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4 Attorney for Plaintiff,
Damian Kutzner
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8 UNITED STATES BANKRUPTCY COURT
9 CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA
10

11 In Re) CASE NO. SA08-12656-ES
12)
12 DAMIAN KUTZNER,) CHAPTER 7
13)
14) COMPLAINT FOR DAMAGES AND
15) RESCISSION FOR VIOLATIONS
16) OF THE HOME OWNERSHIP EQUITY
17) PROTECTION ACT AND CIVIL RICO
18)
19 Debtors.) (15 U.S.C. 1639)
20) (18 U.S.C. 1961)

21 _____)
22)
23 DAMIAN KUTZNER, an individual,) ADV. NO.
24)

25 Plaintiff,)
26)

v.)

SECURITY DISCOUNT LENDERS,)
a corporation, JENNIFER)
F. BAKKER, an individual,)
EDGE CAPITAL, a corporation,)
and Does 1 - 50,)

Defendants.)
_____)

1 The Plaintiff, Damian Kutzner, brings this action against
2 Defendants, Security Discount Lenders, Jennifer F. Bakker, and
3 Edge Capital, to seek redress for their failure to comply with
4 the provisions of 15 U.S.C. 1639 and enforce Plaintiff's right
5 to rescind the subject loan contracts, both of which violate the
6 Federal Home Ownership and Equity Protection Act ("HOEPA").

7
8 Plaintiff, Damian Kutzner, hereby alleges as follows:

9 **JURISDICTION AND VENUE**

10 1. This Court has jurisdiction over the subject matter and
11 the parties of this lawsuit based upon Federal Consumer Protection
12 Laws and the applicable provisions of the U.S. Bankruptcy Code.

13
14 2. Venue is proper pursuant to 28 U.S.C. Section 1409(a).

15 **THE PARTIES**

16 3. Plaintiff, Damian Kutzner ("KUTZNER"), is and at all
17 relevant times herein mentioned was, an individual residing and
18 doing business in Orange County, California.

19 4. Defendant, Security Discount Lenders ("SECURITY"), is
20 and at all relevant times herein mentioned was, a corporation
21 engaged in the business of providing consumer mortgage loans in
22 Orange County, California.

23
24 5. Defendant, Jennifer F. BAKKER ("BAKKER"), is and at all
25 relevant times herein mentioned was, an individual residing and
26

1 engaged in the business of providing consumer mortgage loans in
2 Orange County, California.

3 6. Defendant, Edge Capital ("EDGE CAPITAL"), is and at all
4 relevant times herein mentioned was, a corporation engaged in the
5 business of providing consumer mortgage loans in Orange County,
6 California.

7
8 7. Plaintiff is ignorant of the true names and capacities
9 of Defendants sued herein as Does 1 through 50, and therefore sues
10 these Defendants by such fictitious names, however, each of the
11 fictitiously named Defendants is responsible in some manner for
12 the occurrences herein alleged and Plaintiff's injuries were
13 proximately caused thereby. Plaintiff will amend this Complaint
14 to allege their true names and capacities when ascertained.
15

16 8. Plaintiff is informed and believes and thereon alleges
17 that at all times herein mentioned, Defendants and Does 1
18 through 50 were the agents, servants and employees of their co-
19 Defendants, and in doing the things hereinafter alleged were
20 acting in the scope of their authority as such agents, servants
21 and employees, and with the permission and consent of their co-
22 Defendants.
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1 9. At all relevant times, each Defendant knew or realized
2 that the other Defendants were engaging in or planned to engage
3 in the violations of law alleged in this Complaint.

4 10. The violations of law alleged in this Complaint
5 occurred in Orange County, California and elsewhere throughout
6 California and the United States.

7 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

8 11. This is an action brought pursuant to the Federal Home
9 Ownership and Equity Protection Act (hereinafter "HOEPA") based
10 upon the Defendants' provision of high interest home mortgages
11 to KUTZNER, both in excess of ten percent (10%) above the rate
12 for Treasury Securities of a Comparable Term (thus triggering
13 HOEPA protections), further these loans were made without regard
14 to KUTZNER'S ability to repay them and they also both include
15 prohibited provisions within the repayment terms, specifically:
16 requiring a prepayment penalty and a balloon payment while the
17 terms of said loans were for less than (5) years, a prohibited
18 term under 15 U.S.C. 1639 and thus a violation of HOEPA.

19 12. Additionally, this action seeks to rescind both loan
20 contracts, as is KUTZNER's right under HOEPA, by extending his
21 "Right of Rescission" for three (3) years from the closing of
22 said contracts, which as of January 9, 2009, such time has yet
23 to pass.

24 13. Plaintiff is seeking declaratory and injunctive relief,
25 statutory, and actual damages, for all amounts paid to
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1 Defendants, as well as interest, costs and attorney's fees
2 incurred with relation to all Defendants.

3 **FACTUAL ALLEGATIONS**

4 14. On or about April 23, 2007 KUTZNER entered into a
5 written agreement with SECURITY DISCOUNT, a California
6 corporation, whereby KUTZNER would borrow \$100,000 with the
7 promise to repay, secured by his primary residence at 511 Cliff
8 Drive, Newport Beach, CA 92663.

9 15. The repayment terms of said contract required KUTZNER
10 to pay interest charged on said loan at an annual rate of
11 fifteen percent (15%). Each month, KUTZNER was required to pay
12 \$1,250 and at the end of the loan term, one year later, on May
13 1, 2008, KUTZNER was liable for the entire amount borrowed
14 pursuant to the terms of the Interest Only Balloon Note, a true
15 and correct copy of which is attached hereto as **Exhibit A** and
16 incorporated by reference.

17 16. KUTZNER made payments as agreed until approximately
18 March 2008, at which time, due to the predatory terms of said
19 loan, KUTZNER became unable to make such payments and Defendant,
20 BAKKER demanded the entire amount due per the Balloon Note,
21 which based on information and belief, she assumed from
22 Defendant, SECURITY DISCOUNT, sometime after KUTZNER borrowed
23 the funds from SECURITY DISCOUNT.

24 17. Based on information and belief, BAKKER was the actual
25 funder of this loan, and after SECURITY DISCOUNT "borrowed" the
26 funds to KUTZNER, she immediately assumed ownership and

1 servicing rights on the loan. As this court is aware KUTZNER is
2 now bankrupt and it is no coincidence that he was victimized by
3 predatory lending, not once but twice. (Case No. SA08-12656-ES).

4 18. On or about June 7, 2007, KUTZNER entered into a
5 written agreement with EDGE CAPITAL, a California corporation,
6 whereby KUTZNER would borrow \$200,000 with the promise to repay,
7 secured by his primary residence at 511 Cliff Drive, Newport
8 Beach, CA 92663.

9 19. The repayment terms of said contract required KUTZNER
10 to pay interest charged on said loan at an annual rate of
11 14.25%. Each month, KUTZNER was required to pay \$2,375 and at
12 the end of the loan term, believed to be one year later, on May
13 1, 2008, KUTZNER was liable for the entire amount borrowed,
14 pursuant to the terms of the subject Balloon Note A true and
15 correct copy of the Adjustable Rate Rider is attached hereto as
16 **Exhibit B** and incorporated by reference. Due to the predatory
17 terms of said loan, KUTZNER became unable to make such payments
18 and Defendant, EDGE CAPITAL demanded the entire amount due per
19 the Balloon Note.

20 20. At the time of the closing of the EDGE CAPITAL loan,
21 KUTZNER's credit score was 460 and 501, while 680 is considered
22 fair to good, anything below is considered high risk or a poor
23 FICO credit score. Both EDGE CAPITAL and SECURITY DISCOUNT/
24 BAKKER lent monies to KUTZNER per interest only loans, at terms
25 both in excess of 10% above the rate for Treasury Securities of
26 a Comparable Term (thus triggering HOEPA protections), further

1 these loans were made without regard to KUTZNER'S ability to
2 repay them and they also include prohibited provisions within
3 the repayment terms, specifically: requiring a balloon payment,
4 while the terms of said loans were for less than (5) years, a
5 prohibited term under 15 U.S.C. 1639 and thus a violation of
6 HOEPA.

7 **FIRST CAUSE OF ACTION**

8 **(Violations of Home Ownership Equity Protection Act)**

9 21. Plaintiff incorporates by reference each and every
10 allegation contained in Paragraphs 1 through 20 above as though
11 fully set forth hereat.

12 22. Plaintiff brings this action against Defendants for
13 statutory and actual damages based upon their violations of the
14 Home Ownership Equity Protection Act provisions of 15 U.S.C.
15 1601, et seq., (hereinafter "HOEPA"). KUTZNER alleges:

16 23. KUTZNER'S 2007 mortgage loan transactions were an
17 extension of credit by a creditor subject to HOEPA and the
18 implementing Federal Reserve Board Regulation Z, 12 C.F.R. part
19 226.32.

20 24. KUTZNER is accordingly entitled to rescind any loan
21 which contains a prohibited term three (3) years from the date
22 of closing as such violation triggers the Truth in Lending Act
23 right of rescission, which can and is now being raised in this
24 Chapter 7 Bankruptcy proceeding.

25 25. The SECURITY DISCOUNT/BAKKER loan contained a provision
26 for prepayment penalties in violation of 15 U.S.C. 1639 and

1 implementing Federal Reserve Board Regulation Z, 12 C.F.R. part
2 226.32. A true and correct copy of the Prepayment Note
3 Addendum is attached as **Exhibit C** and incorporated by reference.

4 26. Both loans contain provisions whereby Balloon Payments
5 are due upon maturity of the loan, for a term less than five (5)
6 years (ie. one (1) year to be exact), a violation of 15 U.S.C.
7 1639 and 12 C.F.R. 226.32 thereby triggering the automatic three
8 (3) year Right of Rescission.

9 27. Furthermore, Defendants clearly extended credit to
10 KUTZNER without regard to his ability to repay the mortgages in
11 violation of 15 U.S.C. 1639 and 12 C.F.R. 226.32(e)(1).

12 28. Defendants violated HOEPA and Regulation Z by including
13 prohibited terms and by providing a mortgage loan to KUTZNER
14 without regard to his ability to repay the loan.

15 29. KUTZNER is entitled to rescind his mortgage loans up to
16 and until three (3) years from the closing of said loans. As
17 such, he hereby exercises his right to rescind these mortgage
18 loan transactions.

19 30. With relation thereto, it has become necessary for
20 KUTZNER to retain legal counsel to prosecute civil litigation
21 based upon the Act, and counsel has incurred and will incur
22 attorneys fees, costs and other related expenses in prosecuting
23 this action.
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SECOND CAUSE OF ACTION

(Civil RICO)

1
2
3 31. Plaintiff incorporates by reference each and every
4 allegation contained in Paragraphs 1 through 30 above as though
5 fully set forth hereat.

6 32. Defendants are all "persons" pursuant to 18 U.S.C.
7 Section 1961(3).

8 33. Defendants, SECURITY DISCOUNT and EDGE CAPITAL, are both
9 an "enterprise" pursuant to 18 U.S.C. Section 1961(4).

10 34. SECURITY DISCOUNT and EDGE CAPITAL, together with the
11 other Defendants, as the agents and/or employees thereof, have
12 operated and managed the subject business through a pattern of
13 racketeering activity, in violation of 18 U.S.C. Section 1962(b).

14 35. Specifically, Defendants' operation, management and
15 business practices set forth above were accomplished and
16 effectuated through schemes, which have resulted in injury and
17 damage to Plaintiff and potentially others (ie. other borrowers as
18 well as the public at large per claim based on Unfair Business
19 Practices).
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22 36. The scheme was to defraud Plaintiff and others by making
23 fraudulent, deceptive and illegal loans and engaging in false,
24 deceptive and misleading business practices with the wrongful
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26

1 intent to deprive them of their rights and interests contrary to
2 applicable law(s).

3 37. The conduct which constitutes the predicate acts for the
4 scheme are as more fully set forth above and in the First Cause of
5 Action for Violations of HOEPA.

6 38. The loan statements, demands, notices, etc. with regard
7 thereto were transmitted through the United States mails and other
8 instrumentalities of interstate commerce with the willful intent
9 to devise a scheme to defraud, in violation of 18 U.S.C. Section
10 1341.

11 39. Defendants' violations of 18 U.S.C. Section 1962(b)
12 through a pattern of racketeering activity has damaged Plaintiff
13 and others in an amount believed to be in excess of \$25,000,000.

14 40. Accordingly, Plaintiff is entitled to recover from
15 Defendants, jointly and severally, compensatory damages of at
16 least \$1,000,000, treble damages and reasonable attorneys' fees
17 under 18 U.S.C. Section 1964 as well as further damages according
18 to proof.
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22 WHEREFORE, the Plaintiff herein prays for judgment against
23 Defendants, and each of them, as follows:

- 24 1. For actual damages according to proof and in
25 the amount requested in each Cause of Action;
26 2. For interest thereon from and after May 1, 2008;

- 1 3. For all statutory damages as is appropriate,
- 2 including damages pursuant to 15 U.S.C. § 1640;
- 3 4. For punitive damages according to proof;
- 4 5. For rescission of the April 2007 and June 2007 mortgage
- 5 loan transactions and the subject Balloon Notes;
- 6 6. For reasonable attorneys fees incurred herein,
- 7 including attorneys fees pursuant to HOEPA;
- 8 7. For costs of suit incurred herein; and
- 9 8. For such other and further relief as the court deems
- 10 just and proper.

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13 REQUEST FOR JURY TRIAL

14 Plaintiff hereby requests a Trial by Jury.

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17 LAW OFFICES OF KELLY S. JOHNSON

18
19 DATED: 1/9/09

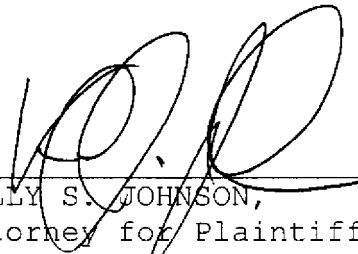
20 
21 _____
22 KELLY S. JOHNSON,
23 Attorney for Plaintiff,
24 Damian Kutzner
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Exhibit A

NOTES ON BALANCE

(Fixed Rate)

THIS LOAN IS PAYABLE IN FULL AT MATURITY. YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. THE LENDER IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. YOU WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS THAT YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER, WHICH MAY BE THE LENDER YOU HAVE THIS LOAN WITH, WILLING TO LEND YOU THE MONEY. IF YOU REFINANCE THIS LOAN AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL OF THE CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN EVEN IF YOU OBTAIN REFINANCING FROM THE SAME LENDER.

APRIL 23, 2007 Arcadia California
511 Cliff Drive; Newport Beach, CALIFORNIA 92663
(City) (State)
(Property Address)

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 100,000.00 (this amount is called "principal"), plus interest, to the order of the Lender. The Lender is Security Discount Lenders, A California Corporation

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of principal has been paid. I will pay interest at a yearly rate of 15.000 %.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay interest by making payments every month. I will make my monthly payments on the 1ST day of each month beginning on JUNE 01, 2007. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. My monthly payments will be applied to interest before principal. If, on MAY 01, 2008, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at 701 South First Avenue Arcadia, CA 91006, or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$ 1,250.00

4. BORROWER'S RIGHT TO PREPAY

I have the right to make payments of principal at any time before they are due. A payment of principal only is known as a "prepayment." When I make a prepayment, I will tell the Note Holder in writing that I am doing so.

I may make a full prepayment or partial prepayments without paying any prepayment charge. The Note Holder will use all of my prepayments to reduce the amount of principal that I owe under this Note. If I make a partial prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the principal I owe under this Note or by making a direct payment to me. If a refund reduces principal, the reduction will be treated as a partial prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is delivered or mailed to me.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety, or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of presentment and notice of dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

PREPAYMENT ADDENDUM TO NOTE ATTACHED HERETO AND MADE A PART HEREOF.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

Damian R. Kutzner
(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

Exhibit B

Loan Number: 8807000407

ADJUSTABLE RATE RIDER

THIS ADJUSTABLE RATE RIDER is made this 21st day of JUNE, 2007, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Adjustable Rate Note (the "Note") to EDGE CAPITAL INC., A CALIFORNIA CORPORATION (the "Lender") of the same date and covering the property described in the Security Instrument and located at:

511 CLIFF DRIVE, NEWPORT BEACH, CALIFORNIA 92663

[Property Address]

THE NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE AND THE MONTHLY PAYMENT. THE NOTE LIMITS THE AMOUNT THE BORROWER'S INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE THE BORROWER MUST PAY.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

A. INTEREST RATE AND MONTHLY PAYMENT CHANGES

The Note provides for an initial interest rate of 14.250%. The Note provides for changes in the interest rate and the monthly payments as follows:

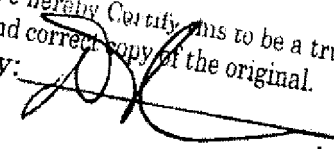
4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the 1st day AUGUST, 2007, and on that day every 1st month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the Highest Prime Rate as published in the Wall Street Journal in the Money Rate Section. Borrower acknowledges that said rate is not necessarily the best rate available from Lender or any other institution.~~

We hereby certify this to be a true
and correct copy of the original.
By: 

If the Index is no longer available, the Note Holder will choose a new index which is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding SIX AND 000/1000 percentage points (6.000 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the maturity date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 15.250 % or less than 14.250 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE AND 000/1000 percentage points (1.000 %) from the rate of interest I have been paying for the preceding 1 months. My interest rate will never be greater than 19.250 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

Section 18 of the Security Instrument is amended to read as follows:

Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan

We hereby Certify this to be a true
and correct copy of the original.

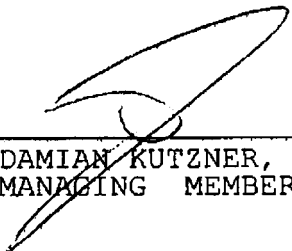
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assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

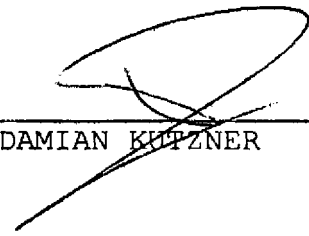
To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender may also require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Adjustable Rate Rider.



DAMIAN KUTZNER, (Seal)
MANAGING MEMBER -Borrower



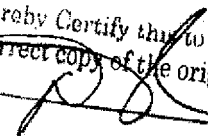
DAMIAN KUTZNER (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

We hereby Certify this to be a true and correct copy of the original.
By: 

[Sign Original Only]

Exhibit C

PREPAYMENT NOTE ADDENDUM (Multi-State)

This Prepayment Note Addendum is made this 23RD day of APRIL, 2007 and is incorporated into and shall be deemed to amend and supplement the Note of the same date (the "Note") made by the undersigned (the "Borrower") to evidence indebtedness to Security Discount Lenders, A California Corporation

(the "Lender") which debt is secured by a Mortgage or Deed of Trust or comparable security instrument (the "Security Instrument") of the same date and covering the property described in the Security Instrument and located at

511 Cliff Drive

Newport Beach, CALIFORNIA 92663

(the "Property").

Additional Covenants. Notwithstanding anything to the contrary set forth in the Note or Security Instrument, Borrower and Lender covenant, and agree, that the provisions of the section of the Note entitled "BORROWER'S RIGHT TO PREPAY" are amended to read as follows:

Subject to the Prepayment penalty provided below, I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." A "Full Prepayment" is the Prepayment of the entire unpaid principal due under the Note. A payment of only part of the unpaid Principal is known as a "Partial Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I/We have the right to make payments of principal at any time before they are due. The payment of principal only is known as a "prepayment." When I/we make a prepayment, I/we will tell the Note Holder in writing that I/we am/are doing so. If, within the first 6 months following the date of the Note and Security Instrument I/we make a full prepayment or partial prepayment(s), I/we will at the same time pay to the Note Holder a prepayment charge. The prepayment charge will be equal to Four (4) months interest at the agreed rate of charge on the amount of any prepayment that when added to all other amounts prepaid during the twelve (12) month period preceding the date of any prepayment, exceeds twenty percent (20%) of the original principal amount of the Note.

No prepayment penalty will be assessed for any prepayment made after the first 6 months of the Note term.

The Note Holder will apply all Prepayments to reduce the amount of Principal that I owe under the Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a Partial Prepayment, there will be no change in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes.

If my Note is an Adjustable Rate Note, Partial Prepayments may reduce the amount of my monthly payment after the first interest rate Change Date following the Partial Prepayment. However, any reduction due to my Partial Prepayment may be offset by an interest rate increase.

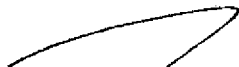
The Note Holder's failure to collect a Prepayment charge at the time a Prepayment is received shall not be deemed a waiver of such charge. Any Prepayment charge not collected at the time the Prepayment is received shall be payable on demand.

All other provisions of the Note are unchanged and remain in full force and effect.

NOTICE TO BORROWER

Do not sign this Addendum before you read it. This Addendum provides for the payment of a Prepayment charge if you wish to repay the loan prior to the date provided for repayment in the Note.

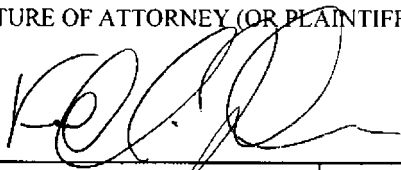
WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED:



FORM 104 (10/06)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Damian Kutzner	DEFENDANTS Security Discount Lenders, Jennifer F. Bakker, Edge Capital,	<div style="border: 2px solid black; padding: 5px; width: fit-content; margin: auto;"> <p style="font-size: 1.2em; font-weight: bold; margin: 0;">RECEIVED</p> <p style="font-size: 1.2em; font-weight: bold; margin: 0;">JAN - 9 2009</p> <p style="font-size: 0.8em; margin: 0;">CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA BY _____ Deputy Clerk</p> </div>
ATTORNEYS (Firm Name, Address, and Telephone No.) Kelly S. Johnson, Esq. 180 Newport Center Drive, Ste.100 Newport Beach, CA 92660	ATTORNEYS (If Known)	
PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) HOEPA Violations and Civil RICO (18 USC Section 1341 & 1961) (15 USC Section 1601)		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
FRBP 7001(1) - Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) - Validity, Priority or Extent of Lien <input checked="" type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) - Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) - Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) - Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) - Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <small>042 ~2 «»1/2 » ~1/2 «3 2 +</small>	FRBP 7001(6) - Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) - Injunctive Relief <input type="checkbox"/> 71-Injunctive relief - reinstatement of stay <input type="checkbox"/> 72-Injunctive relief - other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case - 15 U.S.C. §§78aaa et. seq. <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ 500,000	
Other Relief Sought Rescission of improper loans,		

FORM 104 (10/06), Page 2

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES			
NAME OF DEBTOR Damian Kutzner		BANKRUPTCY CASE NO.	
DISTRICT IN WHICH CASE IS PENDING Central	DIVISIONAL OFFICE Santa Ana	NAME OF JUDGE Erithe A. Smith	
RELATED ADVERSARY PROCEEDING (IF ANY)			
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.	
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE	
SIGNATURE OF ATTORNEY (OR PLAINTIFF) 			
DATE 1/9/09	PRINT NAME OF ATTORNEY (OR PLAINTIFF) KELLY S. JOHNSON		

Print Form

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also complete and file Form 104, the Adversary Proceeding Cover Sheet, if it is required by the court. In some courts, the cover sheet is not required when the adversary proceeding is filed electronically through the court's Case Management/Electronic Case Files (CM/ECF) system. (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and the defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and in the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.