

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Honorable Samuel J. Steiner

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE:

MICHAEL R. MASTRO,

Debtor.

BANKRUPTCY NO. 09-16841 (Ch. 7)

JAMES F. RIGBY, JR., Trustee, solely in
his capacity as Chapter 7 trustee of the
bankruptcy estate of Michael R. Mastro,

Plaintiff,

ADVERSARY CASE NO. _____

v.

THOMAS R. HAZELRIGG, III; SCOTT G.
SWITZER and CHERI A. SWITZER,
husband and wife, and the marital
community composed thereof;
CENTURION FINANCIAL GROUP,
LLC, a Washington limited liability
company; JOHN MASTANDREA and

COMPLAINT (1) FOR BREACH OF
CONTRACT ON PROMISSORY
NOTES; (2) TO COLLECT
AMOUNTS OWED UNDER
GUARANTIES; (3) TO AVOID
PREFERENTIAL AND
FRAUDULENT TRANSFERS AND
RECOVER DAMAGES; (4) TO
FORECLOSE DEED OF TRUST; AND
(5) FOR INJUNCTIVE RELIEF

1 JANE DOE MASTANDREA, husband
2 and wife, and the marital community
3 composed thereof; FOUNDATION
4 MANAGEMENT, INC., a Washington
5 corporation; and KEN SATO,

6
7 Defendants.

8 JAMES F. RIGBY, JR. ("Trustee"), solely in his capacity as Chapter 7
9 Trustee of the bankruptcy estate of Michael R. Mastro ("Mastro"), by and through his
10 attorneys, Hall Zanzig Claflin McEachern PLLC, for the benefit of creditors of the
11 above-captioned bankruptcy estate, brings this action to recover property of the estate
12 by collecting monies due on promissory notes and guaranties, by foreclosing on a deed
13 of trust, and by avoiding preferential and fraudulent transfers of promissory notes and
14 a deed of trust. The Trustee alleges:

15
16 **I. INTRODUCTION**

17 1.1 Prior to the bankruptcy, Mastro was engaged in lending money to
18 others in connection with a variety of real estate projects. Mastro lent more than
19 \$34 million to Thomas R. Hazelrigg, III ("Hazelrigg") and entities with which
20 Hazelrigg was affiliated. The loans were evidenced by promissory notes. Hazelrigg
21 and others signed the notes or personally guaranteed their repayment. Some of the
22 notes also were secured by deeds of trust.
23

24 1.2 Hazelrigg's business partner, Scott Switzer, guaranteed more than
25 \$22 million of Hazelrigg's promissory notes to Mastro. Switzer also granted Mastro a
26

1 deed of trust against Switzer's multimillion dollar residence as security for some of the
2 debt.

3 1.3 Shortly before this bankruptcy proceeding was filed, Mastro
4 entered into sham transactions with his business associates in which Mastro purported
5 to transfer promissory notes and security agreements made or guaranteed by
6 Hazelrigg and Switzer. The transactions were designed to protect Hazelrigg and
7 Switzer from Mastro's creditors.
8

9 1.4 On June 24, 2009, just weeks before the petition was filed in this
10 case, Mastro purported to transfer more than \$50 million of promissory notes to his
11 business partner, John Mastandrea ("Mastandrea"). A number of the notes were
12 guaranteed or made by Hazelrigg and Switzer. As part of the purported transfer,
13 Mastandrea agreed not to seek to collect from Hazelrigg any obligation he owed or
14 guaranteed on the notes.
15

16 1.5 In May 2009, Mastro purported to transfer certain deeds of trust to
17 Foundation Management, Inc., a company owned and controlled by Ken Sato, a long-
18 time Mastro business associate. The deed of trust Switzer had granted to Mastro was
19 among those transferred to Sato's company. On or about July 16, 2009, Ken Sato as
20 president of Foundation Management, Inc. executed a Request for Reconveyance. The
21 document Sato executed purported to request the trustee of the Switzer deed of trust to
22 reconvey the deed of trust to Switzer. Switzer provided no consideration in exchange
23 for Sato's action.
24
25
26

1 Bankruptcy Code and a Second Amended Answer and Consent to Entry of Order for
2 Relief under Chapter 7 of the Bankruptcy Code.

3 3.2 Trustee. James F. Rigby, Jr. (“Rigby” or “Trustee”) was appointed
4 Chapter 7 Trustee for the Mastro estate on August 21, 2009. The Trustee is authorized
5 to bring this action pursuant to 11 U.S.C. §§ 105, 544, 547, 548, 550 and 551 and does so
6 solely in his capacity as Trustee for the Mastro estate.
7

8 3.3 Defendant Thomas R. Hazelrigg, III. Thomas R. Hazelrigg, III
9 (“Hazelrigg”) is a resident of the state of Washington.
10

11 3.4 Defendant Scott G. Switzer. Scott G. Switzer (“Switzer”) is a
12 resident of the state of Washington.

13 3.5 Defendant Cheri A. Switzer. Cheri A. Switzer is the wife of
14 Scott G. Switzer and together they form a marital community. Upon information and
15 belief, any acts done by Scott G. Switzer were done for the benefit of the marital
16 community. Upon information and belief, Cheri A. Switzer is a resident of the state of
17 Washington.
18

19 3.6 Centurion Financial Group, LLC. Centurion Financial Group, LLC
20 (“Centurion Financial”) purports to be a Washington limited liability company.
21 Hazelrigg and Switzer are the managing members of Centurion Financial.
22

23 3.7 Defendant John Mastandrea. John Mastandrea (“Mastandrea”) is a
24 resident of the state of Washington.
25

26 3.8 Defendant Jane Doe Mastandrea. Jane Doe Mastandrea is the wife

1 of John Mastandrea and together they form a marital community. Upon information
2 and belief, any acts done by John Mastandrea were done for the benefit of the marital
3 community. Upon information and belief, Jane Doe Mastandrea is a resident of the
4 state of Washington.
5

6 3.9 Foundation Management, Inc. Foundation Management, Inc.
7 purports to be a Washington corporation.
8

9 3.10 Ken Sato. Ken Sato ("Sato") owns and controls Foundation
10 Management, Inc. Sato is a long-time business associate of Mastro.

11 IV. BACKGROUND FACTS

12 4.1 For many years, Mastro has been engaged in the businesses of real
13 estate development and lending money to others in connection with real estate
14 projects. Many of the loans Mastro made were asset-based or hard money loans.
15 Mastro's loans were evidenced by promissory notes. In some cases, the promissory
16 notes were personally guaranteed by parties affiliated with the borrowers. The
17 promissory notes also were secured by deeds of trust in many cases.
18

19 4.2 Mastro made a number of loans that were personally guaranteed
20 by or made to Hazelrigg.
21

22 4.3 Centurion Financial \$20 Million Loan. On or about April 5, 2007,
23 Mastro made a \$20 million loan to Centurion Financial, a company owned and
24 managed by Hazelrigg and Switzer. Centurion Financial executed a Commercial
25 Promissory Note in favor of Mastro in the amount of \$20 million ("Centurion Financial
26

1 \$20 Million Note”). A copy of the Centurion Financial \$20 Million Note is attached as
2 Exhibit 1 and incorporated by reference. Hazelrigg and Switzer executed a Guaranty
3 unconditionally guaranteeing repayment of all obligations due under the Centurion
4 Financial \$20 Million Note. A copy of the Guaranty is attached as Exhibit 2 and
5 incorporated by reference. As additional security for the Centurion Financial
6 \$20 Million Note, Switzer and his wife, Cheri A. Switzer, executed a deed of trust on
7 property they owned in Kirkland, Washington (“Switzer Deed of Trust”).
8
9

10 4.4 Centurion Financial \$2.2 Million Line of Credit. On or about
11 June 14, 2007, Mastro made a \$2.2 million line of credit available to Centurion
12 Financial. Centurion Financial executed a Commercial Promissory Note in favor of
13 Mastro in the amount of \$2.2 million (“Centurion Financial \$2.2 Million Note”). A
14 copy of the Centurion Financial \$2.2 Million Note is attached as Exhibit 3 and
15 incorporated by reference. Hazelrigg and Switzer executed a Guaranty
16 unconditionally guaranteeing repayment of all obligations due under the Centurion
17 Financial \$2.2 Million Note. A copy of the Guaranty is attached as Exhibit 4 and
18 incorporated by reference.
19
20

21 4.5 Hoover Hills \$5 Million Loan. On or about May 18, 2006, Mastro
22 made a \$5 million loan to Hoover Hills, LLC. Hoover Hills, LLC executed a
23 Commercial Promissory Note in favor of Mastro in the amount of \$5 million (“Hoover
24 Hills \$5 Million Note”). A copy of the Hoover Hills \$5 Million Note is attached as
25 Exhibit 5 and incorporated by reference. Hazelrigg executed a Guaranty
26

1 unconditionally guaranteeing repayment of all obligations due under the Hoover Hills
2 \$5 Million Note. A copy of the Guaranty is attached as Exhibit 6 and incorporated by
3 reference.
4

5 4.6 Duff Lane \$3 Million Loan. On or about June 15, 2006, Mastro
6 made a \$3 million loan to L216-1 ID Duff Lane, LLC ("Duff Lane"). Duff Lane executed
7 a Commercial Promissory Note in favor of Mastro in the amount of \$3 million ("Duff
8 Lane \$3 Million Note"). A copy of the Duff Lane \$3 Million Note is attached as
9 Exhibit 7 and incorporated by reference. Hazelrigg executed a Guaranty
10 unconditionally guaranteeing repayment of all obligations due under the Duff Lane
11 \$3 Million Note. A copy of Hazelrigg's Guaranty is attached as Exhibit 8 and
12 incorporated by reference.
13

14 4.7 Nourse \$2 Million Loan. On or about September 7, 2006, Mastro
15 made a \$2 million loan to L116-1 Nourse, LLC ("Nourse"). Nourse executed a
16 Commercial Promissory Note in favor of Mastro in the amount of \$2 million ("Nourse
17 \$2 Million Note"). A copy of the Nourse \$2 Million Note is attached as Exhibit 9 and
18 incorporated by reference. Hazelrigg executed a Guaranty unconditionally
19 guaranteeing repayment of all obligations due under the Nourse \$2 Million Note. A
20 copy of the Hazelrigg Guaranty is attached as Exhibit 10 and incorporated by reference.
21

22 4.8 Shaunessy \$2.2 Million Loan. On or about June 27, 2006, Mastro
23 made a \$2.2 million loan to Hazelrigg and Patrick L. McCourt on a project known as
24 Shaunessy. Hazelrigg and McCourt signed a Commercial Promissory Note in favor of
25
26

1 Mastro in the amount of \$2.2 million (“Shaunessy \$2.2 Million Note”). A copy of the
2 Shaunessy \$2.2 Million Note is attached as Exhibit 11 and incorporated by reference.
3
4 The Shaunessy \$2.2 Million Note provides that Hazelrigg is jointly and severally liable
5 for all amounts due under the note.

6 4.9 By June 2009, the total amount of principal and interest due on the
7 Centurion Financial \$20 Million Note, the Centurion Financial \$2.2 Million Note, the
8 Hoover Hills \$5 Million Note, the Duff Lane \$3 Million Note, the Nourse \$2 Million
9 Note, and the Shaunessy \$2.2 Million Note (collectively the “Hazelrigg Notes”)
10 exceeded \$54 million.
11

12 4.10 On June 24, 2009, Mastro and his business partner, Mastandrea,
13 signed an agreement purporting to transfer from Mastro to Mastandrea a number of
14 promissory notes. The Hazelrigg Notes were among the notes Mastro purported to
15 transfer to Mastandrea. The agreement further purported to release Hazelrigg from all
16 liability to Mastandrea on the Hazelrigg Notes. It provides that Mastro is assigning the
17 notes to Mastandrea “**on condition that no collection action against Thomas R.**
18 **Hazelrigg III is commenced on any obligation he owes or guaranteed.**” (Emphasis in
19 original.) A copy of the agreement is attached as Exhibit 12.
20
21

22 4.11 On May 18, 2009, Mastro purported to assign several deeds of
23 trust, including the Switzer Deed of Trust, to Foundation Management, Inc.
24 Foundation Management, Inc. loaned no money to Mastro and provided no other
25 consideration in exchange for the deeds of trust. On or about July 16, 2009, after the
26

1 petition was filed in this case, Sato as president of Foundation Management, Inc.
2 executed a Request for Reconveyance, purporting to request the trustee of the Switzer
3 Deed of Trust to reconvey the deed of trust to Switzer. Neither Mastro nor Foundation
4 Management, Inc. received any consideration from Switzer in exchange for Sato's
5 action.
6

7 **V. PREFERENTIAL AND FRAUDULENT TRANSFERS OF HAZELRIGG NOTES**

8 5.1 Mastro's attempt to transfer the Hazelrigg Notes to Mastandrea is
9 avoidable as a preferential and fraudulent transfer.
10

11 Preferential Transfer Under 11 U.S.C. § 547

12 5.2 Mastro's purported transfer of the Hazelrigg Notes to Mastandrea
13 is avoidable as a preference under 11 U.S.C. § 547 because it purported to be to or for
14 the benefit of a creditor, Mastandrea; it purported to be on account of an antecedent
15 debt; it was made while Mastro was insolvent; it was made within 90 days before the
16 filing of the petition; and it enabled Mastandrea to retain more than he would receive
17 in Mastro's Chapter 7 liquidation.
18

19 Fraudulent Transfer Under 11 U.S.C. § 544 and RCW 19.40

20 5.3 Mastro's purported transfer of the Hazelrigg Notes to Mastandrea
21 is avoidable as a fraudulent transfer under 11 U.S.C. § 544 and RCW 19.40.
22

23 5.4 Mastro made the transfer with the actual intent to hinder, delay, or
24 defraud his creditors. *See, e.g.,* RCW 19.40.041(a)(1).
25

26 5.5 Mastro made the transfer without receiving reasonably equivalent

1 value in exchange. At the time of the transfer, Mastro was engaged in or was about to
2 engage in business or transactions for which his remaining assets were unreasonably
3 small in relation to the business or transactions. At the time of the transfer, Mastro
4 intended to incur or reasonably should have believed that he would incur debts
5 beyond his ability to pay as they became due. *See, e.g.,* RCW 19.40.041(a)(2).
6

7 5.6 Mastro made the transfer without receiving reasonably equivalent
8 value in exchange. Mastro was insolvent at the time of the transfer or became insolvent
9 as a result of the transfer. *See, e.g.,* RCW 19.40.051(a).
10

11 5.7 Mastro made the transfer to an insider, Mastandrea, for an
12 antecedent debt. Mastro was insolvent at the time of the transfer. Mastandrea had
13 reasonable cause to believe that Mastro was insolvent. *See, e.g.,* RCW 19.40.051(b).
14

15 Fraudulent Transfer Under 11 U.S.C. § 548

16 5.8 Mastro's purported transfer of the Hazelrigg Notes to Mastandrea
17 is avoidable as a fraudulent transfer under 11 U.S.C. § 548.

18 5.9 Mastro's purported transfer of the Hazelrigg Notes to Mastandrea
19 was a transfer of an interest in Mastro's property. Mastro made the transfer within two
20 years before the date of filing of the bankruptcy petition.
21

22 5.10 Mastro made the transfer with actual intent to hinder, delay, or
23 defraud creditors to whom Mastro was indebted on or after the date of the transfer.
24

25 5.11 Mastro received less than a reasonably equivalent value in
26 exchange for the transfer and

1 a. Mastro was insolvent at the time of the transfer or became
2 insolvent as a result of the transfer;

3 b. Mastro was engaged in business or a transaction, or was
4 about to engage in business or a transaction, for which any remaining property of
5 Mastro's was an unreasonably small capital;

6 c. Mastro intended to incur, or believed he would incur, debts
7 beyond his ability to repay as such debts matured; or
8

9 d. Mastro made the transfer to or for the benefit of an insider.
10

11 5.12 The Trustee is entitled to recover from Mastandrea the Hazelrigg
12 Notes and all related guaranties and other rights. In the alternative, the Trustee is
13 entitled to a judgment against Mastandrea for the value of the Hazelrigg Notes and all
14 related guaranties and other rights.
15

16 5.13 Mastro's bankruptcy estate has suffered damages in an amount
17 not less than the value of the Hazelrigg Notes, less the net value realized by the Trustee
18 upon recovery of the notes after deducting all amounts spent to recover them.
19

20 VI. FRAUDULENT TRANSFERS OF SWITZER DEED OF TRUST

21 6.1 Mastro's attempt to transfer the Switzer Deed of Trust to
22 Foundation Management, Inc. is avoidable as a fraudulent transfer.

23 Fraudulent Transfer Under 11 U.S.C. § 544 and RCW 19.40

24 6.2 Mastro's purported transfer of the Switzer Deed of Trust to
25 Foundation Management, Inc. is avoidable as a fraudulent transfer under 11 U.S.C.
26

1 § 544 and RCW 19.40.

2 6.3 Mastro made the transfer with the actual intent to hinder, delay, or
3 defraud his creditors. *See, e.g.,* RCW 19.40.041(a)(1).

4 6.4 Mastro made the transfer without receiving reasonably equivalent
5 value in exchange. At the time of the transfer, Mastro was engaged in or was about to
6 engage in business or transactions for which his remaining assets were unreasonably
7 small in relation to the business or transactions. At the time of the transfer, Mastro
8 intended to incur or reasonably should have believed that he would incur debts
9 beyond his ability to pay as they became due. *See, e.g.,* RCW 19.40.041(a)(2).

10 6.5 Mastro made the transfer without receiving reasonably equivalent
11 value in exchange. Mastro was insolvent at the time of the transfer or became insolvent
12 as a result of the transfer. *See, e.g.,* RCW 19.40.051(a).

13 Fraudulent Transfer Under 11 U.S.C. § 548

14 6.6 Mastro's purported transfer of the Switzer Deed of Trust to
15 Foundation Management, Inc. is avoidable as a fraudulent transfer under 11 U.S.C.
16 § 548.

17 6.7 Mastro's purported transfer of the Switzer Deed of Trust to
18 Foundation Management, Inc. was a transfer of an interest in Mastro's property.
19 Mastro made the transfer within two years before the date of filing of the bankruptcy
20 petition.

21 6.8 Mastro made the transfer with actual intent to hinder, delay, or
22
23
24
25
26

1 defraud creditors to whom Mastro was indebted on or after the date of the transfer.

2 6.9 Mastro received less than a reasonably equivalent value in
3 exchange for the transfer and
4

5 a. Mastro was insolvent at the time of the transfer or became
6 insolvent as a result of the transfer;

7 b. Mastro was engaged in business or a transaction, or was
8 about to engage in business or a transaction, for which any remaining property of
9 Mastro's was an unreasonably small capital; or
10

11 c. Mastro intended to incur, or believed he would incur, debts
12 beyond his ability to repay as such debts matured.

13 6.10 Foundation Management, Inc.'s subsequent attempt to reconvey
14 the Switzer Deed of Trust to Switzer is avoidable under 11 U.S.C. § 550 and
15 RCW 19.40.081(b).
16

17 6.11 The Trustee is entitled to recover from Foundation Management,
18 Inc. or Switzer, the Switzer Deed of Trust. In the alternative, the Trustee is entitled to a
19 judgment against Foundation Management, Inc., Sato, and Switzer for the value of the
20 Switzer Deed of Trust.
21

22 6.12 Mastro's bankruptcy estate has suffered damages in an amount
23 not less than the value of the Switzer Deed of Trust, less the net value realized by the
24 Trustee upon recovery of the Switzer Deed of Trust after deducting all amounts spent
25 to recover it.
26

1 **VII. BREACH OF CONTRACT ON PROMISSORY NOTES**

2 Centurion Financial \$20 Million Note (Centurion Financial)

3 7.1 Centurion Financial executed the Centurion Financial \$20 Million
4 Note on or about April 5, 2007.

6 7.2 Centurion Financial agreed to pay Mastro \$20 million, plus
7 interest, on or before April 5, 2008.

8 7.3 In the event Centurion Financial failed to make payment when
9 due, Centurion Financial agreed to pay Mastro late fees as well as all collection costs,
10 including attorneys' fees and expenses.

12 7.4 Centurion Financial has failed to pay the amounts due under the
13 Centurion Financial \$20 Million Note.

14 7.5 The Trustee is entitled to collect from Centurion Financial all
15 amounts due under the Centurion Financial \$20 Million Note, including all unpaid
16 principal, accrued interest, late fees, and collection costs, including attorneys' fees and
17 expenses.
18

19 Centurion Financial \$2.2 Million Note (Centurion Financial)

20 7.6 Centurion Financial executed the Centurion Financial \$2.2 Million
21 Note on or about June 14, 2007.

22 7.7 Centurion Financial agreed to pay Mastro all principal advanced
23 in connection with the note, plus interest, on or before June 14, 2008.

24 7.8 In the event Centurion Financial failed to make payment when
25
26

1 due, Centurion Financial agreed to pay Mastro late fees as well as all collection costs,
2 including attorneys' fees and expenses.

3 7.9 Centurion Financial has failed to pay the amounts due under the
4 Centurion Financial \$2.2 Million Note.
5

6 7.10 The Trustee is entitled to collect from Centurion Financial all
7 amounts due under the Centurion Financial \$2.2 Million Note, including all unpaid
8 principal, accrued interest, late fees, and collection costs, including attorneys' fees and
9 expenses.
10

11 Shaunessy \$2.2 Million Note (Hazelrigg)

12 7.11 Hazelrigg executed the Shaunessy \$2.2 Million Note on or about
13 June 27, 2006.
14

15 7.12 Hazelrigg agreed to pay Mastro \$2.2 million, plus interest, on or
16 before July 27, 2006. The due date for payment was extended to September 27, 2006 by
17 agreement dated July 27, 2006.

18 7.13 In the event Hazelrigg failed to make payment when due,
19 Hazelrigg agreed to pay Mastro late fees as well as all collection costs, including
20 attorneys' fees and expenses.
21

22 7.14 Hazelrigg has failed to pay the amounts due under the Shaunessy
23 \$2.2 Million Note.
24

25 7.15 The Trustee is entitled to collect from Hazelrigg all amounts due
26 under the Shaunessy \$2.2 Million Note, including all unpaid principal, accrued interest,

1 late fees, and collection costs, including attorneys' fees and expenses.

2 **VIII. BREACH OF CONTRACT ON GUARANTIES**

3 Centurion Financial \$20 Million Note (Hazelrigg and Switzer)

4
5 8.1 Hazelrigg and Switzer executed a Guaranty on or about April 5,
6 2007, unconditionally guaranteeing repayment of all amounts due under the Centurion
7 Financial \$20 Million Note.

8 8.2 Hazelrigg and Switzer agreed to pay all costs incurred by Mastro
9 in enforcing the Guaranty, including attorneys' fees and expenses.

10
11 8.3 Hazelrigg and Switzer have breached the Guaranty by failing to
12 satisfy Centurion Financial's obligations under the Centurion Financial \$20 Million
13 Note.

14 8.4 Mastro's estate has been damaged by Hazelrigg's and Switzer's
15 breach of the Guaranty in an amount to be proved at trial, but in no event less than all
16 amounts due under the Centurion Financial \$20 Million Note, including all unpaid
17 principal, accrued interest, late fees, and costs incurred in enforcing the Guaranty,
18 including attorneys' fees and expenses.
19

20
21 Centurion Financial \$2.2 Million Note (Hazelrigg and Switzer)

22 8.5 Hazelrigg and Switzer executed a Guaranty on or about June 14,
23 2007, unconditionally guaranteeing repayment of all amounts due under the Centurion
24 Financial \$2.2 Million Note.

25
26 8.6 Hazelrigg and Switzer agreed to pay all costs incurred by Mastro

1 in enforcing the Guaranty, including attorneys' fees and expenses.

2 8.7 Hazelrigg and Switzer have breached the Guaranty by failing to
3 satisfy Centurion Financial's obligations under the Centurion Financial \$2.2 Million
4 Note.
5

6 8.8 Mastro's estate has been damaged by Hazelrigg's and Switzer's
7 breach of the Guaranty in an amount to be proved at trial, but in no event less than all
8 amounts due under the Centurion Financial \$2.2 Million Note, including all unpaid
9 principal, accrued interest, late fees, and costs incurred in enforcing the Guaranty,
10 including attorneys' fees and expenses.
11

12 Hoover Hills \$5 Million Note (Hazelrigg)

13 8.9 Hazelrigg executed a Guaranty on or about May 18, 2006,
14 unconditionally guaranteeing repayment of all amounts due under the Hoover Hills
15 \$5 Million Note.
16

17 8.10 Hazelrigg agreed to pay all costs incurred by Mastro in enforcing
18 the Guaranty, including attorneys' fees and expenses.
19

20 8.11 All principal and accrued interest under the Hoover Hills
21 \$5 Million Note was due to be repaid on or before June 17, 2006. The due date was
22 extended to August 17, 2006, but Hoover Hills, LLC failed to pay the amounts due.
23

24 8.12 Hazelrigg has breached his Guaranty by failing to satisfy Hoover
25 Hills, LLC's obligations under the Hoover Hills \$5 Million Note.
26

 8.13 Mastro's estate has been damaged by Hazelrigg's breach of the

1 Guaranty in an amount to be proved at trial, but in no event less than all amounts due
2 under the Hoover Hills \$5 Million Note, including all unpaid principal, accrued
3 interest, late fees, and costs incurred in enforcing the Guaranty, including attorneys'
4 fees and expenses.
5

6 Duff Lane \$3 Million Note (Hazelrigg)

7 8.14 Hazelrigg executed a Guaranty on or about June 15, 2006,
8 unconditionally guaranteeing repayment of all obligations due under the Duff Lane
9 \$3 Million Note.
10

11 8.15 Hazelrigg agreed to pay all costs incurred by Mastro in enforcing
12 the Guaranty, including attorneys' fees and expenses.

13 8.16 All principal and accrued interest under the Duff Lane \$3 Million
14 Note was due to be repaid on or before June 15, 2007. L216-1 ID Duff Lane, LLC has
15 failed to pay the amounts due.
16

17 8.17 Hazelrigg has breached his Guaranty by failing to satisfy L216-1
18 ID Duff Lane, LLC's obligations under the Duff Lane \$3 Million Note.
19

20 8.18 Mastro's estate has been damaged by Hazelrigg's breach of the
21 Guaranty in an amount to be proved at trial, but in no event less than all amounts due
22 under the Duff Lane \$3 Million Note, including all unpaid principal, accrued interest,
23 late fees, and costs incurred in enforcing the Guaranty, including attorneys' fees and
24 expenses.
25
26

1 Nourse \$2 Million Note (Hazelrigg)

2 8.19 Hazelrigg executed a Guaranty on or about September 7, 2006,
3 unconditionally guaranteeing repayment of all obligations due under the Nourse
4 \$2 Million Note.
5

6 8.20 Hazelrigg agreed to pay all costs incurred by Mastro in enforcing
7 the Guaranty, including attorneys' fees and expenses.

8 8.21 All principal and accrued interest under the Nourse \$2 Million
9 Note was due to be repaid on or before November 6, 2006. L116-1 Nourse, LLC has
10 failed to pay the amounts due.
11

12 8.22 Hazelrigg has breached his Guaranty by failing to satisfy L116-1
13 Nourse, LLC's obligations under the Nourse \$2 Million Note.
14

15 8.23 Mastro's estate has been damaged by Hazelrigg's breach of the
16 Guaranty in an amount to be proved at trial, but in no event less than all amounts due
17 under the Nourse \$2 Million Note, including all unpaid principal, accrued interest, late
18 fees, and costs incurred in enforcing the Guaranty, including attorneys' fees and
19 expenses.
20

21 **IX. AIDING AND ABETTING**

22 9.1 Defendants Mastandrea, Sato, Foundation Management, Inc.,
23 Hazelrigg, and Switzer, and other persons and entities, have aided and abetted Mastro
24 in carrying out the fraudulent transfers described in this complaint.
25

26 9.2 All persons and entities aiding and abetting the fraudulent

1 transfers are jointly and severally liable for all losses sustained by Mastro's bankruptcy
2 estate as a result of the fraudulent transfers.

3
4 **X. CIVIL CONSPIRACY**

5 10.1 Defendants Mastandrea, Sato, Foundation Management, Inc.,
6 Hazelrigg, and Switzer, and other persons and entities, have participated in a civil
7 conspiracy with Mastro to engage in the fraudulent transfers described in this
8 complaint.

9
10 10.2 Defendants Mastandrea, Sato, Foundation Management, Inc.,
11 Hazelrigg, and Switzer, and other persons and entities, have participated in a civil
12 conspiracy with Mastro to achieve the unlawful objective of hindering, delaying, or
13 defrauding Mastro's creditors.

14
15 10.3 All participants in the civil conspiracy alleged in this complaint are
16 jointly and severally liable for all losses caused by each participant in the conspiracy.

17 **XI. FORECLOSURE OF SWITZER DEED OF TRUST**

18 11.1 Scott G. Switzer and Cheri A. Switzer executed the Switzer Deed
19 of Trust in favor of Mastro on April 5, 2007. A copy of the Switzer Deed of Trust is
20 attached as Exhibit 13 and incorporated by reference.

21
22 11.2 The purpose of the Switzer Deed of Trust was to secure
23 performance of the obligations under the Centurion Financial \$20 Million Note and the
24 related Guaranty executed by Switzer and Hazelrigg.

25
26 11.3 The real property subject to the Switzer Deed of Trust is a

1 residence in Kirkland, King County, Washington, legally described as follows:

2 LOT B OF CITY OF KIRKLAND LOT LINE ADJUSTMENT
3 NUMBER A02-000-16, RECORDED UNDER RECORDING
4 NO. 20040217001557, BEING A SUBDIVISION OF A
5 PORTION OF THE SOUTHWEST QUARTER OF SECTION
6 17, TOWNSHIP 25 NORTH, RANGE 5 EAST,
7 WILLAMETTE MERIDIAN, IN KING COUNTY,
8 WASHINGTON.

9 The Assessor's Tax Parcel is: 172505-9316-07.

10 11.4 As a result of Centurion Financial's failure to pay the amounts due
11 under the Centurion Financial \$20 Million Note, and Switzer and Hazelrigg's breach of
12 their Guaranty, the Trustee is entitled to foreclose the Switzer Deed of Trust.

13 11.5 The Trustee elects to judicially foreclose the Switzer Deed of Trust
14 as a mortgage and obtain a deficiency judgment for all amounts due under the
15 Centurion Financial \$20 Million Note.

16 XII. INJUNCTIVE RELIEF

17 12.1 As a result of Mastro's purported transfer of the Hazelrigg Notes
18 to Mastandrea, Mastandrea has acquired possession of some or all of the Hazelrigg
19 Notes and related guaranties and other documents.

20 12.2 The Trustee is entitled to injunctive relief prohibiting Mastro and
21 Mastandrea from taking any action to further dispose of or transfer the Hazelrigg
22 Notes and related guaranties and other documents, from taking any action to enforce
23 the Hazelrigg Notes and related guaranties, and from taking any action to purportedly
24 relieve the obligors from liability under the Hazelrigg Notes and related guaranties.
25
26

1 12.3 As a result of Mastro’s fraudulent transfer of the Switzer Deed of
2 Trust to Foundation Management, Inc., and Foundation Management, Inc.’s
3 subsequent execution of the request for reconveyance to Switzer, Mastro, Foundation
4 Management, Inc., Sato, and Switzer have damaged the value of the Switzer Deed of
5 Trust. Switzer has recorded the request for reconveyance and has taken steps to
6 further encumber the property subject to the Switzer Deed of Trust.
7

8 12.4 The Trustee is entitled to injunctive relief prohibiting Switzer or
9 any other party from taking any action to further encumber or transfer the property
10 subject to the Switzer Deed of Trust.
11

12 **XIII. PRESERVATION OF AVOIDED TRANSFERS**

13 13.1 Any and all transfers avoided under the claims for relief set forth
14 in paragraphs I-XII above are preserved for the benefit of the estate pursuant to
15 11 U.S.C. § 551.
16

17 **XIV. RESERVATION OF RIGHT TO ADD ADDITIONAL DEFENDANTS**

18 14.1 The Trustee reserves the right to add other parties as defendants
19 following discovery.
20

21 **PRAYER FOR RELIEF**

22 WHEREFORE, the Trustee prays for the following relief:

- 23 1. A determination that Mastro’s purported transfer of the Hazelrigg
24 Notes to Mastandrea is avoidable as a preferential transfer under 11 U.S.C. § 547.
25 2. A determination that Mastro’s purported transfer of the Hazelrigg
26

1 Notes to Mastandrea is avoidable as a fraudulent transfer under 11 U.S.C. § 548 and/or
2 RCW 19.40.

3 3. Judgment against Thomas R. Hazelrigg, III in an amount to be
4 proved at trial, but not less than all amounts due under the Hazelrigg Notes.
5

6 4. Judgment against Scott G. Switzer and Cheri A. Switzer, and their
7 marital community, in an amount to be proved at trial, but not less than all amounts
8 due under the Centurion Financial \$20 Million Note and the Centurion Financial
9 \$2.2 Million Note.
10

11 5. Judgment against Centurion Financial Group, LLC in an amount
12 to be proved at trial, for all amounts due under the Centurion Financial \$20 Million
13 Note and the Centurion Financial \$2.2 Million Note.
14

15 6. Judgment against John Mastandrea and Jane Doe Mastandrea, and
16 their marital community, requiring them to return to the Trustee the Hazelrigg Notes,
17 all related guaranties and other documents, and all benefits obtained from the
18 Hazelrigg Notes. In the alternative, the Court should enter judgment against John
19 Mastandrea and Jane Doe Mastandrea, and their marital community, in an amount to
20 be proved at trial, for the full value of the Hazelrigg Notes and related guaranties and
21 all damages caused by the fraudulent transfer of the Hazelrigg Notes.
22

23 7. Preliminary and permanent injunctive relief prohibiting Mastro
24 and Mastandrea from taking any action to further dispose of or transfer the Hazelrigg
25 Notes and related guaranties and other documents, from taking any action to enforce
26

1 the Hazelrigg Notes and related guaranties, and from taking any action to purportedly
2 relieve the obligors from liability under the Hazelrigg Notes and related guaranties.

3 8. A determination that Mastro's purported transfer of the Switzer
4 Deed of Trust to Foundation Management, Inc. is avoidable as a fraudulent transfer
5 under 11 U.S.C. § 548 and/or RCW 19.40.
6

7 9. A determination that Foundation Management, Inc.'s purported
8 reconveyance of the Switzer Deed of Trust to Switzer is avoidable under 11 U.S.C.
9 § 550 and/or RCW 19.40. 081(b).
10

11 10. Judgment against Foundation Management, Inc., Sato, and
12 Switzer, jointly and severally, in an amount to be proved at trial for all damages caused
13 by the fraudulent transfers of the Switzer Deed of Trust.
14

15 11. Preliminary and permanent injunctive relief prohibiting Switzer
16 from taking any action to further encumber or transfer the property subject to the
17 Switzer Deed of Trust.
18

19 12. Judgment judicially foreclosing the Switzer Deed of Trust and
20 ordering that the property subject to the Switzer Deed of Trust be sold at a foreclosure
21 sale in the manner provided by law, that the proceeds of such sale be applied to the
22 judgment relating to the Centurion Financial \$20 Million Note, and that Centurion
23 Financial, Thomas R. Hazelrigg, III, and Scott G. Switzer and Cheri A. Switzer, and
24 their marital community, shall be jointly and severally liable for any deficiency
25 remaining on the Centurion Financial \$20 Million Note after application of the sale
26

