

ORIGINAL

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LOS ANGELES SUPERIOR COURT

02 02 2009

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1 Joel N. Klevens, State Bar No. 45446  
2 Diane K. Myint, State Bar No. 235059  
3 Matthew R. Gershman, State Bar No. 253031  
4 GLASER, WEIL, FINK, JACOBS,  
5 HOWARD & SHAPIRO, LLP  
6 10250 Constellation Boulevard, 19<sup>th</sup> Floor  
7 Los Angeles, California 90067  
8 Telephone: 310-553-3000  
9 Facsimile: 310-556-2920

6 Attorneys for Plaintiff EAST WEST BANK

*Case assigned to:  
D.47 Aurelio Munoz*

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES

11 EAST WEST BANK,  
12 Plaintiff,

13 v.

14 NICOLAS KIM CAGE, an individual; DOES  
15 1 through 10, inclusive,  
16 Defendants.

CASE NO.

BC423003

COMPLAINT FOR BREACH OF  
CONTRACT

LAW OFFICES  
GLASER, WEIL, FINK, JACOBS, HOWARD & SHAPIRO, LLP  
10250 CONSTELLATION BOULEVARD  
NINETEENTH FLOOR  
LOS ANGELES, CALIFORNIA 90067  
(310) 553-3000

CIT/CASE: BC423003 LEA/DEF#:   
RECEIPT #: CCH503057049  
DATE PAID: 10/02/09 01:31:59 PM  
PAYMENT: \$355.00 0310  
RECEIVED:  
CHECK: 355.00  
CASH:  
CHANGE:  
CARD:

LAW OFFICES  
GLASER, WEIL, FINK, JACOBS, HOWARD & SHAPIRO, LLP  
10280 CONSTELLATION BOULEVARD  
NINETEENTH FLOOR  
LOS ANGELES, CALIFORNIA 90087  
(310) 892-3000

1 Plaintiff East West Bank complains and alleges as follows:

2 **THE PARTIES**

3 1. Plaintiff East West Bank ("Plaintiff") is, and at all times relevant to this Complaint  
4 was, a banking corporation authorized to do business, and doing business, in the County of Los  
5 Angeles, State of California with headquarters in Pasadena, California.

6 2. Plaintiff is informed and believes, and based thereon alleges, that Defendant Nicolas  
7 Kim Cage ("Cage") is an individual residing in the City of New York, State of New York.

8 3. Plaintiff presently does not know the true names and capacities of DOES 1 through  
9 10, inclusive, and for that reason, sues such defendants herein under such fictitious names. Plaintiff  
10 will amend this complaint to show their true names and capacities when the same have been  
11 ascertained.

12 4. Plaintiff is informed and believes, and based thereon alleges, that each of the  
13 fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and  
14 that Plaintiff's damages as herein alleged were proximately caused by such defendants, and/or is in  
15 some manner responsible for the damages alleged herein.

16 5. Plaintiff is informed and believes, and based thereon alleges, that the fictitiously  
17 named defendants, and each of them, were and are the agents, servants, employees, representatives  
18 and alter egos of each or some of the named defendants and/or of the other fictitiously named  
19 defendants and, in doing the things herein alleged, acted within the course and scope of such  
20 agency, service, employment and/or representation.

21 6. Defendants Cage and any of DOES 1 through 10 may be referred to hereinafter  
22 collectively as "Defendants."

23 **VENUE**

24 7. Venue is proper in this Court because a substantial portion of the events, transactions  
25 and occurrences which are the subject of this action occurred in Los Angeles County, the subject  
26 agreements were entered into in Los Angeles County, and the Defendants' breach of their  
27 obligations occurred, in whole or in part, in Los Angeles County.

28

FACTUAL ALLEGATIONS

1  
2 8. On or about August 23, 2007, Plaintiff extended to Cage an unsecured revolving line  
3 of credit in the amount of \$2,000,000.00 (the "Line of Credit"), with terms as set forth in the  
4 Business Loan Agreement and Promissory Note. True and correct copies of the Business Loan  
5 Agreement and Promissory Note are attached hereto respectively as Exhibits A and B and  
6 incorporated herein by this reference. The Line of Credit was originally scheduled to mature in one  
7 year, i.e. on August 23, 2008. At Cage's request, Plaintiff approved a three month extension of the  
8 maturity date of the loan, through and including November 23, 2008. Cage agreed to repay the  
9 amounts borrowed pursuant to the terms of the Line of Credit, including interest, costs, expenses,  
10 and attorneys' fees. However, Cage defaulted on the Line of Credit by, among other things, failing  
11 to make payments of principal, interest, and late charges due and owing to Plaintiff.

12 9. With an effective date of November 23, 2008, Plaintiff and Cage entered into a  
13 change in terms agreement (the "Change in Terms Agreement"). A true and correct copy of the  
14 Change in Terms Agreement is attached hereto as Exhibit C and incorporated herein by this  
15 reference. Under the Change in Terms Agreement, the principal amount owed on the Line of Credit  
16 was \$1,915,588.25 and the maturity date was extended to January 23, 2011. In addition, the parties  
17 agreed that the original terms of the Line of Credit would continue to be valid, unless expressly  
18 changed by the Change in Terms Agreement. Therefore, Cage agreed to repay the amounts  
19 borrowed pursuant to the terms of the Change in Terms Agreement, and all interest, costs, expenses,  
20 and attorneys' fees as originally set forth in the Line of Credit. However, Cage defaulted on the  
21 Line of Credit by, among other things, failing to make payments of principal, interest, and late  
22 charges due and owing to Plaintiff.

23 10. Pursuant to the Promissory Note, upon Cage's default, Plaintiff has the right to  
24 declare the entire unpaid principal balance under the Promissory Note and all accrued unpaid  
25 interest immediately due. (See Exhibit B, p. 2.)

26 11. On or about June 10, 2009, Plaintiff served Cage with a Notice of Default Letter  
27 regarding the Line of Credit. In that letter, Plaintiff informed Cage that he was in default under the  
28 Line of Credit, and that if he did not make payments of \$11,590.82 for unpaid principal and interest

1 and \$695.45 for late charges for the month of May 2009, Plaintiff would declare the entire unpaid  
2 principal balance of the Promissory Note, all accrued unpaid interest thereon, and all penalties and  
3 late fees immediately due and payable without further notice. A true and correct copy of the Notice  
4 of Default Letter is attached hereto as Exhibit D and incorporated herein by this reference. Cage has  
5 failed to make the payments to Plaintiff for the month of May 2009 of \$11,590.82 for unpaid  
6 principal and interest and \$695.45 for late charges, for the month of June 2009 of \$11,590.82 for  
7 unpaid principal and interest and \$695.45 for late charges, for the month of July 2009 of \$11,590.82  
8 for unpaid principal and interest and \$695.45 for late charges, for the month of August 2009 of  
9 \$11,590.82 for unpaid principal and interest and \$695.45 for late charges, and for the month  
10 of September 2009 of \$11,590.82 for unpaid principal and interest and \$695.45 for late charges. In  
11 addition, as of October 1, 2009, Cage failed to make an outstanding payment of \$100,000.00.

12 **FIRST CAUSE OF ACTION**

13 **FOR BREACH OF CONTRACT**

14 **(Against Cage and DOES 1 through 10, inclusive)**

15 12. Plaintiff repeats and incorporates herein the allegations contained in paragraphs 1  
16 through 11, inclusive, as though set forth in full.

17 13. Plaintiff has duly performed all of the conditions and covenants required on its part  
18 to be performed in connection with the Line of Credit and the Change in Terms Agreement, except  
19 as otherwise may have been excused, waived, or prevented by material breaches or other conduct of  
20 the Defendants.

21 14. As of October 2, 2009, the amount due on the Line of Credit and the Change in  
22 Terms Agreement, including principal, interest, and late charges was \$1,953,732.94. Cage and  
23 DOES 1 through 10, inclusive, have failed and refused to pay the principal balance and other  
24 amounts due and owing to Plaintiff and are in default under the terms of the Line of Credit and the  
25 Change in Terms Agreement.

26 15. Cage and DOES 1 through 10, inclusive, have breached the terms of the Line of  
27 Credit and the Change in Terms Agreement by failing and refusing to pay Plaintiff the amounts due  
28 thereon.

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LOS ANGELES, CALIFORNIA 90067  
(310) 553-3000

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16. As a direct and proximate result of the breaches of the Line of Credit and the Change in Terms Agreement by Cage and DOES 1 through 10, inclusive, Plaintiff has sustained damages in an amount according to proof at trial, including collection expenses, attorneys' fees and costs pursuant to the Line of Credit and the Change in Terms Agreement.

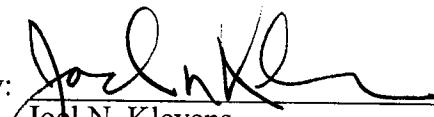
**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for judgment as follows:

1. That the Court enter judgment against Cage and DOES 1-10, jointly and severally, for damages, including, but not limited to \$1,953,732.94, plus additional late charges as applicable, plus interest for each day after October 2, 2009, up through entry of judgment in an amount according to proof at trial; and
2. For attorneys' fees and costs pursuant to the Line of Credit and Change in Terms Agreement.
3. For prejudgment interest at the maximum allowable rate;
4. For the costs of suit and expenses incurred herein; and
5. For such further relief as the Court deems just and appropriate.

Dated: October 2, 2009

GLASER, WEIL, FINK, JACOBS,  
HOWARD & SHAPIRO, LLP

By:   
Joel N. Klevens  
Diane K. Myint  
Matthew R. Gershman  
Attorneys for Plaintiff EAST WEST BANK