

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

FIRST SOUND BANK, a Washington  
corporation,

Plaintiff,

v.

LARASCO, INC., a Washington  
corporation; LOUIS A. SECORD, JR., an  
individual; RICHARD A. SECORD, an  
individual; LASCOR, LLC, a Washington  
limited liability company; RASCOR LLC, a  
Washington limited liability company;  
ROBERTS PROPERTIES, INC., a  
Washington corporation; SR  
DEVELOPMENT, LLC, a Washington  
limited liability company; DEL NORTE,  
LLC, a Washington limited liability  
company; BAY HOUSE AT CHELAN,  
LLC, a Washington limited liability  
company; and SEVRO II, a Washington  
limited liability company,

Defendants.

No. C09-0056-TSZ

THIRD AMENDED COMPLAINT

WELLS FARGO EQUIPMENT FINANCE,  
INC., a Minnesota corporation; PLAZA  
BANK, a Washington corporation; REGAL  
FINANCIAL BANK, a Washington  
corporation; COWLITZ BANK, a  
Washington corporation; WASHINGTON  
FEDERAL, INC., a Washington  
corporation; BANNER BANK, a  
Washington corporation; and



1 WESTAMERICA BANCORPORATION, a  
2 California corporation,

3 Plaintiff-Interveners,

4 v.

5 FIRST SOUND BANK, a Washington  
6 corporation; and LARASCO, INC., a  
7 Washington corporation,

8 Defendants-in-Intervention.

9 Plaintiff First Sound Bank alleges:

### 10 I. INTRODUCTION

11 1. This case arises out of a series of misrepresentations and omissions by  
12 defendants in the sale of their equipment leasing business, Puget Sound Leasing Co., Inc.  
13 (“PSL CO”). Defendants made these misrepresentations to induce plaintiff First Sound  
14 Bank (“FSB”) to purchase a portion of the assets of PSL CO for FSB stock, cash, and other  
15 valuable consideration. In purchasing PSL CO’s assets, FSB reasonably believed, based on  
16 defendants’ representations, that it was acquiring rights to leases of high quality (*i.e.*, with  
17 low delinquency and charge-off rates), and other assets necessary to operate a profitable  
leasing business.

18 However, during the period since the transaction was completed, FSB has learned  
19 that PSL CO manipulated its financial records to dramatically overstate the quality of its  
20 leases and the profitability of its business. Had FSB known the truth about PSL CO—that  
21 its leases had high delinquency rates and that it employed improper business and accounting  
22 tactics to inflate its income, disguise delinquencies and hide costs associated with its  
23 business—FSB would not have entered into the transaction. By this action, FSB seeks  
24 redress for defendants’ fraud through rescission of the transaction or an award of damages  
25 sufficient to compensate FSB for defendants’ fraud.  
26



## II. PARTIES

2. Plaintiff First Sound Bank is a Washington corporation and a commercial bank. FSB offers financial services to small and medium-sized businesses, not-for-profits, and professionals in the Puget Sound region. FSB was founded in 2004 and is based in Seattle, Washington. On March 1, 2008, FSB acquired certain assets of Puget Sound Leasing Co., Inc. from defendants Richard Secord and Louis Secord.

3. Defendant Larasco, Inc. ("Larasco") is a Washington corporation owned by Richard Secord and Louis Secord. Larasco was formerly known as Puget Sound Leasing Co., Inc., and, under that name, engaged in the business of originating and servicing commercial equipment leases. On March 1, 2008, PSL CO sold certain assets, including the name "Puget Sound Leasing," to FSB. The assets not sold to FSB remained in PSL CO, which was renamed Larasco.

4. Defendant Louis A. Secord, Jr. is a natural person and a Washington resident. Louis Secord was an owner of PSL CO and served as its president. Louis Secord was a member of the FSB Board of Directors from March 1, 2008 until January 12, 2009. Louis Secord is an owner of Larasco and an employee of FSB.

5. Defendant Richard A. Secord is a natural person and a Washington resident. Richard Secord was an owner of PSL CO and served as its executive vice-president. Richard Secord was a member of the FSB Board of Directors from April, 2004 until May, 2007. Richard Secord is an owner of Larasco.

6. In this Second Amended Complaint, defendants Louis Secord and Richard Secord are sometimes collectively referred to as "the Secord Defendants."

7. LASCOR, LLC ("LASCOR") is a Washington limited liability company. LASCOR is owned and controlled by Larasco and Louis Secord.

8. RASCOR, LLC ("RASCOR") is a Washington limited liability company. RASCOR is owned and controlled by Larasco and Richard Secord.

9. Nonparties Edward Roberts, Mark Roberts and Elliott Severson are Washington residents and are long-time business associates and close personal friends of Louis Secord and Richard Secord. In deposition testimony, Louis Secord described Edward Roberts and Mark Roberts and Elliott Severson as “partners” of Louis Secord and Richard Secord.

10. Defendant Roberts Properties, Inc. (“Roberts Properties”) is a Washington corporation. Roberts Properties is owned and controlled by Edward Roberts and Mark Roberts.

11. Defendant SR Development LLC (“SR Development”) is a Washington limited liability company. SR Development is owned and controlled by Edward Roberts, Mark Roberts and Elliott Severson.

12. Defendant SEVRO II, LLC (“SEVRO II”) is a Washington limited liability company. SEVRO II is owned and controlled by Edward Roberts, Mark Roberts and Elliott Severson.

13. Defendant Del Norte, LLC (“Del Norte”) is a Washington limited liability company. Del Norte is owned and controlled by Edward Roberts, Mark Roberts and Elliott Severson.

14. Defendant Bay House at Chelan, LLC (“Bay House at Chelan”) is a Washington limited liability company. Bay House at Chelan is owned and controlled by Louis and Richard Secord or Larasco, and by Bay House LLC, a Washington limited liability company. Bay House LLC is owned and controlled by Edward Roberts, Mark Roberts and Elliott Severson.

### III. JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over the federal securities claims asserted herein because these claims arise under the laws of the United States. 28 U.S.C. § 1331. This Court has supplemental jurisdiction over the remaining claims asserted herein

1 because the claims arise out of the same nucleus of operative facts as plaintiff's federal  
2 securities claims. 28 U.S.C. § 1367.

3 16. Venue is proper in this district because a substantial part of the events or  
4 omissions giving rise to plaintiff's claims occurred in the Western District of Washington.  
5 28 U.S.C. § 1391(b).

6 17. This Court has personal jurisdiction over the defendants because each  
7 defendant is domiciled in and/or conducts business in King County, Washington.

8 18. Federal jurisdiction is proper in this matter because defendants made use of  
9 means or instrumentalities of interstate commerce or of the mails in connection with the  
10 acts and conduct alleged in this Third Amended Complaint.

#### 11 **IV. BACKGROUND**

##### 12 **A. Puget Sound Leasing Co.**

13 19. The Second Defendants founded PSL CO in 1985. PSL CO was in the  
14 business of originating and servicing commercial equipment leases. PSL CO entered into  
15 leasing agreements with customers—typically businesses in need of equipment—under  
16 which PSL CO would acquire the needed equipment and provide it to the customer. In  
17 return, PSL CO's customers agreed to make future monthly payments to PSL CO. PSL  
18 CO's lease agreements typically provided that, at the end of the lease payment, the  
19 customer could purchase the leased equipment from PSL CO in return for a payment known  
20 as a "residual payment."

21 20. After originating its lease agreements with customers, PSL CO frequently  
22 sold its rights to the lease payments (known as "lease payment streams") to banks or other  
23 financial institutions ("Investor Banks"). PSL CO entered into agreements called Program  
24 Agreements with the Investor Banks. The Program Agreements set forth the terms under  
25 which the Investor Banks could, over time, buy from PSL CO portfolios of lease payment  
26 streams.

1           21. Under the Program Agreements, PSL CO retained responsibility for  
2 servicing the leases. That is, PSL CO would continue to collect the lease payments from  
3 customers, and would forward the money due to the Investor Banks. PSL CO also retained  
4 certain rights under the leases, including the right to any residual payments and to collect  
5 certain fees from the customers.

6           22. PSL CO also entered into Performance Incentive Agreements with the  
7 Investor Banks. The Performance Incentive Agreements provided that PSL CO was  
8 entitled to a bonus for each lease payment stream sold to the Investor Bank if, at the end of  
9 the lease term, the Investor Bank had received all scheduled payments due under the lease  
10 payment stream. For this reason, and other reasons, PSL CO's profitability was directly  
11 related to the quality of the leases it issued, even though in most cases it sold the payment  
12 streams to Investor Banks.

13           23. By mid-2007, PSL CO was servicing over 9,000 individual leases. PSL CO  
14 had sold the payment streams for most of these lease agreements to Investor Banks pursuant  
15 to Program Agreements.

16 **B. The Asset Purchase Agreement**

17           24. Beginning in September, 2004, PSL CO became an FSB customer,  
18 maintaining deposits at FSB and obtaining financing from the bank. Other close  
19 relationships existed between FSB and PSL CO. Richard Secord was one of FSB's largest  
20 shareholders and had been an FSB director since the bank's founding. A current FSB board  
21 member, James H. Jackson, had in the past provided accounting services to PSL CO, but  
22 ceased doing so upon the formation of FSB.

23           25. As a result of the close connections between FSB and PSL CO, the  
24 companies began in March, 2007 to discuss the possibility of FSB acquiring most of PSL  
25 CO's assets in return for FSB stock, cash, and other consideration. FSB was represented in  
26 these discussions by FSB Chairman and CEO Don Hirtzel and FSB President Steve

1 Shaughnessy. PSL CO was represented by defendants Richard Secord and Louis Secord.  
2 During many of these discussions (until May 2007), Richard Secord was a member of the  
3 FSB Board of Directors. These discussions were ongoing between March 2007 and March  
4 2008 and took place in person and in telephone conferences.

5 26. FSB was interested in purchasing PSL CO's assets because the Secord  
6 Defendants had represented to FSB over time that: (1) PSL CO had a history of excellent  
7 financial performance, and that its business model was a highly profitable one; (2) the  
8 leases originated by PSL CO were of high quality (i.e., that the delinquency rates associated  
9 with the leases were very low), and (3) PSL CO's business practices were sound. Louis  
10 Secord told FSB that PSL CO employed the "best controls" and had the "best underwriting"  
11 practices in the leasing business, that PSL CO was "run like a bank," and "reported [its  
12 financial information] like a bank." The Secord Defendants made these statements and  
13 statements similar to them on numerous occasions in person and in telephone conferences.

14 27. In connection with their discussions regarding PSL CO's potential sale of  
15 assets to FSB, PSL CO provided written financial information to FSB and its agents. The  
16 financial information included PSL CO's financial statements for June 30, 2007 and  
17 September 30, 2007. FSB also had copies of PSL CO's audited year-end financial  
18 statements for each of the years 2000 through 2006. FSB relied on this financial  
19 information—including PSL CO's significant profitability as reflected in these financial  
20 statements—in evaluating the desirability and terms of a potential purchase of assets from  
21 PSL CO.

22 28. Representatives of FSB and PSL CO communicated in person, via  
23 telephone, and via email in conceiving, negotiating and finalizing the asset purchase.  
24 Specifically, beginning on or around March 2007 until on or around March 2008,  
25 representatives of FSB, including Don Hirtzel, Steve Shaughnessy and Jan Gould, regularly  
26 communicated with both Secord Defendants and other representatives of PSL CO via

1 telephone and email regarding the asset purchase. Representatives of FSB, including Don  
2 Hirtzel, Steve Shaughnessy, and Jan Gould, participated in numerous telephone conferences  
3 with the Secord Defendants during this time period in which the Secord Defendants made  
4 false representations regarding PSL CO's profitability, delinquency rate and other matters.  
5 In addition, PSL CO CFO Doug Blair and FSB CFO Jan Gould frequently communicated  
6 about the proposed transaction via telephone and email. In these telephone and email  
7 communications, Doug Blair provided information to FSB about PSL CO's profitability  
8 and financial information. FSB relied on this information in evaluating FSB's potential  
9 purchase of PSL CO assets.

10 29. On September 24, 2007, FSB, PSL CO and the Secord Defendants entered  
11 into an Asset Purchase Agreement. Under the Asset Purchase Agreement, FSB purchased  
12 some, but not all, of the assets of PSL CO. Among the purchased assets were PSL CO's  
13 rights under most of the leases originated by PSL CO. The purchased assets also included  
14 PSL CO's inventory of repossessed equipment and the name "Puget Sound Leasing." The  
15 assets not sold to FSB were retained in PSL CO, which was renamed "Larasco," and which  
16 is owned by the Secord Defendants.

17 30. In payment for the assets purchased pursuant to the Asset Purchase  
18 Agreement, FSB conveyed to PSL CO: (1) 437,500 shares of First Sound Bank stock  
19 (valued at \$6,278,125), (2) \$4,500,000 in cash, (3) an agreement to make certain future  
20 payments (contingent upon the earnings of the purchased assets), (4) a Consulting  
21 Agreement with Richard Secord and an Employment Agreement with Louis Secord, and (5)  
22 other valuable consideration. In conjunction with the transaction, FSB transferred  
23 \$4,500,000 to a bank account owned by Larasco, Inc. on March 3, 2008 via wire transfer.

24 31. As part of the Asset Purchase Agreement, defendants warranted that the  
25 information they had provided FSB in connection with the Asset Purchase Agreement was  
26 accurate and complete. Specifically:



1           a.       In Section 5.13 of the Asset Purchase Agreement, defendants  
2 warranted that the financial statements attached to the Agreement were true, and in  
3 all material respects fairly represented the financial condition of PSL CO;

4           b.       In Section 5.14 of the Asset Purchase Agreement, defendants  
5 warranted that PSL CO had no undisclosed liabilities;

6           c.       In Section 5.21 of the Asset Purchase Agreement, defendants  
7 warranted that PSL CO was in compliance with all contracts to which it was bound;

8           d.       In Section 5.28 of the Asset Purchase Agreement, defendants  
9 warranted that no representation made by defendants in connection with their sale of  
10 assets to FSB contained any untrue statement of material fact, and further warranted  
11 that defendants had not omitted any material fact necessary to make the statements  
12 made not misleading; and

13           e.       In the Closing Certificate, executed on February 29, 2008, defendants  
14 again warranted that each representation and warranty set forth in Article V of the  
15 Asset Purchase Agreement (including each warranty described in the preceding four  
16 subparagraphs) was true and correct.

17       32.       Unbeknownst to FSB, each of defendants' warranties was false.

18       **C.       Defendants Misrepresented Their Business.**

19       33.       Following Closing, FSB began originating and servicing equipment leases  
20 under the name "Puget Sound Leasing, a Division of First Sound Bank." Over time, FSB  
21 discovered that the information it had received from defendants about PSL CO was, in  
22 substantial part, misstated, incorrect and incomplete. Defendants' misrepresentations and  
23 omissions materially overstated the financial condition of PSL CO's business, the quality  
24 of its leases, its profitability, and the value of the assets that FSB purchased.

25       34.       **Misrepresentations Regarding the Quality of the Leases.** The principal  
26 misrepresentations made by defendants related to the quality of the leases it had originated

1 and sold to FSB, and the degree to which those leases were delinquent. Defendants  
2 represented to FSB that very few leases were delinquent, that PSL CO's delinquency ratio  
3 (the percentage of leases greater than 30 days past due) and its charge-off rates were  
4 historically insignificant.

5 35. In fact, the delinquency rates of the loans originated by defendants were  
6 higher than represented to FSB. Defendants' financial records were maintained in a manner  
7 that significantly understated and failed to properly disclose the number of leases in default.  
8 For example, in cases where PSL CO had repossessed property on delinquent loans, PSL  
9 CO had applied the proceeds of the repossession to future payments due on the loan. In  
10 these cases, the financial records PSL CO provided to FSB reflected that the loans were  
11 fully performing even though, in reality, the leases had defaulted and were no longer  
12 secured by the leased property (which had been repossessed).

13 36. In addition to disguising the level of delinquency in the loans PSL CO had  
14 sold to FSB, defendants made additional misrepresentations and omissions that overstated  
15 PSL CO's profitability and the value of its assets. These misrepresentations and omissions  
16 included:

17 a. **Concealed Liabilities.** Defendants failed to disclose to FSB certain  
18 liabilities of PSL CO to brokers, including the business practices that resulted in  
19 these liabilities. Defendants' omission of information about these secret costs of  
20 PSL CO's business caused FSB to overvalue the profitability of PSL CO and to  
21 overestimate the viability of its business model. For example, when PSL CO  
22 originated many of its leases, it entered into agreements ("Broker Side  
23 Agreements") with the brokers who had referred the customer to PSL CO. The  
24 Broker Side Agreements provided that, in addition to paying the broker a  
25 commission when the lease was originated, PSL CO would pay the broker a  
26 commission when the customer paid the residual payment at the conclusion of the

1 lease. Defendants did not disclose the existence of the Broker Side Agreements to  
2 FSB and the liabilities resulting from the Broker Side Agreements were not  
3 reflected on PSL CO's financial statements. Defendant Louis Secord maintained  
4 the Broker Side Agreements in separate files in his office and did not make the files  
5 available to FSB.

6 b. **Inflation of Income.** PSL CO manipulated its financial statements  
7 to create the impression that the business's income was substantially higher than its  
8 actual income. For example, PSL CO's lease agreements provided that, in cases  
9 where a customer failed to make a lease payment on time, PSL CO could "boost"  
10 the value of the optional residual payment that the lessee could make to purchase the  
11 leased property at the end of the lease term. Under generally accepted accounting  
12 principles, PSL CO could only treat the boosted residual payment as income if and  
13 when the lessee actually made the residual payment. PSL CO, however, treated the  
14 "boosted" residual as income at the time PSL CO "boosted" the residual payment.  
15 Because, in many cases, customers never actually made the "boosted" residual  
16 payment, this accounting process reflected income that PSL CO never earned.

17 c. **Overstatement of Assets.** Defendants misrepresented the value of  
18 the assets to be transferred to PSL CO in connection with the Asset Purchase  
19 Agreement. For example, defendants represented on PSL CO's financial statements  
20 that PSL CO's warehouse contained over \$450,000 worth of repossessed equipment  
21 that was the property of PSL CO. In fact, almost all of the equipment belonged not  
22 to PSL CO, but to the Investor Banks who owned the payment streams associated  
23 with the repossessed property.

24 37. The foregoing misrepresentations and omissions, among others, were  
25 calculated to induce, and did induce, FSB to purchase PSL CO's assets in return for FSB  
26 stock, cash, and other consideration. Had FSB known the truth, including material

1 information that defendants failed to disclose to FSB, FSB would not have purchased  
2 PSL CO's assets.

3 **D. Defendants' Post-Closing Misconduct**

4 38. After the Closing of the Asset Purchase Agreement, Louis Secord, who was  
5 then a director of FSB and president of its new Puget Sound Leasing Division, took steps to  
6 conceal and perpetuate the misrepresentations and omissions identified above, and to  
7 improperly benefit defendants Larasco, himself and Richard Secord at the expense of FSB.

8 39. For example, in March, 2008 (just after the transaction had closed), Louis  
9 Secord caused FSB's Puget Sound Leasing Division to make payments to Investor Banks  
10 and take write offs in the amount of \$949,487.43. These payments and write offs were the  
11 responsibility of PSL CO—not FSB—because they were associated with payments made  
12 (or in the case of write offs, payments not made) to PSL CO before the transaction closed.  
13 Defendants failed to fully reimburse FSB for the \$949,487.43—paying FSB only  
14 \$460,332.31—and did not disclose and/or attempted to conceal from FSB the fact that FSB  
15 had not fully been reimbursed.

16 40. When confronted with this misconduct, Louis Secord admitted defendants'  
17 responsibility for failing to reimburse FSB for the full \$949,487.43. Defendants and FSB  
18 then entered into a contract entitled Agreement to Clarify Operating Procedures (the  
19 "Clarification Agreement"), which was intended to address this issue along with other  
20 problems that had arisen after the asset sale. As part of the Clarification Agreement,  
21 defendants promised to reimburse FSB for the portion of the \$949,487.43 for which they  
22 had not yet made reimbursement.

23 41. However, soon after entering into the Clarification Agreement, defendants  
24 disclaimed any obligation to comply with its terms, contending that the Agreement was not  
25 enforceable for want of consideration. In fact, the Clarification Agreement was supported  
26 by ample consideration, including, among others, FSB's (1) issuance of a \$2,000,000 line

1 of credit to Larasco, and (2) agreement to increase the value assigned to goodwill under the  
2 Asset Purchase Agreement, which was a benefit that defendants had requested.

3 42. On November 19, 2008, FSB relieved defendants Louis Secord and Richard  
4 Secord of all responsibilities for operating FSB's Puget Sound Leasing Division. On  
5 January 12, 2009, Louis Secord resigned from the FSB Board of Directors.

6 **E. Defendants' Fraudulent Transfers of Assets**

7 43. In or before early December, 2008, the Secord Defendants and Larasco were  
8 aware that they had substantial liability to First Sound Bank under the terms of the  
9 Clarification Agreement and the Asset Purchase Agreement. The Secord Defendants  
10 retained legal counsel to represent them in connection with their disputes with FSB and the  
11 Investor Banks.

12 44. On December 1, 2008, defendant Richard Secord told First Sound Bank  
13 CEO Don Hirtzel in a private moment not to "share this with anyone, but I cannot afford to  
14 lose everything over all of this."

15 45. ***The Transfers to LASCOR and RASCOR:*** On December 8, 2008, the  
16 Secord Defendants and Larasco caused the formation of two new limited liability  
17 companies, which they named LASCOR and RASCOR. LASCOR is owned and controlled  
18 by Louis Secord and Larasco. RASCOR is owned and controlled by Richard Secord and  
19 Larasco.

20 46. On December 12, 2008, counsel for Larasco and the Secord Defendants sent  
21 an email to FSB's Don Hirtzel and Steve Shaughnessy. The email attached a letter from  
22 Louis Secord in which Secord, for the first time, took the position that the Clarification  
23 Agreement was unenforceable.

24 47. On December 16, 2008, the Secord Defendants and Larasco caused assets to  
25 be transferred from Larasco to LASCOR and RASCOR. The assets transferred to  
26 LASCOR include real property in Chelan County, Washington with an assessed value of

1 approximately \$1.8 million. The assets transferred to RASCOR include real property in  
2 Chelan County with an assessed value of approximately \$2.7 million. On information and  
3 belief, Larasco also transferred additional property to LASCOR and RASCOR, including  
4 shares of FSB stock. Neither LASCOR nor RASCOR provided reasonably equivalent  
5 value in exchange for the assets transferred to them.

6 48. Defendants made the transfers to LASCOR and RASCOR with the intent to  
7 hinder or delay Larasco's creditors, including FSB.

8 49. On January 22, 2009, FSB notified Larasco and the Second Defendants that  
9 FSB intended to file a motion to attach the assets of the Second Defendants and Larasco.  
10 Larasco and the Second Defendants were aware that there was a substantial possibility that  
11 their assets would be frozen or subject to attachment for the purpose of securing payment of  
12 defendants' debts to First Sound Bank.

13 50. ***The Transfers to Louis Secord and Richard Secord:*** Larasco transferred  
14 valuable assets to Louis Secord and Richard Secord during the period when litigation  
15 between Larasco and FSB was ongoing or anticipated. Specifically, in early 2009, Larasco  
16 forgave over \$1 million in loans to Louis Secord and Richard Secord. Larasco also paid off  
17 over \$400,000 worth of additional loan obligations of Louis Secord and Richard Secord. In  
18 addition, Larasco transferred 2,500 shares of Microsoft stock each to Louis Secord and  
19 Richard Secord. Beginning in about October 2008 and continuing to the present, Larasco  
20 has made regular monthly cash transfers of approximately \$12,000 to Louis Secord and  
21 \$12,000 to Richard Secord.

22 51. Neither Louis Secord nor Richard Secord provided any value (much less  
23 reasonably equivalent value) to Larasco in return for the previously-described transfers  
24 from Larasco to Louis Secord and Richard Secord.

25 52. ***The Transfer to Roberts Properties:*** On or about March 15, 2008, Larasco  
26 transferred \$425,000 to Roberts Properties in exchange for a promissory note due March

1 15, 2009. The note was unsecured and lacked any personal guarantees or other security  
2 from the principals of Roberts Properties. Under the terms of the promissory note, Larasco  
3 was entitled to receive regular interest payments at a rate of 10% interest.

4 53. On March 1, 2009 (after FSB had moved to attach Larasco's assets, and two  
5 weeks before the note's principal was due), Larasco and Roberts Properties agreed to  
6 amend the terms of the promissory note to (1) extend the term of the loan to March 14,  
7 2011, and (2) reduce the interest rate from 10% to 5%. The amendment constituted a  
8 transfer to Roberts Properties because it delayed by two years the date on which Larasco  
9 was entitled to be paid the principal on the note and substantially reduced the amount of  
10 interest Larasco was entitled to receive under the note. Specifically, the amendment  
11 reduced Roberts Properties' monthly payment obligation to Larasco from approximately  
12 \$3,500 to approximately \$1,750.

13 54. Roberts Properties did not provide Larasco with reasonably equivalent value  
14 in return for Larasco's agreement to defer by two years the obligation of Roberts Properties  
15 to repay the \$425,000 loan and to reduce Robert Properties' monthly interest payment  
16 obligations to Larasco.

17 55. ***The Transfer to SR Development:*** On or about October 1, 2008, Larasco  
18 refinanced a prior loan to SR Development in the amount of \$481, 358 in exchange for a  
19 promissory note due "September 31 [sic], 2013." The note was unsecured and lacked  
20 personal guarantees or any other form of security from SR Development's principals.  
21 Under the terms of the promissory note, SR Development was required to make monthly  
22 interest payments to Larasco at a rate of 10% interest.

23 56. On May 1, 2009 (while FSB's motion to attach Larasco's assets was  
24 pending), Larasco and SR Development agreed to amend the terms of the promissory note  
25 to reduce the interest rate from 10% to 5%. The amendment constituted a transfer to  
26 Roberts Properties because it substantially reduced the interest payments SR Developments

1 was required to make to Larasco. Specifically, the effect of the amendment was to reduce  
2 SR Development's monthly payment obligation to Larasco from \$6,000 to approximately  
3 \$3,000.

4 57. SR Development did not provide Larasco with reasonably equivalent value  
5 in return for Larasco's agreement to reduce SR Development's monthly payment  
6 obligations to Larasco.

7 58. ***The Transfers to Del Norte:*** On April 30, 2008, Larasco transferred  
8 \$750,000 to Del Norte in exchange for a promissory note due May 1, 2009. The note was  
9 unsecured and lacked personal guarantees or any other form of security from any of Del  
10 Norte's principals. Under the terms of the note, Del Norte was required to make monthly  
11 interest payments to Larasco at a rate of 10% interest.

12 59. On May 1, 2009 (the day on which the note was due, and during the period  
13 when FSB's motion to attach Larasco's assets was pending), Larasco and Del Norte agreed  
14 to amend the promissory note to (1) extend the term of the loan to April 30, 2011, and (2)  
15 reduce the interest rate from 10% to 5%. The amendment constituted a transfer to Del  
16 Norte because it delayed by two years the date on which Larasco was entitled to be paid the  
17 principal on the note, and substantially reduced the interest payments Del Norte was  
18 required to make to Larasco. The amendment reduced Del Norte's monthly payment  
19 obligation to Larasco from approximately \$6,250 to approximately \$3,125.

20 60. Del Norte did not provide Larasco with reasonably equivalent value in return  
21 for Larasco's agreement to defer by two years the obligation of Del Norte to repay the  
22 \$750,000 loan and reduce Del Norte's monthly interest payment obligations to Larasco.

23 61. On February 1, 2009, Larasco transferred an additional \$705,000 to Del  
24 Norte or refinanced an existing loan in the same amount in exchange for a promissory note  
25 due January 31, 2014. The promissory note required Del Norte to pay 10.59% interest and  
26 to make monthly interest and principal payments.



1           62.     On May 1, 2009, (while FSB's motion for writ of attachment was pending),  
2     Larasco and Del Norte agreed to amend the terms of the promissory note to reduce the  
3     interest rate from 10.59% to 5%. The amendment constituted a transfer to Del Norte  
4     because it substantially reduced the interest payments Del Norte was required to make to  
5     Larasco. Specifically, the effect of the amendment was to reduce Del Norte's monthly  
6     payment obligation to Larasco from \$10,109 to \$5,881.

7           63.     ***Transfer to Bay House at Chelan:*** On November 1, 2008, Larasco  
8     transferred \$471,000 to Bay House at Chelan in exchange for a promissory note due  
9     October 31, 2013. The note was unsecured and lacked personal guarantees from any of Bay  
10    House at Chelan's principals. Under the terms of the note, Bay House at Chelan was  
11    required to make monthly interest payments to Larasco at a rate of 12% interest.

12          64.     On May 1, 2009 (while FSB's motion for writ of attachment was pending),  
13    Larasco and Bay House at Chelan agreed to amend to terms of the note to reduce the  
14    interest rate from 12% to 5%. The amendment constituted a transfer to Bay House at  
15    Chelan because it substantially reduced the amount of interest Larasco was entitled to  
16    receive under the note. Specifically, the effect of the amendment was to reduce Bay House  
17    at Chelan's monthly payment obligation to Larasco from approximately \$4,710 to  
18    approximately \$1,962.

19          65.     Bay House at Chelan did not provide Larasco with reasonably equivalent  
20    value in return for Larasco's agreement to reduce Bay House at Chelan's monthly interest  
21    payment obligations to Larasco.

22          66.     ***The SEVRO II Transfers:*** Until April, 2009, Larasco owned a valuable  
23    interest in a building known as the "Lakemont" building in Issaquah, Washington. On or  
24    about April 30, 2009 (two weeks before the Court's hearing of FSB's motion for writ of  
25    attachment), Larasco transferred its interest in Lakemont to SEVRO II. In return for this  
26

1 transfer, SEVRO II issued Larasco a promissory note with a face value of \$588,000, due  
2 April 30, 2014.

3 67. The promissory note issued to Larasco by SEVRO II did not constitute  
4 reasonably equivalent value for the property conveyed to SEVRO II. The promissory note  
5 was unsecured and lacked personal guarantees by the principals of SEVRO II, and did not  
6 provide any other form of legal guarantee or assurance that the note would be repaid.

7 **F. Defendants' Indemnification Obligations**

8 68. Under the Asset Purchase Agreement, the Secord Defendants and Larasco  
9 are obligated to indemnify and hold harmless FSB for all damages and expenses, including  
10 attorney fees, arising out of (a) the inaccuracy of any representation or warranty made by  
11 the Secord Defendants or Larasco; (b) the nonperformance of any covenant of the Secord  
12 Defendants or Larasco; and (c) any liabilities or obligations arising in connection with the  
13 purchased assets on or prior to closing.

14 69. Various Investor Banks have asserted claims against FSB as intervenors in  
15 this matter, in separate proceedings in King County Superior Court, and in demand letters  
16 sent to FSB. The Investor Banks that have asserted claims against FSB are Banner Bank,  
17 County Bank, Cowlitz Bank, Plaza Bank, Regal Financial Bank, Washington Federal, Inc.,  
18 and Wells Fargo Equipment Finance, Inc.

19 70. The Investor Banks assert that FSB is liable to them based upon various  
20 claims and allegations, including but not limited to the following:

21 a. That PSL CO was required to obtain the consent of the Investor  
22 Banks before entering into the Asset Purchase Agreement, but failed to do so;

23 b. That, contrary to the representations and warranties in its Program  
24 Agreements with Investor Banks, PSL CO included non-qualifying loans in the  
25 lease payment stream portfolios it sold to the Investor Banks;  
26

1 c. That PSL CO had made oral guarantees (which were not disclosed to  
2 FSB) to the Investor Banks that PSL CO would protect the Investor Banks from any  
3 losses caused by defaulting lessees; and

4 d. That other conduct or PSL CO resulted in events of default under the  
5 Program Agreements.

6 71. Larasco and the Secord Defendants are obligated to indemnify First Sound  
7 Bank for any liability to the Investor Banks because the claims and allegations asserted by  
8 the Investor Banks, if valid, arise from (a) the inaccuracy of representations and warranties  
9 made by Larasco and the Secord Defendants to FSB, (b) the nonperformance of covenants  
10 made by Larasco and the Secord Defendants in the Asset Purchase Agreement, and/or (c)  
11 liabilities or obligations arising in connection with the purchased assets on or prior to  
12 closing of the Asset Purchase Agreement.

13 **FIRST CLAIM FOR RELIEF**  
14 **(Violation of Section 10(b) of the Securities Exchange Act and SEC Rule 10b-5)**  
15 **(Against the Secord Defendants and Larasco)**

16 72. FSB repeats and realleges each and every allegation contained above as if  
17 fully set forth herein.

18 73. Defendants made the misrepresentations and omissions identified herein to  
19 FSB in connection with FSB's sale to defendants of FSB stock.

20 74. The misrepresentations were false when made. The omissions consisted of  
21 information necessary to make statements made, in light of the circumstances under which  
22 they were made, not misleading.

23 75. Defendants knowingly and intentionally made the misrepresentations and  
24 omissions with the intent to deceive FSB for the purpose of causing FSB to sell defendants  
25 the FSB stock. In the alternative, defendants made the misrepresentations and omissions  
26 with a deliberate disregard for the truth of the misrepresentations and the misimpressions  
created by the omissions.

1           76.     The misrepresentations and omissions were material to the sale of FSB's  
2 stock to defendants. FSB reasonably relied on the misrepresentations and omissions. Had  
3 FSB known of the falsity of the misrepresentations, or of the information omitted by  
4 defendants, FSB would not have sold its stock to defendants, or it would have sold the stock  
5 on terms substantially different than those described in the Asset Purchase Agreement.

6           77.     Defendants made use of means and instrumentalities of interstate commerce,  
7 including the telephone, wires, and email, in connection with the asset purchase transaction  
8 and acquisition of FSB stock.

9           78.     Defendants violated SEC Rule 10b-5 in that they:

10           a.     Employed devices, schemes and artifices to defraud;

11           b.     Made untrue statements of material facts and omitted to state  
12 material facts necessary in order to make statements made, in light of the  
13 circumstances under which they were made, not misleading; and/or

14           c.     Engaged in acts, practices, and a course of business that operated as a  
15 fraud or deceit on FSB in connection with the sale of its stock;

16           d.     By the use of means or instrumentalities of interstate commerce or of  
17 the mails.

18           79.     FSB was damaged as a consequence of defendants' misrepresentations and  
19 omissions. FSB is therefore entitled to rescission of the Asset Purchase Agreement or to an  
20 award of damages in an amount to be determined at trial.

21                   **SECOND CLAIM FOR RELIEF**  
22                   **(Violation of the Washington State Securities Act)**  
23                   **(Against the Second Defendants and Larasco)**

24           80.     FSB repeats and realleges each and every allegation contained above as if  
25 fully set forth herein.

26           81.     Defendants made the misrepresentations and omissions identified herein to  
FSB in connection with FSB's sale to defendants of FSB stock.

1           82.     The misrepresentations were false when made. The omissions consisted of  
2 information necessary to make statements made by defendants not misleading under the  
3 circumstances in which they were made.

4           83.     The misrepresentations and omissions were material to the sale of FSB's  
5 stock to defendants. FSB reasonably relied on the misrepresentations and omissions. Had  
6 FSB known of the falsity of the misrepresentations, or of the information omitted by  
7 defendants, FSB would not have sold its stock to defendants, or it would have sold the stock  
8 on terms substantially different than those described in the Asset Purchase Agreement.

9           84.     Defendants violated the Washington State Securities Act (RCW 21.20.010)  
10 in that they:

11               a.     Employed devices, schemes and artifices to defraud;

12               b.     Made untrue statements of material facts and omitted to state  
13 material facts necessary in order to make statements made, in light of the  
14 circumstances under which they were made, not misleading; and/or

15               c.     Engaged in acts, practices, and a course of business that operated as a  
16 fraud or deceit on FSB in connection with the sale of its stock.

17           85.     FSB was damaged as a consequence of defendants' misrepresentations and  
18 omissions. FSB is therefore entitled to rescission of the Asset Purchase Agreement or to an  
19 award of damages in an amount to be determined at trial.

20                               **THIRD CLAIM FOR RELIEF**  
21                               **(Fraudulent Inducement of Contract)**  
22                               **(Against the Second Defendants and Larasco)**

23           86.     FSB repeats and realleges each and every allegation contained above as if  
24 fully set forth herein.

25           87.     Defendants made the misrepresentations and omissions identified herein to  
26 FSB in connection with the negotiation of the Asset Purchase Agreement. The

1 misrepresentations were false when made, and the omissions were misleading in light of the  
2 circumstances under which other statements were made.

3 88. Defendants knew that the misrepresentations were false when made, and  
4 further knew that the omissions were misleading in light of the circumstances under which  
5 other statements were made.

6 89. The misrepresentations and omissions were material to the Asset Purchase  
7 Agreement.

8 90. FSB entered into the Asset Purchase Agreement in reasonable reliance on  
9 the misrepresentations. FSB would not have entered into the Asset Purchase Agreement  
10 had it known the information defendants failed to disclose as a consequence of the  
11 omissions.

12 91. FSB has been harmed by the misrepresentations and omissions and is  
13 entitled to rescission or to damages in an amount to be determined at trial.

14 **FOURTH CLAIM FOR RELIEF**  
15 **(Breach of Contract—Asset Purchase Agreement)**  
16 **(Against the Second Defendants and Larasco)**

17 92. FSB repeats and realleges each and every allegation contained above as if  
18 fully set forth herein.

19 93. The Asset Purchase Agreement was a binding contract between FSB and  
20 defendants.

21 94. FSB performed its obligations under the Asset Purchase Agreement.

22 95. Defendants breached their obligations under the Asset Purchase Agreement  
23 and those set forth in the Closing Certificate by breaching (a) defendants' warranty that  
24 PSL CO's financial statements fairly represented in all material respects the company's  
25 financial condition; (b) defendants' warranty that PSL CO had disclosed all the company's  
26 liabilities; and (c) defendants' warranty that they had not provided FSB with any  
information containing untrue statements of material fact or omitted to state material facts.

1 96. FSB has been damaged by defendants' breach in an amount to be determined  
2 at trial.

3 **FIFTH CLAIM FOR RELIEF**  
4 **(Breach of Contract—Clarification Agreement)**  
5 **(Against the Second Defendants and Larasco)**

6 97. FSB repeats and realleges each and every allegation contained above as if  
7 fully set forth herein.

8 98. The Clarification Agreement was a binding contract between FSB and  
9 defendants.

10 99. FSB performed its obligations under the Clarification Agreement.

11 100. Defendants have repudiated and failed to perform their obligations under the  
12 Clarification Agreement.

13 101. FSB has been damaged by defendants' breach in an amount to be determined  
14 at trial.

15 **SIXTH CLAIM FOR RELIEF**  
16 **(Breach of Fiduciary Duty)**  
17 **(Against Defendant Richard Secord)**

18 102. FSB repeats and realleges each and every allegation contained above as if  
19 fully set forth herein.

20 103. Defendant Richard Secord owed FSB a fiduciary duty to place FSB's  
21 interests before his own. This fiduciary duty arose as a result of Richard Secord's position  
22 as a director of FSB from April, 2004 until May, 2007 and because other facts and  
23 circumstances indicated that FSB reposed in Richard Secord the trust that Richard Secord  
24 would place FSB's interests before his own.

25 104. Defendant Richard Secord breached his fiduciary duty to FSB by failing to  
26 reveal to FSB the true nature of PSL CO's business, including the falsity of the  
misrepresentations and the omitted information identified herein.

105. Defendant Richard Secord's breaches of fiduciary duties damaged FSB in an amount to be determined at trial.

**SEVENTH CLAIM FOR RELIEF  
(Breach of Fiduciary Duty)  
(Against Defendant Louis Secord)**

106. FSB repeats and realleges each and every allegation contained above as if fully set forth herein.

107. Defendant Louis Secord owes FSB a fiduciary duty to place the interests of FSB before his own interests. This fiduciary duty arises out of Louis Secord's positions as a former member of the FSB Board and as the President of FSB's Puget Sound Leasing Division, and because other facts and circumstances indicated that FSB reposed in Louis Secord the trust that Louis Secord would place the interests of FSB before his own interests.

108. Defendant Louis Secord breached his fiduciary duty to FSB by failing to reveal to FSB the true nature of PSL CO's business, including the falsity of the misrepresentations and the omitted information identified herein, and by acting to conceal this information after Closing.

109. Defendant Louis Secord further breached his fiduciary duty to FSB by taking steps to benefit defendants at the expense of FSB, including his attempt to provide only partial reimbursement for the \$949,487.43 in payments and charges made by FSB that were the responsibility of defendants.

110. Defendant Louis Secord's breaches of fiduciary duties damaged FSB in an amount to be determined at trial.

**EIGHTH CLAIM FOR RELIEF  
(Unjust Enrichment)  
(Against the Secord Defendants and Larasco)**

111. FSB repeats and realleges each and every allegation contained above as if fully set forth herein.



1           112. The value of the FSB stock, cash and other consideration provided to  
2 defendants substantially exceeded the value of the assets defendants provided to FSB.  
3 Defendants continue to hold the FSB stock, cash, and other consideration. Under the  
4 circumstances, defendants' continued retention of these benefits is unjust, and equity  
5 compels that they be returned to FSB.

6                                   **NINTH CLAIM FOR RELIEF**  
7                                   **(Fraudulent Transfer)**  
8                                   **(Against All Defendants)**

9           113. FSB repeats and realleges each and every allegation contained above as if  
10 fully set forth herein.

11           114. FSB has been a "creditor" of Larasco and the Secord Defendants as defined  
12 by RCW 19.40.011 since before December 8, 2008.

13           115. Beginning on or about December 8, 2008, Larasco and the Secord  
14 Defendants took steps to cause assets to be transferred from Larasco to LASCOR and  
15 RASCOR.

16           116. After litigation between FSB and Larasco had been commenced or was  
17 reasonably anticipated, Larasco and the Secord Defendants took steps to cause assets to be  
18 transferred from Larasco to Louis Secord and Richard Secord.

19           117. Beginning on or before February 1, 2009, Larasco and the Secord  
20 Defendants took steps to cause the assets to be transferred from Larasco to Roberts  
21 Properties, SR Development, Del Norte, Bay House at Chelan and SEVRO II.

22           118. Larasco and the Secord Defendants made the foregoing transfers with actual  
23 intent to hinder or delay Larasco's creditors, including First Sound Bank.

24           119. At the time it made the transfers, Larasco was indebted to FSB. According  
25 to the allegations of Investor Banks in this and other proceedings, Larasco may also have  
26 been subject to liability to the Investor Banks. Furthermore, Larasco was obligated to  
indemnify FSB for any liability of FSB to the Investor Banks. In light of its liability to FSB

1 and, if their allegations are proven, to the Investor Banks, Larasco was insolvent at the time  
2 of, or after making, the foregoing transfers.

3 120. Larasco made the foregoing transfers without receiving reasonably  
4 equivalent value in exchange for the transfer or obligation. In light of their liability to FSB  
5 and the claims of the Investor Banks, if their allegations are proven, Larasco and the Secord  
6 Defendants knew or reasonably should have known that Larasco had incurred, and would  
7 continue to incur, debts beyond Larasco's ability to pay as they became due.

8 121. LASCOR and RASCOR are "insiders" with respect to Larasco and the  
9 Secord Defendants as defined by RCW 19.40.011.

10 122. Louis Secord and Richard Secord are "insiders" with respect to Larasco as  
11 defined by RCW 19.40.011.

12 123. Bay House at Chelan is an "insider" with respect to Larasco as defined by  
13 RCW 19.40.011.

14 124. As a consequence of the foregoing transfers, FSB was damaged in an  
15 amount to be determined at trial.

16 125. To the extent that Larasco may have transferred assets to additional third  
17 parties in violation of RCW 19.40.041 and 19.40.051, FSB reserves the right to hereafter  
18 name such additional parties as defendants to this action.

19 **TENTH CLAIM FOR RELIEF**  
20 **(Contractual Indemnity)**  
21 **(Against the Secord Defendants and Larasco)**

22 126. FSB repeats and realleges each and every allegation contained above as if  
23 fully set forth herein.

24 127. The Asset Purchase Agreement requires the Secord Defendants and Larasco  
25 to indemnify FSB for all damages and expenses, including attorney fees, arising out of (a)  
26 the inaccuracy of any representation or warranty, (b) the nonperformance of any covenant,

1 or (c) any liabilities or obligations arising in connection with the purchased assets on or  
2 prior to closing.

3 128. The Investor Banks have asserted claims against FSB alleging that FSB is  
4 liable to them as a consequence of (a) the inaccuracy of representations and warranties  
5 made by the Second Defendants and Larasco, (b) the nonperformance of covenants made by  
6 the Second Defendants and Larasco, and/or (c) liabilities or obligations arising in  
7 connection with the purchased assets on or prior to closing. As a consequence, the Second  
8 Defendants and Larasco are contractually obligated to indemnify FSB for all attorney fees  
9 and damages incurred by FSB in connection with the claims of the Investor Banks.

10 **ELEVENTH CLAIM FOR RELIEF**  
11 **(Equitable Indemnity)**  
12 **(Against the Second Defendants and Larasco)**

13 129. FSB repeats and realleges each and every allegation contained above as if  
14 fully set forth herein.

15 130. The wrongful acts and/or omissions of the Second Defendants and Larasco  
16 have caused FSB to be sued by the Investor Banks. FSB was not a participant in the  
17 wrongful acts or omissions of the Second Defendants or Larasco.

18 131. As a consequence of the litigation arising from the wrongful acts and  
19 omissions of the Second Defendants and Larasco, FSB has suffered damages in the form of  
20 attorney fees and other expenses and the risk of being held liable to the Investor Banks.

21 132. Under the circumstances, equity compels that the Second Defendants and  
22 Larasco be required to indemnify FSB for all expenses and liability incurred by FSB in  
23 litigation with the Investor Banks.

24 //

25 //

26 //

1 **PRAYER FOR RELIEF**

2 WHEREFORE, First Sound Bank respectfully requests the following relief:

- 3 A. Rescission of the Asset Purchase Agreement, including the return to FSB of all  
4 stock, cash and other consideration conveyed as part of the transaction, plus  
5 statutory interest and incidental damages;
- 6 B. For damages in an amount to be proven at trial;
- 7 C. That the Court set aside the fraudulent transfers to LASCOR, RASCOR, Louis  
8 Secord, Richard Secord, Roberts Properties, SR Development, SEVRO II, Del  
9 Norte and Bay House at Chelan, and order that the property be transferred to  
10 First Sound Bank in partial satisfaction of Larasco's obligations to First Sound  
11 Bank;
- 12 D. That defendants Louis Secord, Richard Secord and Larasco be ordered to  
13 indemnify First Sound Bank for any obligations it may have to the Investor  
14 Banks, and for all costs and expenses it incurs as a result of the claims of the  
15 Investor Banks;
- 16 E. For FSB's attorney fees, litigation expenses and other costs of this suit; and  
17 F. For such further relief as the Court deems just and proper.

18 Dated: August 14, 2009.

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26



CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

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5 I declare under penalty of perjury under the laws of the State of Washington that the  
6 foregoing is true and correct.

7 Dated this 14th day of August, 2009 at Seattle, Washington.

8 s/ Shelley Meyer  
9 Shelley Meyer, Legal Assistant