

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

JOHN MURANTE,)
)
Plaintiff,)
)
vs.)
)
PROPERTY VENTURES, LLC, and)
SAM MURANTE, SR.)
)
Defendants.)

Case No.:

COMPLAINT

Plaintiff, John Murante (“Plaintiff”), for its causes of action against Property Ventures, LLC and Sam Murante, Sr. (“Defendants”), states and alleges as follows:

PARTIES

1. John Murante is a resident of Douglas County, Nebraska.
2. Property Ventures, LLC is a limited liability company organized and existing under the laws of the state of Nebraska with its principal place of business at 2411 O Street, Suite #2, Omaha, Nebraska 68107. Defendant may be served by delivering process to its Registered Agent Erickson & Sederstrom P.C., 10330 Regency Parkway Drive, Omaha, Nebraska 68114.
3. Sam Murante Sr. is a resident of Douglas County, Nebraska.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this case under Neb. Rev. Stat. § 24-302.
5. Venue is proper in this case as Defendants are located in Douglas County.

BACKGROUND

6. Plaintiff restates and re-alleges paragraphs 1 through 5 of this Complaint as though fully set forth herein.

7. This First Cause of Action arises from a Promissory Note (“Note”) that was given by Defendants, as makers, to the Plaintiff, as holder. Defendants acknowledged their obligation to Plaintiff in an affidavit filed with the Register of Deeds of Douglas County, dated August 1, 2013 (“Affidavit”). A true and correct copy of the Note, including the Affidavit, is attached to this Complaint as ‘Exhibit A’ and incorporated herein by this reference.

8. On June 1, 2006, Plaintiff loaned Defendants ONE HUNDRED ONE THOUSAND SEVEN HUNDRED SIXTY-EIGHT AND 12/100 DOLLARS (\$101,768.12). The Note required a lump sum payment, with interest accruing at five percent (5%) per annum accruing on unpaid principal, no later than June 1, 2010.

9. On May 5, 2010, Sam Murante acknowledged the indebtedness to Plaintiff and reaffirmed that the Note would be paid in full no later than December 31, 2013. To date, no payments have been received on this Note.

10. On August 1, 2013, Sam Murante signed and filed the Affidavit to secure repayment of the Note to Plaintiff. In the affidavit, Sam pledged the properties commonly known as (a) 5002 S. 24th Street, Douglas County, Nebraska; (b) 5006 S. 24th Street, Douglas County, Nebraska; and (c) 5015 S. 24th Street, Douglas County, Nebraska, as collateral for the Note indebtedness by placing a lien on said properties.

11. On the date of default, December 31, 2013, the principal balance due on the Note was \$101,768.12. An interest rate of five percent (5%) per annum accrued on the principal balance of the Note from June 1, 2006 through December 31, 2013. Upon default (January 1, 2014), the interest rate due on the unpaid principal balance increased to sixteen percent (16%) per annum.

12. On November 18, 2016, the Plaintiff made written demand for payment of the Note. The total amount due on the Note through November 18, 2016, was \$226,244.11.

13. As of the filing of this Complaint, January 18, 2017, the amount owed under the terms of the Note is \$231,784.04. Interest has accrued and continues to accrue in accordance with the terms of the Note, at sixteen percent (16%) per annum.

14. Despite demands for payment, Defendants have failed and refused to make the payments required by the Note.

FIRST CAUSE OF ACTION

(Default on Promissory Note)

15. Paragraphs 1 through 14 are incorporated by this reference as if fully set forth herein.

16. Despite Plaintiff's demands, Defendants have failed to make payment under the terms of the Note.

17. Defendants remain in default under the Note.

18. As of the filing of this Complaint, Plaintiff is entitled to collect the balance of the Note in the amount of \$231,784.04.

WHEREFORE, Plaintiff prays that the Court enter judgment against Defendants pursuant to this First Cause of Action in the total amount of \$231,784.04, together with interest that has accrued and continues to accrue, costs of this suit, attorney fees, and other such relief as the Court deems just and proper.

SECOND CAUSE OF ACTION

(Unjust Enrichment)

19. For its Second Cause of Action, Plaintiff incorporates paragraphs 1 through 20 above.

20. Defendants conduct in failing to make payment under the terms of the Note and retaining the fund advanced by Plaintiff is both unjust and inequitable, depriving Plaintiff monies owed under the terms of the Note.

21. By its failure to make payment on the Note and retaining funds advanced by Plaintiff, Defendants have received a significant benefit for which Defendants have not paid, constituting an unjust enrichment at the cost of Plaintiff.

22. Defendants have been unjustly enriched in the amount of \$231,784.04.

WHEREFORE, Plaintiff prays for judgment in its favor and against Defendants in the amount of \$231,784.04, plus additional accrued interest, costs of this suit, attorney fees, and other such relief as the Court deems just and proper.

DATED this 18th day of January, 2017.

JOHN MURANTE, Plaintiff,

By: /s/ Brian J. Brislen
Brian J. Brislen, #22226
Daniel J. Waters, #23984
LAMSON, DUGAN & MURRAY, LLP
10306 Regency Parkway Drive
Omaha, NE 68114-3708
(402) 397-7300
(402) 397-7824 (Fax)
bbrislen@ldmlaw.com
dwaters@ldmlaw.com
ATTORNEYS FOR PLAINTIFF

Promissory Note Agreement

\$101,768.12

6/01/06

3 LOANS FROM EQUINES
TOTAL TO FULL IN
2002

For value received the undersigned, SAM MURANTE SR (herein called "Borrower") promises to pay to YOHIM MURANTE, or assignee herein called "Holder", at such place as the Holder of this Note may from time to time designate, the principal sum of \$101,768.12 and No/100 Dollars (\$ 101,768.12) with interest from the date hereof on the unpaid principal balance at the interest rate of 5 percent (5%) per annum on the following terms and conditions.

1. **Principal and Interest Payments.** Borrower agrees to make a lump sum payment to include accrued principal and interest no later than 6/01/10

2. **Prepayment.** Borrower may prepay this Note in full at any time without penalty.

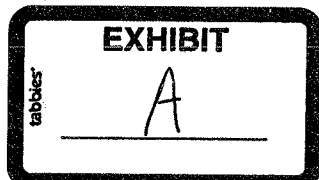
3. **Maturity Date.** All principal and interest remaining outstanding as of the 6/01/10 (the Maturity Date) shall be paid on that date. *REVISED 5/5/10*

4. **Default.** If any payment required by the terms hereof, or by the terms of any other documents evidencing or securing this Note (the Loan Documents), is not paid when due, or if any other default occurs under the Loan Documents, the whole of the unpaid principal and interest owing on this Note shall, at the option of holder and without notice, become immediately due and payable. Holder's failure to exercise its option shall not be construed as a waiver of this provision with respect to any subsequent event of default.

Upon default, and continuing until such default has been cured, the interest rate shall be increased to the Default Rate. The Default Rate shall be the lesser of (a) sixteen percent (16%) per annum or (b) the highest rate legally permissible. *EN/A*

5. **Late Charge.** In the event any installment is not received by Holder upon its due date, Borrower agrees to pay to Holder an amount equal to four percent (4%) of the installment due as a Late Charge. This paragraph and the amount which it provides is in addition to all other rights and remedies of Holder.

6. **Waiver.** Borrower, for itself, its heirs, legal representatives, successors and assigns, hereby waives presentment, demand, protest, notice of dishonor and any other notices provided by law, and waives any right to be released by reason of any extension of time or change in terms of payment or by reason of any change, alteration or



release of any security given for the payment of this Note.

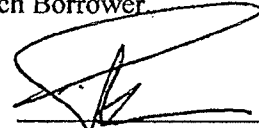
7. **Governing Law.** This Note shall be interpreted, construed and enforced according to the laws of the State of Nebraska.

8. **Maximum Rate of Interest.** Borrower does not intend to pay nor does Holder intend to charge, accept or collect any interest greater than the highest legal rate of interest which may be charged under applicable law. Should the acceleration of this Note or any charges made hereunder result in the computation of interest which would cause this Note to violate any such law, any and all such excess shall be and the same is hereby waived by Holder, and any and all such excess shall be credited by Holder to the balance due on this Note.

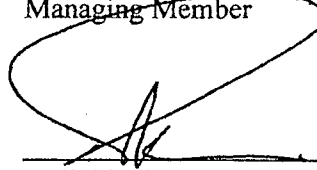
9. **Miscellaneous.**

(a) Principal, interest and charges are payable in lawful money of the United States.

(b) In this Note, the singular shall include the plural and this Note shall be the joint and several obligation of each Borrower.





Property Ventures LLC by MANAGING MEMBER
Managing Member




Individual

May 5, 2013
I AM IT DOES NOT APPEAR THAT I WILL BE ABLE TO HAVE THE FUNDS TO PAY YOU OFF. I AM THEREFORE EXTENDING MY OBLIGATION TO PAY YOU AND NEED MORE TIME. THE MARKET IS STARTING TO RECOVER AND I JUST NEED MORE TIME. I AGREE TO EXTEND MY OBLIGATION TO PAY YOU WITH THE ABSOLUTE DEADLINE OF THE END OF 2013 (DEC 31 2013). I WAS HOPING THE SALE PROCEEDS OF THE SUTHERLAND PROJECT WOULD HAVE PROVIDED THOSE FUNDS BUT DID NOT.

 AS MANAGING MEMBER OF P.V. LLC
 AS INDIVIDUAL.

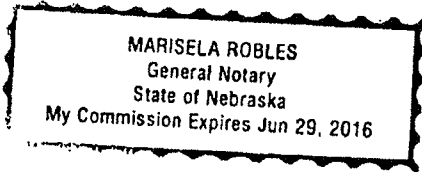
Acknowledgement
State of Nebraska
Douglas County

The foregoing instrument was acknowledged before me this 1st of August 2013
SAM MURAHTE SR.



Notary Public Signature

Affix seal here



Page 2 of 4

Page 3 of 4 and 4 of 4 are the two (2) pages of the Promissory note agreement and attached hereto.

Sam Murante Sr
2411 O Street Ste 2
Omaha, Nebraska

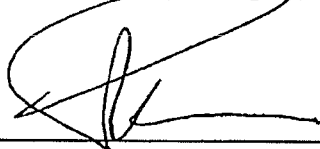
Sam Murante Sr) AFFIDAVIT to include promissory note

Re: Lien to be placed on property at 5002 S 24th Street, 5006 S 24 and 5015 S 24 Omaha Ne
68107

The undersigned affiant, Sam Murante Sr, being first duly sworn, hereby deposes and says:

- 1 I am over the age of 18, suffer no legal disabilities, have personal knowledge of the facts set forth below and in the attached promissory note attached and dated 6/01/06 & modified & reaffirmed 6/01/13 and am competent to make this affidavit.
- 2 I am the borrower in the attached promissory note and certify that it is true and accurate and that at the time the note was signed in 6/01/06 that I was the managing member of Property Ventures LLC and recognize that Property Ventures did borrow \$101,768.12 and is then responsible to John M Murante (Holder) for the repayment of that debt of money borrowed.
- 3 I certify that this money (\$101,768.12) came from a partnership of which John M Murante was a 50% partner and that Property Ventures has an obligation to repay that same debt plus interest.
- 4 This Affidavit is intended to encumber the property described as follows and to secure repayment of that debt upon the sale of that same property described as follows.
- 5 Address is 5002 S 24th Street and Legal is South Omaha City Lots lot 1, block 84 (60 x 150) an addition to the city of Omaha as surveyed, platted and recorded in Douglas County and 5006 S 24, Legal South Omaha City Lots 2 Block 84 N 36 ft 36 x 150, an addition to the city of Omaha as surveyed. Platted and recorded in Douglas County Nebraska and 5015 S 25 St, Legal So Omaha 1st add lot 10, block 2 60 x 150 as surveyed platted and recorded in Douglas County Nebraska.

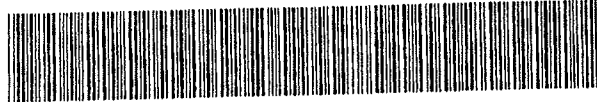
This the 1st day of August, 2013



Sam Murante Sr



MISC 2013078264



AUG 01 2013 14:59 P 5

F
cash.

5

FEE 34.⁰⁰ FB 04-31000
37-36480

BKP EXAM *[Signature]*

IND SCAN PRF

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
8/1/2013 14:59:56.81



2013078264

THIS PAGE INCLUDED FOR INDEXING

PAGE DOWN FOR BALANCE OF INSTRUMENT

RETURN TO: SAM MURANTE
2411 O ST.
OMAHA, NE 68107
402-699-3929

CHECK NUMBER

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

JOHN MURANTE, Plaintiff, v. PROPERTY VENTURES, LLC, Defendant.	Case No. CI 17-419 SUGGESTION IN BANKRUPTCY
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COMES NOW, Property Ventures, LLC ("Debtor"), by and through its attorneys of record, and advises this Court that Debtor caused its voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code to be filed on December 13, 2017, in the United States Bankruptcy Court for the District of Nebraska at Case No. BK 17-81762. Attached hereto as Exhibit "A" is a copy of Debtor's Notice of Bankruptcy Filing as generated by the Bankruptcy Court's electronic filing system.

Pursuant to the automatic stay imposed by 11 U.S.C. §362(a) and Nebraska Uniform District Court Rule of Practice and Procedure §6-1506, all litigation and proceedings against Debtor are stayed. Any actions taken in violation of the automatic stay are void as a matter of law.

Respectfully submitted this 14th day of December, 2017.

PROPERTY VENTURES, LLC, Debtor

By: /s/ Patrick R. Turner
Patrick R. Turner (#23461)
Stinson Leonard Street, LLP
1299 Farnam Street, Suite 1500
Omaha, NE 68102
Tel. No. (402) 342-1700
Fax No. (402) 342-1701
Patrick.turner@stinson.com

United States Bankruptcy Court
District of Nebraska

Notice of Bankruptcy Case Filing

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 12/13/2017 at 9:36 PM and filed on 12/13/2017.

Property Ventures, LLC
2411 O Street
Suite 2
Omaha, NE 68107
Tax ID / EIN: 47-0844517



The case was filed by the debtor's attorney:

Patrick Raymond Turner
Stinson Leonard Street LLP
1299 Farnam Street
Suite 1500
Omaha, NE 68102
(402) 342-1700

The case was assigned case number 17-81762-TLS to Judge Thomas L. Saladino.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page ecf.neb.uscourts.gov or at the Clerk's Office, 111 South 18th Plaza, Suite 1125, Omaha, NE 68102.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

Diane Zech
Clerk, U.S. Bankruptcy

Court

PACER Service Center			
Transaction Receipt			
12/14/2017 13:21:35			
PACER Login:	patrickrturner:4866984:4479234	Client Code:	9999952.0026/06106
Description:	Notice of Filing	Search Criteria:	17-81762-TLS
Billable Pages:	1	Cost:	0.10

Certificate of Service

I hereby certify that on Thursday, December 14, 2017 I provided a true and correct copy of the Suggestion in Bankruptcy to the following:

Murante,John, represented by Waters Daniel (Bar Number: 23984) service method:
Electronic Service to danw@ldmlaw.com

Murante,Sam,,Sr. represented by Matthew Rusch (Bar Number: 21906) service method:
Electronic Service to mrusc@eslaw.com

Murante,John, represented by Brislen,Brian,J (Bar Number: 22226) service method:
Electronic Service to tshughart@ldmlaw.com

Property Ventures, LLC represented by Matthew Rusch (Bar Number: 21906) service
method: Electronic Service to mrusc@eslaw.com

Signature: /s/ Patrick Turner (Bar Number: 23461)