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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ORANGE, ~~KENTRAL~~ NORTH JUSTICE CENTER**

Assigned for All Purposes Judge Donald F. Gaffney

11 RICK S. HOWELL, an individual,

12 Plaintiff,

13 vs.

14 PELORUS FUND REIT, LLC, a Delaware
limited liability company; PELORUS FUND,
15 LLC, a Delaware limited liability company;
DANIEL LEIMEL, JR., an individual; JAMES
16 ROBERT SECHRIST, an individual, and
DOES 1-25, inclusive,

17 Defendants.
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Case No. 30-2025-01513886-CU-BC-NJC

Assigned for all purposes to:
Judge: Hon.
Dept.:

COMPLAINT FOR:

- 1. **BREACH OF CONTRACT**
- 2. **BREACH OF CONTRACT**
- 3. **BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**
- 4. **MONEY HAD AND RECEIVED**
- 5. **MONEY LENT**
- 6. **ACCOUNT STATED**
- 7. **PROMISSORY ESTOPPEL**

DEMAND FOR JURY TRIAL

Date filed:
Trial Date:

[Unlimited Jurisdiction]

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1 Plaintiff Rick S. Howell alleges the following:

2 **PARTIES**

3 1. Plaintiff Rick S. Howell (“Lender” or “Plaintiff”) is an individual.

4 2. Defendant Pelorus Fund REIT, LLC (“REIT” or “Borrower”) is a Delaware limited
5 liability company registered to do business in California with its principal place of business in
6 Newport Beach, Orange County, California.

7 3. Defendant Pelorus Fund, LLC (“Pelorus Fund”) is a Delaware limited liability
8 company registered to do business in California with its principal place of business in Newport
9 Beach, Orange County, California.

10 4. Defendant Daniel Leimel, Jr. (“Leimel”) is an individual who, upon information and
11 belief, lives and/or works in Orange County, California.

12 5. Defendant James Robert Sechrist (“Sechrist”) is an individual who, upon information
13 and belief, lives and/or works in Orange County, California.

14 6. Plaintiff is informed and believes, and based thereon alleges, that the fictitiously
15 named defendants sued herein as Does 1 through 25, inclusive, and each of them, are in some manner
16 responsible or legally liable for the actions, events, transactions and circumstances alleged herein.
17 The true names and capacities of such fictitiously named defendants, whether individual, corporate,
18 associate or otherwise, are presently unknown to Plaintiff, and Plaintiff will seek leave of Court to
19 amend this complaint to assert the true names and capacities of such fictitiously-named defendants
20 when the same have been ascertained. For convenience, each reference to a named defendant herein
21 shall also refer to Does 1 through 25, inclusive. All defendants, including Does 1 through 25,
22 inclusive, are sometimes collectively referred to as “Defendants.”

23 7. Plaintiff is informed and believes, and thereupon alleges, that at all times herein
24 mentioned, Defendants, and each of them, were the aiders, participants, abettors, employees, agents,
25 servants, joint venturers, and/or co-conspirators with each of the remaining Defendants. In acting or
26 omitting to act as alleged, they were doing so within the scope of said employment, agency, and/or
27 conspiracy, with the knowledge, permission, consent, and/or approval of Defendants, and each of
28 them. At all times herein mentioned, each of the Defendants acted as the agent, servant, and

1 employee of each of the remaining Defendants and was at all times acting within the purpose and
2 scope of such agency and employment.

3 8. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
4 Defendants, and each of them, jointly perpetrated the acts herein described with their co-
5 Defendants. They were the successors in interest to, agents, alter egos, principals, partners, joint
6 venturers, and/or co-conspirators of their co-Defendants in committing the acts herein alleged.
7 Furthermore, they were the owners of the business entities, LLCs, and/or corporations, and were
8 acting within the scope of their authority or in furtherance of a common scheme or design. This was
9 done with the knowledge, permission, consent, or ratification of their co-Defendants. Therefore,
10 they are jointly and severally liable for all damages, and other relief or remedies sought by Plaintiff.

11 9. Defendants, and each of them, are sued herein individually as aiders, participants,
12 abettors, employees, agents, servants, joint venturers, and/or co-conspirators in the wrongful
13 activities complained of herein. The liability of each arises from the fact that each, with intent and
14 knowledge, engaged in all or part of the improper acts, plans, schemes, or transactions to participate,
15 induce, or carry out the scheme causing Plaintiff harm. Pursuant to the principles of alter ego liability
16 under California law, these Defendants displayed such unity of interest and ownership that their
17 separate legal personalities no longer exist, and adhering to the fiction of their separate existence
18 would sanction fraud or promote injustice. Consequently, each Defendant acted as alter egos of one
19 another, rendering them jointly and severally liable for the allegations and damages set forth herein.

20 10. Leimel and Sechrist are, and at all times herein were, the principal owner(s) and/or
21 held a majority interest in REIT and Pelorus Fund and DOES 1-25, inclusive. Beyond their
22 ownership interests, Leimel and Sechrist have served, and at all relevant times did serve, as officers,
23 directors, and/or controlling managers of these entities.

24 11. On information and belief, there exists, and at all times herein mentioned, a unity of
25 interest and ownership by Leimel and Sechrist in these entities such that any individuality and
26 separateness between them and these entities have ceased. Leimel and Sechrist are the alter egos of
27 the aforementioned entities, substantiated by the following facts:

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- 1 a. The commingling of funds and other assets between their personal accounts and the
2 accounts of the entities;
- 3 b. Their exercise of complete dominion and control over the entities;
- 4 c. Their respective roles as officer, director, and/or manager in these entities, where
5 they were responsible for supervision, management, and were the majority or
6 significant owner(s);
- 7 d. Their use of the entities as shells, instrumentalities, and/or conduits for a singular
8 venture or business, effectively blurring the lines of distinction between the corporate
9 and personal realms;
- 10 e. A blatant disregard for legal formalities and failure to maintain an arm's length
11 relationship between them and the entities;
- 12 f. Their contractual engagements intended to circumvent performance obligations and
13 use the entities as shields against personal liability;
- 14 g. Their public and judicial acknowledgments disregarding any distinctions among
15 them, particularly in contracts binding one or more of them;
- 16 h. Representation by the same legal counsel for them and the entities, further eroding
17 the separation between corporate and individual identities.
- 18 i. Adherence to the fiction of separate existence of these entities, distinct from Lamiel
19 and/ Sechrist, would permit an abuse of the corporate privilege, sanction fraud, and
20 promote injustice. Lamiel's and/or Sechrist's improper use of these entities for illicit
21 and/or prohibited purposes establishes a clear case for alter ego liability.
22 Consequently, Leimel and Sechrist, in their individual capacities, are just as liable
23 for the allegations and causes of action herein as the named entities, and vice versa,
24 underscoring their joint and several liabilities for all damages and other relief sought
25 by Plaintiff.

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1 **JURISDICTION AND VENUE**

2 12. This Court has jurisdiction over this action because the matter in controversy exceeds
3 Twenty-Five Thousand Dollars (\$25,000.00), exclusive of costs and interest, the agreements that
4 are the subject matter of the claims in this action were executed and breached within this venue and
5 jurisdiction and Defendants reside in the County of Orange, State of California.

6 **GENERAL ALLEGATIONS APPLICABLE TO ALL CAUSES OF ACTION**

7 13. On or about April 10, 2024, Plaintiff, as lender, and REIT, as borrower, entered into
8 that certain 15% Senior Secured Note in the principal amount of \$2,500,000.00 (“Original Note”).
9 Pursuant to the Exhibit A of Original Note, the “Maturity Date” was: “The earlier of (i) October 15,
10 2024, or (ii) the final maturity date of the Note (as defined in the Security Instrument¹) as such
11 maturity date may be extended from time to time.”

12 14. The Original Note provided for simple interest to accrue on the unpaid principal
13 balance of the Original Note at the rate of 15% per annum. All interest payable under the Original
14 Note was computed on the basis of a 360-day year of twelve 30-day months. The Original Note
15 provided for prepaid interest in the total amount of \$187,500.00 to be retained by Plaintiff for the
16 purpose of prepaying interest on the Original Note through the Maturity Date.

17 15. On or about April 10, 2024, Pelorus Fund executed a Guaranty of Payment for the
18 Original Note, which provided as follows:

19 Pelorus Fund, LLC, a California limited liability company
20 (“**Guarantor**”) hereby, absolutely, unconditionally and irrevocably
21 guarantees to the Lender the due and punctual payment of principal
22 and interest (including any additional amounts required to be paid in
23 accordance with the terms and conditions of this [Original Note])
24 payable by the Borrower to the Lender under the terms of this
[Original Note] when the same become due, whether at stated
maturity, by acceleration or otherwise, and any other amount or
amounts that Borrower is liable to pay Lender under this [Original
Note] that Borrower has failed to pay when due.

25 16. As required by the Original Note, Plaintiff lent REIT all the money Plaintiff agreed
26 to lend REIT.

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28 ¹ “Security Instrument” is defined below.

1 17. On or about October 11, 2024, Plaintiff and REIT entered into that certain Loan
2 Extension and Guaranty Agreement (“First Extension”). Pursuant to the First Extension, Plaintiff
3 agreed to extend the Maturity Date of the loan to April 15, 2025. In consideration for the extension
4 of the Maturity Date, REIT agreed to, among other terms, to (i) pay a loan extension fee to Plaintiff
5 in the amount of \$50,000.00 and (ii) prepay to Plaintiff interest in the amount of \$187,500.00. REIT
6 paid the loan extension fee and additional prepaid interest as required by the First Extension.

7 18. As further consideration for the First Extension of the Maturity Date, Leimel and
8 Sechrist (collectively, Leimel, Sechrist and Pelorus Fund are the “Guarantors”) agreed to guarantee
9 the Original Note as follows:

10 **Additional Guaranty.** Each of Leimel and Sechrist hereby (but
11 effective from the original date of the [Original Note]), absolutely,
12 unconditionally and irrevocably, jointly and severally, guarantees to
13 the Lender the due and punctual payment of principal and interest
14 (including any additional amounts required to be paid in accordance
15 with the terms and conditions of this [Original Note]) payable by the
16 Borrower to the Lender under the terms of this [Original Note] when
17 the same become due, whether at stated maturity, by acceleration or
18 otherwise, and any other amount or amounts that Borrower is liable
19 to pay Lender under this [Original Note] that Borrower has failed to
20 pay when due.

21 19. Pursuant to the First Extension, REIT and Pelorus Fund agreed to reaffirm the
22 Original Note and Security Instrument (defined below) as follows:

23 **Reaffirmation.** Each of Borrower and [Pelorus Fund] hereby renews,
24 reaffirms, ratifies and confirms its representations and warranties (as
25 made on the original date of the [Original Note] and as if made on the
26 date hereof) and its obligations under the Loan Documents² (in each
27 case to which it is a party) and acknowledges and agrees that such
28 Loan Documents remain in full force and effect without impairment
and without modification (except as specifically provided herein).

29 20. On or about April 15, 2025, Plaintiff and REIT entered into that certain Second Loan
30 Extension and Guaranty Agreement (“Second Extension”). Pursuant to the Second Extension,
31 Plaintiff agreed to extend the Maturity Date of the loan to the earliest to occur of (i) July 15, 2025,
32 and (ii) within fifteen (15) days of the date on which REO properties having an aggregate value of

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34 ² “Loan Documents” in the First Extension is defined as the Original Note and Collateral
35 Assignment (defined below).

1 at least \$10,000,000 have been transferred by Pelorus Fund (or its affiliates) to Pelorus Growth
2 Fund, LLC.

3 21. In consideration for the Second Extension of the Maturity Date, REIT agreed to,
4 among other terms, to (i) pay a loan extension fee to Plaintiff in the amount of \$25,000.00, (ii) pay
5 accrued and unpaid interest on the outstanding principal amount of the Original Note on May 15,
6 2025 and June 15, 2025 and all outstanding principal and accrued and unpaid interest thereon shall
7 be due and payable on the extended Maturity Date, and (iii) pay all out-of-pocket expenses incurred
8 by Plaintiff in connection with the Second Extension. REIT paid the loan extension fee and May 15,
9 2025 and June 15, 2025 interest payments, but did not pay Plaintiff's out-of-pocket expenses as
10 required by the Second Extension.

11 22. Pursuant to the Second Extension, Leimel and Sechrist confirmed their additional
12 guaranty from the First Extension as follows:

13 **Confirmation of Additional Guaranty.** Each of Leimel and Sechrist
14 hereby (but effective from the original date of the [Original Note, as
15 amended by First Extension]), absolutely, unconditionally and
16 irrevocably, jointly and severally, guarantees to the Lender the due
17 and punctual payment of principal and interest (including any
18 additional amounts required to be paid in accordance with the terms
19 and conditions of this [Original Note, as amended by First Extension])
20 payable by the Borrower to the Lender under the terms of this
21 [Original Note, as amended by First Extension] when the same
22 become due, whether at stated maturity, by acceleration or otherwise,
23 and any other amount or amounts that Borrower is liable to pay
24 Lender under this [Original Note, as amended by First Extension] that
25 Borrower has failed to pay when due.

26 23. Pursuant to the Second Extension, REIT and Pelorus Fund reaffirmed the Original
27 Note, as amended by the First Extension, and Security Instrument (defined below) as follows:

28 **Reaffirmation.** Each of Borrower and [Pelorus Fund] hereby renews,
reaffirms, ratifies and confirms its representations and warranties (as
made on the original date of the [Original Note, as amended by
Second Extension] and as if made on the date hereof) and its
obligations under the Loan Documents³ (in each case to which it is a
party) and acknowledges and agrees that such Loan Documents
remain in full force and effect without impairment and without
modification (except as specifically provided herein).

³ "Loan Documents" in the Second Extension is defined as the Original Note, as amended by First Extension, and Collateral Assignment (defined below).

1 24. On or about July 14, 2025, Plaintiff and REIT entered into that certain Third Loan
2 Extension and Guaranty Agreement (“Third Extension”, collectively with the Original Note, First
3 Extension and Second Extension, the “Secured Note”). Pursuant to the Third Extension, Plaintiff
4 agreed to extend the Maturity Date of the loan to August 15, 2025.

5 25. In consideration for the Third Extension of the Maturity Date, REIT agreed to, among
6 other terms, (i) pay, on or before July 15, 2025, an amount equal to \$300,000.00 to Plaintiff, which
7 amount will be applied to reduce the aggregate amount of principal under the Original Note, as
8 amended by the First Extension and Second Extension, (ii) prepay to Plaintiff, on or before July 15,
9 2025, an interest payment in the amount of \$31,250.00, (iii) pay additional prepaid interest accrued
10 through August 15, 2025, in the amount of \$27,500.00, (iv) pay all out-of-pocket expenses
11 (including Plaintiff’s counsel’s fees and expenses) incurred by Plaintiff required to be reimbursed
12 or paid by REIT pursuant to the Loan Documents.⁴ REIT paid the principal, July 15, 2025 interest
13 payment and August 15, 2025 prepayment, and an additional \$3,750 to principal, but did not pay
14 Plaintiff’s out-of-pocket expenses as required by the Third Extension.

15 26. Pursuant to the Third Extension, Leimel and Sechrist confirmed their additional
16 guaranty from the First Extension as follows:

17 **Confirmation of Additional Guaranty**. Each of Leimel and Sechrist
18 hereby (but effective from the original date of the [Original Note, as
19 amended by First Extension and Second Extension]), absolutely,
20 unconditionally and irrevocably, jointly and severally, guarantees to
21 the Lender the due and punctual payment of principal and interest
22 (including any additional amounts required to be paid in accordance
23 with the terms and conditions of this [Original Note, as amended by
24 First Extension and Second Extension]) payable by the Borrower to
25 the Lender under the terms of this [Original Note, as amended by First
26 Extension and Second Extension] when the same become due,
27 whether at stated maturity, by acceleration or otherwise, and any other
28 amount or amounts that Borrower is liable to pay Lender under this
[Original Note, as amended by First Extension and Second Extension]
that Borrower has failed to pay when due.

27 ⁴ “Loan Documents” in the Third Extension is defined as the Original Note, as amended by First
28 Extension and Second Extension, and Collateral Assignment (defined below).

1 27. Pursuant to the Third Extension, REIT and Pelorus Fund reaffirmed the Original
2 Note, as amended by the First Extension, and Security Instrument (defined below) as follows:

3 **Reaffirmation.** Each of Borrower and [Pelorus Fund] hereby renews,
4 reaffirms, ratifies and confirms its representations and warranties (as
5 made on the original date of the [Original Note, as amended by First
6 Extension and Second Extension] and as if made on the date hereof)
7 and its obligations under the Loan Documents (in each case to which
8 it is a party) and acknowledges and agrees that such Loan Documents
9 remain in full force and effect without impairment and without
10 modification (except as specifically provided herein).

8 28. As further consideration for the Third Extension of the Maturity Date, REIT, by
9 execution of the Third Extension, authorized Plaintiff to file financing statements with the Secretary
10 of State of Delaware and California, including any amendments or continuations thereof, under the
11 Uniform Commercial Code to perfect Plaintiff’s interest in the Collateral (as defined in the Original
12 Note).

13 29. In connection with the Secured Note, REIT executed that certain Collateral
14 Assignment of Secured Note and Deed of Trust in favor of Plaintiff on April 10, 2024, recorded on
15 April 16, 2024 in the Office of the County Recorder of Stanislaus County, California as Document
16 Number 2024-0016906 (“Collateral Assignment”). The Collateral Assignment was modified by that
17 certain Modification of Collateral Assignment of Secured Note and Deed of Trust made by REIT in
18 favor of Plaintiff, executed on October 11, 2025, and recorded on October 21, 2024 in the Office of
19 the County Recorder of Stanislaus County, California as Document Number 2024-0050777
20 (“Amended Collateral Assignment,” collectively with the Collateral Assignment, the “Security
21 Instrument”).

22 30. Pursuant to Section 2 of the Collateral Assignment, upon expiration of the “Grace
23 Period” (*i.e.*, five days after an Event of Default), if REIT has not paid the principal and any interest
24 in full, Plaintiff may perfect his rights under the Collateral Assignment to become the owner and
25 holder of the Assignee Interest⁵ (“A-Tranche Holder”). As the A-Tranche Holder, the Mortgage

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27 ⁵ “Assignee Interest” is defined in the Security Instrument as an undivided eleven and 867/1000
28 percent (11.867%) beneficial interest in the “Note” and “Deed of Trust” defined and described in
the Security Instrument.

1 Loan (defined in the Security Instrument) shall be serviced and administered by Plaintiff (or if a
2 servicer has been appointed in accordance with the terms of the Security Instrument, such servicer).

3 31. Pursuant to Section 12 of the Security Instrument, upon expiration of the Grace
4 Period, REIT was to promptly deliver the Note (as defined in the Security Instrument), a note or
5 other instrument evidencing the Assignee Interest endorsed in blank by REIT.

6 32. Pursuant to the Secured Note, an “Event of Default” includes REIT’s failure “to
7 timely pay any payment of principal or interest on this Note after the same is due and payable” and
8 “[a] breach by Borrower of any provision of the Security Instrument, which breach is not cured
9 within seven (7) days after written notice to the Borrower.”

10 33. The Secured Note was due in full on August 15, 2025. REIT failed to timely pay the
11 Note in full on August 15, 2025, which was an Event of Default under the Secured Note.

12 34. On August 21, 2025, Plaintiff, through his counsel, in response to a request by REIT,
13 sent an irrevocable payoff demand statement to REIT’s counsel. The payoff demand statement
14 provided the total payoff amount due on the Secured Note through August 29, 2025 and provided
15 that if the payoff amount was not paid by August 29, 2025 at 5:00 p.m. (PT), the loan will be deemed
16 in default without further notice. REIT did not pay the total payoff amount on or before August 29,
17 2025 at 5:00 p.m. (PT).

18 35. On August 29, 2025 at 5:02 p.m. (PT), Plaintiff, through his counsel, sent to REIT’s
19 counsel a demand for performance of Sections 2 and 12 of the Security Instrument. Plaintiff did not
20 receive a response to this demand for performance on or before September 8, 2025 at 5:00 p.m.
21 (PDT).

22 36. On August 29, 2025 at 5:02 p.m. (PT), Plaintiff, through his counsel, sent a demand
23 to the Guarantors to immediately and fully pay the full amount of the obligation in accordance with
24 the terms of the Secured Note and the guaranties by no later than 5:00 p.m. (PDT) on September 8,
25 2025. The Guarantors did not pay the full amount of the obligation on or before September 8, 2025
26 at 5:00 p.m. (PT) as demanded.

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1 **THIRD CAUSE OF ACTION**

2 **(Breach of the Implied Covenant of Good Faith and Fair Dealing Against Borrower and**
3 **Guarantors)**

4 52. Plaintiff realleges here all of paragraphs 1-51 above as if set forth in their entirety.

5 53. The Secured Note and Guaranty Agreement each and all contain implied covenants
6 of good faith and fair dealing requiring the parties to cooperate to allow Plaintiff to enjoy the benefits
7 of those agreements.

8 54. Plaintiff fulfilled, complied with and fully performed all his obligations under the
9 Secured Note and Guaranty Agreement.

10 55. Borrower and Guarantors each and all breached their respective obligations in the
11 Secured Note and Guaranty Agreement by acting in a way that destroyed or injured Plaintiff's right
12 to receive the benefits of the Secured Note and Guaranty Agreement. Borrower and Guarantors
13 specifically repeatedly promised to pay, obtained extensions of time to pay, and since having
14 defaulted on the Secured Note and Guaranty Agreement continue to promise to pay without paying.

15 56. As a result of Borrower's and Guarantors' breaches of the covenant of good faith and
16 fair dealing, Plaintiff has suffered damages in an amount no less than the Past Due Amount.

17 **FOURTH CAUSE OF ACTION**

18 **(Money Had and Received Against Borrower)**

19 57. Plaintiff realleges here all of paragraphs 1-56 above as if set forth in their entirety.

20 58. Defendants received Plaintiff's money.

21 59. In equity and good conscience, Defendants should not retain Plaintiff's money.

22 60. Defendants have not returned Plaintiff's money to Plaintiff.

23 61. As a result of Defendants' refusal to return Plaintiff's money to Plaintiff, Plaintiff
24 has been damaged in an amount not less then the Past Due Amount.

25 **FIFTH CAUSE OF ACTION**

26 **(Money Lent Against Borrower)**

27 62. Plaintiff realleges here all of paragraphs 1-61 above as if set forth in their entirety.

28 63. Plaintiff lent REIT \$2,500,000.

- 1 64. Plaintiff has repeatedly demanded repayment.
2 65. REIT has not repaid Plaintiff the full amount required to repay Plaintiff.
3 66. Plaintiff is entitled to an amount not less than the Past Due Amount.

4 **SIXTH CAUSE OF ACTION**

5 **(Account Stated Against Borrower and Guarantors)**

- 6 67. Plaintiff realleges here all of paragraphs 1-66 above as if set forth in their entirety.
7 68. Borrower and Guarantors have agreed with Plaintiff that Borrower and Guarantors
8 owe Plaintiff not less than the Past Due Amount and Borrower and Guarantors have explicitly and
9 implicitly promised to re-pay Plaintiff at least that amount.

10 **SEVENTH CAUSE OF ACTION**

11 **(Promissory Estoppel Against Borrower and Guarantors)**

- 12 69. Plaintiff realleges here all of paragraphs 1-68 above as if set forth in their entirety.
13 70. Borrower and Guarantors made clear and unambiguous promises to Plaintiff to repay
14 all monies lent to Borrower, with interest, and plus Plaintiff's out-of-pocket expenses.
15 71. Plaintiff reasonably and foreseeably relied on Borrower's and Guarantors' promises
16 and lent Borrower \$2,500,000.
17 72. Plaintiff suffered monetary injury as described above in the amount of no less than
18 the Past Due Amount because of Plaintiff's reasonable and foreseeable reliance on Borrower's and
19 Guarantors' promises, which Borrower and Guarantors have not kept.
20 73. Injustice can only be avoided by enforcing Borrower's and Guarantors' promises.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff seeks judgment as follows:

- 23 1. Damages according to proof and in an amount no less than the Past Due Amount.
24 2. Post-judgment interest;
25 3. Reasonable attorneys' fees and costs of suit; and
26 4. Such other and further relief as the Court deems just and proper.

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DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

**SHULMAN BASTIAN
FRIEDMAN BUI & O'DEA LLP**

DATED: September 23, 2025

By: 

Shane M. Biornstad
Attorneys for Rick S. Howell