SUPREME COURT OF THE STATE OF NEW YORK : COUNTY OF WASHINGTON

Index No EC2025-38332

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JRG FUNDING LLC,

Plaintiff,

-against-

SECOR LOGISTICS, LLC and COURTNEYALAN ROYSTER,

Defendants.

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ANSWER

Defendants by their attorney answer the complaint:

1. Admit paragraphs 1 through 6.

2. Admit the payment but otherwise deny paragraph 7.

3. Deny paragraph 8.

4. Admit the payment but otherwise deny paragraph 9.

5. Deny paragraph 10.

First Affirmative Defense: Criminal Usury of Settlement Agreement

6. Where an initial agreement is void for criminal usury, a resulting settlement agreement will also be void for criminal usury. Aquila v Rubio, 2016 NY Slip Op 50682(U), 5 (aff'd., 171 A.D.3d 863 [2019]); Adar Bays, LLC v. 5Barz Int'l, Inc., 2018 WL 3962831, 2018 U.S. Dist. LEXIS 139843,

*16; Newage Garden Grove, LLC v. Wells Fargo Bank, N.A., 2023 NY Slip Op 32447(U), 14:

> "Furthermore, parties "are free to agree that a contract rate of interest shall increase upon default, so long as [the] interest rate is not usurious [and] does not constitute a penalty" (Emigrant Funding Corp. v 7021 LLC, 901 N.Y.S.2d 906, 25 Misc 3d 1220[A], 2009 NY Slip Op 52199[U], at *3 [Sup Ct, Queens County, Oct. 26, 2009], citing Union Estates Co. v Adlon Constr. Co., 221 N.Y. 183, 188-89, 116 N.E. 984 [1917]; accord Jamaica Sav. Bank, F.S.B. v Ascot Owners, 245 A.D.2d 20 [1st Dept 1997] ["It is well settled that an agreement to pay interest at a higher rate in the event of default or maturity is an agreement to pay interest and not a penalty"]; Emery v Fishmarket Inn of Granite Springs, Inc., 173 AD2d 765, 766 [2d Dept 1991] ["so long as an interest rate is not usurious or does not constitute a penalty, the parties are similarly free to agree that the contract rate of interest shall increase upon default."])."
> Affirmed in part, reversed in part, 171 A.D.3d 863 [2019].

7. This is not an action on an original agreement providing for a criminally usurious interest only upon a default, but a novation, *i.e.*, an agreement that stands alone.

8. Plaintiff's original agreement was dated Oct. 7, 2024 and funded defendant $300,000.00 for which defendant had to repay $435,000.00.

9. The settlement agreement was dated May 5, 2025.

10. The settlement agreement required payment of the $201,964.35 balance of the $435,000.00 at the Weekly rate of $15,535.71.

11. That meant that the balance of $201,964.35 would be paid after 13 payments of $15,535.71.

12. The settlement payment would therefore be completed by Aug 5, 2025.

13. The interest rate of the funding of $300,000.00 with $435,000.00 having to be paid back was 45% ($435,000.00 minus $300,000.00 = $135,000.00. $135,000.00 divided by $300,000.00 = 45%.

14. The elapsed time from the date of the original funding agreement, Oct. 7, 2024 to the date of the final payment was Aug 5, 2025 was 298 days.

15. The interest rate of the funding under the settlement agreement was therefore 54% (45% X 360 divided by the 298 days).

16. This 54% rate is criminally usurious.

17. The settlement agreement is void for criminal usury.

18. The original agreement cannot for any reason save the settlement agreement which did not incorporate it and which contained a complete merger clause.

Second Affirmative Defense: Unenforceable Default Fee

19. Plaintiff has no right to the default fees. Rubin v. Napoli Bern Ripka Shkolnik, LLP, 179 AD3d 495 [2020]:

> "Although the party challenging the liquidated damages provision has the burden to prove that the liquidated damages are, in fact, an unenforceable penalty (see JMD Holding Corp. v Congress Fin. Corp., 4 NY3d 373, 380 [2005]; Parker v Parker, 163 AD3d 405, 406 [1st Dept 2018]), the party seeking to enforce the provision must necessarily have been damaged in order for the provision to apply (see e.g. J. Weinstein & Sons, Inc. v City of New York, 264 App Div 398, 400 [1st Dept 1942]."

Trustees of Columbia Univ. in the City of N.Y. v D'Agostino Supermarkets, Inc., 36 N.Y.3d 69, 73, 74-77 [2020]:

> "(W)here the breach of contract was a failure to pay money, plaintiff should be limited to a recovery of the contract amounts plus appropriate interest] [citation omitted]; Cotheal v Talmage, 9 NY 551, 554, Seld. Notes 238 [1854] ["Where there is a contract to pay money, the damages for its breach are fixed and liquidated by law, and require no liquidation by the parties"]; 36 NY Jur 2d, Damages § 173 [stating that liquidated damages clauses in contracts for the payment of money are typically inappropriate because "for the nonpayment of money, the law awards interest as damages"]).

20. Plaintiff has no right to the amount of the contractual attorney fee claimed. Kamco Supply Corp. v. Annex Contr. Inc., 261 A.D.2d 363, 364-365 [1999]; First Nat'l Bank v. Brower, 42 N.Y.2d 471, 474 [1977]; Fed. Land Bank of Springfield v. Ambrosano, 89 A.D.2d 730, 731 [1982]; Community Nat'l Bank & Trust Co. v. I.M.F. Trading, Inc., 167 A.D.2d 193 [1990]; Korea First Bank v. Chung Jae Cha, 259 A.D.2d 378, 379.

21. The defenses below are addressed to the original funding agreement prior to the settlement.

22. The settlement agreement had a complete merger clause and the defenses below do not, and are not intended, to void the action by the settlement agreement on which it is based.

Third Affirmative Defense: Appellate Division Opinion of Nov. 28, 2023, Guiding Whether Transaction Is a Loan

23. Kapitus Servicing, Inc. v Point Blank Constr., Inc., 221 A.D.3d 532 [2023]:

> "Further, although the presence in an agreement of a right to reconciliation may be an indication of whether an agreement constitutes a loan, the agreement here does not make clear on its face whether it conferred that right (see Davis v Richmond Capital Group, LLC, 194 AD3d 516, 517 [1st Dept 2021])."

24. The plaintiff's contract had a seeming reconciliation provision but other provisions that abridged any right to a reconciliation:

> 1.3 A
> The adjusted delivery amount shall be the amount ACH debited each Delivery Date until either Buyer or Seller requests a new adjustment
>
> 1.3 B
> Upon receipt of a written reconciliation request from Seller, Buyer may request Seller's credit card processor statements, list of accounts receivable (e.g ., AR Report), view-only bank access or copies of statements of any bank accounts or transfer bank accounts (collectively, "Reconciliation Information").

25. 1.3 A by its terms negated any adjustment to the fixed weekly payment if plaintiff requested a new adjustment.

26. 1.3 B failed to impose any time limit by which plaintiff could delay a reconciliation by "request[ing] Seller's credit card processor statements, list of accounts receivable (e.g ., AR Report), view-only bank access or copies of statements of any bank accounts or transfer bank accounts (collectively, "Reconciliation Information").

27. *Cf*., Royal Business Group v Sky Airparts, 2025 NY Slip Op 30508(U), Daniel J. Doyle, Supervising Judge for the Civil Supreme Court in the 7th Judicial District:

> "Here, the agreement contains a provision purporting to provide a right of reconciliation. However, while the presence of a purported reconciliation provision is "an indication of whether an agreement constitutes a loan" and regardless of the inclusion of the "buzz" words purporting to confer such protection, the court must assess whether the agreement at issue before it "make[s] clear on its face whether it conferred that right." Kapitus Servicing, Inc. v. Point Blank Constr., Inc., 221 A.D.3d 532, 534 (1st Dept. 2023). If there is no true obligation to reconcile, despite the inclusion of a purported reconciliation provision, the true nature of the agreement will be called into question.
>
> In the case at bar, the purported reconciliation provision provides that "Seller agrees to provide RBG any information requested by RBG to assist in the reconciliation." The provision continues that "[w]ithin five days of RBG's reasonable verification of such information," the periodic amount shall be adjusted. This

> provision raises a question as to Plaintiffs entitlement to summary judgment because Plaintiff's obligation to reconcile is unclear. Pursuant to the purported reconciliation provision, Plaintiff has the unfettered right to demand any and all information it wants and then can determine whether there is "reasonable verification" for the reconciliation request. The terms of the purported reconciliation provision do not clearly confer a right of reconciliation, as Plaintiff could, at will, abridge that right by demanding any and all information for as long as it wants and then also has the unrestrained ability to determine whether the information provided is reasonably verified."

28. At no time in its existence has the plaintiff ever refunded to any "merchant" any amount previously ACH-debited from the merchant because a reconciliation found that the total previously ACH-debited exceeded the Specified Percentage of the prior sales, receipts, revenue, or receivables.

29. At no time in its existence has the plaintiff ever credited to any "merchant" any amount previously ACH-debited from the merchant because a reconciliation found that the total previously ACH-debited exceeded the Specified Percentage of prior sales, receipts, or revenue, receivables.

Fourth Affirmative Defense: Criminal Usury.

30. The plaintiff's funding/loan started at an 83% annual rate of interest. 83% is 3.32 times the 25% maximum under the criminal usury statute.

31. **Calculation of Interest**: Under the Agreement, the total paid to Defendant was $300,000, less startup fees, for which Defendant had to pay plaintiff back $435,000, by a weekly payment of $15,434.71 per week. Defendant getting gross proceeds from plaintiff of $300,000, and having to pay back $435,000, the difference, of $135,000, was the interest that Defendant had to pay on the $300,000. $135,000 interest on $300,000, if it had to be paid back over a year, would have been 45% interest. The agreement required weekly payments of $15,434.71 per week, which meant 29 payments of $15,434.71 each, to pay the $435,000. 29 weeks is 54% of a year. Since 45% interest had to be paid back in 54% of a year, that was an annual interest rate of 83%.

32. The weekly receipts of defendant needed for the $15,434.71 fixed weekly payment under the contract, at the specified percentage of 8%, equaled $192,933.88 (8% of $192,933.88 = $15,434.71).

33. The initial 83% interest rate was 3.32 times the 25% criminal usury cap. 25 times 3.32 = 83%.

34. By the 25% criminal usury cap, the Legislature determined that any higher rate was utterly unaffordable and took criminal advantage of a borrower.

35. If the fixed weekly payment was reduced so that 8% of receipts equaled the 25% maximum criminal usury rate rather than the 83% criminal

rate, the receipts needed would only be $58,092.95. Calculation: The 83 interest rate divided by 25 =3.32. The $192,933.88 receipts needed under the contract to cover the 8% Specified Percentage divided by 3.32 = $58,092.95.

36. Therefore, until the plaintiff granted a reconciliation taking 8% of only $58,092.95 of receipts, the funding was criminally usurious.

37. If $435,000.00 has to be paid back after receipt of $300,000.00 with fixed weekly payments each week and an annual interest rate of 25%, each weekly payment would equal $4647 which at 8% of weekly receipts would equal $58,092.95 of receipts.

38. Until receipts dropped to $58,092.95, the 8% specified percentage was criminally usurious.

39. If the defendant's receipts diminished from $192,933.88 to $58,092.95, it would obviously be out of business, unable to function or pay anyone. It would have no money to pay any employee, any landlord, any tax, any materials, any work expense, etc. Assuming that someone in business for themselves, like the individual defendant, needed some kind of draw from his business to live on, his family could not support themselves.

40. It is as if the $210,900 salary of a New York Supreme Court justice was reduced to $63,524.1 (210900/3.32).

41. For plaintiff to then use a reconciliation to deduct a fixed weekly payment of 8% of the $58,092.95 could not reasonably be contemplated under the parties' contract since the debtor would be forced to block plaintiff's 8% debit if receipts dropped to $58,092.95.

42. This would enable plaintiff to declare a default.

43. In sum, taking the position that a debtor whose receipts stayed the same has no excuse not to suffer this $15,434.71 fixed weekly payment is enforcing criminal usury.

44. Taking the position that a debtor who has not requested a reconciliation has no excuse not to pay this $15,434.71 fixed weekly payment is enforcing criminal usury.

45. The agreement was for a finite term of 29 weeks with payments of $15,434.71.

46. Crystal Springs Capital v Big Thicket Coin, 220 AD3d 745, 747, 748 [2023]:

> "Here, the defendants established that the agreement constituted a criminally usurious loan. The agreement and addendums thereto provided, among other things, that, in exchange for the purchase, the Big Thicket defendants were obligated to authorize the plaintiff to automatically debit $4,000 from their bank account each business day, the plaintiff was "under no obligation" to reconcile the payments to a percentage amount of the Big Thicket defendants' sales rather than the fixed daily amount, and the plaintiff was entitled to collect the full uncollected

> purchase amount plus all fees due under the agreement in the event of the Big Thicket defendants' default by changing their payment processing arrangements or declaring bankruptcy. Together, these terms established that the agreement was a loan, pursuant to which repayment was absolute, rather than a purchase of future receipts under which repayment was contingent upon the Big Thicket defendants' actual sales (see Davis v Richmond Capital Group, LLC, 194 AD3d 516, 517 [2021]; LG Funding, LLC v United Senior Props. of Olathe, LLC, 181 AD3d at 666)." * * *
> The Supreme Court erred in denying that branch of the defendants' motion which was pursuant to CPLR 3211 (a) to dismiss the complaint on the ground that the action is barred by documentary evidence. "Under CPLR 3211 (a) (1), a dismissal is warranted only if the documentary evidence utterly refutes plaintiff's factual allegations, conclusively establishing a defense as a matter of law" (Yan Ping Xu v Van Zwienen, 212 AD3d 872, 874 [2023] [internal quotation marks omitted]). Here, for the reasons stated above, the defendants conclusively established through the submission of the agreement that it constituted a criminally usurious loan (see Adar Bays, LLC v GeneSYS ID, Inc., 37 NY3d at 332; LG Funding, LLC v United Senior Props. of Olathe, LLC, 181 AD3d at 666)."

47. Kapitus Servicing, Inc. v Point Blank Constr., Inc., 221 A.D.3d 532 [2023]:

> "Further, although the presence in an agreement of a right to reconciliation may be an indication of whether an agreement constitutes a loan, the agreement here does not make clear on its face whether it conferred that right (see Davis v Richmond Capital Group, LLC, 194 AD3d 516, 517 [1st Dept 2021])."

48. Bankruptcy was effectively barred by the parties' agreement, among others, because the plaintiff's contract prohibited defendants from

changing the approved bank account or depositing receipts into any other account.

49. A bankrupt or debtor in possession violates Federal Law by failing to open a debtor-in-possession account or failing to deposit receipts into the debtor-in-possession account.

> Rushton v. American Pac. Wood Prods. (In re Americana Expressways), 133 F.3d 752, 756-757 [1997]:
> "The United States Trustee has the responsibility for supervising Chapter 11 debtors in possession. The trustee's Operating Guidelines and Reporting Requirements mandate that the debtor in possession close prepetition bank accounts and open new accounts that include the words "Debtor in Possession." See Appellees' Supp. App. 91. 4 The debtor in possession is an officer of the court and subject to the bankruptcy court's power and control. See Chmil v. Rulisa Operating Co. (In re Tudor Assocs. Ltd. II), 64 B.R. 656, 661 (E.D.N.C. 1986)."
>
> C.C Canal Realty Trust v. Harrington, (In re Spenlinhauer), 2017 WL 1098820; 2017 U.S. Dist. LEXIS 42336, *9:
> "Debtors-in-possession are also required to deposit post-petition funds into designated debtor-in-possession bank accounts. See In re Sieber, 489 B.R. 531, 548-49 (Bankr. D. Md. 2013)."
>
> Jackson v. GSO Bus. Mgmt., LLC (In re Jackson), 643 B.R. 664, 699 [2022]:
> "The unauthorized withdrawal of funds from a debtor-in-possession bank account is an affront to the integrity of the bankruptcy process."

50. Bankruptcy, under which a bankrupt must transfer all assets to a trustee in bankruptcy was prohibited by the agreement.

51. Oakshire Props., LLC v Argus Capital Funding, LLC, 229 A.D.3d 1199 held that:

A. "although there is a reconciliation provision in the agreement, the provision appears illusory inasmuch as Argus may not be subject to any consequences for failing to comply with its terms"

B. "Argus has sole discretion to adjust the amount of the daily payments."

C. "a default on the part of Oakshire would occur where, inter alia, "two or more [automatic withdrawal] transactions attempted by [Argus] within one calendar month are rejected by [the] bank," immediately accelerating the entire amount"

D. "there was an implied finite term in the agreement inasmuch as plaintiffs allege that the daily payment amount was set to ensure that Argus's targeted return would be met in a predetermined period of time as opposed to having been set based on the specified percentage of Oakshire's sales"

E. "the agreement allowed Argus, in its sole discretion, to continue making daily payment withdrawals even if the daily payment amount exceeded Oakshire's sales, thereby providing Argus with a

means to compel an event of "default" upon which it could then immediately accelerate the entire debt".

52. Crystal Springs Capital v Big Thicket Coin, 220 AD3d 745, 747, 748 [2023] held that criminal usury was demonstrated by "in the event of the [ ] defendants' default by changing their payment processing arrangements or declaring bankruptcy."

53. The plaintiff's contract prohibited any change of the payment processing arrangements.

54. The plaintiff's contract effectively made bankruptcy a default (above).

55. Crystal Springs Capital v Big Thicket Coin, 220 AD3d 745, 747, 748 [2023] found that the agreement was a criminally usurious loan because "the plaintiff was "under no obligation" to reconcile the payments to a percentage amount of the [ ] defendants' sales rather than the fixed daily amount".

56. Here, while the contract did not expressly state that plaintiff was "under no obligation" to provide a reconciliation, the contract effectively permitted plaintiff to avoid any reconciliation.

57. Nothing in the plaintiff's contract enabled defendants to stop the fixed weekly payment without being in default, nor did anything in plaintiff's contract force plaintiff to stop its ACH-debit of the fixed weekly payment.

58. Nothing in the contract avoided the fixed weekly payment if defendants had no receipts.

59. While the initial interest rate could have been theoretically reduced by a reconciliation, this would not negate the usury:

> Band Realty Co. v. North Brewster, Inc., 37 N.Y.2d 460 [1975] (quoting Feldman v Kings Highway Sav. Bank (278 App Div 589, 590, affd 303 NY 675) "[So] long as all payments on account of interest did not aggregate a sum greater than the aggregate of interest that could lawfully have been earned had the debt continued to the earliest maturity date, there would be no usury."); Canal v Munassar, 144 A.D.3d 1663 [2016]; Norstar Bank v. Pickard & Anderson, 140 A.D.2d 1002, [1988]; DeStaso v Bottiglieri, 25 Misc. 3d 1213(A), 2009 NY Slip Op 52082(U); Fremont Inv. & Loan v. Haley, 23 Misc. 3d 1138(A), 2009 NY Slip Op 51186(U).
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> Canal v Munassar, 144 A.D.3d 1663, 1664 [2016]:
> In determining whether the interest charged exceeded the usury limit, courts must apply the traditional method for calculating the effective interest rate as set forth in *Band Realty Co. v North Brewster, Inc*. (37 NY2d 460, 462 [1975], *rearg denied* 37 NY2d 937 [1975]) (*see Oliveto Holdings, Inc. v Rattenni*, 110 AD3d 969, 972 [2013]). According to that method, "[s]o long as all payments on account of interest did not aggregate a sum greater than the aggregate of interest that could lawfully have been earned had the debt continued to the earliest maturity date, there would be no usury" (*Band Realty Co.*, 37 NY2d at 464 [internal quotation marks omitted]).
>
> Norstar Bank v. Pickard & Anderson, 140 A.D.2d 1002, [1988]: "[T]he bank contended that the variable rate of interest charged on the loan should be averaged over the term of the loan for the purpose of

> determining whether the interest rate was usurious. ***. Although there is a conflict in authority (see, Annotation, Usury in Connection with Loan Calling for Variable Interest Rate, 18 ALR4th 1068), we believe the better rule is that, in the case of a loan at a variable rate of interest, the interest charged should not be averaged over the term of the loan in determining whether a usurious rate has been charged [citations] * * * If defendants were compelled to average the rate of interest charged over the full term of the loan, they would not know whether a usurious rate was being charged until the end of the term. Thus, they would be compelled to make excessive interest payments for a substantial period and would not be able to seek relief from the usurious payments until the expiration of the loan. On the other hand, the bank could have readily avoided charging usurious interest on its loan by placing a cap on the charges for interest so that no payment would exceed the variable legal rate".
>
> American Express Natl. Bank v. Ellis, 2023 NY Slip Op 51428(U), 2 That the initial interest rate of 0% is legal under GOL § 5-501 would not save the agreement, given the contemplated increase to rates that exceed New York's 16% cap.1 (*See Fremont Inv. & Loan v Haley*, 23 Misc. 3d 1138[A], 889 N.Y.S.2d 505, 2009 NY Slip Op 51186[U], at *7 [Sup Ct, Queens County 2009]; *accord Norstar Bank v Pickard & Anderson*, 140 AD2d 1002, 1002-1003, 529 N.Y.S.2d 667 [4th Dept 1988] [holding that "in the case of a loan at a variable rate of interest, the interest charged should not be averaged over the term of the loan in determining whether a usurious rate has been charged"].)

Fifth Affirmative Defense: Illegal Contract

60. The contract stated that the loan payback by the defendant to the plaintiff would instead be a sale by the defendant to the plaintiff.

61. This rendered the contract illegal. It meant that the more plaintiff earned as income the greater its tax deduction for *cost of goods sold* and the more defendants had to immediately pay sales and income taxes on the entire

funded amount and ensuing payment of the "purchased amount". Matter of Darman Bldg. Supply Corp. v. Mattox, 106 A.D.3d 1150, 1151 [2013]:

62. The contract stated:

> 1.8 Sale of Receipts . Seller and Buyer agree that the Purchase Price under this Agreement is in exchange for the Purchased Receipts Amount, and that such Purchase Price is not intended to be, nor shall it be construed as, a loan from Buyer to Seller. Seller agrees that the Purchase Price is in exchange for the Receipts pursuant to this Agreement, and that it equals the fair value of such Receipts. Buyer has purchased and shall own all the Receipts described in this Agreement up to the full Purchased Amount as the Receipts are created.

63. This rendered the contract illegal and unenforceable. It meant that defendants had to immediately pay sales and income taxes on the entire funded amount and ensuing payment of the "purchased amount". Matter of Darman Bldg. Supply Corp. v. Mattox, 106 A.D.3d 1150, 1151 [2013]:

> "In any event, sales tax is required to be remitted for the period in which the sale is made, regardless of the amount collected (*see* 20 NYCRR 532.1 [a] [2])."

64. The provision that plaintiff inserted into its contract is completely illegal and violates the tax laws of the United States by forcing the defendant to absorb the tax burden and obligation of the plaintiff.

> https://en.wikipedia.org/wiki/Loan
> United States taxes[edit]
> Most of the basic rules governing how loans are handled for tax purposes in the United States are codified by both

> Congress (the Internal Revenue Code) and the Treasury Department (Treasury Regulations– another set of rules that interpret the Internal Revenue Code).[6]:111
> 1. A loan is not gross income to the borrower.[6]:111 Since the borrower has the obligation to repay the loan, the borrower has no accession to wealth.[6]:111[7]
> 2. The lender may not deduct (from own gross income) the amount of the loan.[6]:111 The rationale here is that one asset (the cash) has been converted into a different asset (a promise of repayment).[6]:111 Deductions are not typically available when an outlay serves to create a new or different asset.[6]:111
> 3. The amount paid to satisfy the loan obligation is not deductible (from own gross income) by the borrower.[6]:111
> 4. Repayment of the loan is not gross income to the lender.[6]:111 In effect, the promise of repayment is converted back to cash, with no accession to wealth by the lender.[6]:111
> 5. Interest paid to the lender is included in the lender's gross income.[6]:111[8] Interest paid represents compensation for the use of the lender's money or property and thus represents profit or an accession to wealth to the lender.[6]:111 Interest income can be attributed to lenders even if the lender doesn't charge a minimum amount of interest.[6]:112
> 6. Interest paid to the lender may be deductible by the borrower.[6]:111 In general, interest paid in connection with the borrower's business activity is deductible, while interest paid on personal loans are not deductible.[6]:111The major exception here is interest paid on a home mortgage.[6]:111

65. The plaintiff has never declared as taxable income any receipt or repayment under its MCA contract.

66. The plaintiff's contract seeks to violate the tax law of the United States.

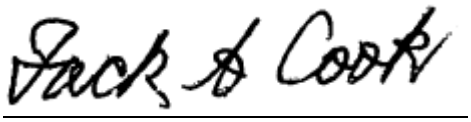
67. The contract should be stricken and the action dismissed. Rosenblum v. Manufacturers Trust Co., 270 N.Y. 79, 84-85[1936]:

> "[E]quity can interfere in a suit for cancellation or rescission to prevent the enforcement of an unjust agreement induced by a unilateral mistake of fact. A mistake not mutual but only on one side may be ground for rescinding but not for reforming a contract. (Smith v. Mackin, 4 Lans. 41, 44, 45; Moffett, Hodgkins & Clarke Co. v. Rochester, 178 U.S. 373.) If the erroneous transaction was such as to involve the act of the plaintiff only and the effect of the transaction would be the unjust enrichment of the defendant, the plaintiff is entitled to have the transaction rescinded, although he was the only party mistaken. (Clark on Equity, § 372.)".
>
> Metropolitan Model Agency USA v. Rayder, 168 Misc. 2d 324, 326 [1996]:
> "[I]t is well-settled law that a contract which violates a State statute is void and unenforceable. (New York State Med. Transporters Assn. v Perales, 77 NY2d 126, 133; Weir Metro Ambu-Serv. v Turner, 57 NY2d 911; Village of Upper Nyack v Christian & Missionary Alliance, 143 Misc 2d 414, affd 155 AD2d 530.)"

68. The contract requiring defendant to pay sales and income taxes on the purchased amount, in addition to the unheard of interest and repayment, it is illusory.

WHEREFORE, defendants respectfully demand judgment dismissing the complaint.

Dated: April 14, 2025



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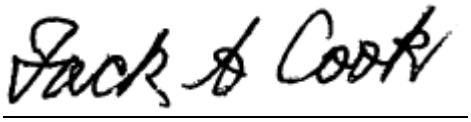
VERIFICATION: State of New York, County of Nassau, ss.: The undersigned attorney for defendants, duly admitted to practice in the courts of the State of New York, affirms under penalties of perjury: that he has read the foregoing answer, and knows the contents thereof; that it is true upon information and belief and I believe it to be true. This verification is made by me because defendants are not in the county where I have my office. The source of my information is privileged emails and discussions with the individual defendant and review of plaintiff's documents.

Dated: April 14, 2025



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