....	10.00	
	16	Schilling .....	90.00	
	15	Carter .....	800.00	
		Note .....	812.00	
	21	For plate glass note. ....	686.80	
		Eichorn plate glass policy..	149.80	
	25	Evening News .....	7.60	20
	28	Harrison Supply .....	653.58	
	3	Deposit for Clinton Av. lot.	500.00	
		“ “ Fairmount Ter. “.	500.00	
		1 coupling for pump. ....	1.00	
		Rothenberg—cleaning .....	2.00	
May	5	Evening News—corner flat..	3.24	
	15	Guarantee B & L. ....	650.00	
	21	Public Service—electric ....	4.25	
June	5	Rothenberg .....	2.00	
	10	Strock & Dinner—Comm....	1,800.00	30
		Cohen—lawyer—settlement .	95.30	
	11	Guarantee B & L. ....	715.00	
		H. Tepper—Mortgage. ....	1,186.18	
		Levy Bros. ....	1,890.00	
			<hr/>	
			\$54,634.10	
		Total .....	\$54,634.10	

*Exhibit C. 7.*

## MONEY RECEIVED.

1923.		Checks received from Cohen & Cohen	
Aug.	3	.....	2,500.00
	25	.....	3,000.00
	31	.....	1,000.00
10	Sept. 15	.....	2,000.00
	22	.....	4,000.00
	Oct. 9	.....	2,000.00
	20	.....	2,000.00
	30	.....	2,000.00
	Nov. 2	.....	3,000.00
	10	.....	2,500.00
	24	.....	2,000.00
	Dec. 1	.....	1,000.00
	7	.....	2,000.00
20	29	.....	2,000.00
	1924	Checks	
	Mar. 1	Diamond .....	8,000.00
	25	Deposit from Brandman....	2,000.00
	June 10	Settlement from Brandman.	25,000.00
			<hr/>
		Total .....	\$66,000.00
			\$66,000.00

## RENTS RECEIVED.

30	November	deposits .....	10.00
		.....	10.00
		.....	25.00
		.....	25.00

*Exhibit C. 8.***RENTS.**

January .....	557.50	
February .....	788.00	
March .....	863.00	
April .....	856.00	
May .....	811.00	
June .....	811.00	<b>10</b>
	<hr/>	
	4,756.50	
Total .....	\$4,756.50	

**TOTALS**

Money received.....	66,000.00	
Rents received.....	4,756.50	
	<hr/>	
	70,756.50	
Disbursements .....	54,634.10	<b>20</b>
	<hr/>	
	16,122.40	
Balance on hand June 10, 1924..	\$16,122.40	

**EXHIBIT C. 8.**

EXHIBIT C 8 are a number of ledger sheets showing the book account of the Harrison Supply Company against Silverstein and Wolf, commencing in July, 1925, and running through May, 1927, and showing delivery of materials to #867 South Orange Avenue, East Orange, New Jersey, #307 Mulberry Street, Newark, New Jersey and #68-70 Park Avenue, Bloomfield, N. J.

*Exhibits C. 9—C. 10.***EXHIBIT C. 9.**

EXHIBIT C 9 are the ledger sheets of Benjamin Sternrich, in account with Silverstein and Wolf, the first sheet being the account against premises Fairmount Terrace and South Orange Avenue, showing a total debit of \$19750, and total credits of \$19750; the second sheet being against premises at Red Bank, N. J., showing total debits of \$24,000 and total credits of \$24,000; the third sheet being against Park Avenue, Bloomfield, N. J., showing total debits of \$28,500 and showing total credits of \$28,500.

**EXHIBIT C. 10.**

EXHIBIT C 10 is a book account of Levy Bros. Company against Silverstein and Wolf, for delivery of materials commencing July 8, 1924, running through the years 1925, 1926 and 1927, showing total debits of \$29,802.15, and total credits of \$27,047.90, and a balance due Levy Bros. of \$2754.25.

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*Exhibits C. 11—C. 12.***EXHIBIT C. 11.**

WOLFF & SILVERSTEIN  
251 Osborne Terrace  
Newark, New Jersey.

<i>1929</i>		Credits	
1/1 Bill Rendered	\$3712.69		10
Transferred from Paul Wolff	38.41		
	<hr/>		
	\$3751.10		
2 carboys of acid		\$10.00	
8 rolls Beaver paper		12.40	
2064 lbs sash weights		46.44	
returned		\$68.84	
returned		<hr/>	
		\$68.84	20
	<hr/>		
	\$3682.26		

**EXHIBIT C. 12.**

EXHIBIT C 12 are the files of the Court of Chancery of New Jersey, in the matter of National Realty & Construction Company, Complainant and Twin Gables Realty Co., et al, Defendants, docket 73, page 139, which files consist of a Bill of Complaint filed by the National Realty & Construction Company against the defendants, against premises on Riverside Avenue, Red Bank, N. J., claiming a balance due the complainant of \$5182.08, attached to which Bill of Complaint is a copy of the building agreements made between National Realty & Construction Company and the defendant, Twin Gables Realty Co., for the erection of the building on said Riverside Avenue, Red Bank, N. J., and a statement showing the account, the two contracts and

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*Exhibit C. 13.*

extra work, totalling the sum of \$158,130.08, and which files also contain the answers of the defendants, Twin Gables Realty Co. and Ola E. Galm, both denying that there is anything due to the complainant in said cause.

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**EXHIBIT C. 13.**

EXHIBIT C 13 consists of the book account of Louis Gerber against Wolf and Silverstein, showing delivery of materials commencing March 20, 1925, and ending September 10, 1926, total debits of \$3424 and total credits of \$3424.

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Exhibit C. 14.

**EXHIBIT C. 14.****QUOTATION**

E. W. McCLAVE & SON, Inc.  
 Prompt Shippers of  
 Long Leaf—YELLOW PINE—Short Leaf  
 FIR, HARDWOODS, WHITE PINE **10**

Harrison, N. J., April 6th, 1926.

Silverstein & Wolf

We beg to confirm quotation as follows:

All agreements are contingent upon delays of carriers, strikes, accidents and other delays beyond our control. Quotations subject to change without notice. No claims allowed unless made within five days from receipt of lumber. All agreements are subject to acceptance by main office.

Delivery: 70 Park Avenue, Bloomfield, N. J. **20**

2 x 10	249/12 376/14 194/16				
	104/18	Fir	22,047'		
	116/20 88/22 156/26	"	13,854'		
2 x 6	63/12 94/14 49/16 26/18				
	108/20	"	5,484'		
	22/22 60/26	"	2,044'		
3 x 4	800/20	"	16,000'		
2 x 4	3000/20	"	40,002'		
2 x 2	50/12 60/14 460/18				
	96/20	"	3,880'		
1 x 2	4800 lin. ft.	Spruce	800'		
4 x 4	264/12 30/14	Fir	4,784'		<b>30</b>
			108,895'	43.75	4,764.16
3 x 10	316/20	Fir	15,800'	48.75	770.25
1 x 10	12,000 ft.	N. C. Shiplap	12,000'	37.50	450.00
1 x 3	6,000 ft.				
	B&B Comb Grain Flg.		6,000'	109.50	657.00
			142,695'		6,641.41
					332.07
	LUMP SUM—\$6,973.48				6,973.48

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Exhibit C. 16.

**EXHIBIT C. 16.**

GENERAL LEDGER

DUPLICATE

Page 42

Sheet No.....

Account No.....

Terms NAME Wolf & Silverstein (National Realty)  
 Rating ADDRESS  
 Credit Limit

Date	Items	Folio	Debits	Date	Items	Folio	Credits
1925				1925			
Apr. 1	Contract S. O. Av.....		6,650.00	Apr. 25	c 116		1,500.00
Apr. 7			24.96	June 3	c 122		1,000.00
Oct. 2			15.00	Aug. 14	c 128		1,000.00
Nov. 17			3.50	Sept. 12	c 130		500.00
Nov. 19			105.00	Oct. 24	c 132		500.00
Oct. 22			13.80	Dec. 3	c 138		1,000.00
Dec.			75.00	1926			
Dec.			25.00	Feb. 2	Tranferred to c 146		500.00
				Apr. 22	New Ledger c 152		500.00
			<u>6,912.26</u>				

Sheet No.....

Account No. W 1

Terms NAME P. Wolf & Silverstein  
 Rating ADDRESS 251- Osborne Terrace  
 Credit Limit Newark, N. J.

Date	Items	Folio	Debits	Date	Items	Folio	Credits
1926				1926			
Jan. 1	Balance.....	o. 1.	1,412.26	Feb. 2	Trans, from o. l. c 146		500.00
Apr. 20	Bloomfield...	S 292	7,000.00	Apr. 22	do. c 152		500.00
				May 22	c 156		1,000.00
			<u>8,412.26</u>	Jun. 18	c 158		1,000.00
				Aug. 4	c 165		1,000.00
				Aug. 28	c 165		1,000.00
				Oct. 1	c 174		1,000.00
				1927			
				Mar. 9	c 190		1,000.00
				Apr. 21	c 196		500.00
				Oct. 1	Credit s 316		112.26
				Sept. 21	c 214		300.00
				1928			
				Feb. 1	c 232		250.00
							<u>8,162.26</u>

Balance ..... 250.00

*Exhibit D. 1.*

**EXHIBIT D. 1.**

16 Notes.

15	1015 00/	
\$1000 00/xx	Newark, N. J. Nov 3, 1924	
Three Month after date I promise to pay to the		10
order of National Realty & Construction Co		
One Thousand 00/xx.....Dollars		
at Libert Trust Co		
Value received with interest		
No. 4085 Due 2/3	I Silverstein	
endorsement—National Realty Construction Co		
Paul Wolf—Paul Wolf		

The balance of the exhibit consist of fifteen other notes all made by Israel Silverstein, the complainant, to the National Realty & Construction Company, one of the defendants, on the following dates and amounts:—

April 15, 1925.....	\$1200.00	
August 20, 1925.....	1500.00	
August 9, 1926.....	3000.00	
September 16, 1926.....	4000.00	
November 9, 1926.....	2500.00	
January 18, 1927.....	350.00	
February 9, 1927.....	2000.00	30
March 24, 1927.....	1500.00	
May 9, 1927.....	1500.00	
June 25, 1927.....	1000.00	
August 10, 1927.....	1500.00	
November 15, 1927.....	1000.00	
November 15, 1927.....	2000.00	
March 15, 1928.....	2000.00	
March 15, 1928.....	2000.00	

*Exhibit D. 2.***EXHIBIT D. 2.**

9.49                      635.49  
 \$626.00/100              Newark, N. J. July 7th 1924  
 Ninety (90) Days after date I promise to pay to  
 the order of A. S. Reid and Company  
 10 Six Hundred and twenty six 00/100....Dollars  
 Payable at Liberty Trust Company, Newark,  
 N. J.  
 Value received Interest  
 No..... ..Due 10/6                      I Silverstein  
 Paid Oct. 6 1924 Fidelity Union Trust Co., New-  
 ark, N. J.  
 Endorsement—A. S. Reid & Company. (A Cor-  
 poration)  
 20 Edwin F. Knight Vice President

55-20

Newark, N. J. Oct 6 1924                      No.....

NEWARK TRUST COMPANY

Pay to the Order of P. Wolf.....\$626 00/xx  
 Six hundred and twenty Six 00/xx....Dollars  
 National Realty & Construction Co.  
 Paul Wolf, B.

30 Certified Newark Trust Co. \$626 and 00 Cts.  
 At Request of Maker Oct 6 1924 Newark Trust  
 Co. Newark, N. J.                      Joseph E. Gene  
 Endorsement—P. Wolf  
 Received Payment Through the Newark Clearing  
 House Oct 7 1924 Prior Endorsements Guarant-  
 eed No. 5 Fidelity Union Trust Co.  
 Paid—10/6—24

40

*Exhibit D. 3.*

The balance in the exhibit consist of four notes given by Israel Silverstein to A. S. Reid & Company in the following amounts and dates:—

July 16, 1924, \$246 and interest, at 4 months.	
August 9, 1924, \$272.50 and interest, at 3 months.	
August 9, 1924, \$272.50 and interest, at 5 months.	10
July 7, 1924, \$626 and interest. at 150 days;	
and four checks of the National Realty & Construction Company, which either went to A. S. Reid & Company or to the Fidelity Union Trust Company, where said notes were payable, on the following dates and amounts.	
November 16, 1924.....	\$250.90
November 10, 1924.....	276.60
January 8, 1925.....	279.31
December 12, 1924.....	643.99
	20

**EXHIBIT D. 3.**

18 Checks.

No. Newark, N. J. April 27 1923  
 NEWARK TRUST COMPANY 55-20  
 Pay to the 00  
 Order of E T Silberstein \$300 XX 30  
 00  
 Three hundred XX .....Dollars  
 NATIONAL REALTY & CONSTRUCTION Co.  
 Paul Wolf, B.

(Endorsed on back) I Silverstein

Paid—4-27-23

*Exhibit D. 3.*

The balance of the exhibit consists of 14 checks all drawn by the National Realty & Construction Company to the order of Israel Silverstein on the Newark Trust Company, on the following dates and the following amounts:

	August 20, 1923....\$	700.00
10	August 29, 1923....	1,000.00
	September 15, 1923 .....	300.00
	September 21, 1923 .....	500.00
	September 24, 1923 .....	500.00
	November 30, 1923 .....	1,000.00
	June 24, 1924 .....	500.00
	July 7, 1924 .....	100.00
	July 24, 1924 .....	300.00
	September 3, 1924 .....	150.00
	May 15, 1925 .....	2,000.00
20	March 18, 1926 .....	500.00
	July 16, 1926 .....	200.00
	April 30, 1927 .....	50.00

30

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*Exhibit D. 3.*

This exhibit also contains the following three checks:

(Cut) 55-20  
 Newark, N. J. April 2nd 1924 No.....  
 NEWARK TRUST COMPANY  
 Pay to the 10  
 Order of E. E. Bond & Co. Inc. \$250.00  
 Two hundred and fifty and no/00 Dollars  
 NATIONAL REALTY & CONSTRUCTION Co.  
 Paul Wolf, B

(Endorsed on back.)

Pay to the order of John Haskell. 20  
 E. E. Bond & Co., Inc.  
 David Houston  
 Secy. & Treas.  
 John Haskell

(Rubber Stamp.)

RECEIVED PAYMENT

Through the Newark Clearing House

Prior Endorsements Guaranteed

APR 5 1924

Merchants & Man'fs Natl. Bank No. 3

Paid—4-7-24

30

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*Exhibit D. 3.*

(Cut) 55-20  
 Newark, N. J. April 3rd 1924 No.....  
 NEWARK TRUST COMPANY

10 Pay to the  
 Order of E. E. Bond & Co., Inc. \$250.00  
 Two hundred and fifty and no/00 Dollars  
 NATIONAL REALTY & CONSTRUCTION Co.  
 Paul Wolf, B

(Endorsed on back.)  
 Pay to the order of John Haskell.  
 E. E. Bond & Co., Inc.  
 David Houston  
 Secy. & Treas.  
 John Haskell.

20 RECEIVED PAYMENT  
 Through the Newark Clearing House  
 Prior Indorsements Guaranteed  
 APR 5 1924  
 Merchants & Man'fs Natl. Bank No. 3  
 Paid—4-7-24

30

40

*Exhibit D. 3.*

(Cut) 55-20  
 Newark, N. J. June 12, 1924 No.....  
 NEWARK TRUST COMPANY  
 Pay to the  
 Order of John Haskell \$2123 95/XX  
 Twenty one Hundred Twenty three and 95/XX 10  
 Dollars  
 NATIONAL REALTY & CONSTRUCTION Co.  
 Paul Wolf, B

Certified

Newark Trust Co. \$2123 and 95 cts.  
 at request of Maker Jul. 12, 1924  
 Newark Trust Co. Newark, N. J.  
 Joseph Ohlner, Teller

(Endorsed on back.) 20  
 John Haskell

(Rubber Stamp.)

RECEIVED PAYMENT  
 Through The Newark Clearing House  
 Prior Endorsements Guaranteed  
 JUN 14 1924  
 Merchants & Man'fs Natl. Bank No. 3

30

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*Exhibit D. 4.***EXHIBIT D. 4.**

(Cut)

55-20

Newark, N. J. June 11 1924

No.....

**NEWARK TRUST COMPANY**

10 Pay to the  
 Order of Harry Tapper \$1186 18/XX  
 Eleven Hundred Eighty-six 18/XX Dollars  
 NATIONAL REALTY & CONSTRUCTION Co.  
 Paul Wolf, B

(Endorsed) Harry Tapper.

Paid—6-13-24

(Rubber Stamp.)

20 RECEIVED PAYMENT  
 Through the Newark Clearing House  
 Prior Indorsements Guaranteed  
 JUN 11 1924  
 WEST SIDE TRUST CO. No. 7

30

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*Exhibit D. 4.*

No. . . . . Newark, N. J. April 27 1923

NEWARK TRUST COMPANY 55-20

Pay to the

Order of Herry Taper \$500 00/XX

Five hundred 00/XX Dollars

NATIONAL REALTY &amp; CONSTRUCTION Co.

Paul Wolf, B

10

Certified

at Request of Maker

APR 27 1923

NEWARK TRUST CO.

NEWARK, N. J.

Joseph Ohlner, Teller

Paid—4-10-25

(Endorsed on back.)

20

Herry Taper

Harry Tapper

(Rubber Stamp.)

RECEIVED PAYMENT

Through the Newark Clearing House

Prior Indorsements Guaranteed

APR 28 1923

WEST SIDE TRUST CO. No. 7

30

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*Exhibit D. 4.*

No. . . . . Newark, N. J. July 18 1923

NEWARK TRUST COMPANY 55-20

Pay to the

Order of Harry Tapper \$898 15/XX

Eight Hundred Ninety eight 15/XX Dollars

NATIONAL REALTY &amp; CONSTRUCTION Co.

10

Paul Wolf, B

Paid—7-20-23

(Endorsed on back.)

Harry Tapper

(Rubber Stamp.)

PAY NATIONAL NEWARK & ESSEX  
BANKING CO.

508 Newark, N. J., or Order 508

20

LEVY &amp; FENSTER

Trustees

(Rubber Stamp.)

Pay to the Order of

ANY BANK, BANKER or TRUST CO.

Prior Endorsements Guaranteed

JUL 19 1923

NATIONAL NEWARK & ESSEX BANKING  
55-1 CO., NEWARK, N. J. 55-1

30

RECEIVED PAYMENT

Through the Newark Clearing House

Prior Indorsements Guaranteed

JUL 19 1923

Natl. Newark &amp; Essex Banking Co. No. 1

40

*Exhibit D. 5.***EXHIBIT D. 5.**

Newark, N. J. April 1 1926 No.....

55-22 THE BROAD & MARKET  
NATIONAL BANK 55-22  
OF NEWARKPay to the 10  
Order of Berwyn Estates \$1726 00/XX  
Seventeen Hundred Twenty-six 00/XX Dollars  
NATIONAL REALTY & CONSTRUCTION Co.  
Paul Wolf, B

Paid—4-5-26

(Endorsed on back.)

For deposit Berwyn Estates

(Rubber Stamp.)

20

**RECEIVED PAYMENT**

Through the Newark Clearing House

APR 5 1926

Prior Endorsements Guaranteed

—No. 5—

FIDELITY UNION TRUST CO.

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*Exhibit D. 6.***EXHIBIT D. 6.**

(Cut) 55-20

Newark, N. J. May 7th 1924 No.....

NEWARK TRUST COMPANY

10 Pay to the  
 Order of Erwin E. Marshall and  
 E. Furman Hooper \$500 00/100  
 Five Hundred and 00/100 Dollars  
 NATIONAL REALTY & CONSTRUCTION Co.  
 Paul Wolf, B

Paid—5-14-24

(Endorsement on back.)

20 Erwin E. Marshall  
 E. Furman Hooper  
 Erwin E. Marshall

(Rubber Stamp.)

Endorsements Guaranteed  
 Pay to the Order of  
 ANY BANK OR BANKER  
 MAY 13 1924  
 TRENTON TRUST COMPANY  
 TRENTON, N. J.  
 W. J. PIERREPONT, Treas.

30 RECEIVED PAYMENT  
 Through the Newark Clearing House  
 MAY 14 1924  
 Prior Endorsements Guaranteed  
 No. 5  
 FIDELITY UNION TRUST CO.

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*Exhibit D. 6.*

(Cut) 55-20  
 Newark, N. J. July 15 1924 No.....  
 NEWARK TRUST COMPANY  
 Pay to the  
 Order of Erwin E. Marshall \$1469 45/XX  
 Fourteen Hundred Sixty-nine and 45/100 Dollars 10  
 NATIONAL REALTY & CONSTRUCTION Co.  
Paul Wolf, B  
 Paid—7-17-24

(Endorsed on back.)

Erw E Marshall

(Rubber Stamp.)

Endorsements Guaranteed  
 PAY TO THE ORDER OF  
 ANY BANK OR BANKER 20  
 JUL 16 1924

TRENTON TRUST COMPANY  
 TRENTON, N. J.  
 W. J. PIERREPONT, Treas.

(Rubber Stamp.)

RECEIVED PAYMENT  
 Through the Newark Clearing House  
 JUL 17 1924  
 Prior Endorsements Guaranteed 30  
 No. 5  
 FIDELITY UNION TRUST CO.



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