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Association and Hilda H. Chavez*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

PETER S. DAVIS, as Receiver of
DENSCO INVESTMENT
CORPORATION, an Arizona corporation,

Plaintiff,

v.

U.S. BANK, NA, a national banking
organization; HILDA H. CHAVEZ and
JOHN DOE CHAVEZ, a married couple;
JP MORGAN CHASE BANK, N.A., a
national banking organization;
SAMANTHA NELSON f/k/a
SAMANTHA KUMBALECK and
KRISTOFER NELSON, a married couple;
and VIKRAM DADLANI and JANE DOE
DADLANI, a married couple.

Defendants.

No. CV2019-011499

MOTION TO DISMISS

(Assigned to the Hon. Daniel Martin)

(Oral Argument Requested)

In accordance with Ariz. R. Civ. P. 9(b) and 12(b)(6), Defendants U.S. Bank National Association (“U.S. Bank”) and Hilda H. Chavez (collectively, the “U.S. Bank Defendants”) move to dismiss the Complaint filed by DenSco Investment Corporation (“DenSco”).

MEMORANDUM OF POINTS AND AUTHORITIES

I. PLAINTIFF’S ALLEGATIONS

DenSco was an investment company that made “hard money loans” to buy residential homes in foreclosure at trustee’s sales. Compl., ¶ 1. DenSco sues U.S. Bank and others for allegedly aiding and abetting a fraud perpetrated by one of the individuals

1 to whom it loaned money – Yomtov Scott Menaged, and his controlled businesses, Easy
2 Investments, LLC and Arizona Home Foreclosures, LLC.¹ *Id.* ¶¶ 15-31, 167-74. As is
3 pertinent to this Motion, the allegations are that Mr. Menaged opened accounts with U.S.
4 Bank into which DenSco wired funds loaned to Mr. Menaged to purchase foreclosed
5 homes between December 2012 and April 2014. *Id.* ¶¶ 37, 44-45, 81. Mr. Menaged was
6 to repay the loans and give DenSco a first position lien on each of the properties he
7 purchased. *See id.* ¶¶ 20-23, 29.

8 According to the allegations, the fraud was perpetrated as follows: Mr. Menaged
9 (or his assistant, Veronica Castro) would request cashiers' checks for the purchase price of
10 the properties to be drawn on his U.S. Bank accounts, less the \$10,000 deposit Mr.
11 Menaged posted before bidding. *Id.* ¶¶ 48-50. Mr. Menaged would then photograph the
12 cashiers' checks and electronically send the photographs to DenSco, supposedly as proof
13 that the funds were used to purchase foreclosed homes. *Id.* ¶¶ 58-60. Mr. Menaged
14 would then redeposit the cashiers' checks into the U.S. Bank deposit accounts from which
15 they were drawn, making those funds available for Mr. Menaged to use as he wished.² *Id.*
16 ¶¶ 61-62. As to the U.S. Bank Defendants, the allegations are that Mr. Menaged had
17 issued and redeposited 41 cashiers' checks totaling \$6,931,048 between December 2012
18 and April 2014. *Id.* ¶¶ 63, 81.

19 **II. LEGAL STANDARD**

20 In evaluating a motion to dismiss, the Court need not accept as true conclusory
21 allegations, unwarranted deductions of fact, unreasonable inferences, or legal conclusions
22 cast in the form of factual allegations, if those conclusions cannot be drawn from the facts
23 alleged. *See, e.g., Johnson Int'l, Inc. v. City of Phoenix*, 192 Ariz. 466, 470 ¶ 19 (App.
24 1998); *Aldabbagh v. Ariz. Dep't of Liquor Licenses & Control*, 162 Ariz. 415, 417-18

26 ¹ In addition to this action, DenSco has filed two other actions seeking to recoup losses,
27 including one against DenSco's prior attorneys pending before this Court. *See Davis v.*
28 *Clark Hill*, CV2017-013832; *Davis v. Fischer Family Holdings, L.L.C.*, CV2018-052830.

² The United States indicted Mr. Menaged in 2017, *id.* ¶ 32, who pled guilty to several
counts and was sentenced to 17 years in prison, *id.* ¶¶ 34-35.

(App. 1989). A formulaic recitation of the elements of a cause of action is not sufficient. *Dube v. Likins*, 216 Ariz. 406, 424 ¶ 14 (App. 2007) (Howard, P.J., supplementing opinion); *see also* Ariz. R. Civ. P. 8(a)(2) (requiring a short and plain statement of the claim showing pleader is entitled to relief).

The Complaint is rightly dismissed under this standard, as the claim against the U.S. Bank Defendants is time-barred on the face of the pleading. *See Montano v. Browning*, 202 Ariz. 544, 546 ¶ 4 (App. 2002) (“[A]lthough dismissal of an action based on expiration of the statute of limitations is generally disfavored, claims that are clearly brought outside the relevant limitations period are conclusively barred.” (internal citations omitted)).

Further, DenSco has failed to plead how the U.S. Bank Defendants knowingly aided and abetted Mr. Menaged’s fraud. *See* Ariz. R. Civ. P. 9(b) (“In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake.”); *see also Spudnuts, Inc. v. Lane*, 131 Ariz. 424, 425-26 (1982) (observing that Rule 9(b)’s requirement to state circumstances with particularity applies when “fraud is claimed as a basis of an action for damages”); *In re Ariz. Theranos, Inc., Litig.*, 256 F. Supp. 3d 1009, 1035 (D. Ariz. 2017) (granting motion to dismiss for claim of aiding and abetting fraud for failure to satisfy particularity requirements under identical federal rule because “the claim [wa]s grounded in fraud”), *on reconsideration in part on other grounds*, 2017 WL 4337340 (Sept. 29, 2017).

III. ARGUMENT

A. DenSco’s Claim Is Barred Because All Facts Alleged Against the U.S. Bank Defendants Occurred Outside the Statute of Limitations.

Claims for aiding and abetting fraud have a three-year statute of limitations. A.R.S. § 12-543(3); *cf. Kisner v. Broome*, No. 1 CA-CV 16-0502, 2017 WL 6462245, at *7 ¶ 31 (Ariz. App. Dec. 19, 2017) (confirming that statute of limitations for aiding and abetting claim is same as for underlying action); *Zeman v. Baumkirchner*, No. 1 CA-CV 15-0228, 2016 WL 3176442, at *2 ¶ 9 n.6 (Ariz. App. June 7, 2016) (same). DenSco

1 alleges that without U.S. Bank's involvement, "Menaged could not have conducted his
2 fraudulent scheme against DenSco from December 2012 through April 2014." Compl.
3 ¶¶ 37, 81; *see also id.* ¶ 87 (alleging that from April 2014 onward, Mr. Menaged started
4 banking with co-defendant Chase). Accordingly, DenSco was required to file its claim
5 against the U.S. Bank Defendants before May 2017, making it untimely by more than two
6 years. *Montano*, 202 Ariz. at 546 ¶ 4 ("[A]lthough dismissal of an action based on
7 expiration of the statute of limitations is generally disfavored, claims that are clearly
8 brought outside the relevant limitations period are conclusively barred." (internal citations
9 omitted))

10 Further, there are no facts that could be supplemented through amendment that
11 would change this result. DenSco has affirmatively alleged in proceedings before this
12 Court that it executed a Forbearance Agreement with Mr. Menaged and his companies on
13 April 16, 2014 with respect to the very same fraud at issue in the Complaint, affirmatively
14 demonstrating DenSco's knowledge of Mr. Menaged's fraud as of the date of that
15 Agreement.³ The discovery rule does not apply when the record demonstrates that a
16 plaintiff was aware of the facts underlying the cause of action, and so cannot then claim
17 that such items were concealed. *Larue v. Brown*, 235 Ariz. 440, 444 ¶ 17 (App. 2014);

18
19 ³ Specifically, the Forbearance Agreement followed a "fraud" in which "as many as 52
20 loans" were not "secured through first position trust deeds," and for which "Chittick
21 [DenSco's managing and sole member] had allowed the fraud committed by [Menaged's
22 companies] to have occurred, by . . . wiring funds directly to Menaged." Compl., *Davis v.*
23 *Clark Hill*, CV2017-013832, ¶¶ 54, 57, 64, 87 (emphasis added). The Court may consider
24 the Forbearance Agreement without converting this motion into one for summary
25 judgment, as the Receiver previously filed it with this Court. *See* Ex. 113 to SOF in
26 support of Mot. for Determination that Pl. has Made a Prima Facie Case for Punitive
27 Damages for Aiding and Abetting Breach of Fiduciary Duty, *Davis v. Clark Hill*,
28 CV2017-013832, at DIC00107732 ¶ G (a courtesy copy of which is attached as Exhibit
A). *See also* *Coleman v. City of Mesa*, 230 Ariz. 352, 356 ¶ 9 (2012) ("[P]ublic records
regarding matters referenced in a complaint, are not 'outside the pleading,' and courts
may consider such documents without converting a Rule 12(b)(6) motion into a summary
judgment motion."); *Strategic Dev. & Constr., Inc. v. 7th & Roosevelt Partners, LLC*, 224
Ariz. 60, 64 ¶ 13 (App. 2010) ("[A] Rule 12(b)(6) motion that presents a document that is
a matter of public record need not be treated as a motion for summary judgment."); *id.*
(citing in support *Intermedics, Inc. v. Ventritex, Inc.*, 775 F. Supp. 1258, 1261 (N.D. Cal.
1991)); *Intermedics, Inc.*, 775 F. Supp. at 1261 (confirming that previous court filings are
matters of public record).

1 *see also id.* (“[A] plaintiff cannot seek application of the discovery rule where pleadings
2 indicate his knowledge” (quoting *Phillips v. World Publ’g Co.*, 822 F. Supp. 2d
3 1114, 1122 (W.D. Wash. 2011))).

4 **B. The Complaint Does Not State a Claim for Aiding and Abetting Fraud**
5 **Against the U.S. Bank Defendants.**

6 Claims of aiding and abetting tortious conduct require proof of the following three
7 elements: “(1) the primary tortfeasor must commit a tort that causes injury to the plaintiff;
8 (2) the defendant must know that the primary tortfeasor’s conduct constitutes a breach of
9 duty; and (3) the defendant must substantially assist or encourage the primary tortfeasor in
10 the achievement of the breach.” *Wells Fargo Bank v. Ariz. Laborers, Teamsters &*
11 *Cement Masons Local No. 395 Pension Tr. Fund*, 201 Ariz. 474, 485 ¶ 34 (2002) (relying
12 also on Restatement of Torts (Second) § 876(b)). The Complaint fails because: (1) no
13 reasonable inference may be drawn from the allegations to support a finding that the U.S.
14 Bank Defendants knew that Mr. Menaged was defrauding DenSco; and (2) the allegations
15 do not establish substantial assistance or encouragement on the part of the U.S. Bank
16 Defendants, but rather the performance of ordinary bank functions.

17 1. *The allegations do not permit the inference of knowledge by the U.S.*
18 *Bank Defendants of an underlying fraud.*

19 DenSco’s aiding and abetting claim requires that the U.S. Bank Defendants knew
20 they were helping Mr. Menaged defraud DenSco, but reasonable inferences to be drawn
21 from the factual allegations do not support this essential element. To be held liable, the
22 U.S. Bank Defendants must know that “the conduct they allegedly aided and abetted was
23 a tort.” *Dawson v. Withycombe*, 216 Ariz. 84, 102 ¶ 50 (App. 2007); *see also Wells Fargo*
24 *Bank*, 201 Ariz. at 485 ¶ 33 (“Aiding and abetting liability is based on proof of a scienter
25 . . . the defendants must *know* that the conduct they are aiding and abetting is a tort.”
26 (emphasis original) (quoting *Witzman v. Lehrman, Lehrman & Flom*, 601 N.W.2d 179,
27 186 (Minn. 1999))).
28

1 Although a defendant's knowledge of the underlying tort may be inferred, the law
2 is that mere knowledge of suspicious activity is not enough. *See Dawson*, 216 Ariz. at
3 102-03 ¶¶ 50-52. Instead, the facts must give rise to a reasonable inference that the
4 defendant had at least "general awareness of the primary tortfeasor's fraudulent scheme."
5 *Id.* at 102 ¶ 50; *see also Bright LLC v. Best W. Int'l Inc.*, No. CV-17-00463-PHX-ROS,
6 2018 WL 4042122, at *7 (D. Ariz. July 27, 2018) ("[M]ere knowledge of suspicious
7 activity is not enough . . . [t]he defendant must be aware of the fraud." (quoting *Stern v.*
8 *Charles Schwab & Co.*, No. CV-09-1229-PHX-DGC, 2010 WL 1250732, at *9-10 (D.
9 Ariz. Mar. 24, 2010) (granting bank's motion to dismiss because, even though bank
10 "knew of unusual, unprecedented, and unexplained level of activity" on a Ponzi schemer's
11 account, the allegations did not support any inference that the bank had any actual
12 knowledge))), *reconsideration granted in part on other grounds*, 2018 WL 6738843
13 (Sept. 24, 2018); *Wiand v. Wells Fargo Bank, N.A.*, 938 F. Supp. 2d 1238, 1243-47 (M.D.
14 Fla. 2013) (finding victims of Ponzi scheme had not stated claim against the bank because
15 the allegations constituted "no more than 'red flags,'" insufficient to give rise to an
16 inference of knowledge).

17 The allegations support nothing more than a debtor and creditor relationship
18 between U.S. Bank and its customer, Mr. Menaged, not a special or fiduciary type
19 relationship from which knowledge might possibly be inferred. *See, e.g., Ferring v. Bank*
20 *of Am. NA*, No. CV-15-01168-PHX-GMS, 2016 WL 407315, at *3 (D. Ariz. Feb. 3, 2016)
21 (stating in case brought against bank based on underlying fraudulent transaction, that
22 "[t]he 'relationship between a bank and an ordinary customer is no more than that of
23 debtor and creditor.'" (quoting *Stern*, 2010 WL 1250732, at *3)); *see also Hennesy*
24 *Equipment Sales Co. v. Valley Nat'l Bank*, 25 Ariz. App. 285, 287 (1975) ("The
25 relationship between the bank and its checking account depositor is that of debtor and
26 creditor.").

27 Cognizant of this glaring deficiency in DenSco's aiding and abetting theory,
28 DenSco levels several allegations that do not collectively support a reasonable inference

1 that the U.S. Bank Defendants knew about, or encouraged, the underlying fraud. DenSco
2 first suggests that the U.S. Bank Defendants knew of the underlying fraud because the
3 cashier's checks were "approximately equal to the total amount that DenSco wired to Mr.
4 Menaged's Easy Investments' account."⁴ Compl. ¶ 70(a). Second, DenSco implies that
5 the U.S. Bank Defendants knew of the fraud because the checks were "made payable to a
6 trustee that conducted the public auction." *Id.* ¶ 70(b). And third, DenSco ties together
7 the memo line of the cashier's checks (of "DenSco Payment [property address]") to infer
8 that the U.S. Bank Defendants somehow knew that Mr. Menaged was not permitted under
9 his agreement with DenSco to use these funds for any other purpose. *Compare id.*
10 ¶ 70(c), *with id.* ¶ 42.

11 Yet there are no allegations that the U.S. Bank Defendants were parties to
12 agreements or communications between DenSco and Mr. Menaged regarding the loans,
13 foreclosures, property purchases, or security agreements (because they were not). No
14 allegations exist that the U.S. Bank Defendants were aware of the terms of any of the
15 agreements between DenSco and Mr. Menaged (because they were not).⁵ In addition,
16 nowhere does the Complaint allege that the U.S. Bank Defendants knew that the multiple,
17 individual payees on the cashier's checks were in fact trustees at a public auction. *See*
18 Compl. ¶¶ 52, 70(b). In fact, there are no allegations that U.S. Bank did anything other
19 than behave like a depository bank would be expected to behave, by offering run-of-the-
20 mill services like accepting wire transfers for deposit, issuing cashier's checks when
21 requested, and redepositing cashier's checks when unused.

22 At bottom, all these allegations collectively support—even in the most charitable
23 light—is that someone at U.S. Bank, had he or she cared to inspect the wires, cashier's

24 _____
25 ⁴ In fact, the amount DenSco wired was allegedly "less \$10,000" for a purported trustee
26 deposit, *see* Compl. ¶ 52, (which is a calculation DenSco does not allege that U.S. Bank
27 could have known about), so was not "approximately equal" to the wired amount.

28 ⁵ The closest the Complaint comes to pleading awareness is the allegation that Mr.
Menaged told the U.S. Bank Defendants that he was in the residential foreclosure
business, *see* Compl. ¶¶ 65-66, but all this allegation establishes is that the U.S. Bank
Defendants allegedly knew that Mr. Menaged was "in the business of purchasing
foreclosed homes from public auction," *id.* ¶ 65, nothing more.

1 checks, and account statements, *might* have drawn the inference that Mr. Menaged was
2 using funds supplied by a thirty party to purchase properties at foreclosure, and that
3 sometimes Mr. Menaged did not go through with those purchases, for any number of
4 lawful reasons. No further conclusion can be reasonably drawn from these allegations.
5 The U.S. Bank Defendants are not alleged to have actual knowledge of the underlying
6 fraud, and the Complaint fails to establish a reasonable inference of knowledge from the
7 activities, individually and in the aggregate, that comprise the normal business practices of
8 a depository institution.

9
10 2. *The allegations do not support substantial assistance by the U.S.
Bank Defendants.*

11 To be liable for aiding and abetting, the defendant's encouragement or assistance
12 must be "a substantial factor in causing the resulting tort," Restatement of Torts (Second)
13 § 876(b), cmt. d; *see also Wells Fargo Bank*, 201 Ariz. at 485 ¶¶ 31, 34 (emphasizing
14 Arizona courts' reliance on Section 876 of the Restatement). While aiding and abetting
15 does not require "but for" causation, there must be "a causal connection between the
16 defendant's assistance or encouragement and the primary tortfeasor's commission of the
17 tort." *Sec. Title Agency v. Pope*, 219 Ariz. 480, 491 ¶ 47 (App. 2008).

18 Ordinary banking business, such as the activities undertaken by U.S. Bank
19 described in the Complaint, do not allow the reasonable inference of substantial assistance
20 to be drawn. *Cf. Wells Fargo Bank*, 201 Ariz. at 489 ¶¶ 48-49 (recognizing other courts'
21 view of ordinary course transactions constituting "substantial assistance," but only to
22 extent that there was a heightened economic motivation to aid in the fraud); *see also id.*
23 ¶ 51 (acknowledging that it "may be possible to infer the knowledge necessary for aiding
24 and abetting liability" if a bank's "method or transaction is atypical or lacks business
25 justification" (quoting *Woodward v. Metro Bank of Dallas*, 522 F.2d 84, 97 (5th Cir.
26 1975))).

27 The allegations taken as a whole support nothing more than a bank doing what a
28 bank does in the ordinary course of its business, with no heightened economic motivation

1 to assist Mr. Menaged in defrauding DenSco. *Thuney v. Lawyer's Title of Ariz.* No. 2:18-
2 CV-1513-HRH, 2019 WL 467653, at *5 (D. Ariz. Feb. 6, 2019) ("Processing day-to-day
3 transactions does not constitute substantial assistance unless the bank has an extraordinary
4 economic motivation to aid in the fraud." (internal quotation marks and citation omitted)).
5 Rather, the factual allegations detail ordinary banking activities: accepting wire
6 transactions as instructed, Compl. ¶¶ 47, 50, 68-69, completing and disposing of cashier's
7 checks as instructed, *id.* ¶¶ 54, 71, following internal bank policies, *id.* ¶¶ 74-76, and
8 allegedly waiving bank policies by supervisory employees (which U.S. Bank denies),
9 which were unrelated to the fraud at issue, *id.* ¶¶ 39, 78-79. The U.S. Bank Defendants
10 are entitled to notice of the basis for their alleged "substantial assistance," but the
11 Complaint does not give it.

12 The Complaint also relies upon U.S. Bank "knowing" that Mr. Menaged's actions
13 were fraudulent to support the substantial assistance prong, *id.* ¶¶ 74, 80, but this is a
14 parasitic argument. *See Wells Fargo Bank*, 201 Ariz. at 485 ¶ 33 ("Aiding and abetting
15 liability is based on proof of a scienter . . . the defendants must *know* that the conduct they
16 are aiding and abetting is a tort." (emphasis original) (quoting *Witzman*, 601 N.W.2d at
17 186)). The conclusory allegations do not meet Rule 9's particular pleading requirement of
18 knowledge or substantial assistance, both for the reasons addressed *supra*, and because the
19 actions described are all normal activities that a depository bank regularly undertakes.

20 **IV. CONCLUSION**

21 For the foregoing reasons, this Court should dismiss the U.S. Bank Defendants. As
22 the Complaint cannot be cured by amendment, the dismissal should be with prejudice.
23 *See, e.g., Swenson v. County of Pinal*, 243 Ariz. 122, 128 ¶ 22 (App. 2017); *Wigglesworth*
24 *v. Mauldin*, 195 Ariz. 432, 439 ¶¶ 26-27 (App. 1999).

DATED this 3rd day of February, 2020.

SNELL & WILMER LLP

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The foregoing was electronically
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on the following parties:

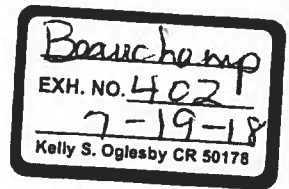
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4823-0241-7838

Exhibit A



FORBEARANCE AGREEMENT

THIS FORBEARANCE AGREEMENT ("Agreement") is executed on April 16, 2014, by and among Arizona Home Foreclosures, LLC, an Arizona limited liability company, whose address is 7320 W. Bell Road, Glendale, Arizona 85308 ("AHF"), Easy Investments, LLC, an Arizona limited liability company, whose address is 7320 W. Bell Road, Glendale, Arizona 85308 ("EI") (AHF and EI are collectively referred to as the "Borrower"), Yomtov "Scott" Menaged, an individual whose address is 10510 East Sunnyside Drive, Scottsdale, Arizona 85259 ("Guarantor"), Furniture King, LLC, an Arizona limited liability company, whose address is 303 N. Central Avenue, Suite 603, Phoenix, AZ 85012 ("New Guarantor"), and DenSco Investment Corporation, an Arizona corporation, whose address is 6132 W. Victoria Place, Chandler, Arizona 85226 ("Lender") (the Borrower, the Guarantor, the New Guarantor, and Lender are each considered a "Party" hereunder and are collectively referred to as the "Parties"). (Any capitalized term not defined in this Agreement shall have the meaning set forth in the Deeds of Trust as later defined).

Recitals

The following recitals of fact are a material part of this Agreement:

A. Borrower is indebted to Lender under the terms of certain Loans (the "Loans"), which are listed on the attached Exhibit A, which is incorporated into this Agreement by this reference, and each are evidenced by a Note Secured by Deed of Trust (each, a "Note" and collectively, the "Notes"), all of which were executed by Borrower in favor of Lender (the "Notes") and by a Mortgage (or a "Receipt and Mortgage") (each, a "Mortgage," and collectively, the "Mortgages"), and each such Note and Mortgage was executed by Borrower and delivered to Lender, as a condition precedent to and immediately prior to the funding of the applicable Loan.

B. Guarantor guaranteed the payment and performance of each of the Loans (the "Guaranty"), executed by Guarantor in favor of Lender.

C. Each of the Loans are further evidenced and/or secured by various documents and instruments, including but not limited to a certain Deed of Trust and Assignment of Rents (each a "Deed of Trust," and collectively, the "Deeds of Trust"), executed by Borrower at the funding of the Loan in favor of Lender and recorded in conjunction with the Trustee's Deed conveying the real property to Borrower. The Deeds of Trust constitute a lien on the respective real properties described therein (individually a "Property" and collectively, the "Properties") and referenced in Exhibit A. The Notes, the Mortgages, the Deeds of Trust, the Guaranty, the other document(s) described above and all other documents and instruments evidencing and/or securing the Loans, as originally written or previously modified, and all amendments and renewals thereof and replacements therefor, are referred to collectively herein as the "Loans Documents".

D. Each of the Mortgages provides: "Borrower hereby grants to Lender or assignee a first, prior and superior equitable lien and mortgage against the Real Property to secure payment of the Loan... Borrower has delivered to Lender a promissory note and deed of trust,

and Borrower agrees that the deed of trust that the deed of trust shall be recorded against the Real Property as a first, prior and superior lien and encumbrance simultaneously with the recording of the Trustee's Deed."

E. Each Deed of Trust provides as follows:

**TO PROTECT THE SECURITY OF THIS DEED OF TRUST,
BORROWER AGREES:**

...

5. Borrower shall promptly discharge any lien in which has priority over this Deed of Trust unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Deed of Trust. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Deed of Trust, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more actions set forth within 10 days of the beginning of the notice.

F. Each Note provides as follows:

"A "Default" shall occur (i) ... or (vi) upon the occurrence of any default under any obligation of Maker to Holder. Further, at Holder's option after Default, all remaining unpaid principal and accrued interest shall become due and payable immediately without notice (other than any declaration prescribed in applicable sections of the agreements under which such events of default arose), presentment, demand or protest, all of which hereby are waived." ("Default" shall have the meaning set forth in the Note).

G. On or about November 27, 2013, Guarantor met with Denny Chittick of Lender to inform Lender that certain of the Properties had also been used (though Guarantor acknowledged no fault) as security for one or more loans from one or more other lenders (individually, the "Other Lender" and collectively, the "Other Lenders") and the Loans from Lender may not be in the first lien position on each respective Property.

H. At the November 27 meeting, Guarantor acknowledged to Lender that Borrower had an obligation to discharge the liens of the Other Lenders or to take such other actions to satisfy Section 5 of each Deed of Trust within 10 days, as referenced above. Further, Borrower and Guarantor acknowledged that the meeting satisfied Lender's obligation to provide notice to Borrower and Guarantor of an action leading to a Default pursuant to each of the Loan Documents.

I. The Loans are now in Default (as defined in the Note) and Lender has provided Borrower with any and all notice required under each of the Loans Documents concerning such Default.

J. Borrower has requested that Lender forbear in the pursuit of Lender's remedies, and Lender is willing to forbear such pursuit, but only so long as and on the conditions that (1) Borrower, Guarantor and New Guarantor acknowledge the existing Defaults under the Loans, (2) all liens, security interests, rights and remedies of Lender under the Loans Documents continue in full force and effect and (3) Borrower, Guarantor and New Guarantor fulfill all conditions and comply with all terms and provisions set forth in this Agreement, and furnish all other documents and perform all other acts necessary to give effect to the agreements hereinafter set forth.

NOW THEREFORE, in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Loans Balance.** As of the close of business on April 16, 2014, the total principal sum now due and payable under the Loans, in aggregate, is \$35,639,880.71. In addition to the outstanding principal, Lender has advanced costs and expenses as permitted under the Loans Documents and incurred costs and expenses for collection and enforcement of the Loans. Interest continues to accrue under the Loans at the rate of 18% per annum as provided in the Notes (as opposed to the Default Interest rate set forth in the Notes).

2. **Acknowledgment of Default.** Borrower, Guarantor and New Guarantor hereby acknowledge and agree that the Loans are in Default, that any necessary or required notices have been provided by Lender and all applicable "cure periods" have expired, and that as a result of such Default, Lender now has the right to pursue foreclosure and any and all other rights and remedies permitted to Lender under the Loans Documents and/or under applicable law.

3. **Continued Effect of Loans Documents.** Borrower, Guarantor and New Guarantor further acknowledge and confirm that the Loans Documents have been duly authorized, executed and delivered to Lender and are valid, binding and enforceable against Borrower and Guarantor in accordance with their respective terms, and that to the collective knowledge of Borrower, Guarantor and New Guarantor, all liens and security interests created in favor of Lender under the Loans Documents have been validly created and duly perfected as encumbrances upon all Properties and collateral of Borrower, Guarantor or New Guarantor as described in the Loans Documents and as modified by this Agreement. Upon the satisfaction of the lien of the applicable Other Lender with respect to a Property, the lien and security interest created in favor of Lender under the Loans Documents will be deemed to be validly created and duly perfected as an encumbrance upon the respective Property and collateral of Borrower, Guarantor or New Guarantor as described in the Loans Documents. Further, Borrower shall cause to be provided to Lender a Lender's title insurance policy issued by a nationally-recognized title company, reasonably acceptable to Lender insuring that Lender's encumbrance in such Property, as evidenced by the respective Deed of Trust, shall constitute a valid and enforceable first and prior lien to any other encumbrance on the respective Property.

4. **Forbearance by Lender on Conditions; Effect of Breach.** Lender hereby agrees to forbear pursuit of its rights and remedies under the Loans Documents and/or under applicable law, but only so long as and on the conditions that Borrower, Guarantor and New Guarantor pay all sums, perform all covenants and agreements and do all acts and things required of them

hereunder. If Borrower, Guarantor or New Guarantor fail to pay any sum or to perform any covenant, agreement or obligation owed to Lender under any of the Loans Documents, as modified by this Agreement, Lender may cease such forbearance and may immediately commence and pursue any or all rights and remedies Lender may have under the Loans Documents and/or under applicable law as to any or all of the collateral or security for the Loans, all in such order and manner as Lender may elect from time to time in its sole discretion and without notice of any kind to Borrower, Guarantor, New Guarantor or any other person, as if this Section 4 had never been agreed to by Lender. Lender's agreement herein to forego immediate pursuit of its rights and remedies constitutes a postponement and forbearance only, and does not in any event constitute a waiver of any such rights or remedies.

5. **No Effect on Existing Default; Extension of Maturity.** Neither the execution and delivery of this Agreement or any other document or instrument required hereunder nor the consummation of the transactions and agreements set forth in this Agreement shall in any manner rescind or cure any existing Default under the Loans Documents, reinstate the Loans to a current status, or constitute an accord and satisfaction of the Loans. Notwithstanding this provision, the maturity date of all of the Loans (and the payment of the entire principal sum and all accrued interest, costs, expenses, disbursements and fees due under the terms and provisions of this Agreement, the Notes and all other sums payable under the Loans Documents) is hereby extended to February 1, 2015, and shall be due in any event, without notice or demand; provided, however, Lender, at its sole discretion, may further extend the maturity date of all of the Loans to February 1, 2016, so long as Borrower, Guarantor and New Guarantor have complied and are in material compliance with the terms of this Agreement.

6. **Borrower's Actions.** Lender's continued performance of the terms of this Agreement is conditioned upon each of the following obligations being fulfilled:

(A) Borrower agrees to use its good faith efforts to: (i) liquidate other assets, which is expected to generate approximately \$4 to \$5 million US Dollars; (ii) apply all net proceeds from the rental of Borrower's other real estate assets, or the net proceeds from the acquisition and disposition of other real estate or other assets by Borrower, and (iii) apply all funds received from Borrower's continued good faith efforts to recover any other asset that can be recovered from the missing proceeds from the multiple Loans that were advanced from Lender and Other Lenders with respect to certain properties as referenced above. Any additional funds obtained and / or made available to Borrower pursuant to this subsection shall be made available to and used by Borrower in connection with the resolution of the lien disputes between Lender and Other Lenders as referenced above (and any balance to be paid to Lender to reduce the amount of Lender's Additional Loan or the Additional Funds Loan to Borrower as provided herein).

(B) Borrower agrees to provide Lender, and maintain in effect, a life insurance policy from a nationally-recognized life insurance carrier (Lincoln Benefit Life Insurance, a subsidiary of Allstate Insurance Co., shall be deemed acceptable to Lender), in the amount of \$10,000,000, insuring the life of Guarantor with Lender named as the sole beneficiary, until all obligations pursuant to the Agreement have been fully satisfied.

(C) Borrower agrees to provide Lender with a separate personal guaranty from Guarantor, guaranteeing all of Borrower's obligations under the Loans Documents, and this

Agreement, and such Guaranty shall be in commercially reasonable form for a lender loaning a similar aggregate amount of money to a borrower as Lender is loaning in the aggregate to Borrower. Further, Borrower agrees to provide a re-affirmation and consent from Guarantor to restate and re-affirm his personal obligations as set forth in his outstanding personal guarantees of Lender's Loans to Borrower, so that the terms and provisions of this Agreement will not cause or create any waiver of such guarantees, but rather will ratify and guarantee all of the Borrower's obligations, as such obligations may be increased by the actions of Lender and Borrower pursuant to the terms and provisions of this Agreement.

(D) Borrower agrees to provide Lender with a separate corporate guaranty from New Guarantor, guaranteeing all of Borrower's obligations under the Loans Documents, this Agreement, and the Additional Loan (defined herein) to be secured by a lien against all of New Guarantor's inventory, accounts, and assets.

(E) Except for Lender, Borrower agrees to continue to pay the interest due to the Other Lenders for loans secured by any of the Properties, and any other similarly situated lender on a timely basis and to keep each of such loans current and in compliance with their respective terms.

(F) Borrower has arranged for private outside financing (the "Outside Funds"), which is to be provided to Borrower in the approximate amounts and on the following prospective schedule: (i) approximately \$1,000,000 on or before March 20, 2014; (ii) approximately \$1,000,000 on or before May 26, 2014; (iii) approximately \$1,000,000 on or before July 15, 2014; and (iv) approximately \$1,200,000 on or before September 15, 2014. Such Outside Funds shall be used exclusively for the pay-off of the Other Lenders and any other similarly situated lender: to pay interest payments to similarly situated lenders; to pay repair and/rehab expenses associated with the collateral for the Loans, or to make any other payment that, in Borrower's reasonable judgment, is for the mutual benefit of Borrower and Lender. Any balance remaining shall be paid to Lender to reduce the amount of Lender's Additional Loan to Borrower, as provided herein;

(G) Borrower has agreed to inform Lender of all of the terms of Borrower's transactions to obtain the Outside Funds and the security provided for such Outside Funds. Lender agrees to keep such information on a confidential basis, provided, however, Lender will be able to provide such terms and information to its investors, legal counsel, accountants and other applicable professionals on a confidential basis.

(H) During the term of this Agreement, Borrower, Guarantor and New Guarantor agree to use good faith efforts to satisfy and pay-off any and all financial obligations secured by liens in favor of the applicable Other Lender with respect to a Property. The Borrower and Lender shall cooperate to agree upon a sequencing schedule (which will need to be adjusted on a reasonable basis) to satisfy and release the liens of the Other Lenders on the applicable Properties. Borrower agrees to use its Good Faith Efforts to cause the liens of the Other Lenders to be satisfied and released on or before nine (9) months from the execution of this Agreement.

(I) Borrower, Guarantor, New Guarantor and Lender acknowledge and agree that this Agreement shall not constitute nor create a joint venture or partnership arrangement between or among Lender and any of the Borrower or Guarantor.

(J) If Borrower, Guarantor or New Guarantor fail to pay any sum or to perform any covenant, agreement or obligation owed to Lender under any of the Loans Documents, as modified by this Agreement, Borrower agrees to provide any additional collateral ("Additional Security") to Lender, as may be requested by Lender, to secure Borrower's existing obligations to Lender and to secure the additional obligations that Lender is agreeing to provide pursuant to this Agreement.

(K) Execution, delivery and filing or recording (with all costs thereof paid by Borrower) of all documents and instruments required to create the required liens on the respective Properties as required by the Loans Documents or to create a security interest in any Additional Collateral.

(L) As more fully set forth in Section 12, Borrower agrees to reimburse all costs and expenses, including without limitation attorneys' fees, incurred by Lender in connection with this Agreement (or the effect of this Agreement on Lender's business and with its investors).

7. **Lender's Actions.** Subject to the full compliance of Borrower, Guarantor, and New Guarantor to each of their respective obligations, as detailed in this Agreement, the Lender will perform the following obligations:

(A) Lender has increased the Loan amount applicable to certain of the Properties referenced in Exhibit A up to 120% of the loan-to-value ("LTV") ratio of the value of the respective Properties, as determined by Lender. The additional funds advanced to Borrower have been used to pay off the Other Lender and release its security interest in that Property.

(B) In connection with the sale of a Property to an independent third party or new third party financing of any of the Properties referenced in Exhibit A, Lender agrees to work reasonably with Borrower, Guarantor and New Guarantor to provide additional funds to Borrower to pay off the respective Loans of the Other Lender and Lender secured by a lien against the applicable Property so that the respective security interests in the respective Property will be released at the Closing of the sale or new financing of the Property. The additional funds provided by Lender to Borrower in connection with such third party sale or new third party financing of such Properties shall be evidenced by a new loan to Borrower, Guarantor, and New Guarantor, jointly and severally, in an amount up to \$5.0 Million US Dollars, which loan is to provide for multiple advances, earn 18% interest, with monthly principal and interest payments (calculated pursuant to a formula consisting of all outstanding interest and 3% of outstanding principal), and all unpaid interest and outstanding principal shall be all due and payable on or before February 1, 2016 (the "Additional Funds Loan"). The Additional Funds Loan will include a Default Interest Rate of 29%. Upon the sale or refinance of the Property securing the Additional Loan (pursuant to Section 7 (D), the outstanding principal balance of the Additional Funds Loan shall be paid down so that the outstanding principal balance is reduced to an amount of \$4.0 Million US Dollars or less and the promissory note evidencing the Additional Funds Loan shall be modified to reduce the maximum outstanding principal to \$4.0 Million US Dollars.

The promissory note to evidence the Additional Funds Loan shall be in commercially reasonable form for a lender loaning a similar aggregate amount of money on a partially unsecured basis to a borrower as Lender is loaning in the aggregate to Borrower, Guarantor, and New Guarantor. Full Payment of the Additional Funds Loan shall be secured by a lien against the inventory and assets of the New Guarantor, which shall be evidenced by a security agreement and financing statement in commercially reasonable form to secure a lender loaning a similar aggregate amount of money to a borrower as Lender is loaning in the aggregate to Borrower pursuant to the Additional Funds Loan. If Borrower, Guarantor, or New Guarantor fail to pay any sum or to perform any covenant, agreements or obligation owed to Lender under the Additional Funds Loan, this Agreement, or any of the Loans Documents, as modified by this Agreement, Borrower and Guarantor agree to work with Lender to provide any additional collateral available ("**Additional Funds Collateral**") to Lender, as may be requested by Lender, to secure the obligations pursuant to the Additional Funds Loan for the benefit of Lender.

(C) Lender will defer (but not waive) the collection of interest from the Borrower on the Loans to the Borrower during the process to fund the amount due to the Other Lenders; and all deferred interest on the Notes from Borrower shall be paid to Lender on or before the payoff of the respective Note.

(D) Lender has provided a new loan to Borrower and Guarantor, jointly and severally, in the amount up to \$1 Million US Dollars, which loan is to provide for multiple advances, and currently accrues 3% annual interest (which interest shall be calculated based upon, and periodically adjusted as necessary, to equal the interest costs to Denny Chittick on his line of credit from Bank of America plus ½%) with monthly principal and interest payments (calculated pursuant to a formula consisting of all outstanding interest and 3% of outstanding principal balance), all unpaid interest and outstanding principal shall be all due and payable on or before February 1, 2016, and such loan shall be secured by a first lien position against certain real property in Scottsdale, AZ (the "**Additional Loan**"). The Additional Loan will include a Default Interest Rate of 29%. The promissory note to evidence the Additional Funds Loan shall be in commercially reasonable form for a lender loaning a similar aggregate amount of money on a partially unsecured basis to a borrower as Lender is loaning in the aggregate to Borrower and Guarantor. Upon the sale or refinancing of such Property, Borrower and Guarantor will arrange for the Additional Loan to be secured by a lien against certain real property or properties, with the properties and the lien position to be approved by Lender, in its sole discretion, and the obligation is to be personally guaranteed by New Guarantor. Further, upon the sale or refinance of such Property, Borrower, Guarantor and Lender shall modify the Additional Funds Loan to reduce the maximum outstanding balance to \$4.0 Million US Dollars.

(E) Provided that Borrower, Guarantor and New Guarantor each complies with all of its respective obligations under this Agreement, Lender will waive the right to charge the Default Interest rate which is permitted pursuant to the terms of the Loans Documents. If any of Borrower, Guarantor or New Guarantor fails to comply with its respective obligations under this Agreement, Borrower shall then be liable for Default Interest at the Default Interest rate set forth in the Loan Documents on all outstanding Notes.

(F) Upon the complete and full satisfaction by Borrower, Guarantor and New Guarantor (the "**Borrower Entities**") of each and every obligation, term, condition and

requirement of the Borrower Entities set forth in and pursuant to this Agreement, the Loans Documents and/or any other document executed in connection with this Agreement and/or the Loans Documents, Lender, Borrower, Guarantor and New Guarantor agree to and will execute a mutual release and covenant not to sue (or pursue) the Borrower and/or Guarantor in any legal action based upon the facts set forth in the Recitals to this Agreement.

8. **Grace and Cure Periods.** If Borrower, Guarantor or New Guarantor fail to comply with any non-monetary obligation undertaken by it through this Agreement or any of the Loans Documents, or any of the documents executed in connection with this Agreement (collectively, the "Forbearance Documents"), the Borrower Entities shall be in default of this Agreement if none of the Borrower Entities fails to satisfy the non-monetary obligation within ten (10) business days of receiving email or telephonic notice from Lender. No such notice shall be required if any of the Borrower Entities fail to comply with any monetary obligation in favor of Lender under the Forbearance Documents. Except for the non-monetary notice required above, all other notice provisions of the Forbearance Documents requiring any other notice to Borrower or Borrower Entities or any other person as a condition precedent to the existence of any breach, default or event of default or to any acceleration or other remedial action by Lender, permitting or granting any grace period after the giving or receipt of any notice for the cure of any breach, default or event of default under the Forbearance Documents prior to acceleration or other remedial action by Lender are hereby deleted, and all Forbearance Documents are hereby modified accordingly.

9. **No Knowledge of Claims and Defenses against Lender.** As a material part of the consideration for Lender's execution of this Agreement, Borrower, Guarantor and New Guarantor each hereby represent and warrant to Lender and its officers, directors, shareholders and its affiliates that neither the Borrower nor Guarantor are aware of any liabilities, obligations, actions, claims, causes of action, suits, proceedings, damages, demands, costs and expenses whatsoever that would give rise to, or be the basis for, or to create an obligation owed by Lender to Borrower or Guarantor (except as set forth in this Agreement) (collectively, "Potential Claims") or any action, failure to act, facts or circumstances that could give rise to or be the basis for or to create a Potential Claim, including but not limited to any of the foregoing relating to the making, administration or enforcement of the Loans. Without limiting the foregoing, Borrower and Guarantor hereby unconditionally and irrevocably waive any and all defenses and claims existing or arising (or based on facts or circumstances actually or allegedly existing or arising) prior to or on the date of this Agreement which might otherwise limit their unconditional joint and several liability for all sums due under the Loans as set forth in this Agreement.

10. **Further Documents.** Borrower, Guarantor, and New Guarantor each hereby agree to execute any and all further documents and instruments required by Lender and to do all other acts and things necessary to give effect to the terms and provisions of this Agreement and/or to create and perfect all liens and security interests granted to Lender under the Loans Documents or required under this Agreement.

11. **Authorization of Agreement.** The execution and delivery of this Agreement has been duly authorized by all necessary corporate or partnership action of Borrower, Guarantor (as applicable) and New Guarantor, and the individuals executing this Agreement on behalf of

Borrower, Guarantor and/or New Guarantor have been duly authorized and empowered to bind Borrower, Guarantor and/or New Guarantor by such execution.

12. **Costs and Expenses.** Borrower hereby agrees to pay on demand any and all fees, costs and expenses, including but not limited to attorneys' fees, incurred by Lender in connection with: (A) the negotiation, preparation, filing and/or recording of this Agreement and all other documents and instruments required to give effect to this Agreement and/or to create and perfect the liens, security interests, assignments and/or pledges contemplated hereunder or under the Loans Documents and such disclosure to Lender's investors as necessary to provide an updated disclosure concerning Borrower's Default and the terms of this Forbearance Agreement; provided, however, the legal fees incurred in connection with this subsection A to prepare and implement this Agreement and the necessary initial updated disclosure to Lender's investors in connection with Borrower's Default and the terms of this Forbearance Agreement shall be limited by a total and cumulative cap of \$80,000; (B) the issuance to Lender of any and all title reports, amendments and title insurance; (C) any investigation fees and/or other fees and costs incurred by Lender in connection with this Agreement and/or the Loans Documents (or the effect of this Agreement on Lender's business and with its investors); (D) the default of Borrower in connection with the Loans Documents, or the existing and/or any future lien disputes with any of the Other Lenders or any other similarly situated lenders; and/or (E) the collection of the Loans and/or the enforcement of this Agreement and/or the Loans Documents and/or any other document executed in connection with this Agreement and/or the Loans Documents. The Parties acknowledge that the cumulative cap of \$80,000 is only applicable to legal fees, incurred pursuant to subsection A above. Guarantor and New Guarantor shall each be liable for all of their respective foregoing costs and expenses pursuant to their respective guarantees. Lender shall have no liability whatsoever for any of the foregoing.

13. **Time of the Essence.** Time is of the essence of all agreements and obligations contained herein.

14. **Construction of Agreement.** If any provision of this Agreement conflicts with any provision of any Loans Documents, the applicable provision of this Agreement shall control.

As used herein, words of masculine, feminine or neuter gender shall mean and include the correlative words of the other genders, and words importing the singular number shall mean and include the plural number, and vice versa.

The titles and captions in this Agreement are used for convenience of reference only and do not define, limit or control the scope, intent or effect of any provisions of this Agreement.

No inference in favor of, or against, any Party shall be drawn from the fact that such Party has drafted all or any portion of this Agreement, any other document required hereunder or in connection with any Loans Documents.

All parties were advised to and were given the opportunity to consult with independent counsel before executing this Agreement and the Forbearance Documents.

15. **Ratification and Agreements by Guarantor.** Guarantor hereby acknowledges and consents to the terms of this Agreement, agrees to be bound by all terms and provisions

hereof and of any and all documents and instruments executed by Borrower in connection with and/or as contemplated in this Agreement; acknowledges and confirms that Guarantor is and shall remain liable for all indebtedness and obligations now or hereafter owed by Borrower to Lender in connection with the Loans (pursuant to this Agreement and the Loans Documents or otherwise); agrees that Guarantor's said liability shall not be released, reduced or otherwise affected by the execution of this Agreement, by any changes in the effect of the Loans Documents under the terms of this Agreement, by Lender's receipt of any additional collateral for the Loans, by the consummation of any transactions relating hereto, or by any other existing fact or circumstance; ratifies the Guaranty as security for the Loans; and confirms that the Guaranty remains in full force and effect.

16. **Entire Agreement; No Oral Agreements Concerning Loans.** The Recitals set forth at the beginning of this Agreement are incorporated into this Agreement as a material part of this Agreement. This Agreement constitutes the entire agreement of the parties concerning the subject matter hereof, which agreement shall not be varied by any alleged or actual oral statements or parol evidence whatsoever. Lender has not promised or agreed in any manner to extend the maturity of the Loans, to restructure the Loans or any security therefor, to modify any terms of the Loans Documents or the effect thereof, to forbear in the commencement, exercise or pursuit of any right or remedy Lender has under the Loans Documents or applicable law, to release or adversely affect any lien or security interest previously or concurrently granted in favor of Lender, or to forego the benefit of any term, provision or condition of the Loans Documents, except as may be otherwise specifically provided in this Agreement and subject in all instances to strict compliance by Borrower, Guarantor and New Guarantor with all terms and conditions of this Agreement. Except as specifically provided in this Agreement (and so long as each of the Borrower Entities are in compliance with the terms of this Agreement), Lender has not agreed or become obligated, whether by negotiating or executing this Agreement or otherwise, to make any new Loans or to extend any new credit to Borrower, Guarantor or New Guarantor under any circumstances.

17. **Ratification of Workout.** The Parties acknowledge and agree that the terms and conditions of this Agreement are part of but not the entire body of a mutual workout arrangement between the parties for a resolution of a dispute regarding the Loans. Borrower, Guarantor and New Guarantor each hereby ratify, consent to, and agree to all of Lender's actions, from November 27, 2013, to the date first stated above, regarding and/or related to the claims of the Other Lenders alleging that the encumbrances for their loans were in first priority for the subject Properties; with the actions of the Lender including, without limitation, Lender lending Borrower an additional amount of approximately \$5,000,000, in the aggregate, with said funds being used towards satisfaction of certain loans from the Other Lenders. Borrower, Guarantor and New Guarantor each ratify and agree that the Lender's loans for said Properties have increased by the amounts that Lender paid toward satisfaction of the respective Other Lenders' loans for the subject Properties and Lender's Loans will continue to increase by the amount that Lender will advance to Borrower (or pay toward) for the satisfaction of the respective Other Lenders' Loans or in connection with Lender's rights or obligations pursuant to the Loans Documents as modified by this Agreement.

18. **Confidentiality.** In connection with or based upon the facts underlying this Agreement, the Parties agree not to assist, suggest, notify, or recommend that third parties

investigate or pursue any requests for information, claims, or litigation relating to any of the Parties, their officers, directors, shareholders, owners, employees, consultants, attorneys, agents, successors, affiliates, subsidiaries, parents, heirs, representatives, and assigns. Each Party shall refrain from making any disparaging or negative statements or comments about the other Parties to any third parties, including any derogatory statements or criticism. Except as set forth below, the Parties further agree that: (i) the material terms of the Agreement and the material facts underlying the Agreement are intended to remain confidential; and (ii) they agree not to disclose, or cause others to disclose, to anyone the material terms stated in this Agreement or the material facts underlying this Agreement; provided, however, these disclosure limitations set forth in (i) and (ii) above are subject to the following exceptions: a) except as such facts are set forth in the applicable public records, or b) except as may be required to be disclosed to any governmental agency or authority with applicable jurisdiction (after notice to the other Party and an opportunity to object to such required disclosure), or c) except as may be disclosed to such Party's outside professionals, or d) except as may be necessary for Lender to disclose to Lender's current or future investors (which disclosure is intended to be limited as described below). With respect to the limitation on Lender's disclosure to its investors as referenced above, Lender agrees to use its good faith efforts to limit such disclosure as much as legally possible pursuant to the applicable SEC Regulation D disclosure rules, which limitation is intended to have Lender only describe: 1. the multiple Loans secured by the same Properties, which created the Loans Defaults; 2. the work-out plan pursuant to this Agreement in connection with the steps to be taken to resolve the Loans Defaults; 3. the work-out plan shall also include disclosing the previous additional advances that Lender has made and the additional advances that are intended to be made by Lender to Borrower pursuant to this Agreement in connection with increases in the loan amount of certain specific Loans (up to 120% of the LTV of the applicable Property being used as security for that Loan), the additional advances pursuant to both the Additional Loan and the Additional Funds Loan; and 4. the cumulative effect that all of such additional advances to Borrower will have on Lender's business plan that Lender has previously disclosed to its investors in Lender's private offering documents and which Lender committed to follow, including the overall LTV loan ratios for all of Lender's outstanding loans to its borrowers in the aggregate and the concentration of all of Lender's outstanding loans among all of its borrowers. Further, Lender will use its good faith efforts not to include the names of Borrower, Guarantor, or New Guarantor in Lender's disclosure material. Lender will also provide Borrower with a copy of the applicable disclosure prior to dissemination to Lender's investors and allow Borrower to have 48 hours to review and comment upon such disclosure.

19. **Counterparts.** This Agreement may be executed in several counterparts, each of which counterpart shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

20. **Notices.** All notices, consents, approvals and requests required or permitted hereunder shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) certified or registered United States mail, postage prepaid, return receipt requested or (b) expedited prepaid delivery service, either commercial or United States Postal Service, with proof of attempted delivery, or (c) by email addressed as follows (or at such other address and person as shall be designated from time to time by any party hereto, as the case may be, in a written notice to the other parties hereto in the manner provided for in this Paragraph):

Arizona Home Foreclosures, LLC
7320 West Bell Road
Glendale, AZ 85308
Attention: Scott Menaged
Email: smena98754@aol.com

Easy Investments, LLC
7320 West Bell Road
Glendale, AZ 85308
Attention: Scott Menaged
Email: smena98754@aol.com

Yomotov, "Scott" Menaged
7320 West Bell Road
Glendale, AZ 85308
Email: smena98754@aol.com

Furniture King, LLC
303 North Central Avenue, Suite 603
Phoenix, AZ 85012
Attention: Scott Menaged
Email: smena98754@aol.com

DenSco Investment Corporation
6132 West Victoria Place
Chandler, AZ 85226
Attention: Denny Chittick
Email: dcmoney@yahoo.com

21. **Choice of Law.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARIZONA WITHOUT GIVING EFFECT TO CONFLICT OF LAWS PRINCIPLES.

22. **Severability.** If any provision of this Agreement is found to be void, invalid or unenforceable by a court of competent jurisdiction, that finding shall only affect the provisions found to be void, invalid or unenforceable and shall not affect the other of this Agreement, and they shall remain in full force and effect.

23. **Event of Default.** The failure to pay any amount due under this Note when due, or any occurrence of a failure to cure any non-monetary default under any of the Forbearance Documents or any other Loan Documents after the appropriate notice required in Section 8 of this Agreement, shall be deemed to be an event of default ("Event of Default") hereunder.

24. **Remedies.** Upon the occurrence of an Event of Default and at any time thereafter, then at the option of the Lender, and with notice only as specifically required in this Agreement, the entire balance of principal together with all accrued interest thereon, and all other amounts payable by the Borrower Entities under the Forbearance Documents shall, without demand or notice, immediately become due and payable. Upon the occurrence of an Event of Default (and so long as such Event of Default shall continue), the entire balance of principal hereof, together with all accrued interest thereon, all other amounts due under the Forbearance Documents, and any judgment for such principal, interest, and other amounts shall bear interest at the Default Interest Rate, as provided in the Additional Funds Loan. No delay or omission on the part of the Lender hereof in exercising any right under any of the Forbearance Documents hereof shall operate as a waiver of such right

25. **Waiver.** The Borrower Entities hereby waive diligence, demand for payment, presentment for payment, protest, notice of nonpayment, notice of protest, notice of intent to accelerate, notice of acceleration, notice of dishonor, and notice of nonpayment, and all other notices or demands of any kind (except notices specifically provided for in the Forbearance Documents) and expressly agree that, without in any way affecting the liability of any of the

Borrower Entities, the Lender hereof may extend any maturity date or the time for payment of any payment due under any of the Forbearance Agreements, otherwise modify the Forbearance Documents, accept additional security, release any person liable, and release any security. The Borrower Entities waive, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense.

27. **Integration.** This Agreement contains the complete understanding and agreement of the Borrower Entities and Lender and supersedes all prior representations, warranties, agreements, arrangements, understandings, and negotiations.

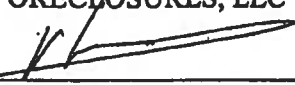
28. **Binding Effect.** This Agreement will be binding upon, and inure to the benefit of, the Lender, the Borrower Entities, and their respective successors and assigns. Borrowers may not delegate their obligations under the Forbearance Documents.

[SIGNATURE PAGE TO FOLLOW]


IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement on the date first above written.

Borrower:

ARIZONA HOME FORECLOSURES, LLC

By: 
Yomtov "Scott" Menaged
Its: Member

EASY INVESTMENTS, LLC


By: 
Yomtov "Scott" Menaged
Its: Member

Guarantor:


Yomtov "Scott" Menaged

New Guarantor:

FURNITURE KING, LLC

By: 
Yomtov "Scott" Menaged
Its: Manager

Lender:

DENSCO INVESTMENT CORPORATION

By: 
Denny Chittick
Its: President

{Signature Page of Forbearance Agreement}

EXHIBIT A

LENDER LOANS AND ENCUMBERED PROPERTIES

200131428.20 43820/170082

DIC0010745

4637	Arizona Home Foreclosures, LLC	8742 W Pioneer St	Tolleson, 85353	\$	100,000.00	\$	156,000.00	64.10%	10/17/2013	4/17/2014	12/17/2013	\$	50.00	157	\$	7,850.00	\$	107,850.00
4638	Arizona Home Foreclosures, LLC	10554 W Bellvue Dr	Phoenix, 85022	\$	100,000.00	\$	145,000.00	64.17%	10/15/2013	4/15/2014	12/14/2013	\$	50.00	154	\$	7,700.00	\$	107,700.00
4639	Arizona Home Foreclosures, LLC	842 E Sheffield Ave	Gilbert, 85296	\$	100,000.00	\$	200,000.00	50.00%	10/15/2013	4/15/2014	12/14/2013	\$	50.00	154	\$	7,700.00	\$	107,700.00
4640	Arizona Home Foreclosures, LLC	18146 W Pinal Ave	Waddell, 85355	\$	125,000.00	\$	145,000.00	83.33%	10/16/2013	4/16/2014	12/16/2013	\$	62.50	152	\$	9,500.00	\$	134,500.00
4641	Arizona Home Foreclosures, LLC	14869 W Caribbea Ln	Surprise, 85379	\$	125,000.00	\$	145,000.00	86.21%	10/16/2013	4/16/2014	12/16/2013	\$	62.50	152	\$	9,500.00	\$	134,500.00
4642	Arizona Home Foreclosures, LLC	4119 W Valley View Dr	Avondale, 85327	\$	140,000.00	\$	115,000.00	80.00%	10/18/2013	4/18/2014	12/18/2013	\$	70.00	150	\$	10,500.00	\$	150,500.00
4643	Arizona Home Foreclosures, LLC	3830 W Anderson Dr	Glendale, 85306	\$	150,000.00	\$	175,000.00	85.71%	10/22/2013	4/22/2014	12/22/2013	\$	75.00	146	\$	10,950.00	\$	160,950.00
4644	Arizona Home Foreclosures, LLC	1728 W Carson Rd	Lenexa, 85391	\$	160,000.00	\$	180,000.00	90.00%	10/22/2013	4/22/2014	12/22/2013	\$	90.00	146	\$	10,950.00	\$	160,950.00
4645	Arizona Home Foreclosures, LLC	3947 W Melrose Dr	Phoenix, 85041	\$	165,000.00	\$	180,000.00	91.67%	10/23/2013	4/23/2014	12/23/2013	\$	82.50	145	\$	11,962.50	\$	176,962.50
4646	Arizona Home Foreclosures, LLC	978 E Tenth Place	Scottsdale, 85257	\$	270,000.00	\$	265,000.00	94.24%	10/24/2013	4/24/2014	12/24/2013	\$	135.00	144	\$	19,440.00	\$	279,440.00
4647	Arizona Home Foreclosures, LLC	635 S St Paul	Mesa, 85206	\$	180,000.00	\$	190,000.00	94.74%	10/25/2013	4/25/2014	12/25/2013	\$	90.00	143	\$	12,870.00	\$	292,870.00
4648	Arizona Home Foreclosures, LLC	2602 N 56th Street	Phoenix, 85018	\$	249,000.00	\$	275,000.00	93.07%	10/26/2013	4/26/2014	12/26/2013	\$	174.50	139	\$	24,561.50	\$	373,561.50
4649	Arizona Home Foreclosures, LLC	2229 W Stead Rd	Phoenix, 85045	\$	305,000.00	\$	320,000.00	95.11%	10/26/2013	4/26/2014	12/26/2013	\$	152.50	138	\$	21,045.50	\$	326,045.50
4650	Arizona Home Foreclosures, LLC	2346 W Gilbert Ln	Buckeye, 85326	\$	150,000.00	\$	175,000.00	85.71%	10/28/2013	4/28/2014	12/28/2013	\$	75.00	138	\$	10,350.00	\$	160,350.00
4651	Arizona Home Foreclosures, LLC	9537 E Plaza Ave	Mesa, 85212	\$	150,000.00	\$	165,000.00	90.01%	10/28/2013	4/28/2014	12/28/2013	\$	75.00	138	\$	10,350.00	\$	160,350.00
4652	Arizona Home Foreclosures, LLC	7030 W Pontiac Dr	Glendale, 85308	\$	140,000.00	\$	160,000.00	90.00%	10/29/2013	4/29/2014	12/29/2013	\$	60.00	137	\$	10,070.00	\$	150,070.00
4653	Arizona Home Foreclosures, LLC	1531 E GARY DR	Phoenix, 85016	\$	170,000.00	\$	220,000.00	80.00%	10/29/2013	4/29/2014	12/29/2013	\$	85.00	133	\$	11,410.00	\$	181,410.00
4654	Arizona Home Foreclosures, LLC	1673 S 23rd Unit	Gilbert, 85233	\$	170,000.00	\$	220,000.00	80.00%	10/29/2013	4/29/2014	12/29/2013	\$	85.00	133	\$	11,410.00	\$	181,410.00
4655	Arizona Home Foreclosures, LLC	34965 W Verde Ln	Goodyear, 85395	\$	142,000.00	\$	150,000.00	94.87%	11/18/2013	5/18/2014	12/18/2013	\$	71.00	150	\$	10,650.00	\$	152,650.00
4656	Arizona Home Foreclosures, LLC	25510 W Whymian St	Buckeye, 85326	\$	142,000.00	\$	150,000.00	99.37%	11/18/2013	5/18/2014	12/18/2013	\$	70.00	143	\$	11,410.00	\$	161,410.00
4657	Arizona Home Foreclosures, LLC	10836 E Arcadia Ave	Mesa, 85208	\$	135,000.00	\$	145,000.00	94.09%	11/21/2013	5/21/2014	12/21/2013	\$	62.50	147	\$	8,925.00	\$	143,925.00
4658	Arizona Home Foreclosures, LLC	1521 W Sandstone Way	Chandler, 85225	\$	135,000.00	\$	145,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4659	Arizona Home Foreclosures, LLC	17732 W Desert Bloom St	Chandler, 85225	\$	135,000.00	\$	145,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4660	Arizona Home Foreclosures, LLC	1070 N Robin Way	Chandler, 85225	\$	158,100.00	\$	165,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4661	Arizona Home Foreclosures, LLC	8399 N 10th Ave	Phoenix, 85013	\$	152,500.00	\$	165,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4662	Arizona Home Foreclosures, LLC	3430 W Cactus Dr	Phoenix, 85063	\$	154,000.00	\$	165,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4663	Arizona Home Foreclosures, LLC	4018 N 10th North Way	Phoenix, 85016	\$	244,000.00	\$	265,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4664	Arizona Home Foreclosures, LLC	1119 E Foster Dr	Phoenix, 85004	\$	236,100.00	\$	265,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4665	Arizona Home Foreclosures, LLC	4073 S Wenden Pl	Chandler, 85249	\$	276,100.00	\$	300,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4666	Arizona Home Foreclosures, LLC	711 W Sander Dr	Chandler, 85225	\$	199,200.00	\$	200,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4667	Arizona Home Foreclosures, LLC	4131 W Christie Oak Rd	Chandler, 85249	\$	168,000.00	\$	180,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4668	Arizona Home Foreclosures, LLC	16550 W Taylor St	Goodyear, 85338	\$	111,000.00	\$	120,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4669	Arizona Home Foreclosures, LLC	19700 N 76th Street 6101	Chandler, 85225	\$	87,800.00	\$	115,000.00	90.87%	12/11/2013	6/11/2014	1/11/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4670	Arizona Home Foreclosures, LLC	1151 N Pleasant Dr #1175	Tempe, 85281	\$	178,000.00	\$	220,000.00	77.37%	12/12/2013	6/12/2014	1/12/2014	\$	89.00	120	\$	12,450.00	\$	180,450.00
4671	Arizona Home Foreclosures, LLC	1416 E 6th Ave	Glendale, 85308	\$	184,100.00	\$	225,000.00	74.71%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4672	Arizona Home Foreclosures, LLC	6063 W Rulon Dr	Glendale, 85308	\$	184,100.00	\$	225,000.00	74.71%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4673	Arizona Home Foreclosures, LLC	509 W Dule Dr	Tempe, 85281	\$	184,100.00	\$	225,000.00	74.71%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4674	Arizona Home Foreclosures, LLC	12796 W Pizarro Dr	Peoria, 85383	\$	176,500.00	\$	225,000.00	74.44%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4675	Arizona Home Foreclosures, LLC	12796 W Pizarro Dr	Peoria, 85383	\$	176,500.00	\$	225,000.00	74.44%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4676	Arizona Home Foreclosures, LLC	12796 W Pizarro Dr	Peoria, 85383	\$	176,500.00	\$	225,000.00	74.44%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4677	Arizona Home Foreclosures, LLC	8739 N 182nd Ln	Waddell, 85355	\$	170,000.00	\$	215,000.00	95.89%	12/12/2013	6/12/2014	1/12/2014	\$	85.00	104	\$	8,400.00	\$	178,400.00
4678	Arizona Home Foreclosures, LLC	9003 W Encanto Blvd	Phoenix, 85045	\$	118,300.00	\$	155,000.00	90.87%	12/12/2013	6/12/2014	1/12/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4679	Arizona Home Foreclosures, LLC	7717 W North Ln	Peoria, 85345	\$	147,900.00	\$	185,000.00	90.87%	12/12/2013	6/12/2014	1/12/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4680	Arizona Home Foreclosures, LLC	5418 E Pleasant Valley Rd	Phoenix, 85044	\$	144,101.00	\$	220,000.00	65.50%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4681	Arizona Home Foreclosures, LLC	1406 W Missouri Ave	Phoenix, 85013	\$	150,700.00	\$	185,000.00	73.51%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4682	Arizona Home Foreclosures, LLC	110 W Madison Ave	Gilbert, 85233	\$	150,700.00	\$	185,000.00	73.51%	12/12/2013	6/12/2014	1/12/2014	\$	84.05	112	\$	11,118.45	\$	175,118.45
4683	Arizona Home Foreclosures, LLC	10222 N 54th Drive	Phoenix, 85018	\$	102,400.00	\$	140,000.00	73.29%	12/12/2013	6/12/2014	1/12/2014	\$	51.30	14	\$	718.20	\$	103,118.20
4684	Arizona Home Foreclosures, LLC	2219 W Barbary Home Rd	Tempe, 85281	\$	192,800.00	\$	220,000.00	90.87%	12/12/2013	6/12/2014	1/12/2014	\$	62.50	135	\$	8,437.50	\$	133,437.50
4685	Arizona Home Foreclosures, LLC	4805 S Alder Dr	Gilbert, 85233	\$	118,000.00	\$	150,000.00	78.67%	12/12/2013	6/12/2014	1/12/2014	\$	59.00	10	\$	590.00	\$	118,590.00
4686	Arizona Home Foreclosures, LLC	4728 W Bloomfield Rd	Gilbert, 85233	\$	118,000.00	\$	150,000.00	78.67%	12/12/2013	6/12/2014	1/12/2014	\$	59.00	10	\$	590.00	\$	118,590.00
4687	Arizona Home Foreclosures, LLC	1702 W Cal Baker Dr	Chandler, 85224	\$	164,300.00	\$	200,000.00	82.15%	12/12/2013	6/12/2014	1/12/2014	\$	82.15	8	\$	657.20	\$	164,957.20
4688	Arizona Home Foreclosures, LLC	2405 W Park Ave	Chandler, 85224	\$	164,300.00	\$	200,000.00	82.15%	12/12/2013	6/12/2014	1/12/2014	\$	82.15	8	\$	657.20	\$	164,957.20
4689	Arizona Home Foreclosures, LLC	2020 E Hermosa Vista Dr	Phoenix, 85032	\$	131,300.00	\$	165,000.00	79.58%	12/12/2013	6/12/2014	1/12/2014	\$	83.63	8	\$	672.20	\$	131,972.20
4690	Arizona Home Foreclosures, LLC	864 W Linda Ln	Gilbert, 85233	\$	142,300.00	\$	185,000.00	76.93%	12/12/2013	6/12/2014	1/12/2014	\$	71.15	8	\$	589.20	\$	142,889.20

ACKNOWLEDGMENTS

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

On this 16th day of April, 2014, before me appeared Yomotov "Scott" Menaged, to me personally known, who being by me duly sworn, did say that he is the manager of ARIZONA HOME FORECLOSURES, LLC, an Arizona limited liability company (the "Company"), and said Yomotov "Scott" Menaged acknowledged to me that the Company is named as both AHF and a Borrower in the foregoing instrument and that as the manager of the Company, he did execute the foregoing instrument, for and on behalf of the Company, and that he did so as his and the Company's free act and deed.

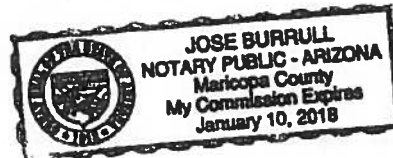
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.



Notary Public

My Commission Expires:

01-10-2018



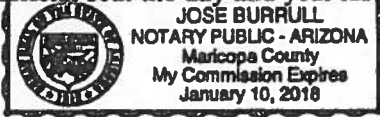
{Acknowledgments for Forbearance Agreement - AHF}

ACKNOWLEDGMENTS

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

On this 10th day of APRIL, 2014, before me appeared Yomotov "Scott" Menaged, to me personally known, who being by me duly sworn, did say that he is the manager of EASY INVESTMENTS, LLC, an Arizona limited liability company (the "Company"), and said Yomotov "Scott" Menaged acknowledged to me that the Company is named as both EI and a Borrower in the foregoing instrument and that as the manager of the Company, he did execute the foregoing instrument, for and on behalf of the Company, and that he did so as his and the Company's free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.



[Signature]
Notary Public

My Commission Expires:

01-10-2018

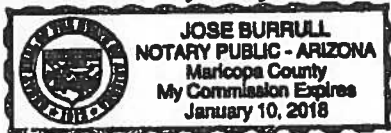
{Acknowledgments for Forbearance Agreement - EI}

ACKNOWLEDGMENTS

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

On this 16th day of APRIL, 2014, before me appeared Yomtov "Scott" Menaged, to me personally known, who being by me duly sworn, and said Yomotov "Scott" Menaged acknowledged to me that he is named as the Guarantor in the foregoing instrument and that he did execute the foregoing instrument and that he did so as his free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.





Notary Public

My Commission Expires:

01-10-2018

{Acknowledgments for Forbearance Agreement - Menaged}

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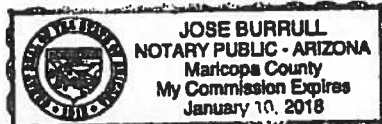
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ACKNOWLEDGMENTS

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)


On this 16th day of APRIL, 2014, before me appeared Yomotov "Scott" Menaged, to me personally known, who being by me duly sworn, did say that he is the manager of FURNITURE KING, LLC, an Arizona limited liability company (the "Company"), and said Yomotov "Scott" Menaged acknowledged to me that the Company is named as the New Guarantor in the foregoing instrument and that as the manager of the Company, he did execute the foregoing instrument, for and on behalf of the Company, and that he did so as his and the Company's free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.



My Commission Expires:

01-10-2018 2018



Notary Public

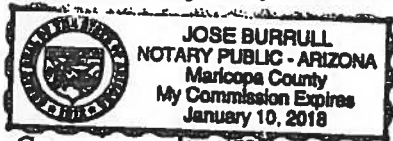
{Acknowledgments for Forbearance Agreement -Furniture King}

ACKNOWLEDGMENTS

STATE OF ARIZONA)
) SS
COUNTY OF MARICOPA)

On this 16th day of APRIL, 2014, before me appeared Denny Chittick, to me personally known, who being by me duly sworn, did say that he is the President of DENSCO INVESTMENT CORPORATION, an Arizona corporation, (the "Corporation"), and said Denny Chittick acknowledged to me that the Corporation is named as the Lender in the foregoing instrument and that as the President of the Corporation, he did execute the foregoing instrument, for and on behalf of the Corporation, and that he did so as his and the Corporation's free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.



My Commission Expires:

01-10-2018



Notary Public

{Acknowledgments for Forbearance Agreement - DenSco}

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Amanda Z. Weaver (#034644)
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*Attorneys for Defendants U.S. Bank National
Association and Hilda H. Chavez*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

PETER S. DAVIS, as Receiver of
DENSCO INVESTMENT
CORPORATION, an Arizona corporation,

Plaintiff,

v.

U.S. BANK, NA, a national banking
organization; HILDA H. CHAVEZ and
JOHN DOE CHAVEZ, a married couple;
JP MORGAN CHASE BANK, N.A., a
national banking organization;
SAMANTHA NELSON f/k/a
SAMANTHA KUMBALECK and
KRISTOFER NELSON, a married couple;
and VIKRAM DADLANI and JANE DOE
DADLANI, a married couple.

Defendants.

No. CV2019-011499

**U.S. BANK NATIONAL
ASSOCIATION AND HILDA H.
CHAVEZ' GOOD FAITH
CONSULTATION CERTIFICATE
TO MOTION TO DISMISS**

(Assigned to the Hon. Daniel Martin)

Pursuant to Rule 7.1(h), Ariz. R. Civ. P., counsel for Defendants U.S. Bank National Association and Hilda H. Chavez (collectively, the "U.S. Bank Defendants") has personally conferred with Plaintiff's counsel, and has further explained that the U.S. Bank Defendants would be moving to dismiss the Complaint as against them and explained the reasons. Counsel for both parties have also discussed whether Plaintiff would be amending the Complaint in an attempt to cure the deficiencies. The U.S. Bank Defendants certify that the parties have conferred, that Plaintiff does not intend to further amend at this time, but reserves the right to amend later, and that Plaintiff intends to oppose the U.S. Bank Defendants' motion to dismiss.

DATED this 3rd day of February, 2020.

SNELL & WILMER LLP.

By: /s/ Amanda Weaver

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Amanda Z. Weaver
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Phoenix, Arizona 85004-2202
*Attorneys for Defendants U.S. Bank
National Association and Hilda H.
Chavez*

The foregoing was electronically
filed via azturbocourt this 3rd day of
February, 2020.

Copies of the foregoing mailed and/or
e-mailed this 3rd day of February, 2020
on the following parties:

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Kenneth Frakes, Esq.
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Bank, Samantha Nelson & Vikram Dadlani*

/s/ Noell Kellers
4852-3882-1555

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*Attorneys for Defendants U.S. Bank National
Association and Hilda H. Chavez*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

PETER S. DAVIS, as Receiver of
DENSCO INVESTMENT
CORPORATION, an Arizona corporation,

Plaintiff,

v.

U.S. BANK, NA, a national banking
organization; HILDA H. CHAVEZ and
JOHN DOE CHAVEZ, a married couple;
JP MORGAN CHASE BANK, N.A., a
national banking organization;
SAMANTHA NELSON f/k/a
SAMANTHA KUMBALECK and
KRISTOFER NELSON, a married couple;
and VIKRAM DADLANI and JANE DOE
DADLANI, a married couple.

Defendants.

No. CV2019-011499

**[PROPOSED] ORDER GRANTING
MOTION TO DISMISS**

(Assigned to the Hon. Daniel Martin)

The Court, having considered the Motion to Dismiss of Defendants U.S. Bank National Association (“U.S. Bank”) and Hilda H. Chavez (collectively, the “U.S. Bank Defendants”), and for good cause appearing,

IT IS HEREBY ORDERED that the U.S. Bank Defendants’ Motion to Dismiss is granted and Plaintiff’s claims against the U.S. Bank Defendants are dismissed with prejudice.

DATED this ____ day of _____, 2020.

The Honorable Daniel Martin