

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
www.flsb.uscourts.gov

In re:

Chapter 11
Case No. 18-15499-AJC

WORLD GLOBAL FINANCING, INC,

Debtor.

EAGLEWOOD SPV I LP,

Plaintiff,

Adversary Proceeding

No.: 18-_____

v.

WORLD GLOBAL FINANCING, INC.,
WG FUNDING TRUST, WG FINANCING,
INC., and CYRIL ESKENAZI,

Defendants.

COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

Plaintiff Eaglewood SPV I LP ("Eaglewood" or "Plaintiff"), by and through the undersigned counsel, for its Complaint against defendants World Global Financing, Inc. (the "Debtor"), WG Funding Trust (the "Trust"), WG Financing, Inc. ("WG" and together with the Trust and the Debtor, the "WG Parties"), and Cyril Eskenazi ("Eskenazi"; together with the WG Parties, "Defendants") alleges as follows:

Introduction and Nature of the Action

1. This action arises out of Defendants' willful breaches of their agreements with Eaglewood, breaches of their fiduciary duties owed to Eaglewood, the fraud they perpetrated upon Eaglewood, and their theft of Eaglewood's money. At present, Defendants have wrongfully taken over \$1.8 million of cash from Eaglewood.

2. This newly filed bankruptcy case is not a typical chapter 11 proceeding. The Debtor and its management have committed outright fraud and theft, and treated the Debtor as a personal piggy bank. To date, the Debtor has stolen over \$1.8 million of Eaglewood's cash (not cash collateral but cash that Eaglewood owns which the Debtor collected on Eaglewood's behalf and held in trust). More urgently, the theft of Eaglewood's cash likely continues to this day notwithstanding the pre-petition temporary restraining orders and a preliminary injunction that required the Debtor and all of its agents, representatives, and officers to immediately remit to Eaglewood all of this money as of May 2, 2018. Since the entry of the preliminary injunction almost a week prior to the bankruptcy filing, Eaglewood has received nothing. Without immediate judicial intervention by this Court to further effectuate the status quo of the state court orders, Eaglewood fears that it will be irreparably harmed as its cash is continually stolen and subsequently rendered unrecoverable. Accordingly, Eaglewood respectfully requests immediate assistance in the manner set forth below.

3. As set forth in more detail below, Eaglewood seeks both preliminary and permanent injunctive relief, as well as monetary damages, to compensate it for the harm caused by Defendants' wrongful actions and to prevent ongoing additional harm.

Jurisdiction and Venue

4. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157, 1334 and 1367. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2).

5. Venue of this proceeding is proper in this Court, pursuant to 28 U.S.C. §§ 1408 and 1409.

Parties

6. Plaintiff Eaglewood SPV I LP is a limited partnership organized under the laws of the State of Delaware and located in New York, New York.

7. Upon information and belief, defendant and Debtor World Global Financing, Inc. is a provider of private financing programs, frequently through merchant cash advances, to businesses across the country. The Debtor is a corporation organized under the laws of the State of Florida and located at 141 NE 3rd Avenue, Penthouse, Miami, Florida, 33132.

8. Upon information and belief, defendant WG Funding Trust is a statutory trust organized under the laws of the State of Delaware and located at 141 NE 3rd Avenue, Penthouse, Miami, Florida, 33132. The Debtor owns 100% of the Trust.

9. Upon information and belief, defendant WG Financing, Inc. is a corporation organized under the laws of the State of Florida and located at 141 NE 3rd Avenue, Penthouse, Miami, Florida, 33132.

10. Upon information and belief, defendant Cyril Eskenazi is the CEO of the Debtor, the sole owner of both the Debtor and WG, and resides in Miami, Florida.

GENERAL ALLEGATIONS

11. The WG Parties were an originator and servicer of merchant cash advances (“MCAs”) made to the third party merchants on behalf of several investors who fund and own such MCAs. Eaglewood is one of the largest investors/customers in the Defendants’ MCA business. As set forth in more detail below, for several months prior to the Petition Date, the Defendants and their agents willfully breached and flagrantly disregarded their contractual and fiduciary obligations to Eaglewood, including without limitation, stealing over \$1.8 million that it collected on Eaglewood’s behalf as the servicer of Eaglewood’s MCAs.

12. The WG Parties were an originator and servicer of merchant cash advances (“MCAs”) made to the third party merchants on behalf of several investors who fund and own such MCAs. Eaglewood is one of the largest investors in the WG Parties’ MCA business. As set forth in more detail below, for several months prior to the Petition Date, the WG Parties and their agents willfully breached and flagrantly disregarded their contractual and fiduciary obligations to Eaglewood, including without limitation, stealing over \$1.8 million that they collected on Eaglewood’s behalf as the servicer of Eaglewood’s MCAs.

13. Prior to the Petition Date, the Supreme Court for the State of New York, New York County (the “State Court”) issued several temporary restraining orders, and ultimately a preliminary injunction, against the Defendants and their agents requiring, *inter alia*, that the Defendants segregate and escrow cash proceeds of Eaglewood’s MCAs and, after Eaglewood terminated the WG Parties as their servicer, deposit and transfer any and all proceeds of Eaglewood’s receivables from May 2, 2018, forward into a lockbox for the benefit of Eaglewood. As is also set forth in more detail below, the Defendants and their agents repeatedly failed to comply with, and are currently in violation of, the State Court’s orders. The Defendants’ disregard of the State Court’s orders was nothing short of deliberate.

14. As is evidenced by this bankruptcy filing, the Debtor is insolvent and appears to be using the funds it has stolen from Eaglewood to support its failing business. Indeed, the servicing of Eaglewood’s MCAs was the Debtor’s only “business,” and therefore there is great risk that without immediate action, the insolvent estate will almost immediately deplete Eaglewood’s funds which the Debtor stole, all without any hope of remedy at law. In fact, it is highly likely that the majority, if not all, of the cash in the Debtor’s or its agents’ bank accounts are cash proceeds of Eaglewood’s receivables – property that is solely Eaglewood’s and **not**

property of this estate – in which the Debtor has no legal or equitable rights to use in any manner whatsoever, other than holding such cash in trust for Eaglewood as required and recognized by the State Court. As a result, this Court should take immediate action to enforce the status quo, as the State Court has already done, by requiring that the Defendants segregate and account for Eaglewood’s cash in order to prevent immediate and irreparable harm, and to impose a constructive trust over such funds.

15. In light of the seriousness of the conduct of the Defendants and their agents and that all or a significant amount of the cash in the WG Parties’ possession or under Eskenazi’s control is held in trust for the benefit of Eaglewood, a temporary restraining order and preliminary injunction must be issued to require the Defendants to segregate and account for Eaglewood’s cash and to impose a constructive trust over their bank accounts to preserve Eaglewood’s assets that Defendants have wrongfully taken.

JURISDICTION

16. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157, 1334 and 1367.

17. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. §157(b)(2).

BACKGROUND

I. Eaglewood’s Agreements with the Defendants

18. Eaglewood is a limited partnership which makes investments that focus on marketplace and direct lending strategies. In 2014, the CEO and owner of the Debtor, Cyril Eskenazi (“Eskenazi”), was searching for investors to invest in the Debtor’s merchant cash advance platform. In connection with his investor search, Eaglewood was introduced to

Eskenazi and the two parties began negotiating for Eaglewood to make an investment in the Debtor's platform.

19. To effectuate that investment, in September 2014, Eaglewood, the Debtor, and the Trust executed the Purchase Program Agreement, which was then amended and restated (the "PPA").¹ At the time of the investment, the Trust was (and, upon information and belief, remains) a wholly-owned entity of the Debtor. At the same time, several other agreements were executed to effectuate Eaglewood's investment. The first such agreement was an Affiliate Sales Agreement between WG and the Debtor (the "Sales Agreement"), both of which were (and, upon information and belief, remain) wholly-owned by Eskenazi. Under the Sales Agreement, WG was to originate MCAs with funds advanced by Eaglewood, subject to the standards set forth in the PPA, which WG would then sell to the Debtor.

20. The second such agreement was a Sale, Contribution and Servicing Agreement between the Debtor and the Trust (the "Servicing Agreement"). Under the Servicing Agreement, the Debtor sold to the Trust certain MCAs that it either purchased from WG or that it originated on its own. And, in exchange for a fee, the Debtor agreed to service the MCAs it sold to the Trust. Eaglewood is a stated third-party beneficiary of the Servicing Agreement. Pursuant to the PPA, the Trust sold to Eaglewood the MCAs that Eaglewood originally funded and that were either originated by WG or the Debtor, who then sold them to the Trust.

21. The third such agreement was a Master Participation Agreement between Eaglewood and the Trust, which gave the Trust a 12.5% subordinated interest in the MCAs. The Trust's interest was subordinated and, in the event that certain performance triggers were

¹ The PPA was amended three times in 2016. In addition, in December 2016, the Eaglewood fund that originally held the investment changed, and pursuant to an assignment and assumption agreement the original Eaglewood fund (Eaglewood Small Business Fund) assigned all rights to Eaglewood SPV I.

breached under the PPA or upon an Event of Default under the PPA, the Trust would not be able to collect on its share of the MCAs until Eaglewood was made whole.

22. Under the PPA, Eaglewood agreed to purchase from the Trust a certain volume of receivables each month. Each MCA was subject to a set of standards set forth primarily in Section 5.17 of the PPA, but also elsewhere. For example, each MCA purchased was required to have a “Payback Period” of no more than twelve months and a “Factor Rate” of 25%. In addition, each MCA sold to Eaglewood could not be for more than \$150,000. The requirements for each MCA set forth in the PPA shall be hereinafter referred to as the “Eligible Receivable Standards.”

23. Pursuant to the Servicing Agreement, which is incorporated by the PPA, the Debtor was to service each of the MCAs purchased by Eaglewood. As the servicer of the MCAs, the Debtor was responsible for the “collection, administration and other servicing activities of the [MCAs].” This required the Debtor, among other things, to “keep detailed books and records to record, segregate and track each of the separate interests in such Originated [MCA],” and to “promptly provide to [Eaglewood] any information or document relating to the servicing of the [MCAs] as reasonably requested by [Eaglewood]. [The Debtor] shall promptly provide [Eaglewood] with true and complete copies of all notices, reports, statements and other documents sent or received by it relating to the servicing hereunder.” These obligations exist not only in the Servicing Agreement, but also in the PPA.

24. As the servicer of the MCAs, the Debtor was required to collect and deposit in a servicing account (the “Servicing Account”) all of the funds it collected from the merchant debtors of the MCAs. Those funds were then to be deposited in Eaglewood’s Lockbox by either the Debtor or the Trust pursuant to the terms of, and a schedule set forth in, the PPA.

25. In the event that either the Trust or the Debtor failed to perform its obligations under the PPA or the Servicing Agreement, Eaglewood was entitled to declare an “Event of Default” pursuant to Article VIII of the PPA. Such Events of Default include, but are not limited to, (i) either the Trust’s or the Debtor’s failure to deposit funds collected from the MCAs into Eaglewood’s Lockbox; (ii) either the Trust’s or the Debtor’s breaches or violations of any covenants or obligations set forth in the PPA or Servicing Agreement; (iii) any representation, statement or warranty made or deemed made either by the Trust or the Debtor in the PPA or Servicing Agreement shall not be true or correct in all material respects or shall have been false or misleading in any material respects; (iv) when either the Trust or the Debtor becomes insolvent or otherwise unable to pay their debts as they become due; and (v) when the percentage of non-performing MCAs reaches a certain threshold.

II. The WG Parties Fraudulently Induced Eaglewood to Fund MCAs

26. Throughout 2014, 2015, and 2016, the majority of the MCAs purchased by Eaglewood performed, while only a small number had defaulted. In 2017, however, that began to change.

27. In 2017, the WG Parties originated several MCAs to friends of Eskenazi and employees of the WG Parties. Upon information and belief, many of these MCAs do not comply with the Eligible Receivable Standards.

28. In February 2017, Eskenazi asked Eaglewood to issue a waiver of the Eligible Receivable Standards so that the Debtor could originate an extremely large MCA to a friend and business partner of Eskenazi named Minh Tam Tran (“Tammy Tran”) because the amount of the proposed MCA did not comply with the Eligible Receivable Standards, which capped any

individual MCA at \$150,000. Eaglewood consented to Eskenazi's request and the WG Parties originated the MCA for \$400,000 (the "February Receivable").

29. In April 2017, Eskenazi asked Eaglewood to issue another waiver of the Eligible Receivable Standards so that the Debtor could originate additional MCAs to Tammy Tran. In particular, Eskenazi again requested that Eaglewood waive the monetary limit of \$150,000 for any one MCA. Eaglewood did not consent to Eskenazi's request because it had already purchased the large February Receivable, which remained outstanding. In fact, the February Receivable defaulted two months later, in June 2017.

30. At the same time the February Receivable went into default (*i.e.*, June 2017), Tammy Tran filed a lawsuit in New York State Supreme Court against the Debtor, alleging that the February Receivable was criminally usurious. Tammy Tran was represented by the WG Parties' current counsel in the State Court action, Mr. Jonathon Warner. Approximately a week after service was effected in that case, the case was voluntarily discontinued.

31. Even though Eaglewood was the owner of the February Receivable, the WG Parties never provided any notice to Eaglewood about the lawsuit or the apparent settlement. The WG Parties' failure to do so was a breach of Section 5.6 of the PPA, which required the Trust to notify Eaglewood in the event that any of the WG Parties became involved in a lawsuit relating to their businesses.

32. Despite the lawsuit alleging that the February Receivable was "criminally usurious," coupled with the fact that Eaglewood had rejected the WG Parties' request in April for a waiver of the Eligible Receivable Standards, upon information and belief, Eskenazi and the WG Parties conspired with Tammy Tran to obtain new MCAs by disguising new MCAs

originated to shell companies set up by Tammy Tran and her husband, for which Tammy Tran was the ultimate beneficiary.

33. Specifically, upon information and belief Tammy Tran, with the knowledge and assistance of the WG Parties and their agents, used phony shell companies, each of which was controlled by Tammy Tran or her family members, to obtain thirteen MCAs that they would not otherwise have been able to obtain. The purpose of this was to break up the total amount that the WG Parties sought to advance into smaller seemingly-compliant MCAs—all, on their face, to different merchant debtors—and thus disguise the true recipient: Tammy Tran.

34. However, upon information and belief, Tammy Tran or her family members owned or controlled each of the phony shell companies. Upon information and belief, the WG Parties, with the assistance of Eskenazi, originated MCAs to each of the phony shell companies set up by Tammy Tran or her family members that purported to meet the Eligible Receivable Standards.

35. Upon information and belief, Tammy Tran then took all of the money as if a single MCA had been originated to her.

36. Upon information and belief, these MCAs were originated by the Debtor and sold to the Trust, and then, sold by the Trust to Eaglewood. The sale of these MCAs to Eaglewood was based on false representations by Eskenazi and/or the WG Parties, who provided to Eaglewood deliberately inaccurate information, including potentially fabricated documentation, to induce them into purchasing the MCAs.

37. Upon information and belief, Eskenazi and the WG Parties provided falsified documentation for the phony shell companies to Eaglewood so that Eaglewood would purchase

the fraudulently-structured MCAs. In fact, many of the shell companies were created days or weeks before the MCAs were originated.

38. Upon information and belief, the first such fraudulently-structured MCA was originated on August 31, 2017 to an entity named Hong An LP. Upon information and belief, Hong An LP is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

39. Upon information and belief, the second such fraudulently-structured MCA was also originated on August 31, 2017 to an entity named VKTL, Inc. d/b/a Ba Elan Day Spa. Upon information and belief, VKTL, Inc. LP is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

40. Upon information and belief, the third such fraudulently-structured MCA was originated on November 1, 2017 to an entity named Chua, Inc. Upon information and belief, Chua, Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

41. Upon information and belief, the fourth such fraudulently-structured MCA was also originated on November 1, 2017 to an entity named Viet Agency, Inc. Upon information and belief, Viet Agency, Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

42. Upon information and belief, the fifth such fraudulently-structured MCA was originated on November 2, 2017 to an entity named ISmart Learning Center, LLC. Upon information and belief, ISmart Learning Center LLC is owned or controlled by Tammy Tran or

her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

43. Upon information and belief, the sixth such fraudulently-structured MCA was also originated on November 2, 2017 to an entity named K & T Settlement Bridge Financing, Inc. Upon information and belief, K & T Settlement Bridge Financing, Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

44. Upon information and belief, the seventh such fraudulently-structured MCA was also originated on November 2, 2017 to an entity named VKLL LP. Upon information and belief, VKLL LLP is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

45. Upon information and belief, the eighth such fraudulently-structured MCA was originated on December 4, 2017 to an entity named JC My Ly Investment, Inc. Upon information and belief, JC My Ly Investment, Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

46. Upon information and belief, the ninth such fraudulently-structured MCA was also originated on December 4, 2017 to an entity named Hope JC For VN Inc. Upon information and belief, Hope JC For VN Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

47. Upon information and belief, the tenth such fraudulently-structured MCA was originated on December 8, 2017 to an entity named Saigon JC Investments, Inc. Upon

information and belief, Saigon JC Investments, Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

48. Upon information and belief, the eleventh such fraudulently-structured MCA was originated on December 11, 2017 to an entity named Vietnam JC Investments, Inc. Upon information and belief, Vietnam JC Investments, Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

49. Upon information and belief, the twelfth such fraudulently-structured MCA was originated on December 13, 2017 to an entity named Maily JC Investments, Inc. Upon information and belief, Maily JC Investments, Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

50. Upon information and belief, the thirteenth such fraudulently-structured MCA was originated on December 14, 2017 to an entity named Phuong JC Investments, Inc. Upon information and belief, Phuong JC Investments, Inc. is owned or controlled by Tammy Tran or her family members. Had the WG Parties disclosed the true merchant debtor, Eaglewood would not have purchased this MCA.

51. Upon information and belief, the WG Parties also sold MCAs to Eaglewood for which there was no actual merchant debtor, meaning all of the documentation for the MCA that was provided to Eaglewood was fabricated by the WG Parties.

III. The WG Parties' Liquidity Problems and Refusals to Allow an Audit

52. By December 2017, more and more MCAs sold to Eaglewood began to miss payments. By January 2018, the percentage of non-performing MCAs had reached the threshold level, such that Eaglewood could have declared an Event of Default. Indeed, many of the fraudulently-originated MCAs to Tammy Tran had already defaulted. Because the percentage of MCAs in default had reached the threshold level under the PPA, certain proceeds that would otherwise be due to the WG Parties now had to be distributed to Eaglewood to make up for the defaulted MCAs. In spite of these defaults, the Defendants caused an additional \$300,000 of Eaglewood's cash to be sent to defaulted merchant debtor Tammy Tran.

53. As result, upon information and belief, the WG Parties' businesses began to suffer and they began running out of cash. In February 2018, Eaglewood became aware of certain irregularities in the servicing of its MCAs by the Debtor and also learned that the MCAs originated to Tammy Tran beginning in August 2017 and subsequently sold to Eaglewood by the Trust were fraudulently structured to avoid the Eligible Receivable Standards. Upon learning this information, Eaglewood made several attempts to contact Eskenazi to obtain an explanation for his and the WG Parties' actions. In those communications, Eaglewood requested, pursuant to its rights under the PPA and the Servicing Agreement, to audit and inspect the WG Parties' books and records. To address these issues, in February 2018, three Eaglewood employees flew to Miami for an in person meeting with Eskenazi.

54. At that meeting, Eskenazi was unable to provide answers to many of Eaglewood's questions. However, he did agree to allow Eaglewood's auditors to conduct an audit the following day. In reliance upon Eskenazi's promise, Eaglewood instructed its third-party auditors to fly to Florida to conduct an audit of the WG Parties' books and records. When the

auditors arrived the next morning they were denied access to the WG Parties' files. When Eaglewood learned that its auditors were denied access, it immediately tried to contact Eskenazi, but Eskenazi neither answered his phone, nor responded to emails during the day. Eaglewood was ultimately informed by an employee of the WG Parties that Eskenazi had flown to New York for business meetings. When Eaglewood was finally able to get in touch with Eskenazi that evening, he promised to get back to Eaglewood that evening regarding Eaglewood's auditors' access the following day. However, like the day before, when Eaglewood's auditors arrived at the WG Parties' offices, they were denied access.

IV. The Theft of Eaglewood's Cash

55. Thereafter, Eaglewood began receiving less and less frequent remittances of MCA proceeds from the Debtor and the Trust. Upon information and belief, Eaglewood received fewer remittances because Eskenazi, the Debtor, and the Trust, were diverting funds that they received into the servicer account into accounts controlled by Eskenazi and the WG Parties, rather than remitting them into Eaglewood's Lockbox—in violation of their fiduciary and contractual obligations

56. By the beginning of March 2018, Eaglewood stopped receiving all proceeds from its MCAs. Although the servicing reports stated that the WG Parties were still making collections, none of those funds, which belonged to Eaglewood, had been deposited in its Lockbox. That was because, Eskenazi, the Debtor, and the Trust were now diverting all such funds into accounts controlled by Eskenazi and the WG Parties.

57. Not long after, upon information and belief, on Friday March 16, 2018, Eskenazi, who had access to Eaglewood's Lockbox because the Debtor and the Trust were required to make deposits into that account, secretly withdrew more than \$50,000 from the account. He stole

it. In fact, not only did the WG Parties steal Eaglewood's property but the PPA also contractually specifically forbids the Debtor or the Trust from making any such withdrawals from Eaglewood's account. *See* PPA, §§ 2.9 (b) and (c). Notwithstanding the fact that this was indisputably Eaglewood's property, to which the WG Parties or their agents had no rights whatsoever, they took the money anyway; *they committed theft*.

58. After repeated, but unsuccessful, attempts to reach Eskenazi and the WG Parties, Eaglewood terminated the Debtor's and the Trust's access to that account on Tuesday, March 20, 2018. Eaglewood was fortunate to have acted so quickly in response to Eskenazi's unlawful withdrawal because later that same day, upon information and belief, Eskenazi attempted to withdraw all of the remaining money in Eaglewood's Lockbox. When the bank denied Eskenazi's withdrawal, he called the bank to complain and asked it to execute the transaction, to which it refused.

V. The WG Parties' Insider Dealings and Mismanagement

59. The WG Parties have on numerous occasions originated MCAs or compromised existing MCAs in a manner that not only violates Eaglewood's contractual rights but also exemplifies group mismanagement and fraud. In addition to the structured fraud engaged in by the WG Parties to circumvent the Eligible Receivable Standards as discussed above with respect to the MCAs, the WG Parties have engaged in self-dealing transactions.

60. For example, on March 20, 2018, Eaglewood received a servicing report that showed that one of the MCAs originated by the WG Parties to a company owned or controlled by one of its employees (*i.e.*, the Debtor's controller), which had been performing as of the previous week, was reported as being paid off through a modification and settlement. The servicing report stated that the remainder of the balance owed had been forgiven—a decision that

was made, upon information and belief, by Eskenazi and his collections team. Upon information and belief, the modification was wholly inconsistent with the WG Parties' regular practices.

61. Under the PPA, Eskenazi and the WG Parties did not have the authority to modify the terms of the MCAs, including, in particular, the MCA originated to the Debtor's controller. The entirety of the forgiven amount was owed to Eaglewood because of the continuing Event of Default and continuing performance trigger breaches due to the percentage of non-performing MCAs. The WG Parties' and their agents' unjustified modification of an MCA for the benefit of a fellow employee is blatant self-dealing.

VI. Eaglewood's State Court Lawsuit and the Restraining Orders

62. On March 20, 2018, Eaglewood sent a Notice of Event of Default (the "Default Notice") under Article VIII of the PPA alleging several Events of Default. The WG Parties have never disputed the Default Notice; in fact, since its transmission, the WG Parties have conceded many of the Defaults, both in conversations between the parties, and even to the State Court.

63. On March 28, 2018, Eaglewood filed a complaint in the State Court against the Defendants. Eaglewood sought, inter alia, preliminary and permanent injunctive relief, as well as monetary damages, to compensate it for the harm caused by Defendants' wrongful actions and to prevent ongoing additional harm.

64. Since the filing of the lawsuit, Eaglewood has been forced to appear on an emergency basis before the State Court on numerous occasions to seek and ultimately receive emergency orders by the State Court enjoining the WG Parties and other Defendants' incompetence and willful misconduct. On March 29, April 5, 17, and 23, and then May 2, 2018, the State Court held emergency hearings and issued emergency written orders or orders issued on the record from the bench, including a preliminary injunction issued on May 2, 2018, on an

emergency basis on essentially two subject matters (the “Emergency Orders”). *See e.g.*, **Exhibit A** hereto (May 2, 2018, preliminary injunction order) (the “May 2 Order”).

65. First, the Defendants were directed by the initial Emergency Orders to segregate on a go-forward basis the proceeds of Eaglewood’s MCAs so as to protect such funds pending a preliminary injunction hearing. With respect to funds that the WG Parties and other Defendants already diverted – *i.e.*, stole – from Eaglewood, the State Court deferred such relief until subsequent hearings. However, while the initial Emergency Orders were in place, the Defendants willfully breached those orders (as set forth below), and ultimately, with the State Court’s encouragement, Eaglewood terminated the Debtor as the servicer under the PPA and the Servicing Agreement on May 2, 2018. As a result of the termination and the preliminary injunction hearing on May 2, the Debtor was no longer entitled to collect *any* proceeds from MCAs and was required to turn over any and all such proceeds that it collected directly to Eaglewood. The State Court made this clear on the record and in its May 2, 2018 order, which required Defendants to remit any and all cash from May 2, 2018, onwards to Eaglewood.

66. Second, the Emergency Orders required the Defendants, including the WG Parties, to provide certain documents related to the MCAs that Eaglewood owns to Eaglewood as required under the PPA (the “Receivable Documents”). The Receivable Documents are critical to enable Eaglewood to terminate servicing and allow a new servicer to take over such activities.

67. With respect to both subject matters, the WG Parties and other Defendants have repeatedly failed to fully comply with such Emergency Orders – thus, necessitating the repeated appearances before the State Court and the repeated issuance of subsequent orders.

68. To begin with, rather than segregating the proceeds of the Eaglewood MCAs and retaining only the contractually bargained for 2% servicing fee that the Debtor is entitled to

under the agreements, the WG Parties argued that they should be allowed to retain any amounts to cover their actual expenses in servicing such MCAs. Although the contract does not allow any netting of actual expenses – because the 2% service fee is the contractually agreed flat fee to cover the WG Parties’ expenses – at the initial emergency hearings, the State Court allowed such netting of actual expenses from the segregation provided that they related to Eaglewood’s MCAs.

69. The WG Parties and other Defendants then abused this “expense loophole” in knowing violation of the Emergency Orders. For example, on April 6, 2018, the Defendants collected \$35,172.46, but escrowed only \$30,160.38, meaning that it withheld more than 14%. The supporting documentation provided by Defendants stated that 12.5% of the amount collected was withheld for its profit (in direct violation of the Emergency Orders), and also withheld 2% for their servicing fee.

70. The WG Parties and other Defendants’ behavior continued despite additional orders from the State Court. On April 10, 2018, the WG Parties collected \$28,840.23, but had only escrowed \$3,890.57, meaning that the WG Parties and other Defendants kept for themselves approximately 86.5% of the funds collected that day. The supporting documentation provided stated that Defendants had withheld: (1) 2% for servicing; (2) 12.5% for its profit sharing; (3) \$15,839.93 for unspecified “IT” expenses; and (4) \$5,000 for unspecified “marketing” expenses.

71. The following week—and after another order from the State Court, on April 17, 2018, the WG Parties collected \$55,187.66 but had only escrowed \$29,387.43, meaning that the WG Parties and other Defendants kept for themselves approximately 46.7% of the funds collected that day. The supporting documentation provided to Eaglewood stated that Defendants had withheld: (1) 2% for servicing; and (2) \$24,834.45 for unspecified “Professional Fees.” The

WG Parties' freewheeling spending of money they stole from Eaglewood continued perpetration in much of the same manner. *See Exhibit B* hereto.

72. During this process, Eaglewood learned, through both discussions with the WG Parties, and through documents provided by the WG Parties (including bank account records), that the WG Parties had been using the money it stole from Eaglewood for improper purposes. For example, the WG Parties, and in particular, their CEO and owner Eskenazi, used the proceeds for, among other things, the following "expenses":

- the purchase of new MCAs (for which they received substantial origination fees);
- the payment of Eskenazi's "couples therapy";
- shopping sprees at Victoria's Secret and Saks Fifth Avenue (among others);
- luxury hotels and restaurants in Miami, New York, and Paris; and
- sending \$300,000 to defaulted merchant debtor and co-conspirator Tammy Tran.

73. This sort of self-dealing with cash that was subject to the Emergency Orders and pending litigation is unconscionable.

74. In sum, the WG Parties have turned the State Court Orders which were issued to protect Eaglewood's interests in its cash into a mandatory injunction against Eaglewood to compel it to fund frivolous expenditures (*e.g., marketing and professional fees for MCAs that are performing are frivolous*), *as well as personal expenditures*, that have no correlation to the 2% servicing fee permitted under the agreements or even the WG Parties' businesses. To put in perspective the level of the WG Parties' wrongful conduct, when the parties were not in dispute, and the WG Parties were entitled to their profit sharing and servicing fees, they were entitled at

most to 14.5% of any one collection. The WG Parties have taken up to and more than 85% of some collections *since the State Court issued its Emergency Orders*.

75. With respect to the Receivable Documents and the Emergency Orders, the WG Parties still have not complied with their contractual obligations to provide these documents to Eaglewood, nor the State Court's Emergency Orders requiring them to provide the documents to Eaglewood.

VII. The Preliminary Injunction and the State Court's Threat of Contempt of Court

76. In light of the Defendants' countless failures to comply in good faith with the Emergency Orders, the State Court set a preliminary injunction hearing for May 2, 2018. Just prior to the May 2 hearing, Eaglewood terminated effective immediately the Debtor as the servicer under the PPA and the Servicing Agreement. On account of the record before it and the termination, the State Court issued the May 2 Order that required the Debtor and its officers, directors, owners, members, agents, representatives, and others acting on its behalf, to immediately: (1) turn over to Eaglewood's lockbox account any and all cash and proceeds from Eaglewood's MCAs that come into their custody, possession, or control; (2) within 48 hours, reset any auto-debit or ACH transfer setup with merchant debtors from MCAs funded by Eaglewood so that such automatic transfers move directly into Eaglewood's lockbox account and preventing further alteration of such automatic transfers unless requested by Eaglewood in writing; (3) immediately upon the receipt of any checks from merchant debtors, funded by Eaglewood, turn over such checks to Eaglewood and refrain from cashing or otherwise depositing such checks; (4) refrain from contacting any merchant debtors or guarantors relating to Eaglewood's MCAs; and (5) refrain from taking any action to collect on any of Eaglewood's MCAs. In addition, the May 2 Order required the same the Debtor parties, within 10 days of the

entry of the May 2 Order, to: (6) on a rolling basis for certain identified merchant debtors and guarantors, provide to Eaglewood the merchant debtor/guarantor (a) name and address, (b) contact information, and (c) bank account information; (7) provide to Eaglewood via Dropbox folders certain information if in their custody, possession, or control; and (8) provide to Eaglewood and file with the State Court a summary of the documents or information provided to Eaglewood for each merchant debtor, or, in the alternative, to provide the explanation for non-compliance as required by the State Court on the record.

77. Notwithstanding the immediate injunction by the State Court to turn over any and all proceeds of Eaglewood's MCAs, regardless of how they were obtained by the Debtor, the Debtor did not remit a single dollar to Eaglewood between the time the May 2 Order was signed and its May 8 filing of its bankruptcy petition.

78. For the period of March 5, 2018 through May 3, 2018, the Debtor collected approximately \$1,987,421.61 in proceeds from Eaglewood's MCAs, of which of approximately **\$1,811,395.54 belongs to Eaglewood**. The Debtor claims to have escrowed a total of \$446,015 of the collections since April 5, 2018. Even assuming this is true, the Debtor is still wrongfully refusing to release \$1,365,380.76 of the funds that it was not only contractually required to hold in trust for Eaglewood, but it was also repeatedly ordered by the State Court to turn over a portion of such funds to Eaglewood.

79. Because of Debtor's failure to comply with the May 2 Order, on May 7, 2018, the State Court held another emergency hearing at Eaglewood's urging because the Defendants had disregarded the State Court's Emergency Orders and, most recently, the entirety of the May 2 Order. At the May 7 hearing, the State Court required admonished Defendants and stated that absent immediate compliance, it would entertain and issue a contempt order.

80. Rather than comply with the May 2 Order, or the State Court's May 7 order and threat to hold Defendants in contempt, the Debtor filed bankruptcy—apparently in order to enable it to further frustrate lawful judicial mandates of the State Court that directed the Debtor and Defendants to act in a manner to prevent imminent and irreparable harm to Eaglewood.

81. On May 9, 2018, Eaglewood's counsel met and conferred with counsel for the Debtor. The Debtor has (1) refused to consent to Eaglewood's motion for the appointment of a chapter 11 trustee, and (2) stated that it is not authorized at this time to consent to Eaglewood's requests concerning the more than \$1.8 million of cash it has wrongfully taken from Eaglewood (which includes approximately \$1.36 million that is unaccounted for and \$450,000 that is currently sitting in an escrow account per the State Court's Emergency Orders).

FIRST CLAIM FOR RELIEF
Breach of Contract – PPA
(against the Debtor and the Trust)

82. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

83. Eaglewood, the Debtor and the Trust are bound by the PPA, which is valid and legally binding contract.

84. Eaglewood has performed its obligations under the PPA.

85. The Debtor and the Trust have breached their obligations under the PPA because they knowingly, fraudulently, and in violation of the PPA's Eligible Receivable Standards, sold to Eaglewood fraudulently-originated MCAs that were structured to disguise the true borrower: Eskenazi's friend (e.g., Tammy Tran).

86. The Debtor and the Trust have breached their obligations under the PPA by failing to abide by the Eligible Receivable Standards is a violation of Section 5.17 of the PPA,

and which actions also constitute an Event of Default under Article VIII(c) and (d) of the PPA—both because the MCAs were not “Eligible Receivables” under the PPA and because they were sold to Eaglewood based on knowingly false and misleading information.

87. The Debtor and the Trust have breached their obligations under the PPA by failing to remit the proceeds from the MCAs that they were charged with servicing, collecting and remitting to Eaglewood.

88. The Debtor and the Trust have breached their obligations under the under Section 2.4 of the PPA by collecting over \$1.8 million in proceeds from MCAs—all of which belong to Eaglewood—but not remitting those funds to Eaglewood, instead diverting them into accounts owned or controlled by Defendants, and which actions also constitute an Event of Default under Article VIII(a) of the PPA (it shall be an Event of Default if World Global “as Servicer shall fail to deposit any Collection in the respective Collection Account within one (1) Business Day following the receipt of such Collection”).

89. The Debtor and the Trust breached the PPA because they have not provided Eaglewood with access to, or copies of, all MCA-related documents, as required under Section 2.6(a), (c) and (d) of the PPA.

90. The Debtor and the Trust have breached their obligations under Sections 2.6(a) of the PPA by their refusal to allow access to Eaglewood’s auditors, and which actions also constitute an Event of Default under Article VIII(c) of the PPA.

91. The Debtor and the Trust have breached their obligations under the PPA because they improperly modified the terms of Eaglewood’s MCAs without authorization, as is required, and which actions also constitute an Event of Default under Article VIII(c) of the PPA.

92. The Debtor and the Trust breached their obligations under the PPA when Eskenazi unlawfully withdrew more than \$50,000 from Eaglewood's Lockbox., in violation of Section 2.9(b) (prohibiting any withdrawals by the Debtor or the Trust from Eaglewood's Lockbox) and Section 2.9(c) (making clear that any deposit into Eaglewood's Lockbox is "irrevocable" and is Eaglewood's property), and which actions also constitute an Event of Default under Article VIII(c) of the PPA.

93. The Debtor and the Trust have breached their obligations under the PPA as a result of having breached their obligations Sections 6.1, 6.2 and 6.3 of the Servicing Agreement by failing to properly service the MCAs, failing to remit the MCA proceeds to Eaglewood as required, and diverting the MCA proceeds to accounts owned or controlled by Defendants, which actions constitute an Event of Default under Article VIII(c) of the PPA because Article VIII(c) of the PPA incorporates the Debtor's breaches of the Servicing Agreement.

94. As a result of the Debtor's and the Trust's breaches of the PPA, Eaglewood has suffered both monetary harm and additional, irreparable harm that cannot be compensated by monetary damages. The harm suffered by Eaglewood is apparent not only because the Debtor and the Trust have stolen over \$1.8 million of Eaglewood's money, but also because the conduct described above constitutes Events of Default under the PPA, which entitles Eaglewood to specific remedies under Sections 9.1(a) and 9.3. As a result, Eaglewood is entitled to specific performance of the PPA, and other equitable relief.

95. With respect to monetary damages, Eaglewood has suffered damages in an amount to be proven at trial, but believed to be at least \$6.5 million.

SECOND CLAIM FOR RELIEF
Breach of Contract – Servicing Agreement
(against the Debtor and the Trust)

96. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

97. The Debtor and the Trust are bound by the Servicing Agreement, which is a valid and legally binding contract.

98. Eaglewood is a third-party beneficiary of the Servicing Agreement.

99. The Debtor and the Trust have breached their obligations under Section 6.3 of the Servicing Agreement by collecting over \$1.8 million in proceeds from MCAs—all of which belong to Eaglewood—but not remitting those funds to Eaglewood, instead diverting them into accounts owned or controlled by Defendants.

100. The Debtor and the Trust have breached their obligation under Section 6.2(c) of the Servicing Agreement because they have not provided Eaglewood with access to, or copies of, all MCA-related documents.

101. The Debtor and the Trust have breached their obligations under Sections 6.1, 6.2 and 6.3 of the Servicing Agreement by failing to properly service the MCAs, failing to remit the MCA proceeds to Eaglewood as required, and diverting the MCA proceeds to accounts owned or controlled by Defendants.

102. The Debtor and the Trust breached their obligations under the Servicing Agreement by improperly modifying the terms of an MCA that was originated to the Debtor's controller and neither sought, nor obtained, Eaglewood's permission to for such modifications.

103. As a result of the Debtor's and the Trust's breaches of the Servicing Agreement, Eaglewood has suffered damage that entitles it to both monetary and equitable relief.

104. With respect to monetary damages, Eaglewood has suffered damages in an amount to be proven at trial, but believed to be at least \$6.5 million.

THIRD CLAIM FOR RELIEF
Breach of Fiduciary Duty
(against the Debtor and the Trust)

105. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

106. Due to the obligations imposed upon the Debtor and the Trust through the PPA and the Servicing Agreement, they owed fiduciary duties to Eaglewood.

107. As fiduciaries of Eaglewood, the Debtor and the Trust were entrusted with protecting Eaglewood's property and holding it in trust.

108. The Debtor and the Trust breached their fiduciary as described herein and, in particular, by treating Eaglewood's property as their own.

109. As a consequence of the Debtor's and the Trust's breaches of their fiduciary duties, Eaglewood has suffered damage that entitles it to both monetary and equitable relief. With respect to monetary damages, Eaglewood has suffered damages in an amount to be proven at trial, but believed to be at least \$6.5 million.

FOURTH CLAIM FOR RELIEF
Fraud
(against all Defendants)

110. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

111. As described herein, Defendants have committed fraud against Eaglewood by conspiring with at least one borrower to secretly structure MCAs to avoid the Eligible Receivable Standards, by knowingly falsifying information in the corresponding MCA

documents, and by providing false information to Eaglewood in connection with the same MCAs.

112. Eaglewood relied on Defendants' representations and purchased the thirteen fraudulently-structured MCAs from Defendants based on those representations.

113. Had Defendants provided accurate and complete information to Eaglewood, Eaglewood never would have purchased any of the thirteen fraudulently-structured MCAs from Defendants.

114. Eaglewood never would have purchased the approximately \$1.7 million-worth of these MCAs had it been informed of the true borrower.

115. As a result, Eaglewood has suffered that same amount in damages.

FIFTH CLAIM FOR RELIEF
Constructive Trust
(against the Trust and the Debtor)

116. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

117. The Debtor and the Trust owe fiduciary duties to Eaglewood, which they have breached as described above.

118. As further described above, the Debtor and the Trust have access to and control over the collection of the proceeds of Eaglewood's MCAs for which they have diverted into their own bank accounts, unjustly enriching themselves.

119. As a result of the Debtor's and the Trust's breaches of their fiduciary duties, Eaglewood has suffered harm for which there is no adequate remedy at law.

120. Eaglewood is entitled to a constructive trust to prevent the Debtor's and the Trust's ongoing fraud and unjust enrichment.

SIXTH CLAIM FOR RELIEF
Accounting
(against the Debtor and the Trust)

121. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

122. As described above, Eaglewood is entitled to inspect the books and records of the Debtor and the Trust under Section 2.6 of the PPA and conduct an audit under Section 6.7 of the PPA.

123. The Debtor and the Trust failed to provide access to their books and records and failed to allow the auditors access.

124. As a consequence, Eaglewood is entitled to an accounting of the property of the Debtor and the Trust.

SEVENTH CLAIM FOR RELIEF
Attorneys' Fees and Expenses
(against the Trust)

125. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

126. Under Section 12.7 of the PPA, the Trust is obligated to “pay all fees, costs, and expenses incurred or earned” by Eaglewood that relate to carrying out the obligations of the PPA.

127. Eaglewood has incurred fees, costs and expenses in connection with performing its obligations under the PPA that are attributable to the Trust under Section 12.7.

128. The trust has not paid those fees, costs, and expenses.

129. As a consequence, Eaglewood has suffered damages in an amount to be proven at trial.

EIGHTH CLAIM FOR RELIEF
Contractual Indemnification
(against the Debtor and the Trust)

130. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

131. Under Section 12.4 of the PPA, the Debtor and the Trust are obligated to indemnify any Indemnified Person for any losses suffered in connection with the PPA.

132. Under the PPA, Eaglewood is an Indemnified Person.

133. As set forth herein, Eaglewood has suffered losses in connection with the PPA subject to indemnification in an amount to be determined at trial.

NINTH CLAIM FOR RELIEF
Appointment of a Receiver
(against the Debtor and the Trust)

134. Eaglewood repeats and realleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

135. Under Section 9.3 of the PPA, Eaglewood is contractually-entitled to the appointment of a receiver “upon the occurrence and continuation of an Event of Default.”

136. The Debtor’s and the Trust’s actions have resulted in multiple Events of Default under the PPA, which have not been disputed by the Debtor or the Trust.

137. Eaglewood is therefore entitled to specific performance of its contractual right of the appointment of a receiver.

TENTH CLAIM FOR RELIEF
Injunctive Relief — Fed. R. Civ. P. 65, as incorporated by Fed. R. Bankr. P. 7065
(against all Defendants)

138. Eaglewood repeats and re-alleges each and every allegation set forth in paragraphs 1 through 81 hereof as if fully set forth herein.

139. There is a substantial likelihood that Eaglewood will prevail on the merits of each of its claims.

140. Eaglewood will suffer great, immediate and irreparable injury if Defendants are allowed to continue to prevent Eaglewood from exercising its bargained-for remedies under the PPA and Servicing Agreement, to divert and interfere with Eaglewood's property, and to steal Eaglewood's money.

141. The threatened injury to Eaglewood outweighs that to Defendants.

142. The public interest is served by an injunction because it would enforce Eaglewood's contractual rights.

143. Absent an injunction, Eaglewood will be unable enforce its contractual remedies and recover its property before Defendants' continuing misconduct renders it uncollectible.

PRAYER FOR RELIEF

WHEREFORE, for the reasons set forth herein, Eaglewood requests that the Court enter Judgment in its favor granting the following relief against Defendants:

- (a) Compensatory and other damages in an amount to be determined at trial, but currently estimated to be at least \$6.5 million;
- (b) Specific performance by the Debtor and the Trust of their obligations under the PPA;
- (c) Specific performance by the Debtor and the Trust of their obligations under the Servicing Agreement;
- (d) Imposition of constructive trust on Eaglewood's assets in Defendants' possession;
- (e) An accounting of the property of the Debtor and the Trust;

- (f) Fees, costs, and expenses incurred or earned by Eaglewood in connection with carrying out the obligations of the PPA;
- (g) Indemnification for the losses Eaglewood has suffered in connection with the PPA in an amount to be determined at trial;
- (h) Appointment of a receiver;
- (i) Restitution in an amount according to proof;
- (j) Pre-judgment and post-judgment interest;
- (k) A preliminary and permanent injunction requiring the Debtor and the Trust to comply with their obligations under the PPA and enjoining Defendants from transferring and diverting the MCAs and proceeds thereof; and
- (l) Such other relief as the Court may deem just and proper.

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Dated: May 10, 2018

Respectfully submitted,

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² Counsel will be submitting an application to appear pro hac vice.