

STEVE ROADRUCK
PRESIDENT

ROADRUCK INVESTIGATIONS, INC
12887 PLUMMER GRANT ROAD
JACKSONVILLE, FLORIDA 32258
EMAIL: [REDACTED]

TELEPHONE:
[REDACTED]
FAX:
[REDACTED]

MEMORANDUM

To: Richard Kahn

From: Steve Roadruck

Re: Hosain Rahman

Date: 02/26/18
R-29-18

Hosain Rahman, DOB: [REDACTED]
SSN: [REDACTED]
2171 Jackson Street, San Francisco, CA 94115

I have attached a Comprehensive Report which did not contain any negative information.

I researched his name in the U.S. District Courts and found two civil cases.

2:16-cv-0035-JCL
JP Morgan Chase Bank v. Rahman

This is a default on a real property mortgage. Also named is Alicia Engstrom, who he lives with. The bank stated that Hosain Rahman defaulted on two Promissory Notes and was indebted in the amount of \$9,287,674.45.

Hosain Rahman was served at JawBone, 99 Rhode Island Street, 3rd Floor, San Francisco, Ca 94103.

I have attached the Complaint, Answer and docket sheet. The case was dismissed on 08/23/17.

3:12-cv-00655-JSW

Aliphcom et al v John Doe

It appears in this case Hosain's company was being harassed and defamed by other parties who were generating false face book pages and other computer fraud.

The plaintiffs dismissed this case. I copied the docket and complaint.

I checked Hosain Rahman in San Francisco and found a recent civil case which is still pending, Rahman is being sued by Protempo Limited who have made allegations of fraud. I copied what was available on line which includes the second amended complaint and the judges most recent order.

I did an official records search and copied his index. He has had two notices of defaults in the last two years and the first notice was rescinded.

I conducted a social media search. I did not find anything real negative. It just looks like he is having a hard time generating Capital.

**U.S. District Court
District of Montana (Butte)
CIVIL DOCKET FOR CASE #: 2:16-cv-00035-JCL**

JP Morgan Chase Bank v. Rahman et al
Assigned to: Magistrate Judge Jeremiah C. Lynch
Cause: 28:1345 Foreclosure

Date Filed: 07/11/2016
Date Terminated: 08/23/2017
Jury Demand: None
Nature of Suit: 220 Real Property:
Foreclosure
Jurisdiction: Diversity

Plaintiff

JP Morgan Chase Bank
[REDACTED]

represented by **Michael A. Monson**
HOLLAND & HART - BILLINGS
401 North 31st Street
Suite 1500
Billings, MT 59101-1277
[REDACTED]

Email: [REDACTED]
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Shane Coleman
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[REDACTED]

Fax: [REDACTED]
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Adrian Ann Miller
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[REDACTED]

Fax: [REDACTED]
Email: [REDACTED]
TERMINATED: 03/03/2017

Michelle Millhollin Sullivan
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Billings, MT 59102
[REDACTED]

Fax: [REDACTED]
Email:

TERMINATED: 03/03/2017

V.

Defendant

Hosain Rahman
an individual

represented by **James Devlan Geddes**
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406-587-0618
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Defendant

Alicia Engstrom
an individual

represented by **James Devlan Geddes**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Trent M. Gardner
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/11/2016	<u>1</u>	COMPLAINT against Alicia Engstrom, Hosain Rahman, filed by JP Morgan Chase Bank. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Civil Cover Sheet) (ELL,) (Entered: 07/11/2016)
07/11/2016	<u>2</u>	Summons Issued as to Alicia Engstrom, Hosain Rahman. (ELL,) Modified on 7/12/2016 to indicate that original summons were mailed to cnsl for service (ELL,). (Entered: 07/11/2016)
07/11/2016		Filing fee: \$ 400.00, receipt number 0977-1805598 (ELL,) (Entered: 07/11/2016)
07/11/2016	<u>3</u>	Corporate Disclosure Statement by JP Morgan Chase Bank. (Sullivan, Michelle) (Entered: 07/11/2016)

07/11/2016	<u>4</u>	NOTICE of Lis Pendens by JP Morgan Chase Bank (Sullivan, Michelle) (Entered: 07/11/2016)
07/13/2016	<u>5</u>	PRELIMINARY PRETRIAL CONFERENCE ORDER Preliminary Pretrial Statement due by 10/11/2016. Joint Discovery Plan due by 10/11/2016. Statement of Stipulated Facts due by 10/11/2016. Pretrial Conference set for 10/18/2016 at 02:00 PM in Missoula, MT before Magistrate Judge Jeremiah C. Lynch. Signed by Magistrate Judge Jeremiah C. Lynch on 7/13/2016. (TXB,) (Entered: 07/13/2016)
07/26/2016	<u>6</u>	SUMMONS Returned Executed by JP Morgan Chase Bank. Alicia Engstrom served on 7/14/2016, answer due 8/4/2016. (Sullivan, Michelle) (Entered: 07/26/2016)
07/26/2016	<u>7</u>	SUMMONS Returned Executed by JP Morgan Chase Bank. Hosain Rahman served on 7/14/2016, answer due 8/4/2016. (Sullivan, Michelle) (Entered: 07/26/2016)
08/19/2016	<u>8</u>	NOTICE of Appearance by Trent M. Gardner on behalf of Alicia Engstrom, Hosain Rahman (Gardner, Trent) (Entered: 08/19/2016)
08/19/2016	<u>9</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint <i>Unopposed Motion for Extension of Time</i> Trent M. Gardner appearing for Defendants Alicia Engstrom, Hosain Rahman Motions referred to Jeremiah C. Lynch. (Attachments: # <u>1</u> Text of Proposed Order) (Gardner, Trent) (Entered: 08/19/2016)
08/22/2016	<u>10</u>	Mailing of Consent as Presiding Judge. Mailed electronically to counsel Trent M. Gardner, Michael A. Monson, Michelle Millhollin Sullivan, Adrian Ann Miller Consent/Objection to USMJ Form due by 9/9/2016. (ELL,) (Entered: 08/22/2016)
08/22/2016	<u>11</u>	ORDER granting <u>9</u> Motion for Extension of Time to Answer All Defendants. Signed by Magistrate Judge Jeremiah C. Lynch on 8/22/2016. (TXB,) (Entered: 08/22/2016)
09/02/2016	<u>12</u>	ANSWER to <u>1</u> Complaint by Alicia Engstrom, Hosain Rahman. (Gardner, Trent) (Entered: 09/02/2016)
09/02/2016	<u>13</u>	Mailing of Consent RE US Magistrate Judge. Mailed electronically to counsel Trent M. Gardner, Michael A. Monson, Michelle Millhollin Sullivan, Adrian Ann Miller Consent/Objection to USMJ Form due by 9/19/2016. (ELL,) (Entered: 09/02/2016)
09/20/2016	<u>14</u>	CONSENTS TO USMJ. (ELL,) (Entered: 09/20/2016)
09/20/2016	<u>15</u>	Clerk's Notice Upon Consent to USMJ. Case reassigned to Magistrate Judge Jeremiah C. Lynch (ELL,) (Entered: 09/20/2016)
10/10/2016	<u>16</u>	Joint MOTION for Leave to Appear Telephonically Michelle Millhollin Sullivan appearing for Plaintiff JP Morgan Chase Bank (Attachments: # <u>1</u> Text of Proposed Order) (Sullivan, Michelle) (Entered: 10/10/2016)
10/11/2016	<u>17</u>	ORDER granting <u>16</u> Motion for Leave to Appear telephonically Signed by Magistrate Judge Jeremiah C. Lynch on 10/11/2016. (TCL,) (Entered: 10/11/2016)
10/11/2016	<u>18</u>	PRELIMINARY PRETRIAL STATEMENT by JP Morgan Chase Bank. (Sullivan, Michelle) (Entered: 10/11/2016)
10/11/2016	<u>19</u>	JOINT DISCOVERY PLAN by JP Morgan Chase Bank. (Sullivan, Michelle) (Entered: 10/11/2016)
10/11/2016	<u>20</u>	STATEMENT OF STIPULATED FACTS by JP Morgan Chase Bank. (Sullivan, Michelle) (Entered: 10/11/2016)
10/11/2016	<u>21</u>	PRELIMINARY PRETRIAL STATEMENT by Alicia Engstrom, Hosain Rahman. (Geddes, James) (Entered: 10/11/2016)

10/18/2016	22	MINUTE ENTRY Minute Entry for proceedings held before Magistrate Judge Jeremiah C. Lynch: Initial Pretrial Conference (telephonic) held on 10/18/2016. (TXB,) (Entered: 10/18/2016)
10/18/2016	23	SCHEDULING ORDER:. Bench Trial set for 6/12/2017 at 09:00 AM in Butte, MT before Magistrate Judge Jeremiah C. Lynch. Final Pretrial Conference set for 6/12/2017 at 09:00 AM in Butte, MT before Magistrate Judge Jeremiah C. Lynch. Amended Pleadings due by 11/4/2016. Discovery due by 4/7/2017. Motions due by 5/8/2017. Signed by Magistrate Judge Jeremiah C. Lynch on 10/18/2016. (TXB,) (Entered: 10/18/2016)
03/03/2017	24	NOTICE of Substitution of Counsel - <i>Shane P. Coleman</i> - by JP Morgan Chase Bank (Coleman, Shane) (Entered: 03/03/2017)
04/17/2017	25	MOTION for Summary Judgment Shane Coleman appearing for Plaintiff JP Morgan Chase Bank (Coleman, Shane) (Entered: 04/17/2017)
04/17/2017	26	Brief/Memorandum in Support re <u>25</u> MOTION for Summary Judgment filed by JP Morgan Chase Bank. (Coleman, Shane) (Entered: 04/17/2017)
04/17/2017	27	AFFIDAVIT/DECLARATION re <u>25</u> MOTION for Summary Judgment , <u>26</u> Brief/Memorandum in Support - <i>DECLARATION OF JOEY ORR IN SUPPORT OF PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT</i> - by JP Morgan Chase Bank. (Attachments: # <u>1</u> Exhibit 1 - Original Term Promissory Note, # <u>2</u> Exhibit 2 - First Mortgage, # <u>3</u> Exhibit 3 - Original Grid Note, # <u>4</u> Exhibit 4 - Second Mortgage, # <u>5</u> Exhibit 5 - Modification to Original Term Promissory Note, # <u>6</u> Exhibit 6 - Amended and Restated Grid Note) (Coleman, Shane) (Entered: 04/17/2017)
04/17/2017	28	Statement of Undisputed Fact re: <u>25</u> MOTION for Summary Judgment by JP Morgan Chase Bank filed by JP Morgan Chase Bank. (Attachments: # <u>1</u> Exhibit 1 - Original Term Promissory Note, # <u>2</u> Exhibit 2 - First Mortgage, # <u>3</u> Exhibit 3 - Original Grid Note, # <u>4</u> Exhibit 4 - Second Mortgage, # <u>5</u> Exhibit 5 - Modification to Original Term Promissory Note, # <u>6</u> Exhibit 6 - Amended and Restated Grid Note, # <u>7</u> Exhibit 7 - Excerpts from Depo of Hosain S. Rahman dated March 20, 2017) (Coleman, Shane) (Entered: 04/17/2017)
05/03/2017	29	Unopposed MOTION for Extension of Time to File Response/Reply Trent M. Gardner appearing for Defendants Alicia Engstrom, Hosain Rahman (Attachments: # <u>1</u> Text of Proposed Order) (Gardner, Trent) (Entered: 05/03/2017)
05/03/2017	30	TEXT ORDER granting <u>29</u> Motion for Extension of Time to File Response/Reply re <u>25</u> MOTION for Summary Judgment Responses due by 5/22/2017. Signed by Magistrate Judge Jeremiah C. Lynch on 5/3/2017. (TXB) (Entered: 05/03/2017)
05/19/2017	31	Joint MOTION to Vacate <i>Scheduling Order</i> Trent M. Gardner appearing for Defendants Alicia Engstrom, Hosain Rahman (Attachments: # <u>1</u> Text of Proposed Order) (Gardner, Trent) (Entered: 05/19/2017)
05/22/2017	32	TEXT ORDER. Pursuant to joint motion of the parties, the scheduling order in this matter, including the trial date, is vacated. And the pending motion for summary judgment is denied as moot. IT IS SO ORDERED Signed by Magistrate Judge Jeremiah C. Lynch on 5/22/2017. (Lynch, Jeremiah) (Entered: 05/22/2017)
08/17/2017	33	STATUS REPORT ORDER Status Report due by 8/31/2017. Signed by Magistrate Judge Jeremiah C. Lynch on 8/17/2017. (TXB) (Entered: 08/17/2017)
08/22/2017	34	STIPULATION of Dismissal <i>WITHOUT PREJUDICE</i> by JP Morgan Chase Bank. (Attachments: # <u>1</u> Text of Proposed Order) (Coleman, Shane) (Entered: 08/22/2017)
08/23/2017	35	ORDER DISMISSING CASE. Pursuant to the parties Stipulation, this matter is hereby

dismissed without prejudice. Each party shall bear its own costs and fees. Signed by
Magistrate Judge Jeremiah C. Lynch on 8/23/2017. (ELL) (Entered: 08/23/2017)

PACER Service Center			
Transaction Receipt			
02/26/2018 09:15:13			
PACER Login:	roadruck:2623271:0	Client Code:	rjk
Description:	Docket Report	Search Criteria:	2:16-cv-00035- JCL
Billable Pages:	4	Cost:	0.40

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ATTORNEYS FOR DEFENDANTS

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

<p>JP MORGAN CHASE BANK, [REDACTED], Plaintiff,</p> <p>vs.</p> <p>HOSAIN RAHMAN, an individual; and ALICIA ENGSTROM, an individual,</p> <p>Defendants.</p>	<p>Cause No. CV-16-35-BU-BMM-JCL</p> <p>DEFENDANTS' ANSWER TO COMPLAINT</p>
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Defendants Hosain Rahman and Alicia Engstrom, through counsel, answer the Complaint of Plaintiff JP Morgan Chase Bank, [REDACTED], as follows:

1. Defendants lack personal knowledge as to the truth of the allegations of paragraph 1 and therefore deny the same.

2. Answering paragraph 2, Defendants admit they are the makers of certain notes and have granted certain mortgages, and deny the remainder of the allegations.

3. Admit paragraph 3.

4. Admit paragraph 4.

5. Admit paragraph 5.

6. Admit paragraph 6.

7. Admit paragraph 7.

8. Admit paragraph 8 and affirmatively assert that repayment of the loan was dependent on certain uncertain events, including sale of certain stock, and that Defendants entered the loan agreement with the understanding that, if those events did not occur, Plaintiff would work in good faith to extend the maturity date.

9. Admit paragraph 9.

10. Admit paragraph 10 and affirmatively assert that repayment of the loan was dependent on certain uncertain events, including sale of certain stock, and that Defendants entered the loan agreement with the understanding that, if those events did not occur, Plaintiff would work in good faith to extend the maturity date.

11. Admit paragraph 11.

12. Admit paragraph 12.

13. Admit paragraph 13 and affirmatively assert that repayment of the loan was dependent on certain uncertain events, including sale of certain stock, and

that Defendants entered the loan agreement with the understanding that, if those events did not occur, Plaintiff would work in good faith to extend the maturity date..

14. Defendants lack personal knowledge as to the truth of the allegations of paragraph 14 and therefore deny the same.

15. Answering paragraph 15, admit that the Notes have not been repaid in full due to the non-occurrence of certain events which were required for repayment. Defendants affirmatively state that Plaintiff was aware that repayment was dependent on the occurrence of certain events which Plaintiff knew were uncertain and that Plaintiff represented that, if such events did not occur, Plaintiff would work in good faith with Defendants to extend the repayment terms. Defendants have failed to do so and have, instead, made unreasonable demands on Defendants in return for extending the maturity dates or forbearing. Deny any remaining allegations.

COUNT ONE
(Judgment Against Borrowers on the Notes)

16. Defendants incorporate the answers to the preceding paragraphs as though fully set forth herein.

17. Answering paragraph 17, admit that the Notes have not been paid pursuant to their terms, but affirmatively state Defendants have failed to work in good faith to allow repayment and deny any remaining allegations.

18. Defendants lack personal knowledge as to the allegations of paragraph 18 sufficient to form a believe as to their truth and therefore deny the same.

19. Defendants lack personal knowledge as to the allegations of paragraph 19 sufficient to form a believe as to their truth and therefore deny the same.

20. Defendants lack personal knowledge as to the allegations of paragraph 20 sufficient to form a believe as to their truth and therefore deny the same.

21. Defendants lack personal knowledge as to the allegations of paragraph 21 sufficient to form a believe as to their truth and therefore deny the same.

22. Answering paragraph 22, admit Plaintiff has made demand and that a notice of default was sent, but affirmatively state Defendants have failed to work in good faith to allow repayment and deny any remaining allegations.

23. Answering paragraph 23, admit the Notes contain an attorneys' fees provision and deny all remaining allegations.

24. Answering paragraph 24, admit that interest continues to accrue on the Notes and deny all remaining allegations.

25. Defendants lack personal knowledge as to the truth of the allegations of paragraph 25 and therefore deny the same.

COUNT TWO
(Foreclosure of the Mortgages)

26. Defendants incorporate the answers to the preceding paragraphs as though fully set forth herein.

27. Answering paragraph 27, admit that the First Mortgage secured performance of obligations under the Term Promissory Note and that failure to comply with the terms of the Term Promissory Note can constitute default under the First Mortgage. Deny all remaining allegations.

28. Answering paragraph 28, admit that the Second Mortgage secured performance of obligations under the Grid Time Promissory Note and that failure to comply with the terms of the Grid Time Promissory Note can constitute default under the Second Mortgage. Deny all remaining allegations.

29. Answering paragraph 29 admit that amounts owed under the Notes have not been paid and deny the remainder of the allegations.

30. Answering paragraph 30, admit that certain occurrences of default under the First Mortgage or Second Mortgage, without cure, allow Plaintiff to foreclose the mortgages judicially. Deny all remaining allegations.

31. Defendants lack personal knowledge as to the truth of the allegations of paragraph 31 and therefore deny the same.

32. Deny paragraph 32.

33. Defendants lack personal knowledge as to the truth of the allegations of paragraph 33 and therefore deny the same.

34. Deny paragraph 34.

35. Deny paragraph 35.

36. Deny all allegations not specifically admitted above.

AFFIRMATIVE DEFENSES

1. **Breach of duty of good faith and fair dealing and fiduciary duties:**

Plaintiff and/or its affiliates/subsidiaries, have a special relationship with Defendants, including advising him on financial dealings, especially with respect to AliphCom ("Jawbone"), the company of which Defendant Rahman is the CEO.

Indeed, Plaintiff and/or its affiliates/subsidiaries have invested hundreds of millions of dollars in Jawbone and are intimately familiar with Jawbone. Plaintiff knew when entering into the Notes that repayment of the Notes was dependent on Defendants selling shares in Jawbone, and that there was uncertainty regarding whether such sale could be accomplished within the original maturity dates for the Notes. Despite this knowledge, Plaintiff still entered into the Notes with Defendants. Plaintiff had a fiduciary duty to its clients to not place them into a loan with payment terms that could not be met. Further, when Plaintiff decided to enter into the Notes despite its knowledge as to uncertainty of repayment, it had a duty of good faith and fair dealing to work with Defendants, in good faith, to modify the Notes to allow additional time for repayment if the events necessary for repayment did not occur. In fact, the events necessary for repayment did not occur and, instead of working with Defendants in good faith, Plaintiff made unreasonable demands upon Plaintiff for an extension of, or forbearance on, the Notes.

2. **Reservation of Rights.** Defendants reserves the right to add and/or withdraw affirmative defenses as discovery proceeds in this matter and additional information is uncovered.

PRAYER FOR RELIEF

WHEREFORE, Defendants requests an order of the Court:

1. Dismissing the Complaint, with prejudice;
2. Awarding Defendants their attorneys' fees and costs; and
3. Granting such other relief as the Court deems appropriate.

DATED this 2nd day of September, 2016.

 /s/ Trent M. Gardner
GOETZ, BALDWIN & GEDDES, P. C.
Attorneys for Defendants

**U.S. District Court
California Northern District (San Francisco)
CIVIL DOCKET FOR CASE #: 3:12-cv-00655-JSW**

Aliphcom et al v. Doe
Assigned to: Hon. Jeffrey S. White
Cause: 28:1331 Fed. Question

Date Filed: 02/09/2012
Date Terminated: 09/27/2012
Jury Demand: None
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

Plaintiff

Aliphcom
a California Corporation

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ATTORNEY TO BE NOTICED

Plaintiff

Hosain Rahman

represented by **Holly Gaudreau**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jennifer Diane Arkowitz
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Timothy R. Cahn
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Ryan T. Bricker
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Jason Fass

represented by **Holly Gaudreau**
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Timothy R. Cahn
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ryan T. Bricker
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

John Doe

Date Filed	#	Docket Text
02/09/2012	<u>1</u>	COMPLAINT against John Doe (Filing fee \$ 350, receipt number 34611070421.). Filed

		by Aliphcom, Jason Fass, Hosain Rahman. (Attachments: # <u>1</u> Civil Cover Sheet)(mjj2, COURT STAFF) (Filed on 2/9/2012) (Entered: 02/10/2012)
02/09/2012	<u>2</u>	ADR SCHEDULING ORDER: Case Management Statement due by 6/1/2012. Case Management Conference set for 6/8/2012 01:30 PM in Courtroom 11, 19th Floor, San Francisco. (Attachments: # <u>1</u> Standing Order, # <u>2</u> Standing Order for all Judges)(mjj2, COURT STAFF) (Filed on 2/9/2012) (Entered: 02/10/2012)
02/09/2012	<u>3</u>	Declination to Proceed Before a U.S. Magistrate Judge by Aliphcom, Jason Fass, Hosain Rahman. (mjj2, COURT STAFF) (Filed on 2/9/2012) (Entered: 02/10/2012)
02/09/2012	<u>4</u>	Certificate of Interested Entities by Aliphcom, Jason Fass, Hosain Rahman identifying Other Affiliate Sequoia Capital, Other Affiliate Khosla Ventures, Other Affiliate Hosain Rahman for Aliphcom. (mjj2, COURT STAFF) (Filed on 2/9/2012) (Entered: 02/10/2012)
02/09/2012	<u>5</u>	Summons Issued as to John Doe. (mjj2, COURT STAFF) (Filed on 2/9/2012) (Entered: 02/10/2012)
02/13/2012	<u>6</u>	ORDER SETTING CASE MANAGEMENT CONFERENCE AND REQUIRING JOINT CASE MANAGEMENT CONFERENCE STATEMENT. Signed by Judge Jeffrey S. White on 2/13/12. (jjoS, COURT STAFF) (Filed on 2/13/2012) (Entered: 02/13/2012)
02/24/2012	<u>7</u>	Ex Parte Application for Expedited Discovery and Memorandum of Points and Authorities filed by Aliphcom, Jason Fass, Hosain Rahman. (Attachments: # <u>1</u> Declaration of Ryan Bricker in Support of Ex Parte Motion for Expedited Discovery, # <u>2</u> Exhibit A to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>3</u> Exhibit B to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>4</u> Exhibit C to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>5</u> Exhibit D to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>6</u> Exhibit E to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>7</u> Exhibit F to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>8</u> Exhibit G to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>9</u> Exhibit H to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>10</u> Exhibit I to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>11</u> Exhibit J to Bricker Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>12</u> Declaration of Hosain Rahman in Support of Ex Parte Motion for Expedited Discovery, # <u>13</u> Declaration of Michael Luna in Support of Ex Parte Motion for Expedited Discovery, # <u>14</u> Exhibit A to Luna Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>15</u> Exhibit B to Luna Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>16</u> Exhibit C to Luna Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>17</u> Exhibit D to Luna Decl in Support of Ex Parte Motion for Expedited Discovery, # <u>18</u> Proposed Order Proposed Order Granting Ex Parte Motion for Expedited Discovery)(Gaudreau, Holly) (Filed on 2/24/2012) (Entered: 02/24/2012)
02/27/2012	<u>8</u>	ORDER by Judge Jeffrey S. White granting <u>7</u> Ex Parte Application for Expedited Discovery (jjoS, COURT STAFF) (Filed on 2/27/2012) (Entered: 02/27/2012)
06/01/2012	<u>9</u>	CASE MANAGEMENT STATEMENT [PLAINTIFF'S SEPARATE] filed by Aliphcom, Jason Fass, Hosain Rahman. (Bricker, Ryan) (Filed on 6/1/2012) (Entered: 06/01/2012)
06/04/2012	<u>10</u>	CLERKS NOTICE CONTINUING INITIAL CASE MANAGEMENT CONFERENCE: Case Management Statement due by 8/31/2012. Initial Case Management Conference set for 9/7/2012 01:30 PM in Courtroom 11, 19th Floor, San Francisco. (jjoS, COURT STAFF) (Filed on 6/4/2012) (Entered: 06/04/2012)
06/07/2012	<u>11</u>	MOTION for Extension of Time to File PLAINTIFFS MOTION FOR ADMINISTRATIVE RELIEF SEEKING EXTENSION OF RULE 4(M) SERVICE DEADLINE filed by

		Aliphcom, Jason Fass, Hosain Rahman. (Bricker, Ryan) (Filed on 6/7/2012) (Entered: 06/07/2012)
06/07/2012	<u>12</u>	Declaration of RYAN BRICKER <i>IN SUPPORT OF PLAINTIFFS MOTION FOR ADMINISTRATIVE RELIEF SEEKING EXTENSION OF RULE 4(M) SERVICE DEADLINE</i> filed by Aliphcom, Jason Fass, Hosain Rahman. (Bricker, Ryan) (Filed on 6/7/2012) (Entered: 06/07/2012)
06/07/2012	<u>13</u>	Proposed Order <i>GRANTING PLAINTIFFS MOTION FOR ADMINISTRATIVE RELIEF SEEKING EXTENSION OF RULE 4(M) SERVICE DEADLINE</i> by Aliphcom, Jason Fass, Hosain Rahman. (Bricker, Ryan) (Filed on 6/7/2012) (Entered: 06/07/2012)
06/11/2012	<u>14</u>	ORDER by Judge Jeffrey S. White granting <u>11</u> Motion for Extension of Rule 4(M) Service Deadline (jjoS, COURT STAFF) (Filed on 6/11/2012) (Entered: 06/11/2012)
08/31/2012	<u>15</u>	CASE MANAGEMENT STATEMENT <i>Plaintiffs' Second Separate Case Management Statement</i> filed by Aliphcom, Jason Fass, Hosain Rahman. (Cahn, Timothy) (Filed on 8/31/2012) (Entered: 08/31/2012)
09/04/2012	<u>16</u>	CLERKS NOTICE CONTINUING CASE MANAGEMENT CONFERENCE: Case Management Statement due by 10/5/2012. Case Management Conference set for 10/12/2012 01:30 PM in Courtroom 11, 19th Floor, San Francisco. (jjoS, COURT STAFF) (Filed on 9/4/2012) (Entered: 09/04/2012)
09/27/2012	<u>17</u>	NOTICE of Voluntary Dismissal <i>PLAINTIFFS' RULE 41(A)(1) NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE</i> by Aliphcom, Jason Fass, Hosain Rahman (Cahn, Timothy) (Filed on 9/27/2012) (Entered: 09/27/2012)

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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ORDER

PROTEMPO LIMITED VS. ALIPHCOM, INC. ET AL

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Richard K. Howell (State Bar No. 144241)
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Telephone: 714-641-5100
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7 Attorneys for Plaintiff
PROTEMPO LIMITED

FILED
Superior Court of California
County of San Francisco

FEB 06 2018

CLERK OF THE COURT
BY *Jacqueline Williams*
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN FRANCISCO

12 PROTEMPO LIMITED,
13 Plaintiff,

14 vs.

15 ALIPHCOM, INC. d/b/a JAWBONE, a
California corporation, HOSAIN RAHMAN, an
16 individual, JASON CHILD, an individual, and
DOES 1 through 10, inclusive

17 Defendants.
18

Case No. CGC-17-559617

rk
~~PROPOSED~~ ORDER RE DEFENDANT
HOSAIN RAHMAN'S DEMURRER TO
PLAINTIFF PROTEMPO LIMITED'S
SECOND AMENDED COMPLAINT

DATE: February 6, 2018
TIME: 9:30
DEPT.: 302

25 ///
26 ///
27 ///
28 ///

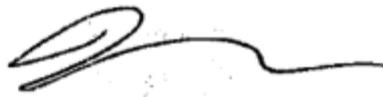
1 The hearing on Defendant Hosain Rahman's Demurrer to Plaintiff Protempo Limited's
2 Second Amended Complaint ("Demurrer") came on regularly for hearing on February 6, 2018 at
3 9:30 [REDACTED] in Department 302 of this Court. Appearances were as reflected on the record.

4 Having considered all papers and oral argument of the parties in support of and opposition
5 to the Demurrer, and for good cause appearing, the Court hereby ORDERS as follows:

6 Defendant Hosain Rahman's Demurrer to the first, second, third and thirteenth causes of
7 action in the second amended complaint filed by plaintiff Protempo Limited is overruled as to the
8 first, second, and third causes of action for promissory fraud, fraud and intentional deceit, and
9 negligent misrepresentation and sustained without leave to amend as to the thirteenth cause of
10 action for violation of Penal Code 496(a). The first, second and third causes of action are alleged
11 with adequate specificity and the allegations of reliance are not necessarily contradicted by the
12 contract documents. A person who commits fraud is liable for doing so even if done as agent for a
13 principal who entered into a contract for which the agent is not a party. The negligent
14 misrepresentation claim does not allege a nonactionable "negligent false promise," but rather an
15 actionable negligent misrepresentation of existing facts. The Penal Code 496(a) claim fails
16 because Protempo has not alleged, nor does it appear that it can allege, that it transferred money to
17 Mr. Rahman.

18 **IT IS SO ORDERED.**

19
20
21
22 Dated: 2/6/18


23 Honorable **HAROLD KAHN**
24 Judge of the Superior Court of the State of California

THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

Case Number: CGC17559617
 Title: PROTEMPO LIMITED VS. ALIPHCOM, INC. ET AL
 Cause of Action: CONTRACT/WARRANTY
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Parties

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Party	Party Type	Attorneys	Filings
ALIPHCOM (ASSIGNMENT FOR THE BENEFIT OF CREDITORS), LLC	OTHER	BENDER, RON	AUG-07-2017 GENERIC CIVIL FILING (NO FEE)
ALIPHCOM, INC. DBA JAWBONE, A CALIFORNIA CORPORATION	DEFENDANT		JUN-19-2017 COMPLAINT \$450.00 PAYMENT JUL-13-2017 PROOF OF SERVICE OF SUMMONS AND COMPLAINT OCT-31-2017 COMPLAINT DEC-22-2017 COMPLAINT
CHILD, JASON E.	DEFENDANT	BLOCK, KARL E.	AUG-04-2017 ANSWER SEP-25-2017 DEMURRER NOV-08-2017 GENERIC CIVIL FILING (WITH FEE) NOV-20-2017 GENERIC CIVIL FILING (WITH FEE) JAN-17-2018 CASE MANAGEMENT STATEMENT FEB-02-2018 DEMURRER FEB-02-2018 COURT REPORTING SERVICES LESS THAN 1 HOUR
CHILD, JASON AN INDIVIDUAL	DEFENDANT		JUN-19-2017 COMPLAINT \$450.00 PAYMENT JUL-13-2017 PROOF OF SERVICE OF SUMMONS AND COMPLAINT OCT-31-2017 COMPLAINT NOV-29-2017 GENERIC CIVIL FILING (WITH FEE) DEC-22-2017 STIPULATION DEC-22-2017 COMPLAINT
DOES 1 TO 10, INCLUSIVE	DEFENDANT		JUN-19-2017 COMPLAINT \$450.00 PAYMENT OCT-31-2017 COMPLAINT DEC-22-2017 COMPLAINT
PROTEMPO LIMITED	PLAINTIFF	HOWELL, RICHARD K.	JUN-19-2017 COMPLAINT \$450.00 PAYMENT JUL-13-2017 PROOF OF SERVICE OF SUMMONS AND COMPLAINT JUL-13-2017 PROOF OF SERVICE OF SUMMONS AND COMPLAINT AUG-03-2017 PROOF OF SERVICE OF SUMMONS AND COMPLAINT SEP-15-2017 OPPOSITION SEP-26-2017 OPPOSITION OCT-27-2017 OPPOSITION OCT-31-2017 COMPLAINT NOV-20-2017 GENERIC CIVIL FILING (WITH FEE) NOV-29-2017 GENERIC CIVIL FILING (WITH FEE) DEC-21-2017 EX PARTE APPLICATION FOR ORDER DEC-21-2017 GENERIC CIVIL FILING (WITH FEE) DEC-22-2017 STIPULATION DEC-22-2017 COMPLAINT JAN-23-2018 OPPOSITION

Party	Party Type	Attorneys	Filings
RAHMAN, HOSAIN AN INDIVIDUAL	DEFENDANT	DURRER, II, VAN C.	JUN-19-2017 COMPLAINT \$450.00 PAYMENT AUG-03-2017 PROOF OF SERVICE OF SUMMONS AND COMPLAINT AUG-25-2017 DEMURRER AUG-25-2017 GENERIC CIVIL FILING (NO FEE) AUG-28-2017 DECLARATION AUG-28-2017 GENERIC CIVIL FILING (NO FEE) AUG-28-2017 COURT REPORTING SERVICES LESS THAN 1 HOUR SEP-21-2017 REPLY SEP-21-2017 PROOF OF SERVICE BY MAIL SEP-22-2017 GENERIC CIVIL FILING (NO FEE) OCT-13-2017 MOTION (CIVIL GENERIC) OCT-13-2017 MEMORANDUM OF POINTS AND AUTHORITIES OCT-13-2017 DECLARATION OF OCT-13-2017 GENERIC CIVIL FILING (NO FEE) OCT-31-2017 COMPLAINT NOV-03-2017 REPLY NOV-03-2017 GENERIC CIVIL FILING (NO FEE) NOV-20-2017 GENERIC CIVIL FILING (WITH FEE) NOV-29-2017 GENERIC CIVIL FILING (WITH FEE) DEC-22-2017 STIPULATION DEC-22-2017 COMPLAINT JAN-05-2018 DEMURRER JAN-05-2018 MEMORANDUM OF POINTS AND AUTHORITIES JAN-05-2018 DECLARATION OF JAN-05-2018 COURT REPORTING SERVICES LESS THAN 1 HOUR JAN-18-2018 GENERIC CIVIL FILING (NO FEE) JAN-29-2018 REPLY

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