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Attorneys for third party Charles Riharb

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE  
 COMMISSION,

Plaintiff,

vs.

GINA CHAMPION-CAIN and ANI  
 DEVELOPMENT, LLC,

Defendants,

AMERICAN NATIONAL  
 INVESTMENTS, INC.,

Relief Defendant.

Case No. 3:19-cv-01628-LAB-AHG

**DECLARATION OF CHARLES M.  
 RIHARB IN SUPPORT OF HIS  
 OPPOSITION TO RECEIVER'S  
 MOTION TO AMEND ORDER FOR  
 SALE OF 737 WINDEMERE COURT  
 PROPERTY FREE AND CLEAR OF  
 HIS RECORDED DEED OF TRUST**

Date: September 18, 2020  
 Time: 2:00 p.m.  
 Courtroom TBD  
 Mag. Judge: Hon. Allison H. Goddard

I, Charles M. Riharb, declare as follows:

1. I am an investor in ANI Development, LLC's liquor license loan funding program. I was defrauded out of my investment by Gina Champion-Cain and Chicago Title Company, with whom I dealt directly. As such, I have personal knowledge of the facts stated in this declaration, and if called as a witness, could and would testify competently thereto.

///

1           2.     On behalf of myself and my family trust, I made loans to what I  
2 believed were legitimate liquor license transfer applications as part of ANI's  
3 purported liquor license loan funding program. On a number of occasions, I  
4 allowed what I believed to be matured loans to "roll over" into new loans. In or  
5 about March 2019, my then-current loan was set to mature, and I was considering  
6 cashing out. When I advised Ms. Champion-Cain of my intentions, she convinced  
7 me to roll over my funds one more time and make a loan she anticipated would pay  
8 out in six months, *i.e.* by August 2019. On or about March 12, 2019, I spoke with  
9 Ms. Champion-Cain by phone and we verbally agreed that she would secure the  
10 principal amount of my loan of \$1,574,762.00 by executing promissory notes and  
11 deeds of trust in my favor on two pieces of real property that she was authorized to  
12 pledge, namely (1) 737 Windemere Court, San Diego, California 92109 (the  
13 "Windemere Property") and (2) 750 Yarmouth Court, San Diego, California 92109  
14 (the "Yarmouth Property"). In that March 12, 2019 call, Ms. Champion-Cain  
15 agreed that she and ANI were obligated to secure my principal by entering into  
16 such security instruments if I was not repaid in full by August 15, 2019, the  
17 expected payout date of the new loan.

18           3.     My security arrangement with Ms. Champion-Cain only covered the  
19 principal amount of my investment, *i.e.* \$1,574,762.00. It did not cover the  
20 supposed appreciated value of my investment with ANI or interest, which was close  
21 to \$3 million. I have never received any of the amounts that I deposited with  
22 Chicago Title in connection with ANI's purported liquor license loan funding  
23 program.

24           4.     The August 15, 2019 payout date came and went without any payment  
25 to me by ANI or Ms. Champion-Cain. At or about the end of the last week of  
26 August 2019, I saw a news article referencing fraud allegations against  
27 Ms. Champion-Cain. I had a pre-planned visit to San Diego scheduled after Labor  
28 Day on unrelated business, so I called Ms. Champion-Cain on or about September

1 1, 2019, and asked if she would meet me the following day on my arrival in San  
2 Diego to discuss my investment. She agreed to meet with me.

3 5. On or about Labor Day, September 2, 2019, I met with Ms. Champion-  
4 Cain, asked about the fraud charges I had read about, and asked whether she would  
5 honor her commitment to secure the principal amount of my loan as we had  
6 discussed in March. Ms. Champion-Cain told me that the allegations against her  
7 were not true, that there might be a delay but that she would see to it that all  
8 investors would be made whole and that she had no problem formalizing the  
9 security instruments to which she had earlier agreed.

10 6. In the event she was amenable, I had prepared form promissory notes  
11 and deeds of trust for the Windemere and Yarmouth Properties and presented them  
12 to Ms. Champion-Cain during our September 2, 2019 meeting. When she said that  
13 she was willing to sign them, I called a mobile notary service so that  
14 Ms. Champion-Cain's signatures on the instruments would be notarized. I did not  
15 pressure Ms. Champion-Cain to sign the documents. She was more than happy to  
16 sign them at the time.

17 7. On September 3, 2019, before my other meetings, I took the two  
18 signed deeds of trust to the San Diego County Recorder's office, paid the fees and  
19 had them recorded against the Windemere and Yarmouth Properties at 8:25 a.m.  
20 True and correct copies of the deeds of trust are attached as **Exhibits "1" and "2,"**  
21 respectively.

22 8. At the time that I had the deeds of trust recorded, I was unaware that  
23 the Securities and Exchange Commission had filed a motion to have Krista Freitag  
24 appointed as receiver. I only later learned that an order on the SEC's motion was  
25 entered sometime in the afternoon of September 3, 2019, after I had already  
26 recorded the two deeds of trust.

27 9. On or about October 14, 2019, I received an email and voice message  
28 from Ted Fates, who identified himself as counsel for the receiver. Mr. Fates

1 indicated that he wanted to have a conversation with me. On or about November 8,  
 2 2019, I spoke with Mr. Fates, along with my then counsel, Andrew Holmes, and  
 3 explained the nature of the loans I had made in the ANI liquor license loan funding  
 4 program and the liens I had obtained on the Windemere and Yarmouth Properties.

5 10. Thereafter, I received a subpoena from the receiver through my then  
 6 attorney, Mr. Holmes. In or about December 2019, I provided Mr. Holmes with  
 7 copies of documents pertaining to my liquor license investment and security  
 8 instruments for the Windemere and Yarmouth Properties, which he sent to  
 9 Mr. Fates.

10 11. Until the present motion, I was unaware that the receiver had filed  
 11 motions to sell the Windemere and Yarmouth Properties without my consent and  
 12 despite my deeds of trust having been recorded against them.

13 12. As I explained to Mr. Fates approximately 10 months ago, I received  
 14 the security instruments in good faith based on Ms. Champion-Cain's commitment  
 15 to me back in March 2019 to secure the principal of my investment being rolled-  
 16 over into a new loan and Ms. Champion-Cain's willingness in September 2019 to  
 17 reconfirm her commitments to me and sign the security instruments.

18 I declare under penalty of perjury under the laws of these United States that  
 19 the foregoing is true and correct.

20 Executed on September 11, 2020, in Goleta, California.

21  
22  
23 

24 CHARLES M. RIHARB

EXHIBIT “1”

DOC# 2019-0376706



Sep 03, 2019 08:25 AM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$202.00 (SB2 Atkins: \$150.00)

PCOR: N/A

PAGES: 8

PLEASE COMPLETE THIS INFORMATION.

RECORDING REQUESTED BY:

Charles Riharb

AND WHEN RECORDED MAIL TO:

Charles Riharb

512 Vereda del Cierro

Goleta CA 93117

THIS SPACE FOR RECORDER'S USE ONLY

Deed of Trust And Assignment of Rents securing A

(Please fill in document title(s) on this line)

Promissory Note

Between Windmere Court LLC, Gina Champion - GAN + Charles Riharb  
Dated 9/2/2019

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)



Recording requested by:

CHARLES RIHARH

And when recorded, mail to:

CHARLES RIHARH512 VEREDA DEL CIERVOGOLETA CA 93117

For recorder's use

**DEED OF TRUST AND  
ASSIGNMENT OF RENTS  
SECURING A PROMISSORY  
NOTE****Declaration of Exemption From Gov't Code § 27388.1 Fee**

- ☐ Transfer is exempt from fee per GC § 27388.1(a)(2):  
☐ recorded concurrently "in connection with" transfer subject to DTT  
☐ recorded concurrently "in connection with" a transfer of residential dwelling to an owner-occupier  
☐ Transfer is exempt from fee per GC 27388.1(a)(1):  
☐ Fee cap of \$225.00 reached ☐ Not related to real property

This Deed of Trust, made 9/2/2019, between WINDMERE COURT LLC, whose address is 3515 HANCOCK ST SAN DIEGO CA 92110, as the Trustor, FIRST AMERICAN TITLE COMPANY, a California Corporation, as the Trustee, and Charles Riharh, whose address is 512 Vereda del Ciervo, Goleta, CA 93117 as the Beneficiary.

**1. Trustor hereby IRREVOCABLY GRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE,**

1.1 the real property in the City of SAN DIEGO, County of SAN DIEGO, California, referred to as: 737 WINDMERE CT. SAN DIEGO CA 92109  
2nd D BLK: 238 TR 1809 Block 1651  
(See AHAHMENT A)

APN: 423 5511000

1.2 TOGETHER WITH the rents, issues and profits of the real property, subject to the provisions of §3.4, herein to collect and apply the rents, issues and profits,

**1.3 For the purpose of securing payment of:**

- the indebtedness evidenced by a promissory note of the same date executed by Trustor, in the sum of \$ 1,574,762.00;
- Any additional sums and interest hereafter loaned by Beneficiary to the then record Owner of the real property, evidenced by a promissory note or notes, referencing this Deed of Trust as security for payment;
- The Beneficiary's charge for a statement regarding the secured obligations requested by or for Trustor; and
- The performance of each agreement contained in this Deed of Trust.

**2. To protect the security of this Deed of Trust, Trustor agrees:**

**2.1 CONDITION OF PROPERTY** – To keep the property in good condition and repair; not to remove or demolish any building; to complete and restore any building which may be constructed, damaged or destroyed; to comply with all laws affecting the property or requiring any alterations or improvements to be made; not to commit or permit waste; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of the property may be reasonably necessary.

**2.2 HAZARD INSURANCE** – Trustor will continuously maintain hazard insurance against loss by fire, hazards included within the term "extended coverage," and any other hazards for which Beneficiary requires insurance. The insurance will be maintained in the amounts and for the periods Beneficiary requires. The insurance carrier providing the insurance will be chosen by



Trustor, subject to Beneficiary's approval, which will not be unreasonably withheld. All insurance policies will be acceptable to Beneficiary, and contain loss payable clauses acceptable to Beneficiary. Beneficiary will have the right to hold policies and renewals.

In the event of loss, Trustor will give prompt notice to the insurance carrier and Beneficiary. Beneficiary may make proof of loss if not made promptly by Trustor. Beneficiary may place the proceeds in a non-interest bearing account to be used for the cost of reconstruction of the damaged improvements. If Trustor fails to reconstruct, Beneficiary may receive and apply the loan proceeds to the principal debt hereby secured, without a showing of impairment.

**2.3 ATTORNEY FEES** – To appear in and defend any action or proceeding purporting to affect the security, or the rights and powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidencing title and attorney fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

**2.4 TAXES AND SENIOR ENCUMBERANCES** – To pay at least 10 days before delinquency: all taxes and assessments affecting the property, including water stock assessments when due, all encumbrances, charges and liens, with interest, on the property which are or appear to be senior to this Deed of Trust; and all expenses of this Deed of Trust.

**2.5 ACTS AND ADVANCES TO PROTECT THE SECURITY** – If Trustor fails to make any payment or to perform any act provided for in this Deed of Trust, then Beneficiary or Trustee may, without obligation to do so, and with or without notice or demand upon Trustor, and without releasing Trustor from any obligation under this Deed of Trust:

- a) Make or do the same to the extent either deems necessary to protect the security, Beneficiary or Trustee being authorized to enter upon the property to do so;
- b) Appear in or commence any action or proceeding purporting to affect the security, or the rights or powers of Beneficiary or Trustee;
- c) Pay, purchase, contest or settle any encumbrance, charge or lien that appears to be senior to this Deed of Trust.

In exercising the power of this provision, Beneficiary or Trustee may incur necessary expenses, including reasonable attorney fees.

Trustor to immediately pay all sums expended by Beneficiary or Trustee provided for in this Deed of Trust, with interest from date of expenditure at the same rate as the principal debt hereby secured.

**3. It is further mutually agreed that:**

**3.1 ASSIGNMENT OF DAMAGES** – Any award of damages made in connection with:

- a) Condemnation for use of or injury to the property by the public, or conveyance in lieu of condemnation; or
- b) Injury to the property by any third party;

is assigned to Beneficiary, who may apply or release the proceeds of such an award in the same manner and with the same effect as above provided for the disposition of hazard insurance proceeds.

**3.2 WAIVER** – By accepting payment of any sum due after its due date, Beneficiary does not waive Beneficiary's right to either require prompt payment when due of all other sums or to declare a default for failure to pay. Beneficiary may waive a default of any agreement of this Deed of Trust, by consent or acquiescence, without waiving any prior or subsequent default.

**3.3 DUE-ON-SALE** – If Trustor decides to sell, transfer or convey any interest in the property, legal or equitable, either voluntarily or by operation of law, then Beneficiary may, at Beneficiary's option, declare all sums secured by this Deed of Trust immediately due and payable.

**3.4 ASSIGNMENT OF RENTS** – Trustor hereby assigns and transfers to Beneficiary all right, title and interest in rents generated by the property, including rents now due, past due, or to become due under any use of the property, to be applied to the obligations secured by this Deed of Trust.



- a) Prior to a default on this Deed of Trust by Trustor, Trustor will collect and retain the rents
- b) On default by Trustor, Beneficiary will immediately be entitled to possession of all unpaid rents.

**3.5 ACCELERATION** – If payment of any indebtedness or performance of any agreement secured by this Deed of Trust is in default, Beneficiary may at Beneficiary's option, with or without notice to Trustor, declare all sums secured immediately due and payable by:

- a) Commencing suit for their recovery or for foreclosure of this Deed of Trust
- b) Delivering to Trustee a written notice declaring a default with demand for sale; a written Notice of Default and election to sell to be recorded by Trustee.

**3.6 TRUSTEE'S SALE** – On default of any obligation secured by this Deed of Trust and acceleration of all sums due, Beneficiary may instruct Trustee to proceed with a sale of the secured property under the power of sale granted herein, noticed and held in accordance with California Civil Code §2924 et seq.

**3.7 TRUSTOR'S OFFSET STATEMENT** - Within 10 days of Trustor's receipt of a written request by Beneficiary, Trustor will execute a written estoppel affidavit identifying for the benefit of any assignee or successor in interest of Beneficiary: the then owner of the secured property; the terms of the secured note, including its remaining principal balance; any taxes or assessments due on the secured property; that the secured note is valid and the Trustor received full and valid consideration for it; and that Trustor understands the note and this Deed of Trust are being assigned.

- 4. ADDENDA** – If any of the following addenda are executed by Trustor and recorded together with this Deed of Trust, the covenants and agreements of each will incorporate, amend and supplement the agreements of this Deed of Trust (check applicable boxes by hand): ☐ owner-occupancy rider; ☐ all-inclusive trust deed addendum; ☐ impounds for taxes and insurance addendum ☐ Private Mortgage Insurance (PMI) rider ☐ other:
- 5. RECONVEYANCE** – Upon written request from Beneficiary stating that all sums secured by this Deed of Trust have been paid, surrender of this Deed of Trust and the note to Trustee for cancellation, and payment of Trustee's fees, Trustee will reconvey the property held under this Deed of Trust.
- 6. SUCCESSORS, ASSIGNS AND PLEDGEES** – This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary will mean the holders and owner of the secured note, or, if the note has been pledged, the pledgee.
- 7. TRUSTEE'S FORECLOSURE NOTICES** – The undersigned Trustor(s) requests a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to Trustor at the address herein set forth.

Date: 9-2-19

Trustor: \_\_\_\_\_

*Gina Champion - CA* (signature)

*Winderme LLC*

*President Winderme LLC*

Date: \_\_\_\_\_

Trustor: \_\_\_\_\_

(signature)

**Attachment A – Property Description**

Attached and incorporated into Deed of Trust and Assignment of Rents Securing Promissory Note, Dated 9-2-2019

Property Address: 737 Windemere Ct, San Diego, CA 92109

Parcel ID: 423-551-10-00

State: CA

County: San Diego

City: San Diego

Subdivision: Mission Beach

Brief Description LOT D BLK 238 TR 1809

Book: 1651

Tract Number 1809

Block 238

Lot D

Latitude 32.78838

Longitude -117.254066

Block 238 LOT D of Tract 1809 Subdivision Mission Beach, County of San Diego, State of California as shown on a map recorded in Book 1651, in the office of the County Recorder of San Diego County, California.

Property Owner: WINDEMERE COURT LLC

Mailing Address: 3515 Hancock St. Ste 200 San Diego, CA 92110



# CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of SAN DIEGO }

On 9/2/19 before me, LORI J. LEIB,  
(Here insert name and title of the officer)

personally appeared GINA CHAMPION - CAIN and CHARLES MARTIN RICHARD, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

*[Signature]*

Notary Public Signature

(Notary Public Seal)



## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

DEED OF TRUST and ASSIGNMENT  
(Title or description of attached document)

OF RENTS  
(Title or description of attached document continued)

Number of Pages 4 Document Date 9/2/2019

### CAPACITY CLAIMED BY THE SIGNER

- ☒ Individual (s)  
☒ Corporate Officer

(Title)

- ☐ Partner(s)  
☐ Attorney-in-Fact  
☐ Trustee(s)  
☐ Other \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.



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State of California }

County of SAN DIEGO }

On 9/2/19 before me, LORI J. LEIB,  
(Here insert name and title of the officer)

personally appeared GINA CHAMPION - CAIN and CHARLES MARTIN RICHARD, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Lori J. Leib  
Notary Public Signature

(Notary Public Seal)



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- (Title)  
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  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.



**Promissory Note Secured by Deed of Trust**  
**(Page 1 of 2)**

1. For value received, ☒ I individually ~~and~~ ☒ We jointly and severally *Windermere Court, CCC and Gina Champion-Lain* promise to pay to the order of Charles Riharb at 512 Vereda del Ciervo, Goleta, CA 93117 \$ 1,574,762 with interest at the rate of 6% per year: **[choose one]**

☐ from the date this note is signed until the date it is due or is paid in full, whichever date occurs last.  
☒ from the date this note is signed until the date it is paid in full.

2. The signer(s) of this note also agree that this note shall be paid in installments plus a final balloon payment at end of a 24 month term, which include principal and interest, of not less than \$1,000 per month, due on the first day of each month, with the final balloon payment of the remaining balance of principal and interest. Furthermore, payments shall be made until such time as the principal and interest are paid in full which may be less but not more than 24 months.

3. If any installment payment due under this note is not received by the holder within 5 days of its due date, the entire amount of unpaid principal shall become immediately due and payable at the option of the holder without prior notice to the signer(s) of this note.

4. All outstanding principal, together with all accrued and unpaid Interest on the unpaid principal balance of this Note and all other sums then owed with respect to this Note, will be immediately due and payable upon the sale, transfer, assignment, hypothecation, or conveyance, including bankruptcy and receivership whether voluntary, involuntary or by operation of law (a "Transfer"), of all or any part of the real property described in the Deed of Trust (the "Property"), or any interest in the Property, to any person or entity who is not the Borrower, except to the extent prohibited by law. Borrower must notify Lender promptly in writing of any transaction or event, which may give rise to a Transfer

5. If the holder(s) of this note prevail(s) in a lawsuit to collect on it, the signer(s) agree(s) to pay the holder(s)' attorney fees in an amount the court finds to be just and reasonable.

Signer(s) agree(s) that until such time as the principal and interest owed under this note are paid in full, the note shall be secured by a deed of trust to real property commonly known as address 737 Windemere Ct, San Diego CA 92109, owned by WINDEMERE LLC, executed on September 2, 2019, at San Diego, San Diego County, and recorded on in the records of ~~Riverside~~ San Diego County, California.

Borrowers: Gina Champion-Cain  
+ WINDEMERE COURT LLC  
9-2-19 jointly + severally;

Date signed

San Diego, CA  
Location signed (city or county)

Borrower's Address

3515 Haverhill St.  
San Diego CA 92110

Lender: Charles R. Harb  
9-2-2019

Date signed

San Diego CA  
Location signed (city or county)

Borrower's Address

Lubers 512 VERDA DE CIERVO  
64644 CA 93117

By: [Signature]

Signature of Borrower

WINDEMERE LLC  
Gina Champion-Cain  
Gina Champion-Cain, President  
WINDEMERE COURT, LLC

By: [Signature]

Signature of ~~Borrower~~ Lender

CHARLES R. HARB

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of SAN DIEGO

On 9/2/2019 before me, LORI J. LEIB, personally appeared Gina Champion-Cain and Charles Martin Harb, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

**NOTARY SEAL**

WITNESS my hand and official seal.

[Signature]  
Signature of Notary



EXHIBIT “2”

PLEASE COMPLETE THIS INFORMATION.

RECORDING REQUESTED BY:

CHARLES RICHARb

AND WHEN RECORDED MAIL TO:

CHARLES RICHARb  
512 VEREDA del CIERVO  
GOLETA CA 93117

DOC# 2019-0376705



Sep 03, 2019 08:25 AM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$202.00 (SB2 Atkins: \$150.00)

PCOR: N/A

PAGES: 8

THIS SPACE FOR RECORDER'S USE ONLY

Deed of Trust And Assignment of Rents

i SECURING A PROMISSORY NOTE

(Please fill in document title(s) on this line)

Between GINA CHAMPION - CAIN, EVSURY BRANDS LLC & CHARLES RICHARb

APN 4233151700

750 YARMOUTH CT

SAN DIEGO CA 92109

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)



Recording requested by:

CHARLES RIHARB

And when recorded, mail to:

CHARLES RIHARB512 VEREDA del CIERVOGOLETA CA 93117

For recorder's use

**DEED OF TRUST AND  
ASSIGNMENT OF RENTS  
SECURING A PROMISSORY  
NOTE**

**Declaration of Exemption From Gov't Code § 27388.1 Fee**

- ☐ Transfer is exempt from fee per GC § 27388.1(a)(2):  
☐ recorded concurrently "in connection with" transfer subject to DTT  
☐ recorded concurrently "in connection with" a transfer of residential dwelling to an owner-occupier  
☐ Transfer is exempt from fee per GC 27388.1(a)(1):  
☐ Fee cap of \$225.00 reached ☐ Not related to real property

This Deed of Trust, made 9/2/2019, between LOV SURF BRANDS LLC, whose address is 3515 HANCOCK ST. SAN DIEGO CA 92110, as the Trustor, FIRST AMERICAN TITLE COMPANY, a California Corporation, as the Trustee, and Charles Riharb, whose address is 512 Vereda del Ciervo, Goleta, CA 93117 as the Beneficiary.

**1. Trustor hereby IRREVOCABLY GRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE,**

1.1 the real property in the City of SAN DIEGO, County of SAN DIEGO, California, referred to as: 750 YARMOUTH CT, SAN DIEGO, CA 92109  
LOT 0 BIR 244 TR 1809 Book 1651  
(SEE ATTACHMENT A)

APN: 4233151700

1.2 TOGETHER WITH the rents, issues and profits of the real property, subject to the provisions of §3.4, herein to collect and apply the rents, issues and profits,

**1.3 For the purpose of securing payment of:**

- the indebtedness evidenced by a promissory note of the same date executed by Trustor, in the sum of \$ 1,574,762.00;
- Any additional sums and interest hereafter loaned by Beneficiary to the then record Owner of the real property, evidenced by a promissory note or notes, referencing this Deed of Trust as security for payment;
- The Beneficiary's charge for a statement regarding the secured obligations requested by or for Trustor; and
- The performance of each agreement contained in this Deed of Trust.

**2. To protect the security of this Deed of Trust, Trustor agrees:**

**2.1 CONDITION OF PROPERTY** – To keep the property in good condition and repair; not to remove or demolish any building; to complete and restore any building which may be constructed, damaged or destroyed; to comply with all laws affecting the property or requiring any alterations or improvements to be made; not to commit or permit waste; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of the property may be reasonably necessary.

**2.2 HAZARD INSURANCE** – Trustor will continuously maintain hazard insurance against loss by fire, hazards included within the term "extended coverage," and any other hazards for which Beneficiary requires insurance. The insurance will be maintained in the amounts and for the periods Beneficiary requires. The insurance carrier providing the insurance will be chosen by



Trustor, subject to Beneficiary's approval, which will not be unreasonably withheld. All insurance policies will be acceptable to Beneficiary, and contain loss payable clauses acceptable to Beneficiary. Beneficiary will have the right to hold policies and renewals.

In the event of loss, Trustor will give prompt notice to the insurance carrier and Beneficiary. Beneficiary may make proof of loss if not made promptly by Trustor. Beneficiary may place the proceeds in a non-interest bearing account to be used for the cost of reconstruction of the damaged improvements. If Trustor fails to reconstruct, Beneficiary may receive and apply the loan proceeds to the principal debt hereby secured, without a showing of impairment.

**2.3 ATTORNEY FEES** – To appear in and defend any action or proceeding purporting to affect the security, or the rights and powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidencing title and attorney fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.

**2.4 TAXES AND SENIOR ENCUMBERANCES** – To pay at least 10 days before delinquency: all taxes and assessments affecting the property, including water stock assessments when due, all encumbrances, charges and liens, with interest, on the property which are or appear to be senior to this Deed of Trust; and all expenses of this Deed of Trust.

**2.5 ACTS AND ADVANCES TO PROTECT THE SECURITY** – If Trustor fails to make any payment or to perform any act provided for in this Deed of Trust, then Beneficiary or Trustee may, without obligation to do so, and with or without notice or demand upon Trustor, and without releasing Trustor from any obligation under this Deed of Trust:

- a) Make or do the same to the extent either deems necessary to protect the security, Beneficiary or Trustee being authorized to enter upon the property to do so;
- b) Appear in or commence any action or proceeding purporting to affect the security, or the rights or powers of Beneficiary or Trustee;
- c) Pay, purchase, contest or settle any encumbrance, charge or lien that appears to be senior to this Deed of Trust.

In exercising the power of this provision, Beneficiary or Trustee may incur necessary expenses, including reasonable attorney fees.

Trustor to immediately pay all sums expended by Beneficiary or Trustee provided for in this Deed of Trust, with interest from date of expenditure at the same rate as the principal debt hereby secured.

**3. It is further mutually agreed that:**

**3.1 ASSIGNMENT OF DAMAGES** –Any award of damages made in connection with:

- a) Condemnation for use of or injury to the property by the public, or conveyance in lieu of condemnation; or
- b) Injury to the property by any third party;

is assigned to Beneficiary, who may apply or release the proceeds of such an award in the same manner and with the same effect as above provided for the disposition of hazard insurance proceeds.

**3.2 WAIVER** – By accepting payment of any sum due after its due date, Beneficiary does not waive Beneficiary's right to either require prompt payment when due of all other sums or to declare a default for failure to pay. Beneficiary may waive a default of any agreement of this Deed of Trust, by consent or acquiescence, without waiving any prior or subsequent default.

**3.3 DUE-ON-SALE** – If Trustor decides to sell, transfer or convey any interest in the property, legal or equitable, either voluntarily or by operation of law, then Beneficiary may, at Beneficiary's option, declare all sums secured by this Deed of Trust immediately due and payable.

**3.4 ASSIGNMENT OF RENTS** – Trustor hereby assigns and transfers to Beneficiary all right, title and interest in rents generated by the property, including rents now due, past due, or to become due under any use of the property, to be applied to the obligations secured by this Deed of Trust.



- a) Prior to a default on this Deed of Trust by Trustor, Trustor will collect and retain the rents
- b) On default by Trustor, Beneficiary will immediately be entitled to possession of all unpaid rents.


**3.5 ACCELERATION** – If payment of any indebtedness or performance of any agreement secured by this Deed of Trust is in default, Beneficiary may at Beneficiary's option, with or without notice to Trustor, declare all sums secured immediately due and payable by:

- a) Commencing suit for their recovery or for foreclosure of this Deed of Trust
- b) Delivering to Trustee a written notice declaring a default with demand for sale; a written Notice of Default and election to sell to be recorded by Trustee.

**3.6 TRUSTEE'S SALE** – On default of any obligation secured by this Deed of Trust and acceleration of all sums due, Beneficiary may instruct Trustee to proceed with a sale of the secured property under the power of sale granted herein, noticed and held in accordance with California Civil Code §2924 et seq.

**3.7 TRUSTOR'S OFFSET STATEMENT** - Within 10 days of Trustor's receipt of a written request by Beneficiary, Trustor will execute a written estoppel affidavit identifying for the benefit of any assignee or successor in interest of Beneficiary: the then owner of the secured property; the terms of the secured note, including its remaining principal balance; any taxes or assessments due on the secured property; that the secured note is valid and the Trustor received full and valid consideration for it; and that Trustor understands the note and this Deed of Trust are being assigned.

- 4. ADDENDA** – If any of the following addenda are executed by Trustor and recorded together with this Deed of Trust, the covenants and agreements of each will incorporate, amend and supplement the agreements of this Deed of Trust (check applicable boxes by hand): ☐ owner-occupancy rider; ☐ all-inclusive trust deed addendum; ☐ impounds for taxes and insurance addendum ☐ Private Mortgage Insurance (PMI) rider ☐ other:
- 5. RECONVEYANCE** – Upon written request from Beneficiary stating that all sums secured by this Deed of Trust have been paid, surrender of this Deed of Trust and the note to Trustee for cancellation, and payment of Trustee's fees, Trustee will reconvey the property held under this Deed of Trust.
- 6. SUCCESSORS, ASSIGNS AND PLEDGEES** – This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary will mean the holders and owner of the secured note, or, if the note has been pledged, the pledgee.
- 7. TRUSTEE'S FORECLOSURE NOTICES** – The undersigned Trustor(s) requests a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to Trustor at the address herein set forth.

Date: 9-2-19 Trustor: , President  
Gina Champion - CA, IN (signature) LUU Sun, LLC  
Boards

Date: \_\_\_\_\_ Trustor: \_\_\_\_\_  
 (signature)

**Attachment A – Property Description**

Attached and incorporated into Deed of Trust and Assignment of Rents Securing Promissory Note, Dated 9-2-2019

Property Address: 750 Yarmouth Ct. San Diego, CA 92109

Parcel Number (APN): 4233151700

State: CA

County: San Diego

City: San Diego

Subdivision: Mission Beach

Brief Description LOT O BLK 244 TR 1809

Book: 1651

Tract Number 1809

Block 244

Lot O

Latitude 32.78891

Longitude -117.254173

Block 244 LOT O of Tract 1809 Subdivision Mission Beach, County of San Diego, State of California as shown on a map recorded in Book 1651, in the office of the County Recorder of San Diego County, California.

Owner: LuvSurf Brands, LLC

Mailing address: 3515 Hancock St. Ste 200 San Diego, CA 92110



# CALIFORNIA ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of SAN DIEGO }

On 9/2/19 before me, LORI J. LEIB  
(Here insert name and title of the officer)

personally appeared GINA CHAMPION-CAIN and CHARLES MARTIN RIHARD, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

*Lori J. Leib*

Notary Public Signature

(Notary Public Seal)



## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

DEED OF TRUST and ASSIGNMENT OF INTEREST  
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 4 Document Date 9-2-2019

### CAPACITY CLAIMED BY THE SIGNER

- ☒ Individual (s)  
☒ Corporate Officer

(Title)

- ☐ Partner(s)  
☐ Attorney-in-Fact  
☐ Trustee(s)  
☐ Other \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.



Promissory Note Secured by Deed of Trust

(Page 1 of 2)

200 SURF BRANDS, LLC And  
GINA CHAMPION-CAIN

1. For value received, ☒ I individually <sup>AND</sup> ☒ We jointly and severally promise to pay to the order of Charles Riharb at 512 Vereda del Ciervo, Goleta, CA 93117 \$ 1,574,762 with interest at the rate of 6% per year: **[choose one]**

- ☐ from the date this note is signed until the date it is due or is paid in full, whichever date occurs last.  
☒ from the date this note is signed until the date it is paid in full.

2. The signer(s) of this note also agree that this note shall be paid in installments plus a final balloon payment at end of a 24 month term, which include principal and interest, of not less than \$1,000 per month, due on the first day of each month, with the final balloon payment of the remaining balance of principal and interest. Furthermore, payments shall be made until such time as the principal and interest are paid in full which may be less but not more than 24 months.
3. If any installment payment due under this note is not received by the holder within 5 days of its due date, the entire amount of unpaid principal shall become immediately due and payable at the option of the holder without prior notice to the signer(s) of this note.
4. All outstanding principal, together with all accrued and unpaid Interest on the unpaid principal balance of this Note and all other sums then owed with respect to this Note, will be immediately due and payable upon the sale, transfer, assignment, hypothecation, or conveyance, including bankruptcy and receivership whether voluntary, involuntary or by operation of law (a "Transfer"), of all or any part of the real property described in the Deed of Trust (the "Property"), or any interest in the Property, to any person or entity who is not the Borrower, except to the extent prohibited by law. Borrower must notify Lender promptly in writing of any transaction or event, which may give rise to a Transfer
5. If the holder(s) of this note prevail(s) in a lawsuit to collect on it, the signer(s) agree(s) to pay the holder(s)' attorney fees in an amount the court finds to be just and reasonable.

6. Signer(s) agree(s) that until such time as the principal and interest owed under this note are paid in full, the note shall be secured by a deed of trust to real property commonly known as address 750 YARMOUTH CT. San Diego, CA 92109 APN 423251700, owned by LOV SURF BRAND LLC, executed on September 2, 2019, at San Diego, San Diego County, and recorded on in the records of San Diego County, California.

BORROWERS: GINA CHAMPION-CAIN  
AND LOV SURF BRANDS, LLC  
9-2-19 Jointly + Severally;

Date signed

San Diego, CA  
 Location signed (city or county)

Borrower's Address

3515 Harwood St.  
San Diego, CA 92104

By: [Signature] President  
 Signature of Borrower LOV SURF, LLC  
Gina Champion-Cain

Lender: Charles R. Harb

9-2-2019

Date signed

San Diego CA  
 Location signed (city or county)

Borrower's Address

512 VEREDA DEL CIERVO  
GATEDA CA 92117

By: [Signature]  
 Signature of Lender  
Charles R. Harb

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of SAN DIEGO

On 9/2/19 before me, LORI J. LEIB, personally appeared GINA CHAMPION-CAIN and CHARLES MARTIN R. HARB, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

**NOTARY SEAL**

WITNESS my hand and official seal.

[Signature]  
 Signature of Notary

