

ORIGINAL

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LOS ANGELES SUPERIOR COURT

AUG 11 2008

JOHN A. CLARKE, CLERK

BY SHAUNYA WESLEY, DEPUTY

Bernard C. Jasper (SBN: 118479)
Thomas D. Georgianna (SBN: 242115)
HORWITZ, CRON & JASPER
Four Venture, Suite 390
Irvine, CA 92618
Phone: (949) 450-4942/Facsimile: (949) 453-8774
bjasper@hclaw.biz

Attorneys for Plaintiff WESTMOORE LENDING, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – UNLIMITED CIVIL

WESTMOORE LENDING, LLC, a
California limited liability company,

Plaintiff,

vs.

EDWARD L. MCMAHON, an
individual; EDWARD L. MCMAHON
Trustee of the Edward L. McMahon
Living Trust dated 5-10-1990; PAMELA
MCMAHON; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: BC396042
(Unlimited Jurisdiction)

COMPLAINT FOR:

1. BREACH OF CONTRACT;
2. INDEBITATUS ASSUMPSIT; and
3. OPEN BOOK ACCOUNT.

(Amount demanded exceeds \$25,000)

Plaintiff WESTMOORE LENDING, LLC (“WESTMOORE”) complains against Defendants,
and each of them, as follows:

JURISDICTION AND VENUE

1. Plaintiff WESTMOORE is a California corporation engaged in business investing in and financing business operations with its principle place of business in Huntington Beach, Orange County, California.

01/CASE: BC396042 LEA/JEF#:
 RECEIPT # 03965990051
 DATE PAID: 08/21/08 02:14:23 PM
 PAYMENT: \$320.00
 RECEIVED: 0310
 CHECK # 320.00
 CASH:
 CREDIT:
 CARD:

John Shepard Wesley Jr
SBN 120
LAWYER

Four Venture, Suite 390
Irvine, California 92618
(949) 450-0047

1 which is attached hereto as Exhibit "2" and incorporated by reference herein. Under the Note,
2 Defendants are also obligated to pay the loan. Defendants also executed personal guarantees of the
3 Note.

4 9. Beginning in February of 2007, Defendants defaulted under the Agreement and the
5 Note by failing to make required payments.

6 10. On or about April 23, 2007, Defendants executed a Reaffirmation, Forbearance,
7 Extension and Release Agreement ("Forbearance"). Under the Forbearance, Defendants paid
8 \$5,000.00 in exchange for an extension of the maturity date of the Note to August 2, 2007. A true
9 and accurate copy of the Forbearance is attached hereto as Exhibit "3" and incorporated by reference
10 herein.

11 11. Defendants again defaulted under the Note and the Forbearance in August of 2007 by
12 failing to make required payments.

3 **FIRST CAUSE OF ACTION**

4 **(For Breach of Contract Against All Defendants)**

5 14. Plaintiff realleges herein by this reference each and every allegation in Paragraphs 1
6 through 11, inclusive, of this Complaint as if fully set forth herein.

7 15. On or about July 26, 2006, WESTMOORE entered into the Agreement with
8 Defendants.

9 16. In March of 2007, WESTMOORE entered into the Forbearance with Defendants.

10 17. WESTMOORE has at all times performed under the terms of the Agreement and
11 Forbearance in the manner specified therein, except those that have been excused or which
12 WESTMOORE has been prevented from performing by Defendants.

13 18. Defendants have taken possession of \$250,000.00 which was loaned to them by
14 WESTMOORE, but have failed to make all payments required under the Agreement and
15 Forbearance. Failure to make all payments required under the agreement constitutes a breach of the
16 Agreement and Forbearance.

1 19. WESTMOORE demanded performance under the terms of the Agreement on or about
2 July 3, 2008 by way of a Demand For Payment ("Notice") a true and accurate copy of which is
3 attached hereto as Exhibit "4" and incorporated by reference herein.

4 20. As a proximate result of Defendants' actions, WESTMOORE has been damaged in an
5 amount exceeding \$250,000.00 plus interest, plus \$25,000.00 in late fees, plus legal fees and costs, in
6 an amount to be proven at trial, but believed to exceed the minimum jurisdictional limit of this Court.

7 21. The Agreement provides that the prevailing party will recover attorney's fees and
8 costs incurred in legal actions arising from the Agreement, and WESTMOORE retained Horwitz,
9 Cron & Jasper to bring this action and enforce its rights under the Agreement.

10 **SECOND CAUSE OF ACTION**

11 **(For Indebitatus Assumpsit against All Defendants)**

12 22. Plaintiff realleges herein by this reference each and every allegation contained in
13 paragraphs 1 through 21, inclusive, of this Complaint as if fully set forth herein.

14 23. On or about July 26, 2006, and continuing to the present day, VANGUARD
15 CALIFORNIA and VANGUARD NEVADA have become indebted to WESTMOORE as
16 WESTMOORE lent \$250,000.00 to Defendants.

17 24. WESTMOORE demanded that Defendants retire the debt by the Notice.

18 25. Defendants have failed to pay the amounts they owe on the debt.

19 26. Defendants now owe \$250,000.00 plus interest, plus \$25,000.00 in late fees, plus legal
20 fees and costs to WESTMOORE.

21 27. As a proximate result of Defendants' actions, WESTMOORE has been damaged in an
22 amount exceeding \$250,000.00 plus interest at the contract rate, in an amount to be proven at trial,
23 but believed to exceed the minimum jurisdictional limit of this Court.

24 28. The Agreement provides that the prevailing party will recover attorney's fees and
25 costs incurred in legal actions arising from the Agreement, and WESTMOORE retained Horwitz,
26 Cron & Jasper to bring this action and enforce its rights under the Agreement.

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1 **THIRD CAUSE OF ACTION**

2 **(Open Book Account Against All Defendants)**

3 29. Plaintiff realleges herein by this reference each and every allegation in Paragraphs 1
4 through 28, inclusive, of this Complaint as if fully set forth herein.

5 30. On or about July 26, 2006, prior to the commencement of the present action,
6 Defendants became indebted to a Plaintiff on an open book account in the amount of \$250,000.00.

7 31. Defendants specially requested the above amount as a loan from Plaintiff and agreed
8 to repay it with interest.

9 23. Demand for the \$250,000.00 has been made on Defendants for said amounts, but they
10 failed and refused and continue to fail and refuse to pay said sum, and the whole thereof is now due,
11 owning, and payable together with interest at the legal rate.

12 **WHEREFORE**, WESTMOORE demands judgment against Defendants and DOES 1 through
13 100, jointly and severally, for the following:

14 **FIRST CAUSE OF ACTION**

15 1. In favor of Plaintiff for the principal sum of **\$250,000.00** plus interest and late fees; to
16 be proven at trial.

17 2. For pre-judgment interest at the legal rate

18 3. For cost of suit;

19 4. For attorney's fees; and

20 5. For such further relief as the Court may deem proper.

21 **SECOND CAUSE OF ACTION**

22 6. In favor of Plaintiff for the principal sum of **\$250,000.00** plus interest and late fees; to
23 be proven at trial.

24 7. For pre-judgment interest at the legal rate

25 8. For cost of suit;

26 9. For attorney's fees; and

27 10. For such further relief as the Court may deem proper.

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WORTH, WOOD & JASPER
Four Venture, Suite 390
Irvine, California 92618
(949) 457-4042

THIRD CAUSE OF ACTION

11. In favor of Plaintiff for the principal sum of **\$250,000.00** plus interest and late fees; to be proven at trial.

12. For pre-judgment interest at the legal rate

13. For cost of suit;

14. For attorney's fees; and

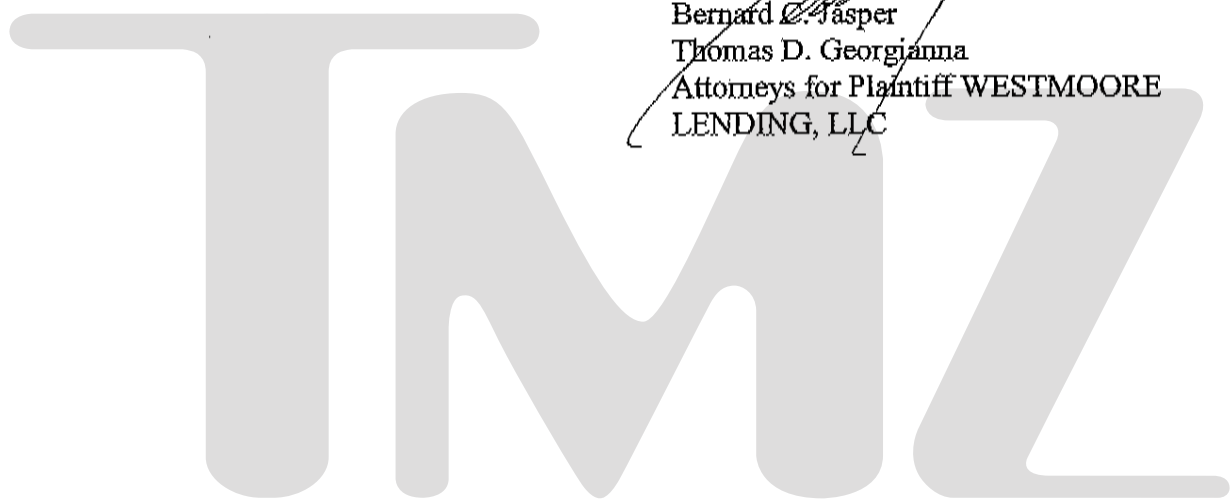
15. For such further relief as the Court may deem proper.

Dated: August 8, 2008

HORWITZ, CRON & JASPER

By: _____

Bernard C. Jasper
Thomas D. Georgianna
Attorneys for Plaintiff WESTMOORE
LENDING, LLC



Four Venture, Suite 390
Irvine, California 92618
(949) 451-4047

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