SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: **HON. MELISSA A. CRANE** **PART** **60M**

Justice

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ACORE CAPITAL MORTGAGE, LP,

Plaintiff,

- v -

BRIDGE OFFICE FUND LP, BRIDGE OFFICE FUND-A LP, BRIDGE OFFICE FUND INTERNATIONAL MASTER LP

Defendant.

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INDEX NO. 651484/2024

MOTION DATE 03/21/2024

MOTION SEQ. NO. 001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43

were read on this motion to/for JUDGMENT - SUMMARY IN LIEU OF COMPLAINT .

Upon the foregoing documents, plaintiff's motion for summary judgment in lieu of complaint is granted in part and denied in part.

Plaintiff commenced this action for summary judgment in lieu of complaint against defendants. Plaintiff seeks to recover under various guaranties executed in connection with a project developing real property. Plaintiff is the administrative agent under the relevant loan agreements. Defendants are the guarantors under the relevant agreements.

Background

The Loan Agreements and Promissory Notes

On October 14, 2020, nonparty Delphi CRE Funding LLC (Lender) and nonparty BOF CA One Concord Center, LLC (Borrower) entered into a Senior Loan Agreement and a Mezzanine Loan Agreement. Lender loaned $62,876,000 to borrower in total. In consideration for the Senior Loan ($61,304,100.00) (Doc 6 [Senior Loan]), borrower issued three promissory notes in favor of Lender. The principal amounts for the Senior Notes were originally

$33,000,000.00, $9,631,000.00 and $18,673,100.00 (Doc 4 [senior notes]). The senior loan is secured by a deed of trust, by which senior borrower conveyed California real property.

In consideration for the Mezzanine Loan (Doc 9 [mezz loan]), borrower issued a promissory note in favor of lender. The principal amount of the mezzanine note was originally $1,571,900.00 (Doc 8 [mezz note], Doc 9 [Mezzanine Loan]). The mezz loan is secured by a Mezzanine Pledge and Security Agreement ("Pledge Agreement") (Doc 10). Under the pledge agreement, mezz borrower pledged to plaintiff, as the administrative agent, the LLC interests in the Senior Borrower. Under the pledge agreement, plaintiff is also entitled to "receive any and all income, cash dividends, distributions, proceeds or other property received or paid in respect of the Pledged Company Interests and make application thereof to the Debt" upon an Event of Default (*id.* para 7 [a]).

Prior to the maturity date, borrowers and defendants failed to make monthly interest payments in June and July 2023. The loans both provide for monthly interest payments due on the "Payment Date." The loans then matured on November 10, 2023. Neither borrowers nor defendants paid the total outstanding balances at maturity. The Loan Agreements define "Debt" as:

> "the Outstanding Principal Balance, together with all interest accrued and unpaid thereon, the Exit Fee, the Minimum Multiple, and all other sums due from Borrower under the Loan Documents"

(Doc 6 § 1.2; Doc 9 § 1.2).

Additionally, both loan agreements state that an event of default occurs when:

> "any payment of principal or interest due with respect to the Loan is not paid on the Payment Date when due"; (ii) "the entire Debt is not paid in full on the Maturity Date"; (iii) "any other monetary sum required to be paid hereunder or under any other Loan Document is not paid within five (5) Business Days after written demand from Administrative Agent"; and (iv) "if there shall exist an 'Event of Default' under and as defined in any other Loan Document"

(*e.g.* Doc 6 § 7.1.).

The Principal Guaranties

In consideration of the principal loan and the mezzanine loan, defendants executed a Principal Guaranty, a Mezzanine Principal Guaranty, a Guaranty of Required Equity and a Mezzanine Guaranty of Required Equity (together, the Guaranties) (Docs 11, 12, 13, 14). The Principal Guarantee and the Mezzanine Principal Guarantee provide:

> "Guarantor hereby irrevocably and unconditionally guarantees to Administrative Agent (for the benefit of the Lenders) the payment and performance of the Guaranteed Obligations as and when the same shall be due and payable, whether by lapse of time, by acceleration of maturity or otherwise. Guarantor hereby irrevocably and unconditionally covenants and agrees that it is fully liable for the Guaranteed Obligations as a primary obligor as set forth herein"

(*e.g.* Doc 11 § 1).

The Principal Guaranty and the Mezzanine Principal Guaranty (together, the Principal Guaranties), define Guaranteed Obligations as:

> "the payment to Lender of a portion of the Outstanding Principal Balance in an amount not to exceed FIFTEEN MILLION SEVEN HUNDRED NINETEEN THOUSAND AND 00/100 DOLLARS ($15,719,000.00), minus twenty-five percent (25%) of the unfunded portion of the Notes and the Note (as defined in the Mezzanine Loan Agreement) because of Additional Advances not made by Lenders under the Loan Agreement and the Mezzanine Lender under the Mezzanine Loan Agreement, minus twenty-five percent (25%) of any principal payments and principal prepayments made by Borrower in accordance with the terms of the Loan Agreement and by Mezzanine Borrower in accordance with the terms of the Mezzanine Loan Agreement, plus all costs and expenses (including reasonable attorneys' fees) incurred by Administrative Agent in collecting the foregoing, as evidenced by receipts, invoices or similar documentation of such costs and expenses."

(*id*.)

The Equity Guaranties

Section 1 (a) of the Principal Equity Guaranty and the Mezzanine Equity Guaranty (together, the Equity Guaranties) provides:

> "**Guaranty of Obligation.**
>
> [] Guarantor hereby irrevocably and unconditionally guarantees to Administrative Agent . . . the payment and performance of the Guaranteed Obligations as and when the same shall be due and payable, whether by lapse of time, by acceleration of maturity or otherwise. Guarantor hereby irrevocably and unconditionally covenants and agrees that it is fully liable for the Guaranteed Obligations as a primary obligor as set forth herein. As used herein, the term **"Guaranteed Obligations"** means the payment of the Required Equity (as defined in the Loan Agreement) pursuant to Section 3.1.2 of the Loan Agreement"

(Doc 13 § 1 [a] [senior equity guaranty], Doc 14 § 1 [a] [mezzanine equity guaranty]).

Sections 3.1.2 in the Loan Agreements contain the following "required equity" provision:

> "Borrower shall contribute and invest in the Property required cash equity in an amount not less than $7,699,000 (the "Required Equity"), comprised of not less than $1,449,000 for Project Expenditures and $6,250,000 for Leasing Expenditures . . . . During the existence of an Event of Default, Borrower will be required to deposit the amount of Required Equity which has not previously been contributed as required by this Section 3.1.2 with Administrative Agent upon Administrative Agent's demand therefor"

(Doc 6 § 3.1.2; Doc 9 § 3.1.2).

In section 1 [b], the Equity Guaranties state:

> "Guarantor acknowledges and agrees that the unpaid amount of the Guaranteed Obligations as described in this Section 1, if not paid when due pursuant to this Guaranty and the other Loan Documents, shall, at Administrative Agent's election in its sole and absolute discretion, be deemed to be added to and form a part of the Debt for all purposes under the Loan Documents (it being agreed that neither Administrative Agent nor Lender shall be required to demonstrate that it has suffered a Loss in such amount in order to recover such amounts from Guarantor). For the avoidance of doubt, Guarantor's obligation to pay the unpaid amount of the Guaranteed Obligations as described in this Section 1 shall survive any foreclosure or the giving of any deed-in-lieu of foreclosure with respect to the Property, and shall not be reduced or limited by any repayment of the Loan or by any amount bid by Administrative Agent in connection with any foreclosure under the Loan Documents. Guarantor acknowledges and agrees that its obligations under this Guaranty to pay to Administrative Agent the unpaid amount of the Guaranteed Obligations as described in this Section 1 are separate and distinct from any Obligation of Borrower to repay the Debt, and that such obligation does not constitute a guaranty of the Loan or of any of Borrower's obligations with respect to the Loan except to the extent that such unpaid amount

of the Guaranteed Obligations as described in this Section 1 are actually added to and form a part of the Debt as provided above"

(*e.g.* Doc 13 § 1 [b]).

Section 6 of the Equity Guaranties states:

"**No Discharge.** Guarantor agrees that its obligations under this Guaranty shall not be released, diminished, or adversely affected by any of the following, and waives any common law, equitable, statutory or other rights (including without limitation rights to notice) which Guarantor might otherwise have as a result of or in connection with any of the following: (a) any modification, extension, or increase of all or any part of the Guaranteed Obligations or the Loan Documents; (b) any adjustment, indulgence, forbearance or compromise that might be granted or given by Lender or Administrative Agent to Borrower or Guarantor; (c) the insolvency, bankruptcy, arrangement, adjustment, composition, liquidation, disability, dissolution or lack of power of Borrower, Guarantor or any other party at any time liable for the payment of all or part of the Guaranteed Obligations, or any dissolution of Borrower or Guarantor, . . . ; (d) any sale, lease or transfer of any or all of the assets of Borrower or Guarantor, . . . ; (f) any full or partial release of the liability of Borrower for any part of the Guaranteed Obligations, or of any co-guarantors, or any other person or entity now or hereafter liable, whether directly or indirectly, jointly, severally, or jointly and severally, to pay, perform, guarantee or assure the payment of the Guaranteed Obligations, or any part thereof, . . . ; (g) the taking or accepting of any other security, collateral or guaranty, or other assurance of payment, for all or any part of the Guaranteed Obligations; (h) any release, surrender, exchange, subordination, deterioration, waste, loss or impairment (including without limitation negligent, willful, unreasonable or unjustifiable impairment) of any collateral, property or security at any time existing in connection with, or assuring or securing payment of, all or any part of the Guaranteed Obligations; . . . ; or (j) any other action taken or omitted to be taken with respect to the Loan Documents, the Guaranteed Obligations, or the security and collateral therefor, whether or not such action or omission prejudices Guarantor or increases the likelihood that Guarantor will be required to pay the Guaranteed Obligations pursuant to the terms hereof"

(*e.g. id.* § 6).

Thus, the Equity Guarantees provide:

"[I]t is the unambiguous and unequivocal intention of Guarantor that Guarantor shall be obligated to pay the Guaranteed Obligations when due, notwithstanding any occurrence, circumstance, event, action, or omission whatsoever, whether contemplated or uncontemplated, and whether or not otherwise or particularly described herein, which obligation shall be deemed satisfied only upon the full and final payment and satisfaction of the Guaranteed Obligations (except for only

> those obligations which, by their express terms, survive indefeasible repayment of the Debt)"

(*e.g. id.*).

The Consent Agreement and Defaults

On July 5, 2023, borrower executed a letter agreement ("Consent Agreement") outlining the terms and conditions for the sale of property that secured the loans (Doc 15 [Consent Agreement]). Defendants also signed this agreement as guarantors. Pursuant to the Consent Agreement and a purchase agreement, the property was sold to a California partnership for $40,500,000. According to plaintiff's managing director, "[t]he Sale netted proceeds in the amount of $37,104,821.06, leaving approximately $22,000,000.00 due and owing under the Loan Documents plus additional interest, fees, and other amounts which continue to accrue" (Doc 3, para 39 [May aff]).

The Consent Agreement states that:

> "nothing in this Letter Agreement shall be construed as or deemed to be a waiver of any terms and conditions of, rights of Administrative Agent under, any Guaranty (which term, as defined in the Loan Agreement, is inclusive of the Guaranty of Recourse Obligations from Guarantors, the Required Equity Guaranty from Bridge Guarantors and the Principal Guaranty from the Bridge Guarantors, each in favor of Administrative Agent)"

(Doc 15 at 3).

Plaintiff's Managing Director, Kimerbly May, states that borrower failed to make the June 2023 monthly interest payment (Doc 3, para 27 [May aff]). On July 5, 2023, Plaintiff sent Borrowers and Defendants a Notice of Default, Demand for Deposit of Required Equity, and Reservation of Rights letters (Docs 16, 17). In the first default notice, plaintiff declared an event of default under the loan agreements and demanded that borrowers deposit all outstanding required equity (*e.g.* Doc 16 at 2). On July 27, 2023, plaintiff sent defendants second notices of

default (Docs 18-19). In the second notices, plaintiffs declared an additional event of default had occurred when borrowers failed to make the July 2023 interest payments (*e.g.* Doc 18 at 2). Plaintiff again demanded that borrowers make their required equity deposits.

Plaintiff's managing director states that neither borrowers nor defendants deposited the outstanding required equity amounts (Doc 3, paras 31-32). As of March 21, 2024, "Borrowers have only deposited $3,790,888.37 in Required Equity. Thus, the due, owing, and outstanding Required Equity payment is $3,908,111.63 (i.e., $7,699,000 minus $3,790,888.37) plus interest" (*id.*, para 32). In addition, plaintiff asserts that borrowers failed to repay the entire outstanding principal balance on the loans, and that Special Funding Advances remain unpaid under the Consent Agreement and guaranties (*see* Doc 21 [8/2/23 special funding advances letter]).

Under the loan agreements, the "Interest Rate" is defined as:

> "(A) the LIBOR Interest Rate with respect to the applicable Interest Period for a LIBOR Loan or (B) the Alternate Benchmark Rate for an Alternate Benchmark Rate Loan if there is a Benchmark Transition Event or an Early Opt-In Election and the related Benchmark Replacement Date has occurred pursuant to the terms hereof"

(e.g. Doc 6, section 1.2).

In section 2.2.1 of the loan agreements,

> "interest on the Outstanding Principal Balance shall accrue from the Closing Date [10/14/20] until the Debt is repaid in full at the Interest Rate, and during the continuance of an Event of Default, at the Default Rate. Interest on the Outstanding Principal Balance shall be calculated by multiplying (a) the actual number of days elapsed in the period for which the calculation is being made by (b) a daily rate based on the Interest Rate (or the Default Rate, if applicable) and a three hundred sixty (360) day year, by (c) the Outstanding Principal Balance"

(*id.*, section 2.2.1).

The "Default Rate" is 5% "above the Interest Rate that would otherwise be in effect" (*id.*).

Thus, plaintiff seeks $21,959,348.75, plus default interest from the March 21, 2024 filing date, as follows:

1. Outstanding required equity in the amount of $3,908,111.63 (the total Required Equity amount [$7,699,000] minus the partial Required Equity payment [$3,790,888.37] made by borrowers, plus $625,042.99 in interest on the unpaid required equity.

2. Outstanding Principal in the amount of $14,537,633.05 (the maximum guaranteed amount [$15,719,000.00] less the unfunded loan amount [$1,035,371.95] and less 25% of the Loan principal payments total [$145,995.00]), plus $1,951,385.99 for interest on the principal debt.

3. $830,580.98 plus $106,594.11 in interest for the Special Funding Advances.

Defendants' Opposition

Defendants concede that they defaulted in June 2023. They assert that they do not owe any amount for unpaid required equity because the property was sold in August 2023 pursuant to the Consent Agreement. Alternatively, they argue that the loan documents are ambiguous with respect to defendants' liability for required equity amounts. Defendants also argue that plaintiff "cannot substantiate" the amounts that defendants owe for unpaid principal and interest.

DISCUSSION

CPLR 3213 provides for accelerated judgment where the instrument sued upon is for the payment of money only and the right to payment can be ascertained without regard to extrinsic evidence, "other than simple proof of nonpayment or a similar de minimis deviation from the face of the document" (*Weissman v Sinorm Deli, Inc.*, 88 NY2d 437, 444 [1996]; *27 West 72nd Street Note Buyer LLC v Terzi*, 194 AD3d 630, 631-32 [1st Dept 2021]; *see also Arbor-Myrtle Beach PE LLC v Frydman*, 2021 NY Slip Op. 30223[U], *4 [Sup Ct, NY County Jan 20, 2021], *aff'd* 202 AD3d 464, 464-65 [1st Dept 2022]). Accelerated judgment under CPLR 3213 is appropriate where the plaintiff establishes the existence of a guaranty of payment and defendant's failure to pay (*see*

Perlbinder Holdings LLC v Patel, 217 AD3d 426, 426-27 [1st Dept 2023] [finding that the plaintiff "demonstrated prima facie entitlement to summary judgment in lieu of complaint on its claim to recover on a guaranty that defendants signed, by submitting evidence of their failure to pay, including the guaranty, the underlying lease, the assignment to the commercial tenant, and the lease ledger stating the commercial tenant's rent arrears"]; *Varadero Master Fund, L.P. v Gomez*, 2023 WL 6219385, *1 [1st Dept Sept 26, 2023]).

Once a plaintiff establishes prima facie entitlement to summary judgment in lieu of complaint, "the burden shifts to the defendant to submit evidence establishing the existence of a triable issue with respect to a bona fide defense" (*Zyskind v FaceCake Marketing Technologies, Inc.*, 101 AD3d 550, 551 [1st Dept 2012]; *Navon v Zackson*, 191 AD3d 578, 578 [1st Dept 2021] [finding that plaintiff established entitlement to summary judgment in lieu of complaint and that defendant failed to raise a triable issue of fact in response]).

1. Liability

Here, plaintiff has established its prima facie entitlement to summary judgment in lieu of complaint based on defendants' failure to pay the outstanding debts under the relevant guaranties and associated loan documents. Defendants concede liability with respect to the principal guaranties and the consent agreement advances. However, they contest liability under the Equity Guaranties, and they assert that the equity guaranties are not instruments for the payment of money only.

First, the equity guarantees are instruments for the payment of money only. Each equity guaranty states "This Guaranty is an irrevocable, absolute, continuing guaranty of payment and performance and not a guaranty of collection" (e.g. Doc 13, section 2). They also state, in section

6, "it is the unambiguous and unequivocal intention of Guarantor that Guarantor shall be obligated to pay the Guaranteed Obligations when due" (*e.g. id.*, section 6).

As outlined above, plaintiff's submissions establish that defendants "irrevocably and unconditionally guarantee[d] . . . the payment and performance of the Guaranteed Obligations," meaning "the payment of the Required Equity" under section 3.1.2 of the loan agreements (*e.g.* Doc 13 § 1 [a] [senior equity guaranty]). The Loan Agreements state, in section 3.1.2, that borrower "shall contribute and invest in the Property required cash equity in an amount not less than $7,699,000 (the "Required Equity")" (*e.g.* Doc 6 § 3.1.2). "During the existence of an Event of Default, Borrower will be required to deposit the amount of Required Equity which has not previously been contributed . . . upon Administrative Agent's demand" (*e.g. id.*). Plaintiff demanded the unpaid Required Equity amounts in July 2023 (*see* Docs 16-19), after borrower defaulted.

Section 1 [b] of the Equity Guaranties provides that "the unpaid amount of the Guaranteed Obligations [including unpaid required equity amounts] . . . , shall, at Administrative Agent's election in its sole and absolute discretion, be deemed to be added to and form a part of the Debt for all purposes under the Loan Documents" (*e.g.* Doc 13, section 1 [b]). However, nothing in the equity guaranties or other loan documents requires plaintiff to convert the equity amounts to Debt. In fact,

> "Guarantor acknowledges and agrees that its obligations under this [Equity] Guaranty to pay to [Plaintiff] the unpaid amount of the Guaranteed Obligations as described in this Section 1 are separate and distinct from any Obligation of Borrower to repay the Debt, and that such obligation does not constitute a guaranty of the Loan or of any of Borrower's obligations with respect to the Loan except to the extent that such unpaid amount of the Guaranteed Obligations as described in this Section 1 are actually added to and form a part of the Debt as provided above"

(*id.*).

That is, defendants guaranteed payment of the required equity amounts without regard to whether plaintiff elects to add those amounts to the Debt under the loan agreements.

Although defendants argue that they are not liable for the required equity amounts following the Consent Agreement and the sale of the property, the Consent Agreement states that "nothing in this Letter Agreement shall be construed as or deemed to be a waiver of any terms and conditions of, rights of Administrative Agent under, any Guaranty," including the Equity Guaranties (Doc 15).

Further, Section 6 of the Equity Guaranties states, specifically, that defendants' obligation to pay required equity amounts "shall not be released, diminished, or adversely affected by . . . any sale . . . of any or all of the assets of Borrower" (*e.g.* Doc 13, section 6). Section 6 of the equity guaranties also broadly provides that

> "it is the unambiguous and unequivocal intention of Guarantor that Guarantor shall be obligated to pay the Guaranteed Obligations when due, notwithstanding any occurrence, circumstance, event, action, or omission whatsoever, whether contemplated or uncontemplated, and whether or not otherwise or particularly described herein, which obligation shall be deemed satisfied only upon the full and final payment and satisfaction of the Guaranteed Obligations (except for only those obligations which, by their express terms, survive indefeasible repayment of the Debt)"

(*e.g. id.* § 6).

Thus, plaintiff has established its prima facie case with regard to the required equity amounts owed, and defendants have failed to raise a triable issue of fact. Based on the plain language of these documents, the court rejects defendants' contentions that they are not liable under the Equity Guaranties and associated loan documents. It is of no moment that the property's new buyer may have agreed, in other extrinsic agreements, to make its own equity contributions towards the underlying project. Nothing in the Equity Guaranties, the Consent Agreement, or the other pertinent loan documents obviates defendants' liability to plaintiff for the outstanding

required equity amounts under the Equity Guaranties. In addition, defendants are liable for interest on the unpaid required equity amounts pursuant to the Equity Guaranties' provision stating that default interest is owed for "[a]ny amounts payable to [Plaintiff]" under those guaranties.

2. Damages

Plaintiff has also established its prima facie entitlement to summary judgment in lieu of complaint with respect to its damages calculations. The court disagrees with defendants' contention that the motion must be denied because plaintiff's calculations are vague and unsupported.

Plaintiff adequately establishes the amounts owed under the principal and equity guaranties, as well as under the consent agreement. In her affirmation, May explains that defendants owe required equity in the amount of $3,908,111.63 (the total Required Equity amount [$7,699,000] minus the partial Required Equity payment [$3,790,888.37] made by borrowers. Plaintiff's submissions also establish that defendants owe $14,537,633.05 for outstanding principal amounts. That amount is the maximum guaranteed amount [$15,719,000.00] less the unfunded loan amount [$1,035,371.95] and less 25% of the Loan principal payments total [$145,995.00]). Finally, plaintiff established that it is entitled to $830,580.98 for the Special Funding Advances. In addition, plaintiff is entitled to interest on the foregoing amounts at the default rates under the relevant guaranties and loan documents.

May's affirmation is supported by the loan spreadsheet (Doc 20) and the special funding advance letters (Doc 21). Defendants speculate that the amounts of damages are overinflated but do not raise a triable issue of material fact in their submissions. Further, Kimberly May's reply affirmation provides additional clarity with respect to the applicable benchmark rates for interest calculations. In June 2023, plaintiff declared a benchmark transition event whereby the SOFR

index was selected to replace LIBOR (Docs 41-43; *see also e.g.* Doc 6 [the loan agreements anticipated and provided for benchmark transition events]). The notice informed borrower that "Administrative Agent [Plaintiff] has made an Early Opt-In Election under the Loan Agreement, and the Benchmark Replacement Date shall be June 9, 2023" (Doc 42 at 2).

3. Attorneys' fees

Although plaintiff may be entitled to its attorneys' fees and costs under the loan documents and guaranties, the part of the motion seeking an award of attorneys' fees is denied. Plaintiff did not submit any invoices or other evidence demonstrating the amount of its reasonable attorneys' fees or other enforcement costs. This denial is without prejudice to a new motion made upon proper papers.

4. Conclusion

The court has considered the parties' remaining contentions and finds them unavailing.

Accordingly, it is

ORDERED that plaintiff's motion for summary judgment in lieu of complaint is granted in part as set forth in this decision and order; and it is further

ORDERED that the Clerk is directed to enter judgment in favor of plaintiff, and as against defendants, jointly and severally, in the amount of $3,908,111.63 under the Equity Guaranties, together with pre-judgment interest at the contractual default rate from July 5, 2023 until entry of judgement, as calculated by the Clerk, with interest at the statutory rate thereafter; and it is further

ORDERED that the Clerk is directed to enter judgment in favor of plaintiff, and as against defendants, jointly and severally, in the amount of $14,537,633.05 under the Principal Guaranties, together with pre-judgment interest at the contractual default rate from June 11, 2023 entry of

judgment, and with interest at the statutory rate thereafter, as calculated by the Clerk; and it is further

ORDERED that the Clerk is directed to enter judgment in favor of plaintiff, and as against defendants, jointly and severally, in the amount of $830,580.98 for Special Funding Advances, together with pre-judgment interest at the contractual default rate from August 2, 2023 until the date of this decision and order, with interest at the statutory rate thereafter, as calculated by the Clerk; and it is further

ORDERED that the above amounts shall be awarded together with costs and disbursements as taxed by the Clerk upon submission of an appropriate bill of costs, and plaintiff shall have execution therefor; and it is further

ORDERED that plaintiff shall submit a proposed judgment to the Clerk together with a detailed affirmation demonstrating the contractual default interest rate and applicable benchmark rates under the relevant documents; and it is further

ORDERED that the part of plaintiff's motion that seeks attorneys' fees and enforcement costs is denied; and it is further

ORDERED that the Clerk is directed to mark this case as disposed.

10/11/2024
DATE

MELISSA A. CRANE, J.S.C.

CHECK ONE:	X	CASE DISPOSED			NON-FINAL DISPOSITION		
		GRANTED		DENIED	X GRANTED IN PART		OTHER
APPLICATION:		SETTLE ORDER			SUBMIT ORDER		
CHECK IF APPROPRIATE:		INCLUDES TRANSFER/REASSIGN			FIDUCIARY APPOINTMENT		REFERENCE