2023CI22575

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CAUSE NO. _____

JUDY A. MUSGROVE, INDIVIDUALLY, AND AS BENEFICIARY OF THE MAINSTAR TRUST, CUST. FBO JUDY A MUSGROVE IRA #T2181568, AND GOLDSTAR TRUST FBO JUDY A. MUSGROVE IRA, AND KATHLEEN E. PRIEBE, INDIVIDUALLY, AND AS BENEFICIARY OF GOLDSTAR TRUST FBO KATHLEEN E PRIEBE IRA	§	IN THE DISTRICT COURT
PLAINTIFFS,	§	____ JUDICIAL DISTRICT
V.	§	
BROOKLYN CHANDLER WILLY, QUEEN B ADVISORS, LLC D/B/A TEXAS FINANCIAL ADVISORY, FERRUM CAPITAL, LLC, MIKE L. COX, JOSHUA L. ALLEN, AND COLLINS ASSET GROUP, LLC	§	
DEFENDANTS.	§	BEXAR COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Judy A. Musgrove, Individually, and as Beneficiary of Mainstar Trust, Cust. FBO Judy A Musgrove IRA #T2181568, and GoldStar Trust FBO Judy A. Musgrove IRA, and Kathleen E. Priebe, Individually, and as Beneficiary of GoldStar Trust FBO Kathleen E. Priebe IRA (collectively "Plaintiffs") and file this Original Petition complaining of Brooklyn Chandler Willy, Queen B Advisors, LLC d/b/a Texas Financial Advisory, Ferrum Capital, LLC, Mike L. Cox, Joshua L. Allen, and Collins Asset Group, LLC (collectively "Defendants"), and in support thereof respectfully shows the Court as follows:

I. PRELIMINARY STATEMENT

1. A guaranteed ten percent annual return on an investment seems too good to be true—that's because it is. The Defendants in this case conspired to form and operate an investment scheme to defraud the Plaintiffs and the general public by promoting on radio and

television guaranteed profits on investor funds. What they didn't tell these potential investors was that only the Defendants themselves would see any of that guaranteed profit.

2. Defendants Brooklynn Chandler Willy ("Willy") and Queen B Advisors, LLC, d/b/a Texas Financial Advisory ("Queen B") served as the sales agent in the Defendants' investment scheme. In fact, she was fired from her last job and her registration as an independent investment advisor was forfeited for convincing her clients to purchase unregistered investments. Although Willy held herself as a fiduciary to her clients, meaning she must act on the behalf of her clients even to the detriment of herself, she recommended that each Plaintiff (two women in their 60's and 70's) invest all of their retirement funds in risky unregistered investment contracts masterminded by Defendants Ferrum Capital, LLC ("Ferrum"), Collins Asset Group, LLC ("Collins"), and their management. Willy did not inform the Plaintiffs that she didn't have a license to recommend the investment contracts, that the investments were not structured properly, or that they were unregistered securities. Willy did tell the Plaintiffs that their investment was safe, principal and profits were guaranteed, and that there was no risk of loss. These material misrepresentations and omissions were done knowingly, intentionally, and in contravention of Willy and Queen B's stated fiduciary status. The reason for these misrepresentations and omissions is simple—Willy and Queen B were provided outsized and undisclosed commissions by Ferrum for recommending the unregistered securities to the Plaintiffs and her other clients.

3. The investment contracts were deliberately structured in a complicated manner to confuse and obfuscate the location of the funds to throw potential investors off the trail. The investment contracts provide that Ferrum would essentially loan the investor funds to Collins so that Collins could purchase bad debt to hopefully reclaim. Based on information and belief, Ferrum was paid by Collins for sourcing the investor funds. In return for their investments, the Plaintiffs were given a promissory note (akin to an IOU). It now appears that Ferrum will not fund those promissory notes as they come due, and despite representations that the debt notes are secured in some type of collateral, it appears that they are not. In

essence, the Plaintiffs' investment contracts are illusory and worthless.

4. All of the Defendants knew that the Plaintiffs' investments would end up worthless—that was the point of the scam. The ten percent guarantee was merely an attempt to defraud the unsuspecting investing public, and separate them from their money under the guise that Willy and Queen Bee were acting in their best interests. The Plaintiffs have lost over $750,000 of their retirement funds to the Defendants scheme. Through this lawsuit they seek damages in order to be made whole.

II. DISCOVERY CONTROL PLAN

5. Discovery is appropriate under a Level 2 Discovery Control Plan in accordance with Texas Rule of Civil Procedure 190.3.

II. PARTIES

6. Plaintiff Judy A. Musgrove ("Musgrove"), Individually, and as Beneficiary of Mainstar Trust, Cust. FBO Judy A Musgrove IRA #T2181568, and GoldStar Trust FBO Judy A. Musgrove IRA, resides in Comal County, Texas.

7. Kathleen E. Priebe ("Priebe"), Individually, and as Beneficiary of GoldStar Trust FBO Kathleen E. Priebe IRA, resides in Comal County, Texas.

8. Brooklyn Chandler Willy is an individual residing in Kendall County, Texas. Willy may be served with process at 84 Sendero Ridge, Boerne, TX 78006, or wherever else she may be found.

9. Queen B Advisors, LLC d/b/a Texas Financial Advisory, is a Texas limited liability company with its principal place of business in Comal County, Texas. Queen B may be served with process through its registered agent Brooklyn Chandler Willy at 226 Turkey Cove, New Braunfels, TX 78132, or wherever else she may be found.

10. Ferrum Capital, LLC is a Texas limited liability company with its principal place of business in Lubbock County, Texas. Ferrum may be served with process through its registered agent Joshua L. Allen at 4415 66th Street, Suite 101, Lubbock, TX 79414.

11. Collins Asset Group, LLC is a Delaware limited liability company with its

principal place of business in Travis County, Texas. Collins is no longer registered with the Texas Secretary of State to conduct business in the State of Texas, though it continuously operates and conducts business in the State. Collins may be served with process through its registered agent URS Agents, LLC at 3610-2 N. Josey Lane, Suite 223, Carrolton, TX 75007, or through its manager Hollins Holdings, LLC at 5725 W. Highway 290, Suite 208, Austin, TX 78735.

12. Mike L. Cox ("Cox") is an individual residing in Lubbock County, Texas. Cox is a managing member of Ferrum. Cox can be served with process at 4415 66th Street, Suite 101, Lubbock, TX 79414.

13. Joshua L. Allen ("Allen") is an individual residing in Lubbock County, Texas. Allen is a managing member of Ferrum. Allen can be served with process at 4415 66th Street, Suite 101, Lubbock, TX 79414.

III. JURISDICTION & VENUE

14. This Court has jurisdiction over this matter because Plaintiffs seek damages and remedies in excess of the minimal jurisdictional limits of the Court. Pursuant to Texas Rule of Civil Procedure 47, Plaintiffs seek monetary relief of $1,000,000 or more, and demand judgment for all other available relief and remedies to which they may be entitled.

15. Venue is proper in Bexar County, Texas pursuant to Section 15.002(a)(1) of the Texas Civil Practice & Remedies Code because it is the county in which all or a substantial part of the events or omission giving rise to the claims contained herein occurred.

IV. STATEMENT OF FACTS

A. Willy from 2008 to 2019[1]:

16. Willy writes on her website that she formed Texas Financial Advisory as a sole proprietorship sometime in 2008 to help "individuals and families plan for their future and reach their financial goals." Despite this stated purpose, Willy was not associated with any registered investment advisor ("RIA"), and did not become an investment advisor representative ("IAR") until March 2014 when she began working with Global Financial Private Capital, LLC ("GFPC"), an RIA registered with the U.S. Securities & Exchange Commission. GFPC's employment structure was that of an independent contractor business model whereby its IARs could conduct business out of their own branch office through the use of a d/b/a. Willy conducted this outside business under the d/b/a Texas Financial Advisory. As an IAR of GFPC, Willy's approved investment related activity was limited to managing client accounts or portfolios of publicly traded securities for a fee. Willy flagrantly violated that limitation.

17. As early as 2017, and continuing to this day, Willy extensively advertises her services in both radio and television formats. To this end, she has weekly television and radio programs appearing on stations local to the San Antonio Area. As part of these programs, she routinely tries to separate her services from those of other financial professionals by stressing that she is a fiduciary to her clients. On her website biography, Willy is listed as "President & CEO [of Texas Financial Advisory], Certified Financial Fiduciary®[2]."

18. Beginning in 2013, Willy began working with issuers of unregistered promissory notes. One of these issuers was Ferrum. Specifically, Willy would provide potential investors with marketing and disclosure materials for the investments and would facilitate an investor's transfer of funds to the issuers, sometimes by assisting with the opening of a self-

[1] Many of these facts are taken from the Texas State Securities Board Disciplinary Order No. REG20-SUS-04 dated October 16, 2020 (the "Disciplinary Order").

[2] Willy is a member of the National Association of Certified Financial Fiduciaries and agreed to abide by its Code of Conduct which can be found at www.nationalcffassociation.org/code-of-conduct. Willy agreed to practice the duties of loyalty, good faith, care, and disclosure, among others.

directed IRA to which the funds for the investment would be wired. What Willy would not tell these potential investors is that she received commissions from the issuers for the recommendation of these extremely risky and highly concentrated investment contracts. She also failed to mention that the investments were unregistered securities and that she did not hold a license to recommend those securities to the public as a "dealer" as that term is defined in the Texas Securities Act[3]. The Texas Securities Act forbids the receipt of commissions in exchange for the recommendation and sale of a security by an unlicensed dealer. Willy ignored that regulation in an effort to enrich herself to the detriment of her clients.

19. In an effort to conceal the fact that she was receiving commissions from issuers, Willy never reported to GFPC or its successor in interest[4] that her activities through TFA included the recommendations of unregistered investments, including those offered by Ferrum. However, her employer eventually found out. On October 1, 2019, Willy was terminated from JWC for the violation of firm policies regarding participation in unapproved securities transactions. As will be described below, Willy's termination did not stop her from defrauding her clients.

B. The Investment Scheme:

20. The scheme at issue is designed to enrich its participants and those unscrupulous "advisors" recommending the unregistered investment contracts to their customers so that they can obtain undisclosed commissions. Each of the Defendants knew about this fraud, was in a position to control or influence the sale of the unregistered investment contract, or engaged in a conspiracy to further it for their own financial gain.

21. In essence, Ferrum and its managers Cox and Allen engaged in an enterprise that raised capital from Plaintiffs and other investors to, in turn, fund loans to Collins for the purchase of distressed accounts receivables. Specifically, the Defendants' scheme includes

[3] Texas Government Code Chapters 4001-4008 of the Texas Government Code will be referred to herein collectively as the Texas Securities Act.

[4] In April 2019, GFPC was sold to J.W. Cole Advisors, Inc. ("JWC").

inducing investors to "loan" funds to Ferrum in exchange for a promissory note secured by the assets[5] of Collins. The invested funds would then be loaned to Collins to fund its purchase of additional bad debt. Each of the investors' loans are labeled "non-recourse," which in a typical commercial setting means that the lender's remedies are limited to collection against the collateral. Ferrum assured potential investors that their investments would be secured by the collateral and that Ferrum would perfect a security interest in that collateral. As we now know, that was never done and is not true.

22. To induce potential clients, including the Plaintiffs, to invest in their scheme, Ferrum and its managers produced certain marketing materials and commercial loan illustrations that seemingly guaranteed a remarkable ten-percent (10%) annual return on investment over the course of four years. These marketing materials were designed to sell the investment opportunity to investors based on trust in all Defendants and based on the purported experience of Collins in generating profits from buying portfolios of distressed accounts receivable debt and collecting on it. Collins assisted in the preparation and distribution of marketing materials that misrepresented the apparent risk of loss of any investment. The investment scheme couldn't exist without the participation of Collins.

23. None of the notes sold to Plaintiffs were registered with the Texas State Securities Board or the Securities and Exchange Commission as an offering. In fact, Ferrum, Collins, and their management, have never registered as a dealer, seller, or issuer as those terms are defined in the Texas Securities Act despite a requirement to do so in order to market and sell their securities. The same is true of Willy and Queen B.

24. Based upon information and belief, Willy, Queen B, and Ferrum began their business relationship on January 10, 2018, upon the execution of an Affiliate Agreement between Willy and Ferrum. The arrangement was simple—Willy and Queen B[6] would

[5] Collins' assets are purportedly made up of bad debt instruments including commercial and customer accounts receivables.

[6] At the time, Willy's sole proprietorship d/b/a, Texas Financial Advisory.

recommend the unregistered securities to her unknowing clients and would be paid out of market commissions in exchange for each investor who loaned money to Ferrum. Pursuant to the terms of the Affiliate Agreement, Willy and her firm would receive 8% commissions for each investor placed in Ferrum. Despite holding herself out as a fiduciary to her clients and agreeing to make full disclosure, Willy made no effort to disclose her commissions or determine whether the investments were in the best interests of her clients, let alone suitable.

25. From 2018 to 2019, Willy and her employees at Texas Financial Advisory recommended that at least 249 individuals invest at least $45,100,000 in Ferrum/Collins and their affiliates' unregistered promissory notes. For those recommendations, Willy and her employees at Texas Financial Advisory were compensated with at least $2,665,000 in undisclosed commissions. Like Ferrum and Collins, Willy has never registered as a dealer, seller, or issuer, making any recommendations of these investments per se unlawful.

26. Importantly, the investment marketing materials state that the Plaintiffs' investments were at all times 100% secured by the assets of Collins. To that end, Ferrum was required to file a UCC-1 financing statement perfect its lien on Collins' assets. Based upon information and belief, that was never done. The failure to do so was intentional—this was a fraud from the beginning and *all* of the Defendants were in on it.

C. Willy and Queen B are Caught by the Texas State Securities Board:

27. After being terminated from JWC, Willy ceased to be affiliated with a registered investment advisor and consequently lost the ability to offer investment services or make recommendations to a client regarding investment contracts. However, her separation from JWC did not impede her sales efforts—she and her company continued to sell unregistered securities as if nothing had happened. Keeping with her pattern of fraud, she did not inform her clients, including the Plaintiffs, of her lapse in registration.

28. On October 24, 2019, Willy formed Queen B Advisors, LLC d/b/a Texas Financial Advisory with the Texas Secretary of State. On November 20, 2019, Queen B applied for registration with the Securities Commissioner of the State of Texas ("Securities

Commissioner") as a registered investment advisor. At the same time, Willy applied for registration with the Securities Commissioner as an investment advisor representative associated with Queen B.

29. As part of the registration process, the Texas State Securities Board ("TSSB") began investigating the dealings of Willy and Queen B. The TSSB quickly determined that both Willy and Queen B had violated multiple provisions of the Texas Securities Act. The TSSB issued its Disciplinary Order No. REG20-SUS-04 on October 16, 2020 (the "Disciplinary Order") against Willy and Queen B. Willy and Queen B consented to the Disciplinary Order "and the Findings of Fact and the Conclusions of Law contained [in the Disciplinary Order]."

30. Notably, the Disciplinary Order contained Findings of Fact and Conclusions of Law (that are now undisputed due to Willy's consent) as follows:

- "As an investment advisor representative, Respondent Willy owed a duty to clients to have a reasonable basis to believe that an investment or investment strategy was appropriate for the client given their financial profile, investment objectives, and risk tolerance."
- "This duty includes conducting a reasonable level of independent diligence on a potential investment by reviewing the terms of the offering and disclosed investment strategies set forth in various documents, such as private offering memoranda, prospectuses, or other offering materials provided by the issuer, to determine whether the investment could meet clients' investment objectives."
- "Respondent Willy failed to conduct a reasonable level of independent due diligence to determine whether the Real Estate Notes and Debt Notes[7] would be appropriate for clients before recommending clients purchase the investments."
- "Respondent Willy acted as a "dealer" as the term is defined in Section 4.C of the Texas Securities Act by recommending clients invest in the Real Estate and Debt Notes and subsequently facilitating the clients' investments."
- "By acting as a dealer when Respondent Willy was not registered as a dealer

[7] The Disciplinary Order refers to the Ferrum/Collins investments discussed herein as the "Debt Notes."

with the Securities Commissioner, Respondent Willy violated Section 12.A of the Securities Act."

- "Respondent Willy's recommendations that individuals invest a significant portion of their liquid net worth in Real Estate Note and Debt Notes without a reasonable basis to do so constitute inequitable practices in rendering services as an investment advisor representative."

Willy and Queen B not only consented to the entry of this Disciplinary Order, they agreed to the Findings of Fact and Conclusions of law restated above.

D. Plaintiffs are Induced to Invest by the Defendants:

31. Like many of Willy's unwitting clients, Musgrove learned of Willy and her firm through her weekly radio show. Believing that Willy was a fiduciary (and would act as such), Musgrove set up a meeting with Willy on or about July of 2019. As can be seen from agreed and undisputed facts contained in the Disciplinary Order, Willy and Queen B were actively engaged in the unlawful recommendation of alternative investment contracts during this time period. Musgrove's experience was no exception.

32. In their first meeting, Willy assured Musgrove that she was a fiduciary and must act in her best interests. Willy convinced Musgrove that she should transfer substantially all of her liquid investments to Fidelity Investment accounts so that they could be managed by Willy and her affiliates—acting as an RIA. Willy also recommended that Musgrove liquidate the publicly traded investments in her existing retirement accounts, amounting to approximately $500,000, so that those funds could be invested in certain alternative investments guaranteeing annual returns of over 10% per year. Believing Willy, Musgrove transferred all of her publicly traded securities accounts to Fidelity in August of 2019 so that they could be managed by Willy and Queen B. We know now that Willy was terminated from her position at JW Cole shortly thereafter on October 1, 2019, after which she ceased to hold the right to act as an investment advisor representative.

33. In their second meeting in October of 2019, without mentioning that she had been terminated from her affiliation with a registered investment advisor, Willy introduced Musgrove to the idea of alternative investments for her retirement portfolio. Since Willy could

no longer manage a portfolio of publicly traded securities, Willy recommended Musgrove invest her retirement portfolio in privately issued investment contracts—so that Willy could continue to receive a commission. With knowledge that the statement was false, Willy assured Musgrove that the alternative investments she recommended were safe and that there was absolutely no risk of loss. As we know now, those "alternative" investment contracts were in unregistered securities issued by Ferrum, Collins, and Noble Capital Fund II, LLC ("Noble")[8], the subject of the TSSB investigation. Willy provided Musgrove with copies of the misleading marketing materials generated by Collins and Ferrum as a further means to induce her to invest.

34. Willy did not perform a suitability analysis[9] for Musgrove relating to the alternative investments in 2019, she did not disclose to Musgrove that she was being compensated with commissions from the issuers, she did not inform Musgrove of the risk inherent in the illiquid alternative investments (in fact, she misrepresented that the investments came with no risk of loss), she did not inform Musgrove that she was acting as an unregistered advisor or dealer after October 1, 2019, she did not inform Musgrove that Texas Financial Advisory was an unincorporated sole proprietorship, she did not inform Musgrove that the alternative investments were required to have been registered as securities, she did not explain to Musgrove that the Ferrum/Collins investment purportedly was structured through a nonrecourse promissory note or the implications arising therefrom, she did not inform Musgrove that the lien on the collateral purportedly securing her investment was not perfected, and she did not explain to Musgrove that Ferrum and Collins were not registered as sellers or issuers, among many other omissions and misrepresentations relating to the recommended alternative investments. Despite these material omissions, Willy did confirm to Musgrove that

[8] The Disciplinary Order refers to the Noble Capital Income Fund II, LLC investments as the "Real Estate Notes."

[9] Such a suitability analysis would have certainly shown that extremely risky illiquid alternative investments into Ferrum and Noble were not suitable for Musgrove, a woman in her 60's.

she was acting as her fiduciary. These omissions and misrepresentations were part of the overall investment scheme and were known and encouraged by each of the Defendants.

35. On October 29, 2019, Willy facilitated the transfer of $200,000 in Musgrove's IRA funds to alternative IRA custodian Mainstar Trust so that those funds could be invested in Noble. Also on October 29, 2019, Mainstar Trust. Cust. FBO Judy A Musgrove IRA #T2181568 invested $200,000 into Noble in exchange for certain membership interests in Noble. For this investment, Willy was paid commissions from Noble amounting to 1% of Musgrove's investment per year.

36. On October 29, 2019, Willy facilitated the transfer of the remaining $301,610.74 in Musgrove's IRA funds to alternative IRA custodian GoldStar Trust so that those funds could be invested in Ferrum. On November 14, 2019, GoldStar Trust FBO Judy A Musgrove IRA invested $301,610.74 into Ferrum in exchange for a promissory note from Ferrum as its Maker (the "Musgrove Note"). *See* **Exhibit A**. For this investment, Willy was paid commissions from Ferrum amounting to 8% of Musgrove's investment.

37. The terms of the Musgrove Note provide for 10% simple interest annually to Musgrove to be paid at maturity. The Ferrum Note's maturity date is January 6, 2024, based on a January 6, 2020 promissory note[10] wherein Collins agreed to pay ~$1.4m with 10% simple interest to Ferrum by January 6, 2024. The Ferrum Note is secured in the "Collateral" which is allegedly described in a Loan Agreement between Ferrum Capital and Collins, though that Loan Agreement was never provided to Musgrove. The terms of Musgrove's investment are purportedly contained in a Lending Relationship Agreement she executed on November 14, 2019. One of Ferrum's only obligations under the Lending Relationship Agreement is to assign and perfect the collateral received from Collins. Based upon information and belief, Ferrum has not perfected any of Collins' collateral to the extent it was ever even pledged.

[10] The promissory note ostensibly creating the maturity date in Musgrove's Ferrum Note was not even effective at the time of its execution, further enforcing that the entire transaction was a sham from the beginning.

38. Priebe is Musgrove's sister. Given the promises and guarantees from the Defendants, Musgrove naturally recommended that her sister also work with Willy and Queen B to manager her investments. Priebe met with Willy in November of 2019. Like her sister, Priebe was assured that Willy and her firm were fiduciaries and required to act in her best interests. Willy convinced Priebe that she should transfer her liquid retirement investments to Fidelity Investment accounts so that they could be managed by Willy and her affiliates. Willy again recommended that Priebe, a woman in her 70's, invest nearly all of her retirement savings in Ferrum under almost identical terms to Musgrove's investment. Willy made the same material misrepresentations and nondisclosures to Priebe in an effort to convince her to make an investment into Ferrum. Priebe was also provided with copies of the same misleading marketing materials generated by Ferrum and Collins.

39. On February 17, 2020, Willy facilitated the transfer of $258,479.97 in Priebe's IRA funds to alternative IRA custodian GoldStar Trust so that those funds could be invested in Ferrum. On February 20, 2019, GoldStar Trust FBO Katheleen E Priebe IRA invested $243,219.97[11] into Ferrum in exchange for a promissory note from Ferrum as its Maker (the "Priebe Note"). *See* **Exhibit B**. For this investment, Willy was paid commissions from Ferrum amounting to 8% of Priebe's investment.

40. The terms of the Priebe Note are identical to the Musgrove Note aside from the maturity date. The Priebe Note has a maturity date of April 2, 2024, again based on a separate promissory note between Ferrum and Collins which did not exist at the time the Priebe Note was executed. There is no indication that Ferrum has perfected any of the Collins' collateral allegedly securing the Priebe Note to the extent that collateral was ever even pledged.

41. It is undisputed that Willy was not registered as either an investment advisor representative or dealer as those terms are defined in the Texas Securities Act on the dates that the Plaintiffs made their respective investments and that the Ferrum/Collins investments

[11] There is a $15,260 difference in value between the monies transferred from Priebe's Fidelity IRA to GoldStar Trust. Those funds are unaccounted for.

were not registered for sale in Texas.

42. Upon information and belief, Ferrum has not paid other holders of its promissory notes when due and will not make payment to Plaintiffs when their respective notes come due.

V. CAUSES OF ACTION

43. Plaintiffs repeat and incorporate by reference the facts and allegations set forth in the preceding paragraphs as if set forth fully herein.

Count I: Violation of Texas Securities Act § 4008.052 by All Defendants (Ferrum Investment Contract)

44. All of the Defendants acted as dealers, issuers, sellers, and/or controlling persons relating to the sale of the unregistered Ferrum/Collins investments to the Plaintiffs as those terms are defined in the Texas Securities Act. Willy has already admitted as such by consenting to the Findings of Fact and Conclusions of Law contained in the Disciplinary Order.[12]

45. As described above, Defendants offered and sold the Ferrum/Collins investments to Plaintiffs by means of (1) untrue statements of a material fact; and (2) omissions to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. If they were not issuers or sellers themselves, Defendants Cox, Allen, and Collins acted as aiders and abettors and/or controlling persons as defined in Texas Securities Act § 4008.055 by materially aiding Willy, Queen B, and Ferrum in the sale of the investments using untrue statements and omissions of material fact.

46. Pursuant to Texas Securities Act §§ 4008.052, .055, and .057, Defendants are liable to Plaintiffs, jointly and severally, for statutory damages, exemplary damages, pre- and post-judgment interest, attorneys' fees, and court costs.

[12] "Respondent Willy acted as a 'dealer' as the term is defined in Section 4.C of the Texas Securities Act by recommending clients invest in the Real Estate and Debt Notes and subsequently facilitating the clients' investments." Disciplinary Order at pg. 6, Conclusions of Law Section 1.

Count II: Violation of Texas Securities Act § 4008.052 by Willy and Queen Bee (Noble Investment Contract)

47. Willy and Queen B acted as dealers relating to the sale of the unregistered Noble investment to Musgrove as that term is defined in the Texas Securities Act.

48. Willy and Queen B offered and sold the unregistered Noble investments to Musgrove by means of (1) untrue statements of a material fact; and (2) omissions to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

49. Pursuant to Texas Securities Act §§ 4008.052 and .057, Willy is liable to Musgrove for statutory damages, exemplary damages, pre- and post-judgment interest, attorneys' fees, and court costs.

Count III: Violation of Texas Securities Act § 4008.101 by All Defendants

50. Willy falsely held herself out to be an investment advisor representative when she recommended the sale of the unregistered Ferrum/Collins securities made the basis of this suit to the Plaintiffs. The remaining Defendants directly or indirectly controlled Willy and materially aided her conduct in relation to the sale of the unregistered investments, making them aiders and abettors and/or controlling persons under the Texas Securities Act.

51. Willy purported to render services as an investment adviser to the Plaintiffs and in so doing made (1) untrue statements of material fact; and (2) made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, not misleading. Defendants Cox, Allen, and Collins acted as acted as aiders and abettors and/or controlling persons as defined in Texas Securities Act § 4008.102 by materially aiding Willy, Queen B, and Ferrum in recommending the investments using untrue statements and omissions of material fact.

52. Pursuant to Texas Securities Act §§ 4008.101, .102, and .103, Defendants are liable to Plaintiffs, jointly and severally, for statutory damages, exemplary damages, pre- and post-judgment interest, attorneys' fees, and court costs.

Count IV: Breach of Fiduciary Duty by Willy and Queen B

53. Willy and Queen B owed Plaintiffs a fiduciary duty, either as a matter of law or as a result of a special relationship of trust and confidence. Willy expressly stated to each Plaintiff that she was acting as a fiduciary. Willy as a Certified Financial Fiduciary® agreed that she would practice the duties of loyalty, good faith, good care, and full disclosure. Willy and Queen B breached their fiduciary duties by engaging in the conduct described above, which resulted in: (1) injury to Plaintiffs; and/or (2) benefit to Willy and Queen B. Willy and Queen B committed these breaches deliberately and in bad faith and received improper benefits from each of these breaches of fiduciary duties.

54. As a result of these breaches of fiduciary duties, Plaintiffs have suffered damages. Further, because the foregoing breaches of fiduciary duties were committed intentionally, fraudulently, with malice, and/or with gross negligence, Plaintiffs seek and are entitled to recover exemplary damages.

Count V: Breach of the Musgrove Note and Priebe Note by Ferrum

55. Musgrove is the owner and holder of the Musgrove Note and is entitled to payment thereon. Based upon Ferrum's numerous violations of the Texas Securities Act, its failure to maintain and perfect a security interest against the collateral identified in the Musgrove Note, and its historical failure to pay other holders of its notes upon maturity, Ferrum has repudiated the Musgrove Note. Musgrove now brings this anticipatory breach of promissory note claim against Ferrum as it has become come clear that Ferrum will not comply with the payment terms contained in the Musgrove Note, including payment to Musgrove of her principal and accrued interest on the January 6, 2024, maturity date.

56. Priebe is the owner and holder of the Priebe Note and is entitled to payment thereon. Based upon Ferrum's numerous violations of the Texas Securities Act, its failure to maintain and perfect a security interest against the collateral identified in the Priebe Note, and its historical failure to pay other holders of its notes upon maturity, Ferrum has repudiated the Priebe Note. Priebe now brings this anticipatory breach of promissory note claim against

Ferrum as it has been come clear that Ferrum will not comply with the payment terms contained in the Priebe Note, including payment to Priebe of her principal and accrued interest on the April 2, 2024 maturity date.

57. Further, Ferrum has already breached the Musgrove and Priebe Notes by failing to perfect its security interest in the collateral in contravention with the terms of the respective notes and the Lending Relationship Agreements. Plaintiffs have demanded proof from Ferrum that the collateral had been perfected. Ferrum has not responded to Plaintiffs' demand.

58. Ferrum's breach of the Musgrove Note has caused, or will cause, damages to Musgrove in the amount of at least $422,255.04. Ferrum's breach of the Priebe Note has caused, or will cause, damages to Priebe in the amount of at least $340,507.98.

Count VI: Common Law Fraud and Fraudulent Inducement Against All Defendants

59. At the time the misrepresentations described herein were made, Defendants either knew the representations were false, or made them recklessly, as positive assertions, and without knowledge of their truth. Defendants made these misrepresentations with the intention that Plaintiffs rely upon them, which Plaintiffs did, including entering into investment contracts, and/or other transactions with or for the benefit of Defendants based on Defendants' misrepresentations. Plaintiffs suffered injury as a result of these misrepresentations.

60. Defendants had a duty of disclosure to Plaintiffs because: (1) there was a fiduciary or other special relationship requiring disclosure; (2) Defendants discovered new information that made their earlier representations misleading or untrue; (3) Defendants created a false impression by making a partial disclosure; or (4) Defendants voluntarily disclosed some information and thus had a duty to disclose the whole truth. Notwithstanding, Defendants concealed from and/or failed to disclose to Plaintiffs material information and facts. Defendants knew that Plaintiffs were unaware of the concealed information and facts, and that Plaintiffs did not have equal opportunity to discover same. Defendants were

deliberately silent despite their duty of disclosure. By failing to disclose such information and facts, Defendants intended to induce Plaintiffs to take some action or refrain from acting.

61. Plaintiffs relied upon Defendants' false statements and nondisclosures by, among other things, investing in the unregistered Ferrum securities, as a result of which, Plaintiffs have suffered actual damages.

Count VII: Civil Conspiracy to Commit Fraud by all Defendants

62. Defendants were all members of a conspiracy to defraud Plaintiffs. As discussed above, Defendants combined to achieve the unlawful purpose of defrauding Plaintiffs through the issuance and sale of unregistered securities for their own benefit.

63. Acting with the intent to defraud or harm Plaintiffs by deception, Defendants intentionally misrepresented and omitted material facts relating to the Ferrum/Collins investments with the intention that the Plaintiffs rely on those misrepresentations and omissions and invest into their investment scheme. Defendants engaged in a "meeting of the minds" and with intent when they took those actions.

64. Plaintiffs suffered injury as a proximate result of the wrongful acts carried out in this conspiracy. As a result of the conspiracy, all Defendants who were members of the conspiracy are jointly and severally liable for Plaintiffs' damages. In addition, Plaintiffs seek and are entitled to recover exemplary damages because the conspiracy and such acts performed in furtherance of it were undertaken by Defendants with malice and the intent to defraud Plaintiffs.

Count VIII: Knowing Participation in Breach of Fiduciary Duty by Ferrum, Cox, Allen, and Collins

65. Willy and Queen B owed fiduciary duties to the Plaintiffs. Ferrum, Cox, Allen, and Collins were aware of the fiduciary relationship and duties owed to the Plaintiffs by Willy and Queen B. Ferrum, Cox, Allen, and Collins were aware that they were participating in a breach of these fiduciary duties.

66. As a direct and proximate result of Ferrum, Cox, Allen, and Collins' knowing

participation in Willy and Queen B's breaches of fiduciary duties, Plaintiffs have suffered substantial damages. The conduct of Ferrum, Cox, Allen, and Collins was a substantial factor in causing Plaintiffs' damages. Because Ferrum, Cox, Allen, and Collins acted intentionally, maliciously, and with a willful and conscious disregard for the rights of Plaintiffs in knowing participating in the breaches of fiduciary duty, Plaintiffs also seek exemplary damages against them and request that Ferrum, Cox, Allen, and Collins be required to forfeit all profits derived from the breaches of fiduciary duties.

Count IX: Declaratory Judgment Against Collins Asset Group

67. Pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code, and the terms of the Musgrove Note and Priebe Note, Plaintiffs request the Court declare that they are secured by a first priority pledge and security interest in the Collins collateral pledged to Ferrum as security for the Musgrove Note and/or the Priebe note.

68. Plaintiffs further request that this Court declare that Plaintiffs' liens arising out of the notes attached to the collateral and/or assets of Collins, and that they have the right to file a UCC-1 Financing Statement or to make any other filing in order to perfect their lien on Collins' collateral and/or assets.

VI. CONDITIONS PRECEDENT

69. All conditions precedent to Plaintiffs' recovery have occurred, have been performed, or have been waived. Demand for performance has been made.

VII. ATTORNEYS' FEES

70. Plaintiffs have retained the law firm of Pulman, Cappuccio &Pullen, LLP to represent them in this action, and have agreed to pay the firm reasonable and necessary attorneys' fees. Pursuant to the Texas Securities Act, Texas Civil Practice and Remedies Code §§ 37.001 and 38.001, an award of reasonable and necessary attorneys' fees to Plaintiffs is authorized for this action and is hereby requested.

VIII. JURY DEMAND

71. Pursuant to Texas Rule of Civil Procedure 216, Plaintiffs demand a trial by

jury and tender the appropriate jury fee in connection with the filing of this Original Petition.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that Defendants be cited to appear and answer herein, and that Plaintiffs be awarded a judgment against the Defendants for the following:

a. Actual damages;

b. Statutory damages;

c. Exemplary damages;

d. Prejudgment and post judgment interest;

e. Attorneys' fees and costs; and

f. All other and further relief, both at law and in equity, to which Plaintiffs may show themselves to be justly entitled.

Respectfully submitted,

PULMAN, CAPPUCCIO AND PULLEN, LLP
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San Antonio, Texas 78213
www.pulmanlaw.com
Telephone: (210) 222-9494
Facsimile: (210) 892-1610

By: */s/ Randall A. Pulman*
Randall A. Pulman
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ATTORNEYS FOR PLAINTIFFS

26

Ferrum Capital, LLC

PROMISSORY NOTE 4 YR 10% FIXED

EXHIBIT

A

PROMISSORY NOTE

$ $301,610.74 [Principal] | Bulverde, Comal, Texas [City, County, State of Payee] | November 14, 2019

FOR VALUE RECEIVED, the undersigned, Ferrum Capital, LLC, a Texas lim... company, whose address is 4415 66th St #101, Lubbock County, Texas 79414, Lubbock County, Texas (the "Maker"), hereby promises to pay to the order of GoldStar Trust FBO Judy A Musgrove IRA (the "Payee"), a/an IRA (individual, entity, trust, etc.), whose address is 31401 Beck Road, Bulverde, Tx 78163/GS 1401 4th Ave, Canyon, Tx 79015 the principal sum of Three Hundred and One Thousand,Six Hundred-Ten Dollars and seventy four cents ($ $301,610.74) ("Principal Sum"), as provided in this promissory note (this "Note"). This Note is executed and delivered by Maker pursuant to that certain Lending Relationship Agreement between Maker and Payee dated November 14, 2019, (collectively hereinafter, the "Loan Agreement"), and any capitalized terms used herein that are not otherwise defined herein shall have the meaning given such terms in the Loan Agreement (Payee and Maker together herein, the "Parties").

1. Interest. The outstanding average daily principal balance of this Note shall accrue simple interest, beginning on the Effective Date hereof at the rate per annum of Ten Percent (10%). Accrued interest shall be payable in arrears on the Maturity Date or as necessitated on the date of any Voluntary Prepayments as elected by the Maker pursuant to Section 2(b) of this Note. Interest shall not compound on accrued and unpaid interest.

2. Payments. (a) Maturity Date. All unpaid principal, interest, and other amounts owing under this Note shall be due and payable in full on the date that is four (4) years from the date of the Collins Asset Group Note (the "Maturity Date") and the Parties understand and agree that the Collateral for this Note may be sold prior to the Maturity Date unless the Parties otherwise mutually agree in writing.

(b) Voluntary Prepayments. Maker, at its election, may prepay the principal of this Note, in whole or any part hereof, without penalty or premium; provided, that all accrued and unpaid interest on the principal balance of this Note, if any owing under this Note at the time of prepayment, shall be paid at the time of any prepayment of principal (the "Voluntary Prepayment").

(c) Place of Payment. All payments by the Maker shall be made to the Payee by deposit of such payments in a demand deposit account as from time to time Payee shall designate to Maker

3. Security. The obligations, indebtedness and liabilities of Maker to Payee, under this Note shall be secured by a first priority pledge and security interest in the Collateral pursuant to the terms of the Loan Agreement and the Loan Documents. The Parties understand and agree that the Collateral for this Note may be substituted for other Collateral of similar market value at Maker's sole discretion prior to the Maturity Date.

4. Default; Remedies. Upon the occurrence and during the continuance of (a) a default in the Maker's obligations under this note, which default has not been cured within sixty (60) days following written notice of such default from Payee to the Maker, or (b) an Event of Default shall occur under the Loan Agreement or the Security Agreement (collectively, the "Note Documents"), but after the passage of any cure period provided in any such Note Documents (each, an "Event of Default"), the Payee may declare the entire unpaid principal of and unpaid interest on this Note immediately due and payable, without notice, demand, or presentment, all of which are hereby waived, foreclose any liens or security interests securing all or any part hereof, offset against this Note any sum or sums owed by the Payee to the Maker, or exercise any other right or remedy to which the Payee may be entitled by agreement, at law, or in equity. All of the Rights of the holder hereof provided for in this Note and in any other Note Document are cumulative of each other and of any and all other Rights at law or in equity.

5. Maximum Interest Rate. Regardless of any provision contained herein or in any Note Document, the Payee shall never be entitled to contract for, charge, take, reserve, receive, or apply, as interest on this Note, any amount in excess of the Highest Lawful Rate. If the Payee ever contracts for, charges, takes, reserves, receives, or applies as interest any such excess, it shall be deemed a partial prepayment of principal and treated hereunder as such; and, if the principal hereof is paid in full, any remaining excess shall promptly be paid to the Maker. In determining whether interest paid or payable exceeds the Highest Lawful Rate, the Maker and the Payee shall, to the maximum extent permitted under applicable law, (a) treat any Term Loan Proceeds as but a single extension of credit, (b) characterize any non- principal payment as an expense, fee, or premium rather than as interest, (c) exclude voluntary prepayments and the effects thereof, and (d) "spread" the total amount of interest throughout the entire contemplated term hereof; provided that, if the principal hereof is paid in full prior to the end of the full contemplated term hereof, and if the interest received for the actual period of existence exceeds the Highest Lawful Rate, the Payee shall refund the excess, and, in such event, the Payee shall not be subject to any penalties provided by any laws for contracting for, charging, taking, reserving, or receiving interest in excess of the Highest Lawful Rate. As used herein, the term "Highest Lawful Rate" means the maximum rate of interest from time to time permitted under federal or state laws now or hereafter applicable to this Note, including as to Article 5069-1.04, Vernon's Texas Civil Statutes (the "Act"), that rate based upon the "indicated rate ceiling" from time to

time in effect as such rate is limited by the Act, in any case after taking into account, to the extent required by applicable law, any and all relevant payments, charges, and calculations.

6. Certain Waivers. The Maker and each surety, endorser, guarantor, and other party ever liable for payment of any part hereof jointly and severally waive presentment and demand for payment, protest, notice of intention to accelerate, notice of acceleration, and notice of protest and nonpayment, and agree that their liability on this Note shall not be affected by, and hereby consent to, any renewal or extension in the time of payment hereof, any indulgences, or any release or change in any security for the payment of this Note.

7. ENTIRETY; GOVERNING LAW. THIS NOTE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS BY THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. THE VALIDITY, CONSTRUCTION, AND ENFORCEABILITY OF THIS NOTE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS AND THE UNITED STATES OF AMERICA. VENUE FOR ANY ACTION ARISING FROM OR RELATED TO THIS AGREEMENT SHALL BE EXCLUSIVELY IN THE STATE OR FEDERAL COURTS LOCATED IN LUBBOCK COUNTY, TEXAS. **THE PARTIES WAIVE THEIR RIGHT TO A TRIAL BY JURY AND THE RIGHT TO ASSERT THE DEFENSE OF INCONVENIENCE OF FORUM OR VENUE**

8. Parties Bound. This Note is binding upon and shall inure to the benefit of the Maker, the Payee, and their respective successors and assigns. The Payee, upon prior written notice to the Maker, shall be entitled to assign its rights and duties hereunder to any subsequent holder of this Note who shall for all purposes hereof thereafter be the "Payee" hereunder the same as if originally named as the "Payee" herein.

9. Certain Provisions Regarding Payments. Whenever any payment shall be due under this Note on a day which is not a Business Day, the date on which such payment is due shall be extended to the next succeeding Business Day. "Business Day" means a day other than a Saturday, Sunday or other day on which national banks in Lubbock, Texas are authorized or required to be closed. Acceptance by the holder hereof of any payment in an amount less than the amount then due on any indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of a Default.

10. Nonrecourse Note. The indebtedness under this Note shall be satisfied and enforced only against the Collateral, and no recourse of any kind shall be had against Maker or its Affiliates or any other assets of Maker or its Affiliates, with respect to the amounts owing under this Note, including, without limitation, for money damages of any kind whatsoever

or for any deficiency following any sale or other disposition of the Collateral. Payee will look solely to the Collateral for payment of this Note, and Maker shall have no personal liability for the payment of this Note. Unless explicitly stated otherwise elsewhere in this Note or the Loan Documents, no Person other than the Parties themselves has any rights or remedies under this agreement

11. Severability. If any provision of any of the Loan Documents or this Note is held to be illegal, invalid, or unenforceable under present or future Laws effective during the term thereof, such provision shall be fully severable, the appropriate Loan Document shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part thereof; and the remaining provisions thereof shall remain in full force and effect and shall not be effected by the illegal, invalid, or unenforceable provision or by its severance therefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of such Loan Document a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

12. Headings. The clause headings in this Note are for convenience only and do not constitute any part of the Note.

EXECUTED to be effective as of the date set forth above.

MAKER: FERRUM CAPITAL, LLC

BY: _____

Mike L Cox, Manager [name, title]

PROMISSORY NOTE 4 YR 10% FIXED

EXHIBIT
B

PROMISSORY NOTE

$ $243,219.97	Bulverde, Bexar, Texas	February 20, 2020
[Principal]	[City, County, State of Payee]	[Effective Date]

FOR VALUE RECEIVED, the undersigned, Ferrum Capital, LLC, a Texas limited liability company, whose address is 4415 66th St #101, Lubbock County, Texas 79414, Lubbock County, Texas (the "Maker"), hereby promises to pay to the order of GoldStar Trust FBO Kathleen E Priebe IRA, a/an IRA [person or describe entity by state and type], whose address is 31401 Beck Rd, Bulverde, Tx 78163/ GS 1401 4th Ave, Canyon, Tx 79015

(the "Payee"), the principal sum of Two Hundred,Forty Three Thousand,Two Hundred-Nineteen Dollars ninety seven cents ($ $243,219.97) ("Principal Sum"), as provided in this promissory note (this "Note"). This Note is executed and delivered by Maker pursuant to that certain Lending Relationship Agreement between Maker and Payee dated February 20, 2020, (collectively hereinafter, the "Loan Agreement"), and any capitalized terms used herein that are not otherwise defined herein shall have the meaning given such terms in the Loan Agreement (Payee and Maker together herein, the "Parties").

1. Interest. The outstanding average daily principal balance of this Note shall accrue simple interest, beginning on the Effective Date hereof at the rate per annum of Ten Percent (10%). Accrued interest shall be payable in arrears on the Maturity Date or as necessitated on the date of any Voluntary Prepayments as elected by the Maker pursuant to Section 2(b) of this Note. Interest shall not compound on accrued and unpaid interest.

2. Payments. (a) Maturity Date. All unpaid principal, interest, and other amounts owing under this Note shall be due and payable in full on the date that is four (4) years from the date of this Note (the "Maturity Date") and the Parties understand and agree that the Collateral for this Note may be sold prior to the Maturity Date unless the Parties otherwise mutually agree in writing.

(b) Voluntary Prepayments. Maker, at its election, may prepay the principal of this Note, in whole or any part hereof, without penalty or premium; provided, that all accrued and unpaid interest on the principal balance of this Note, if any owing under this Note at the time of prepayment, shall be paid at the time of any prepayment of principal (the "Voluntary Prepayment").

(c) Place of Payment. All payments by the Maker shall be made to the Payee by deposit of such payments in a demand deposit account as from time to time Payee shall designate to Maker.

3. Security. The obligations, indebtedness and liabilities of Maker to Payee, under this Note shall be secured by a first priority pledge and security interest in the Collateral pursuant to the terms of the Loan Agreement and the Loan Documents. The Parties understand and agree that the Collateral for this Note may be substituted for other Collateral of similar market value at Maker's sole discretion prior to the Maturity Date.

4. Default; Remedies. Upon the occurrence and during the continuance of (a) a default in the Maker's obligations under this note, which default has not been cured within sixty (60) days following written notice of such default from Payee to the Maker, or (b) an Event of Default shall occur under the Loan Agreement or the Security Agreement (collectively, the "Note Documents"), but after the passage of any cure period provided in any such Note Documents (each, an "Event of Default"), the Payee may declare the entire unpaid principal of and unpaid interest on this Note immediately due and payable, without notice, demand, or presentment, all of which are hereby waived, foreclose any liens or security interests securing all or any part hereof, offset against this Note any sum or sums owed by the Payee to the Maker, or exercise any other right or remedy to which the Payee may be entitled by agreement, at law, or in equity. All of the Rights of the holder hereof provided for in this Note and in any other Note Document are cumulative of each other and of any and all other Rights at law or in equity.

5. Maximum Interest Rate. Regardless of any provision contained herein or in any Note Document, the Payee shall never be entitled to contract for, charge, take, reserve, receive, or apply, as interest on this Note, any amount in excess of the Highest Lawful Rate. If the Payee ever contracts for, charges, takes, reserves, receives, or applies as interest any such excess, it shall be deemed a partial prepayment of principal and treated hereunder as such; and, if the principal hereof is paid in full, any remaining excess shall promptly be paid to the Maker. In determining whether interest paid or payable exceeds the Highest Lawful Rate, the Maker and the Payee shall, to the maximum extent permitted under applicable law, (a) treat any Term Loan Proceeds as but a single extension of credit, (b) characterize any non- principal payment as an expense, fee, or premium rather than as interest, (c) exclude voluntary prepayments and the effects thereof, and (d) "spread" the total amount of interest throughout the entire contemplated term hereof; provided that, if the principal hereof is paid in full prior to the end of the full contemplated term hereof, and if the interest received for the actual period of existence exceeds the Highest Lawful Rate, the Payee shall refund the excess, and, in such event, the Payee shall not be subject to any penalties provided by any laws for contracting for, charging, taking, reserving, or receiving interest in excess of the Highest Lawful Rate. As used herein, the term "Highest Lawful Rate" means the maximum rate of interest from time to time permitted under federal or state laws now or hereafter applicable to this Note, including as to Article 5069-1.04, Vernon's Texas

Civil Statutes (the "Act"), that rate based upon the "indicated rate ceiling" from time to time in effect as such rate is limited by the Act, in any case after taking into account, to the extent required by applicable law, any and all relevant payments, charges, and calculations.

6. Certain Waivers. The Maker and each surety, endorser, guarantor, and other party ever liable for payment of any part hereof jointly and severally waive presentment and demand for payment, protest, notice of intention to accelerate, notice of acceleration, and notice of protest and nonpayment, and agree that their liability on this Note shall not be affected by, and hereby consent to, any renewal or extension in the time of payment hereof, any indulgences, or any release or change in any security for the payment of this Note.

7. ENTIRETY; GOVERNING LAW. THIS NOTE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS BY THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. THE VALIDITY, CONSTRUCTION, AND ENFORCEABILITY OF THIS NOTE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS AND THE UNITED STATES OF AMERICA. VENUE FOR ANY ACTION ARISING FROM OR RELATED TO THIS AGREEMENT SHALL BE EXCLUSIVELY IN THE STATE OR FEDERAL COURTS LOCATED IN LUBBOCK COUNTY, TEXAS. **THE PARTIES WAIVE THEIR RIGHT TO A TRIAL BY JURY AND THE RIGHT TO ASSERT THE DEFENSE OF INCONVENIENCE OF FORUM OR VENUE**

8. Parties Bound. This Note is binding upon and shall inure to the benefit of the Maker, the Payee, and their respective successors and assigns. The Payee, upon prior written notice to the Maker, shall be entitled to assign its rights and duties hereunder to any subsequent holder of this Note who shall for all purposes hereof thereafter be the "Payee" hereunder the same as if originally named as the "Payee" herein.

9. Certain Provisions Regarding Payments. Whenever any payment shall be due under this Note on a day which is not a Business Day, the date on which such payment is due shall be extended to the next succeeding Business Day. "Business Day" means a day other than a Saturday, Sunday or other day on which national banks in Lubbock, Texas are authorized or required to be closed. Acceptance by the holder hereof of any payment in an amount less than the amount then due on any indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of a Default.

10. Nonrecourse Note. The indebtedness under this Note shall be satisfied and enforced only against the Collateral, and no recourse of any kind shall be had against Maker or its Affiliates or any other assets of Maker or its Affiliates, with respect to the amounts owing

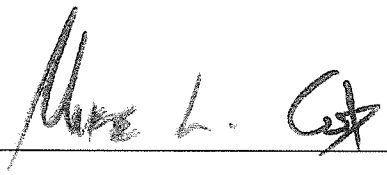
under this Note, including, without limitation, for money damages of any kind whatsoever or for any deficiency following any sale or other disposition of the Collateral. Payee will look solely to the Collateral for payment of this Note, and Maker shall have no personal liability for the payment of this Note. Unless explicitly stated otherwise elsewhere in this Note or the Loan Documents, no Person other than the Parties themselves has any rights or remedies under this agreement

11. Severability. If any provision of any of the Loan Documents or this Note is held to be illegal, invalid, or unenforceable under present or future Laws effective during the term thereof, such provision shall be fully severable, the appropriate Loan Document shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part thereof; and the remaining provisions thereof shall remain in full force and effect and shall not be effected by the illegal, invalid, or unenforceable provision or by its severance therefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of such Loan Document a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

12. Headings. The clause headings in this Note are for convenience only and do not constitute any part of the Note.

EXECUTED to be effective as of the date set forth above.

MAKER: FERRUM CAPITAL, LLC

BY: 

Mike L Cox, Manager [name, title]