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08 CV 11187

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ML PRIVATE FINANCE LLC,

Plaintiff,

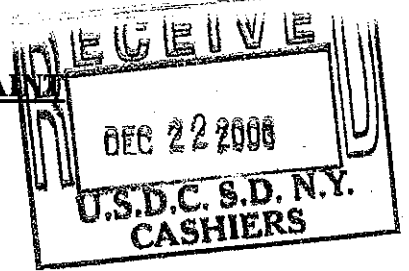
- against -

HALSEY McLEAN MINOR, THE HALSEY McLEAN
MINOR REVOCABLE TRUST DATED NOVEMBER
3, 2004 and DOES 1 through 50,

Defendants.

Civil Action No.: 08 CV _____

COMPLAINT



----- X
Plaintiff ML Private Finance LLC (“ML Private Finance” or “Plaintiff”), by its attorneys,
Greenberg Traurig, LLP, for its complaint against defendants Halsey McLean Minor (“Minor”),
The Halsey Mclean Minor Revocable Trust dated November 3, 2004 (the “Trust”) (collectively
“Defendants” or “Borrower”) and the Doe Defendants who are unknown transferees of collateral
or proceeds of collateral pledged to Plaintiff, alleges as follows:

THE NATURE OF THIS ACTION

1. This is an action to recover for Defendants’ failure to pay on a promissory note
when due, and their breach of the related Amended and Restated Loan and Security Agreement
dated as of December 19, 2007 (the “Loan Agreement”), under which they borrowed over \$25
million from Plaintiff. The promissory note issued under the Loan Agreement matured as of
December 17, 2008, but Defendants have failed to pay it.

2. In further breach of their obligations under the Loan Agreement, Defendants have, without Plaintiff's prior knowledge or consent, transferred, sold or otherwise removed valuable works of art that they pledged as collateral (the "Collateral") under the Loan Agreement, such that Plaintiff's interest in the Collateral is jeopardized.

3. Defendants' breaches constitute Events of Default under the Loan Agreement and entitle plaintiff ML Private Finance to all rights and remedies under the Agreement, at law and in equity.

4. Accordingly, by this action ML Private Finance seeks in its favor and against Defendants: (a) a money judgment for all amounts due and owing under the Loan Agreement; (b) a money judgment for damages resulting from the unlawful transfer of Collateral to the third-party Doe defendants, (c) a preliminary and permanent injunction, enjoining Defendants from transferring, encumbering, purporting to sell, and selling, impairing, or allowing to impair, and/or failing to preserve the value of the Collateral and to protect Plaintiff's security interest in the Collateral; (d) an order of specific performance directing Defendants to deposit all of the Collateral with the Plaintiff in the location specified by Plaintiff, (e) an award for the costs and expenses, including legal fees incurred in enforcing ML Private Finance's rights under the Loan Agreement, and (f) for such other and further relief this Court deems to be just.

THE PARTIES

5. Plaintiff, ML Private Finance LLC is a Delaware corporation with its principal place of business located at 2 World Financial Center, New York, New York 10281. The sole member of ML Private Finance LLC is a Merrill Lynch Bank & Trust Co., a federally chartered savings bank with its principal place of business located at 2 World Financial Center, New York, New York 10281. Plaintiff is the Lender under the Loan Agreement.

6. Upon information and belief, Defendant Halsey McLean Minor is a resident of California residing at 800 El Camino del Mar, San Francisco, California 94121. Minor is a Borrower under the Loan Agreement.

7. The Halsey McLean Minor Revocable Trust dated November 3, 2004 is a Trust formed under the laws of the State of California with an address located at 800 El Camino del Mar, San Francisco, California 94121. Upon further information and belief, Minor is a trustee of The Halsey McLean Minor Revocable Trust dated November 3, 2004. The Trust is a Borrower under the Loan Agreement.

8. Defendants Does 1 through 50 are unknown to Plaintiff, but on information and belief, are recipients of Collateral or the proceeds of the sale of Collateral that Defendants pledged under the Loan Agreement, but which, as alleged herein, Defendants transferred without Plaintiff's knowledge or consent and intentionally diverted to the Doe Defendants. The Doe Defendants are liable to Plaintiff as unlawful transferees of such Collateral or related proceeds. Plaintiff will amend this complaint to name such transferees as soon as they are identified through discovery or otherwise.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction in this action pursuant to 28 U.S.C. § 1332 in that plaintiff is a Delaware corporation with its principal place of business located in New York, New York and Defendants are citizens of California, and the amount in controversy is in excess of the jurisdictional minimum of \$ 75,000.00.

10. This Court has jurisdiction over the Defendants by virtue of section 10.19 of the Loan Agreement, in which Defendants agreed that they "hereby irrevocably submit [themselves] to the jurisdiction ... of the United States District Court for the Southern District of New York for the purposes of any suit, action, or other proceeding arising out of or based

upon this Agreement or the subject matter hereof brought by the Lender or its successors or assigns.”

11. Venue is properly laid in this District pursuant to section 10.19 of the Loan Agreement, since the parties agreed that it is designated as a proper venue for any action or proceeding arising out of the Loan Agreement. It is also proper pursuant to 28 U.S.C. § 1391 as a substantial part of the events giving rise to the claims occurred here.

FACTS COMMON TO ALL CAUSES OF ACTIONS

12. In or about June 2007, ML Private Finance, as Lender, and Minor and the Trust, as Borrower, entered into a loan agreement (the “June 2007 Loan Agreement”) whereby ML Private Finance extended a \$20,000,000.00 credit facility to Borrower. Defendants also executed a promissory note and related security agreement, whereby they pledged as collateral for repayment of the note certain works of art they owned.

13. From time to time when Defendants purchased additional works of art, and pursuant to the June 2007 Loan Agreement and related security agreement, Defendants executed pledge agreements in favor of Plaintiff for the pieces of art purchased.

14. By the end of December 2007, Defendants had drawn a total of \$18,993,609, approaching the maximum amount permitted under the June 2007 Loan Agreement.

15. In December 2007, Defendants requested an increase in the June 2007 Loan Agreement of up to \$35,000,000.00. Plaintiff declined to advance the amount requested. However, since Defendants were then in compliance with all of their obligations under the June 2007 Loan Agreement, Plaintiff agreed to extend to Defendants a credit facility in an amount of \$25 million.

The Loan Agreement

16. On or about December 19, 2007, ML Private Finance, as Lender, and Minor and the Trust, as Borrower, entered into the Loan Agreement. (A copy of the Loan Agreement is attached hereto as Exhibit A.)

17. Pursuant to Section 2.1 of the Agreement, ML Private Finance agreed to loan to Defendants up to the Maximum Amount, which is defined as \$25,000,000.00.

18. At the same time they executed the Loan Agreement, Defendants executed the Amended and Restated Revolving Note (the "Note"), dated as of December 19, 2007 to evidence the indebtedness under the Loan Agreement and Defendants' promise to repay it. (A true and correct copy of the Note is attached hereto as Exhibit B.)

19. The Note provides, in part, that Borrower "unconditionally promises to pay to the order of [ML Private Finance]...without offset or counterclaim, the principal sum of Twenty Five Million Dollars (\$25,000,000.00) or, if less, the aggregate outstanding principal amount of the Advances made by the Lender to the Borrower pursuant to the Loan Agreement..., on the earlier of the Maturity Date, as defined in such Loan Agreement or on such other date as provided in such Loan Agreement."

20. The Note further provides that Borrower "promises to pay interest on the Advances outstanding hereunder from time to time at the interest rates, payable on the dates, set forth in the Loan Agreement."

21. The Loan Agreement provides a Maturity Date for the Note which is calculated by the terms of the Agreement to be December 17, 2008.

The Pledge Of Collateral

22. Section 4 of the Loan Agreement provides in part that "[a]s security for the full payment and performance of the Obligations," each Defendant "assigns, pledges, grants and

conveys to the Lender a continuing first-priority lien and security interest (the "Security Interest") on and in" certain Collateral, including, among other things, all of their right, title and interest in and to the Artwork as specified in Schedule 1 to the Agreement.

23. Attached as Schedule 1 to the Loan Agreement is a listing of the various pieces of art that Borrower pledged to Plaintiff as Collateral.

24. Thereafter, as provided in the Loan Agreement, Defendants executed and delivered to Plaintiff Security Agreements, whereby Defendants granted a "first-priority lien and security interest in" Collateral that they later acquired.

25. The Note provides that "this promissory note is secured by certain Collateral more specifically described in the Loan Agreement and other Loan Documents."

26. Plaintiff has a valid and perfected first-priority security interest in the Collateral.

27. Under Section 5.1 of the Loan Agreement, Borrower, jointly and severally, represented, warranted and covenanted to ML Private Finance that it (i) "owns the Collateral free of any security interest, lien or other encumbrance, including but not limited to, any contract or agreement limiting, restricting or impeding the transfer of the Collateral in favor of any Person"; that he (ii) "[has] not entered into any agreements or understandings (oral or written, express or implied) with any other Person with respect to the sale, transfer, assignment, gift, pledge and/or other disposition of all or any part of the Collateral."

28. Under Section 5.6 of the Loan Agreement, Borrower, jointly and severally, represented, warranted and covenanted to ML Private Finance that "[t]here are no actions, suits, litigations, arbitrations, administrative proceedings or investigations, pending or threatened, against [Defendants] or any of the Collateral that could (a) have a material adverse effect on the business or affairs, conditions (financial or otherwise), obligations, operations, performance,

properties or prospects of [Defendants] or (b) affect [their] ability to enter into and perform its obligations under the Loan Documents to which [they are] a party or any other transactions contemplated herein.”

29. Section 5 of the Loan Agreement provides that each of Defendants’ representations and warranties are made “on a continuing basis.”

30. Pursuant to section 6.11 of the Loan Agreement, Defendants agreed that “[a]t all times during the Term, the Borrower shall maintain aggregate Net Liquidity that equals or exceeds the total outstanding Obligations.”

31. Section 7.2(a)(a) of the Loan Agreement provides that, “[u]ntil this Agreement has terminated and all Obligations have been indefeasibly paid and performed in full, no Loan Party [defined as Defendants] will, without the prior written consent of the Lender (which may be conditioned, withheld or delayed in the Lender’s discretion), create, incur, assume, or suffer to exist any Lien on the Collateral, other than the Liens created in favor of the Lender, including, but not limited to, entering into, continuing or extending any contract or agreement in any way limiting, restricting or impeding the pledge or transfer of any of the Collateral.”

32. Section 7.2(a)(b) of the Loan Agreement provides that, “[u]ntil this Agreement has terminated and all Obligations have been indefeasibly paid and performed in full, no Loan Party [defined as Defendants] will, without the prior written consent of the Lender (which may be conditioned, withheld or delayed in the Lender’s discretion), sell, assign pledge, encumber, transfer, exchange, lease, lend, or dispose of (directly or indirectly, voluntarily, by operation of law or otherwise) or grant any option with respect to, any of the Collateral.” (Emphasis added.)

33. Section 7.2(a)(c) of the Loan Agreement provides that, “[u]ntil this Agreement has terminated and all Obligations have been indefeasibly paid and performed in full, no Loan

Party [defined as Defendants] will, without the prior written consent of the Lender (which may be conditioned, withheld or delayed in the Lender's discretion), remove or permit the removal of any of the Collateral from its Actual Location." (Emphasis added.)

34. Section 7.2(a)(e) of the Loan Agreement provides that, "[u]ntil this Agreement has terminated and all Obligations have been indefeasibly paid and performed in full, no Loan Party [defined as Defendants] will, without the prior written consent of the Lender (which may be conditioned, withheld or delayed in the Lender's discretion), cause or allow anything to be done which might impair, or fail to do anything necessary or advisable in order to preserve, the Value of the Collateral and the Lender's security interest therein." (Emphasis added.)

The Advances

35. Defendants' borrowings under the Loan Agreement at any given time are defined as Advances in Section 1 of the Agreement.

36. The Loan Agreement defines "all of the indebtedness, liabilities and obligations of the Borrower to the Lender" as Obligations.

37. Pursuant to section 2.3(a) of the Loan Agreement, Defendants agreed to "pay interest on the unpaid principal amount of each Advance from the date of such Advance until the maturity thereof" according to a rate calculation provided in the Agreement.

38. ML Private Finance advanced to Defendants funds totaling \$27,500,000.00.

39. Defendants have repaid some of the Advances under the Loan Agreement, but the substantial portion remains outstanding.

40. On or about December 17, 2008, the Note matured.

41. The aggregate unpaid principal amount of all outstanding Advances and all other Obligations outstanding under the Loan Agreement and other Loan Documents owed by

Defendants to Plaintiff is now no less than \$25,226,031.08, exclusive of accrued and accruing interest, fees, costs, charges and other amounts due.

Defendants Breach The Loan Agreement By Transferring and Selling Collateral

42. Upon information and belief, Defendants have repeatedly disregarded their obligations under the Loan Agreement by selling, transferring and/or otherwise disposing of the Collateral, without the knowledge or consent of Plaintiffs, and without paying the Plaintiff the substantial portion or all of the proceeds of such sales.

43. Upon information and belief, in or about the Spring of 2008, Defendants sold for approximately \$1,200,000.00, a work of art (the "Work").

44. The Work was previously pledged as Collateral under the Loan and Security Agreements.

45. Defendants sold the Work without the prior written consent of, or notice to, Plaintiff.

46. Defendants caused the Work to be transferred without the prior written consent of, or notice to, Plaintiff.

47. In further breach of the Loan and Security Agreements, Defendants failed to pay Plaintiff any part of the proceeds of the sale of the Work.

48. Upon information and belief, in or about May or June of 2008, without Plaintiff's prior knowledge or consent, Defendants entered into two consignment agreements whereby they agreed to consign to, and sell through, Phillips de Pury & Company ("Phillips"), four works of art (the "Four Works").

49. The Four Works were previously pledged as Collateral under the Loan and Security Agreements.

50. Upon information and belief, without Plaintiff's prior knowledge or consent, Defendants caused the Four Works to be sold through Phillips at two separate auctions for a total amount of somewhere between \$5,000,000.00 and \$10,000,000.00.

51. In further breach of the Loan and Security Agreements, upon information and belief, Defendants failed to pay Plaintiff any part of the proceeds of the sale of the Four Works.

52. Upon information and belief, in or about May or June 2008, without Plaintiff's consent, Defendants entered into an agreement with Christie's and Sotheby's to auction and sell seven works of art (the "Seven Works") through their respective London offices.

53. The Seven Works were previously pledged as Collateral under the Loan Agreement and appraised at approximately \$12,975,000.00.

54. Upon information and belief, without prior notice to, or consent of Plaintiff, Defendants caused the Seven Works to be transferred to Christie's in London.

55. Upon further information and belief, and without Plaintiff's prior knowledge or consent, Defendants caused Christie's and Sotheby's to negotiate the sale of the Seven Works of art, whereby Defendants entered into either a binding agreement or a letter of intent to sell them for approximately \$25,000,000.00.

56. Upon further information and belief, and without Plaintiff's prior knowledge or consent, Defendants entered into a binding agreement to purchase other works of art through Sotheby's for approximately \$25,000,000.00.

57. Upon information and belief, the sale of the Seven Works through Christie's did not occur when the prospective purchaser determined not to acquire them.

58. Upon information and belief, as a result of the prospective purchaser of the Seven Works determining not to acquire them, Defendants were unable, and failed, to pay for

approximately 50% of the approximately \$25,000,000.00 in art works that it had contemporaneously agreed to buy, through Sotheby's.

59. Upon information and belief, Defendants lacked the liquidity and funds to pay for the art works to be purchased through Sotheby's.

60. Upon information and belief, Sotheby's has sued Defendants for breach of contract and seeks at least \$13,800,000.00 in damages.

Defendants Fail To Disclose Their Financial Condition

61. On various occasions, ML Private Finance has requested that Defendants deliver to it financial statements, including statements of cash flow.

62. During 2008, for a period of approximately six months, Defendants failed and refused to abide by Plaintiff's requests that Defendants deliver financial information or otherwise report on their financial condition. Defendants finally delivered a financial statement in August 2008, and a later update.

63. Upon information and belief, although Defendants are required under the Loan Agreement to maintain an aggregate net liquidity that equals or exceeds the total outstanding obligations, Defendants have no such level of liquid assets.

Plaintiff's Default Notice and Demand For Payment

64. By letter dated September 11, 2008 (the "September 11 Letter"), Plaintiff notified Defendants that, by and through their actions, which included selling, transferring, encumbering, and removing Collateral from its authorized location, Defendants were in breach of the Loan [and Security] Agreement and, thus, Events of Default had occurred.

65. By letter dated December 19, 2008, Plaintiff notified Defendants that the Maturity Date under the Loan Agreement occurred on December 17, 2008 and under Section 2.2 of the Agreement, all Obligations, which then were approximately \$25,226,031.08, were

immediately due and payable. (A true and correct copy of the December 19, 2008 letter is annexed hereto as Exhibit C.)

66. Defendants have failed and/or refused to pay any of their outstanding obligations under the Agreement.

FIRST CAUSE OF ACTION
(Money Judgment Under The Loan Agreement)

67. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

68. Pursuant to Section 2.2(a) of the Agreement, Defendants are required to pay to Plaintiff, an amount, in immediately available funds, equal to the aggregate unpaid principal balance amount of all outstanding Advances, together with all accrued but unpaid interest thereon, and all other Obligations outstanding under this Agreement and other Loan Documents on or before the Stated Maturity Date.

69. The Stated Maturity Date was December 17, 2008.

70. Defendants are in default under section 8.1(a) for failure to pay an amount, in immediately available funds, equal to the aggregate unpaid principal balance amount of all outstanding Advances, together with all accrued but unpaid interest thereon, and all other Obligations outstanding under this Agreement and other Loan Documents on or before the Stated Maturity Date.

71. Plaintiff is entitled to a money judgment in an amount no less than \$25,226,031.08.

SECOND CAUSE OF ACTION
(Breach of Loan Agreement-- Impairment of Collateral)

72. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

73. Defendants are in breach of Sections 5.1 and 7.2(a)(a) of the Agreement, by, upon information and belief, encumbering or permitting a Lien (as defined in the Loan Agreement) to encumber some or all of the Collateral.

74. Plaintiff has been damaged thereby.

THIRD CAUSE OF ACTION
(Breach of Section 5.6 of the Loan Agreement)

75. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

76. By Section 5.6 of the Loan Agreement, Defendants agreed that there were/are not pending or threatened litigation or proceedings that would have “a material adverse effect on the business or affairs, condition (financial or otherwise), obligations, operations, performance, properties or prospects” of the Borrower.

77. Defendants are in breach of Section 5.6 of the Agreement, by, upon information and belief, being named as a defendant in the complaint filed by Sotheby’s.

78. Plaintiff has been damaged thereby.

FOURTH CAUSE OF ACTION
(Breach of Section 6.11 of the Loan Agreement)

79. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

80. Defendants are in breach of Section 6.11 of the Loan Agreement by, upon information and belief, failing to maintain aggregate Net Liquidity that equals or exceeds the total outstanding Obligations.

81. Plaintiff has been damaged thereby.

FIFTH CAUSE OF ACTION
(Breach of Section 7.2(a)(b) of the Loan Agreement)

82. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

83. Defendants are in breach of Section 7.2(a)(b) of the Loan Agreement by, upon information and belief, transferring, encumbering and purporting to sell some or all of the Collateral.

84. Plaintiff has been harmed thereby.

SIXTH CAUSE OF ACTION
(Breach of Section 7.2(a)(c) of the Loan Agreement)

85. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

86. Under Section 7.2(a)(c) of the Loan Agreement, Defendants agreed to maintain the Collateral in the Actual Location, which is defined in the Loan Agreement, in relevant part, as the "Authorized Location identified adjacent to the description of [Collateral] on Schedule 1 attached hereto."

87. The Authorized Location is defined, in turn, as "any of the four (4) locations identified on schedule 1 attached" to the Loan Agreement.

88. Defendants are in breach of Section 7.2(a)(c) of the Agreement by, upon information and belief, removing some or all of the Collateral from its Actual Location with the knowledge or consent of Plaintiffs, including the Work, the Four Works and the Seven Works.

89. Plaintiff has been harmed thereby.

SEVENTH CAUSE OF ACTION
(Breach Of Section 7.2(a)(e) of the Loan Agreement)

90. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

91. Defendants are in breach of Section 7.2(a)(e) of the Loan Agreement by, upon information and belief, causing or allowing impairment, and failing to preserve the value or Plaintiff's security interest in some or all of the Collateral.

92. Plaintiff has been harmed thereby.

EIGHTH CAUSE OF ACTION
(Specific Performance – Delivery of Collateral)

93. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

94. Section 8.2(b) of the Loan Agreement, provides that if an Event of Default shall have occurred and is continuing, Defendants authorize the Lender to "retrieve, seize, and/or repossess the Collateral from " Defendants.

95. Defendants are in default of the Loan Agreement by, among other breaches, violating sections 5.1, 5.6, 6.11, 7.2(a)(a), 7.2(a)(b), 7.2(a)(c), 7.2(a)(e), and 8.1(a).

96. Plaintiff has performed all and of its contractual obligations and is willing to perform all of its remaining obligations under the Loan Agreement.

97. Defendants are able to convey Collateral to Plaintiff.

98. Defendants have failed and refused to deliver the pledged Collateral to ML Private.

99. Upon information and belief, Defendants continue to hold the pledged Collateral in violation of Plaintiff's rights.

100. ML Private has no adequate remedy at law.

101. ML Private is entitled to an order of specific performance requiring Defendants to deliver the pledged Collateral to ML Private as ML Private directs.

NINTH CAUSE OF ACTION
(Permanent Injunction)

102. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

103. Defendants removal, transfer, encumbrance, and sale of Collateral, together with their failure to maintain the required level of liquidity, is causing irreparable harm to the Plaintiff, by depriving Plaintiff of both its security interest in Collateral and its ability to satisfy Defendants' outstanding obligations under the Loan Agreement.

104. Without an injunction, Defendants, or other persons acting in concert with Defendants, will likely continue selling, transferring, encumbering, removing from its Authorized Location, or offering to sell, transfer, remove, or encumber all or some of Collateral pledged under the Loan Agreement.

105. Plaintiff has no adequate remedy at law.

106. By reason of the foregoing, Plaintiff is entitled to a permanent injunction enjoining Defendants from transferring, encumbering, offering for sale, selling, impairing, permitting the impairing, and/or failing to preserve the value of the Collateral or Plaintiff's security interest in the Collateral, without Plaintiff's prior written consent.

TENTH CAUSE OF ACTION
(Fraudulent Conveyance)

107. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

108. Defendants' transfers of the Collateral and the proceeds of the sales thereof, in violation of the Loan Agreement, were made with an intent to hinder, delay or defraud Plaintiff.

109. Upon information and belief, the Doe Defendants received the Collateral or the proceeds of sales of the Collateral with knowledge of Plaintiff's first-priority security interest.

110. The Doe Defendants, as transferees of the Collateral or proceeds of the sales of Collateral that Plaintiff would otherwise have received, are each liable to Plaintiff in an amount equal to the value of the transferred asset they received.

ELEVENTH CAUSE OF ACTION
(Recovery of Fees and Costs of Collection)

111. Plaintiff repeats and re-alleges the allegations set forth above in paragraphs 1 through 66, as if fully set forth herein.

112. Under Section 10.2 of the Loan Agreement, Plaintiff is entitled to recover against Borrower, its costs and expenses, including legal fees incurred in enforcing its rights under the Loan Agreement, including commencing and prosecuting this action.

113. Plaintiff has incurred and will incur fees and costs in connection with enforcing its rights under the Loan Agreement and Note.

114. Plaintiff is entitled to a money judgment in the amount of fees and expenses it incurs to enforce its rights under the Loan Agreement, including all legal fees and costs incurred herein.

WHEREFORE, Plaintiff prays that the Court enter judgment in its favor and against Defendants as follows:

1. on the First Cause of Action, a money judgment against the non-Doe Defendants in favor of Plaintiff in an amount of not less than \$25,226,031.08; and
2. on the Second Cause of Action, a money judgment against the non-Doe Defendants in favor of Plaintiff in an amount of not less than \$25,226,031.08; and

3. on the Third Cause of Action, a money judgment against the non-Doe Defendants in favor of Plaintiff in an amount of not less than \$25,226,031.08; and

4. on the Fourth Cause of Action, a money judgment against the non-Doe Defendants in favor of Plaintiff in an amount of not less than \$25,226,031.08; and

5. on the Fifth Cause of Action, a money judgment against the non-Doe Defendants in favor of Plaintiff in an amount of not less than \$25,226,031.08; and

6. on the Sixth Cause of Action, a money judgment against the non-Doe Defendants in favor of Plaintiff in an amount of not less than \$25,226,031.08; and

7. on the Seventh Cause of Action, a money judgment against the non-Doe Defendants in favor of Plaintiff in an amount of not less than \$25,226,031.08; and

8. on the Eight Cause of Action, an order of specific performance requiring the non-Doe Defendants to deliver the Collateral to Plaintiff; and

9. on the Ninth Cause of Action, pursuant to Federal Rules of Civil Procedure 65, an order permanently enjoining Defendants (and their agents, servants, officers, employees and all those acting under their control, on their behalf or in concert with them) from transferring, encumbering, offering for sale, selling, impairing, permitting the impairment of, and/or failing to preserve the value of the Collateral or Plaintiff's security interest in the Collateral without Plaintiff's prior written consent; and

10. on the Tenth Cause of Action, a money judgment against the Doe Defendants and in favor of Plaintiff in an amount not less than the value of the interest they received in the Collateral; and

11. granting such other further relief as this Court may deem just and proper, including the award of attorneys' fees and costs to Plaintiff.

Dated: New York, New York
December 22, 2008

GREENBERG TRAURIG, LLP

By: 

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