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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

FIRST SOUND BANK, a Washington
corporation,

Plaintiff,

v.

LARASCO, INC., a Washington
corporation, et al.,

Defendants.

No. C09-0056-TSZ

PLAINTIFF FIRST SOUND BANK'S
ANSWER TO WASHINGTON
FEDERAL SAVINGS' FIRST
AMENDED COMPLAINT

WELLS FARGO EQUIPMENT
FINANCE, INC., a Minnesota corporation,
et al.,

Plaintiff-Intervenors,

v.

FIRST SOUND BANK, a Washington
corporation, et al.,

Defendants-in-Intervention.

I. ANSWER

Plaintiff First Sound Bank (“FSB”) hereby answers Plaintiff-Intervenor Washington
Federal Savings’ (“WaFed”) First Amended Complaint as follows:

1 1. FSB admits that WaFed is a federally chartered saving association. FSB
2 denies knowledge or information sufficient to form a belief as to the truth or falsity of the
3 remaining allegations in Paragraph 1 and therefore denies them.

4 2. FSB admits the allegations in Paragraph 2.

5 3. FSB admits the allegations in Paragraph 3.

6 4. FSB denies knowledge or information sufficient to form a belief as to the
7 truth or falsity of the allegations in Paragraph 4 regarding the Secords' exclusive ownership
8 of and/or stock holdings in PSL Co. and Larasco and therefore denies them. FSB admits
9 the remaining allegations in Paragraph 4.

10 5. FSB denies knowledge or information sufficient to form a belief as to the
11 truth or falsity of the allegations in Paragraph 5 regarding Louis Secord's specific positions
12 and ownership interests with respect to Larasco and therefore denies them. Plaintiff admits
13 the remaining allegations in Paragraph 5.

14 6. FSB denies knowledge or information sufficient to form a belief as to the
15 truth or falsity of the allegations in Paragraph 6 regarding Richard Secord's specific
16 positions and ownership interests with respect to Larasco and therefore denies them. FSB
17 admits the remaining allegations in Paragraph 6.

18 7. No response to Paragraph 7 is necessary.

19 8. FSB admits the Court has subject matter jurisdiction over this matter as
20 asserted in Paragraph 8.

21 9. FSB admits this Court has personal jurisdiction over FSB and Larasco as
22 asserted in Paragraph 9.

23 10. FSB admits venue is proper in this District as asserted in Paragraph 10.

24 11. FSB admits the allegations in Paragraph 11.

25 12. FSB admits the allegations in Paragraph 12.

26 13. FSB admits the allegations in Paragraph 13.

1 14. FSB admits the allegations in Paragraph 14.

2 15. FSB admits the allegations in Paragraph 15.

3 16. FSB admits that, on information and belief, First Mutual/WaFed entered into
4 a Program Agreement with Puget Sound Leasing, Co. (“PSL Co.”) dated June 8, 2004.
5 FSB admits that, on information and belief, PSL Co. sold portfolios of secured lease
6 payment streams to First Mutual/WaFed, and that FSB sold WaFed two portfolios of
7 secured lease payment streams. FSB admits that it has been serving WaFed’s portfolios
8 since March 2008. Any remaining allegations in Paragraph 16 not expressly admitted are
9 denied.

10 17. The Program Agreement First Mutual/WaFed entered into with PSL Co.
11 speaks for itself and the allegations in Paragraph 17 regarding its terms therefore require no
12 response.

13 18. FSB denies the allegations in Paragraph 18.

14 19. On information and belief, FSB admits First Mutual purchased its first lease
15 payment stream portfolio from PSL Co. in June 2004. FSB denies knowledge or
16 information sufficient to form a belief as to the truth or falsity of the remaining allegations
17 in Paragraph 19 and therefore denies them.

18 20. FSB denies knowledge or information sufficient to form a belief as to the
19 truth or falsity of the allegations in Paragraph 20 and therefore denies them.

20 21. FSB admits that beginning in September 2004 PSL Co. became an FSB
21 customer, and that PSL Co. maintained deposits at and obtained financing from FSB. FSB
22 admits that Richard Secord was one of FSB’s largest shareholders and that he was an FSB
23 director at FSB’s founding. Plaintiff denies the remaining allegations in Paragraph 21
24 regarding the characterization, existence, and nature of “other” relationships between FSB
25 and PSL Co.

26 22. Plaintiff admits the allegations in Paragraph 22.

- 1 23. FSB admits the allegations in Paragraph 23.
- 2 24. FSB admits that among the assets it acquired from PSL Co. were leases to
3 which First Mutual/WaFed had purchased payment streams. FSB denies the remaining
4 allegations in Paragraph 24.
- 5 25. FSB admits that one of PSL Co.'s practices FSB became aware of following
6 the closing of the PSL Co. asset purchase was PSL Co.'s practice of selling repossessed
7 equipment without providing notice of the default of a particular lease. FSB denies the
8 reaming allegations in Paragraph 25.
- 9 26. FSB admits that Louis Secord was the President of what became FSB's PSL
10 Division following the PSL Co. asset purchase and that developments following the asset
11 purchase raised questions regarding his management of PSL Co. FSB denies the remaining
12 allegations in Paragraph 26.
- 13 27. FSB admits the allegations in Paragraph 27.
- 14 28. FSB admits the allegations in Paragraph 28.
- 15 29. FSB admits the allegations in Paragraph 29.
- 16 30. FSB admits the allegations in Paragraph 30.
- 17 31. FSB admits the allegations in Paragraph 31.
- 18 32. FSB admits the allegations in Paragraph 32.
- 19 33. FSB admits the allegations in Paragraph 33.
- 20 34. FSB admits the allegations in Paragraph 34.
- 21 35. FSB admits the allegations in Paragraph 35.
- 22 36. FSB admits the allegations in Paragraph 36.
- 23 37. FSB admits the allegations in Paragraph 37.
- 24 38. FSB admits the allegations in Paragraph 38.
- 25 39. FSB admits the allegations in Paragraph 39.
- 26 40. FSB admits the allegations in Paragraph 40.

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41. FSB admits the allegations in Paragraph 41.

42. FSB admits it sold the portfolio referred to in the First Amended Complaint as “Lease Pool No. 8” to WaFed after the PSL Co. asset purchase. The terms of the agreement governing that sale speak for themselves and the allegations in Paragraph 42 regarding its terms therefore require no response.

43. FSB admits that FSB and WaFed discussed purchase of a portfolio referred to in the First Amended Complaint as “Lease Pool No. 9,” and that representatives of the parties met on or about May 29, 2008 to discuss the purchase. FSB denies the remaining allegations in Paragraph 43.

44. FSB admits that in a letter dated June 6, 2008, FSB informed WaFed that it was not FSB’s obligation to issue payments on lease streams that are non-performing. To the extent not admitted, FSB denies the remaining allegations in Paragraph 44.

45. FSB admits that on or about June 27, 2008, FSB and WaFed executed a Security Agreement for the purchase and sale of “Lease Pool No. 9.” The terms of that agreement speak for themselves and the allegations in Paragraph 45 regarding its terms therefore require no response. FSB denies the remaining allegations in Paragraph 45.

46. FSB denies knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 46 and therefore denies them.

47. The letter referenced in Paragraph 47 is a document and speaks for itself. Allegations regarding the contents of the letter referenced in Paragraph 47 therefore require no response. To the extent not admitted, FSB denies the remaining allegations in Paragraph 47.

48. The letter referenced in Paragraph 47 is a document and speaks for itself. Allegations regarding the contents of the letter referenced in Paragraph 47 therefore require no response. To the extent not admitted, FSB denies the remaining allegations in Paragraph 48.

1 49. FSB admits that on or about September 30, 2008, representatives of FSB and
2 WaFed met and that on our about October 3, 2008, WaFed wrote FSB to request repurchase
3 of WaFed portfolios. FSB denies the remaining allegations in Paragraph 49.

4 50. FSB admits that on or about October 14, 2008, FSB declined to repurchase
5 WaFed portfolios and stated its position regarding the parties' liability for collection costs.

6 51. FSB denies the allegations in Paragraph 51.

7 52. FSB denies the allegations in Paragraph 52.

8 53. FSB admits that it received a copy of letter appended to the First Amended
9 Complaint as Exhibit D. FSB denies the remaining allegations in Paragraph 53.

10 54. FSB denies that it was required to buyback any portion of WaFed's
11 portfolios and denies the remaining allegations in Paragraph 54.

12 55. FSB admits the allegations in Paragraph 55.

13 56. FSB denies knowledge or information sufficient to form a belief as to the
14 truth or falsity of the allegations in Paragraph 56 and therefore denies them.

15 57. FSB admits that Louis Secord was a member of FSB's Board of Directors
16 from March 1, 2008 until January 12, 2009 and that he was the President of FSB's PSL
17 Division until he was relieved of his responsibilities on November 19, 2008. FSB admits
18 that Richard Secord was a member of the FSB Board of Directors from April 2004 to May
19 2007 and that he was an employee of FSB's PSL Division until he was relieved of his
20 responsibilities on November 19, 2008. FSB denies the remaining allegations in Paragraph
21 57.

22 58. FSB denies the allegations in Paragraph 58.

23 59. FSB restates its responses to each and every allegation contained in
24 paragraphs 1-58 above, inclusive, in response to Paragraph 59.

25 60. On information and belief, FSB admits that WaFed entered into a Program
26 Agreement with PSL. FSB denies the remaining allegations in Paragraph 60.

1 61. Paragraph 61 sets forth a request for relief and therefore requires no
2 response.

3 62. FSB restates its responses to each and every allegation contained in
4 paragraphs 1-61 above, inclusive, in response to Paragraph 62.

5 63. FSB denies the allegations in Paragraph 63.

6 64. FSB denies the allegations in Paragraph 64.

7 65. FSB restates its responses to each and every allegation contained in
8 paragraphs 1-64 above, inclusive, in response to Paragraph 65.

9 66. The Program Agreement referenced in Paragraph 66 is a document and
10 speaks for itself. FSB denies the remaining allegations in Paragraph 66.

11 67. Paragraph 67 sets forth a request for relief and therefore requires no
12 response.

13 68. FSB restates its responses to each and every allegation contained in
14 paragraphs 1-67 above, inclusive, in response to Paragraph 68.

15 69. FSB denies the allegations in Paragraph 69.

16 70. FSB denies the allegations in Paragraph 70.

17 71. FSB denies the allegations in Paragraph 71.

18 72. Paragraph 72 sets forth a request for relief and therefore requires no
19 response.

20 **II. AFFIRMATIVE DEFENSES**

21 1. Plaintiff-Intervenor WaFed is barred from obtaining relief sought in the First
22 Amended Complaint because the First Amended Complaint fails to state a claim upon
23 which relief may be granted.

24 2. Plaintiff-Intervenor WaFed's request for relief is barred by the equitable
25 doctrines of laches, unclean hands, waiver, estoppel, accord and satisfaction, rescission, and
26 modification or novation of contract.

1 3. Plaintiff-Intervenor WaFed’s claims are barred by the doctrines of mutual or
2 unilateral mistake.

3 4. FSB hereby gives further notice that it intends to rely upon any other
4 affirmative defense that may become available or appear available during discovery and
5 hereby reserves its right to assert any such other affirmative defense or failure of proof of
6 plaintiff or inadequacy of Plaintiff-Intervenor WaFed’s First Amended Complaint.

7
8 **III. PRAYER FOR RELIEF**

9 WHEREFORE, FSB respectfully requests the Court enter judgment against
10 Plaintiff-Intervenor WaFed as follows:

- 11 a. That Plaintiff-Intervenor WaFed take nothing by way of its First Amended
12 Complaint;
- 13 b. For an order dismissing Plaintiff-Intervenor WaFed’s First Amended
14 Complaint with prejudice;
- 15 c. For an award of attorney’s fees incurred defending against Plaintiff-
16 Intervenor WaFed’s First Amended Complaint; and
- 17 d. For such other and further relief as the Court deems just and proper.

18 DATED: August 14, 2009.

19 YARMUTH WILSDON CALFO PLLC

20 By: *s/ Jeremy E. Roller*

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Attorneys for Plaintiff

First Sound Bank



1 **CERTIFICATE OF SERVICE**

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

5 **Attorneys for Defendants**

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3 Vanessa Soriano Power
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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