

COMMONWEALTH OF MASSACHUSETTS

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SUPERIOR COURT  
DEPARTMENT OF THE TRIAL  
COURT

PENNSYLVANIA AVENUE FUNDS,  
individually, and on behalf of all others similarly  
situated,

Plaintiff,

Case No. 08-1057

v.

GERARD H. BRANDI, ALEXANDER S.  
COSTELLO, STEPHEN E. MARSHALL,  
ALLAN S. BUFFERD, KATHLEEN M.  
CAMILI, NANCY L. PETTINELLI, STEPHEN  
W. CARR, WILLIAM F. RUCCI, JR., NALIN  
M. MISTRY, O. BRADLEY LATHAM, PAUL  
J. McCARTHY, MASSBANK CORP.,  
EASTERN BANK CORPORATION, EASTERN  
BANK and MINUTEMAN ACQUISITION  
CORP.

Defendants

AMENDED CLASS ACTION COMPLAINT

Plaintiff, through counsel, for its complaint against defendants, alleges upon personal knowledge with respect to paragraph 8, and upon information and belief based, *inter alia*, upon the investigation of counsel, as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action individually and as a class action on behalf of the public shareholders of MASSBANK Corporation ("MASSBANK" or the "Company") in connection with the proposed sale of the Company to Eastern Bank Corporation and its wholly owned subsidiaries

Eastern Bank and Minuteman Acquisition Corp. (collectively "Eastern") for \$40.00 per share in cash pursuant to a Merger Agreement announced on March 10, 2008 (the "Buyout"). If the Merger is completed as contemplated, MASSBANK will become a wholly owned subsidiary of Eastern.

2. Without input from shareholders or reasonably considering other alternatives, Defendants reached an agreement attempting to lock the Company into a course of action that does not maximize shareholder value. The terms of the Buyout expressly forbid the Company or its Board from soliciting or even considering competing and higher priced offers. Thus, if another buyer wanted to offer shareholders more than \$40.00 per share, Defendants have attempted to foreclose this opportunity. Further, in the event the Buyout is not completed, the merger agreement includes a provision requiring MASSBANK to pay to Eastern a termination fee of \$5 million. As such, Eastern has been given an impermissible advantage in buying the Company.

3. The rationale for the Individual Defendants agreeing to the Buyout is readily apparent. After decades of operating as an independent company, in August 2007 MASSBANK began to negotiate with various potential acquirers. This radical change in corporate strategy occurred just weeks after MASSBANK learned of a looming proxy fight with one of its largest shareholders and faced the very real possibility that Brandi and the current Board of Directors would lose absolute control of the Company. Rather than suffer such a fate, Brandi, and a complicit Board, negotiated their own exit strategy at the expense of shareholders.

4. In addition to negotiating an insufficient price, Defendants have failed to disclose adequate information to shareholders necessary for them to make a fully informed decision, as required by applicable Delaware law. The Proxy Statement provided to shareholders fails to a) adequately describe the process used by defendants in deciding to abandon a decades long corporate

strategy of independence and in ultimately agreeing to the terms of the Buyout, b) provide sufficient detail of the analysis used by the Company's financial advisor in arriving at its fairness opinion, and c) disclose the fact that a third party investor was seeking to gain control of the Company and what impact these efforts had on the Individual Defendants' efforts to sell the Company.

5. As a result of these actions and others detailed herein, Plaintiff alleges that the sale of MASSBANK to Eastern constitutes a breach of the fiduciary duties of the directors of MASSBANK in the sale of the Company, aided and abetted by the Company and Eastern.

#### JURISDICTION AND VENUE

6. This Court has jurisdiction over each of the Defendants because all Defendants conduct business in, reside in or are citizens of the Commonwealth of Massachusetts, and the Company has its principal place of business in Massachusetts.

7. Venue is proper in this County pursuant to G.L., c. 223, § 1, because MASSBANK has a principal place of business in this County and Defendants' wrongful acts arose in and emanated from this county.

#### THE PARTIES

8. Plaintiff, Pennsylvania Avenue Funds, currently owns and has owned MASSBANK stock continuously since prior to the Merger Agreement.

9. Defendant Gerard H. Brandi currently serves as MASSBANK's Chief Executive Officer, President and Chairman of the Board of Directors. Brandi has been a member of the Board of Directors since 1986. Brandi serves on the Company's Executive Committee. In 2006, the Company paid Brandi \$784,855, of which \$499,800 was salary.

10. Defendant Alexander S. Costello ("Costello") has served as a member of MASSBANK's Board of Directors since 1993. Costello serves on the Company's Audit Committee. In 2006, the Company paid Costello \$10,257, which was comprised of cash payments totaling \$9,000 and \$1,257 in stock options.

11. Defendant Stephen E. Marshall ("Marshall") has served as a member of MASSBANK's Board of Directors since 1986. Marshall serves on the Company's Executive Committee. In 2006, the Company paid Marshall \$10,257, which was comprised of cash payments totaling \$19,557 and \$1,257 in stock options.

12. Defendant Allan S. Bufferd ("Bufferd") has served as a member of MASSBANK's Board of Directors since 1995. Bufferd serves on the Company's Executive, Audit and Nominating Committees, and is Chairman of the Company's Risk Management and Asset/Liability Committee. In 2006, the Company paid Bufferd \$23,057, which was comprised of cash payments totaling \$21,800 and \$1,257 in stock options.

13. Defendant Kathleen M. Camilli ("Camilli") has served as a member of MASSBANK's Board of Directors since 2003. Camilli serves on the Company's Risk Management and Asset/Liability and Committee and the Nominating Committee. In 2006, the Company paid Camilli \$9,257, which was comprised of cash payments totaling \$8,000 and \$1,257 in stock options.

14. Defendant Nancy L. Pettinelli ("Pettinelli") has served as a member of MASSBANK's Board of Directors since 1998. Pettinelli serves on the Company's Audit, Compensation and Option, Nominating and Insurance Committees. In 2006, the Company paid Pettinelli \$11,757, which was comprised of cash payments totaling \$10,500 and \$1,257 in stock options.

15. Defendant Stephen W. Carr ("Carr") has served as a member of MASSBANK's Board of Directors since 2006, and is a member of the Executive Committee of the Corporation and a Director and member of the Executive Committee of the Bank. Carr serves on the Compensation and Option and Nominating Committee. In 2006, the Company paid Carr \$15,372, which was comprised of cash payments totaling \$14,000 and \$1,372 in stock options.

16. Defendant William F. Rucci, Jr. ("Rucci") has served as a member of MASSBANK's Board of Directors since 2005. Rucci serves as Chairman of the Company's Audit Committee and serves on the Executive Committee. In 2006, the Company paid Rucci \$24,507, which was comprised of cash payments totaling \$23,250 and \$1,257 in stock options.

17. Defendant Nalin M. Mistry ("Mistry") currently serves as a member of MASSBANK's Board of Directors.

18. Defendant O. Bradley Latham ("Latham") currently serves as a member of MASSBANK's Board of Directors. Latham serves on the Company's Insurance Committee and the Risk Management and Asset/Liability Committee. In 2006, the Company paid Latham \$8,257, which was comprised of cash payments totaling \$7,000 and \$1,257 in stock options.

19. Defendant Paul J. McCarthy ("McCarthy") currently serves as a member of MASSBANK's Board of Directors.

20. As Directors of the Company, Brandi, Costello, Marshall, Bufferd, Camilli, Pettinelli, Carr, Rucci, Mistry, Latham and McCarthy (collectively the "Individual Defendants"), are in a fiduciary relationship with the Company, Plaintiff and the public stockholders of MASSBANK. By virtue of their positions as directors and/or officers of MASSBANK and/or their exercise of control and dominant ownership over the business and corporate affairs of MASSBANK, each and every

