

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS----- X
J. GOLT CORP,

Plaintiff,

-against-

CAPITAL ONE BANK NA,

Defendant.
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X

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: Index No. 517704/2017

: (Hon. Leon Ruchelsman)

:

: Motion Seq. 1

:

:

:

: **AFFIRMATION OF LOUIS A.**: **CURCIO IN OPPOSITION TO**: **MOTION FOR PRELIMINARY**: **INJUNCTION**

Louis A. Curcio, an attorney duly admitted to practice before the Courts of the State of New York, hereby affirms as follows under penalties of perjury:

1. I am a partner at Troutman Sanders LLP, attorneys for Defendant Capital One, N.A. ("Capital One"), named herein as Capital One Bank NA . As such, I am familiar with the facts and circumstances set forth herein.

2. I submit this affirmation in opposition to Plaintiff's motion for a preliminary injunction in conjunction with the accompanying Memorandum of Law filed contemporaneously herewith.

3. Attached hereto as **Exhibit A** is a loan commitment dated May 6, 2010 made by Capital One and accepted by J. Golt Corp.

4. Attached hereto as **Exhibit B** is a copy of the indictment filed in the matter captioned *United States of America v. Rubin*, Case No. 14-Cr.-741 (S.D.N.Y.).

5. Attached hereto as **Exhibit C** is a copy of the transcript of a hearing held on February 6, 2017 before the Honorable Lisa M. Smith, United States Magistrate Judge in the matter captioned *United States of America v. Rubin*, Case No. 14-Cr.-741 (S.D.N.Y.).

Dated: New York, New York
September 29, 2017

Louis A. Curcio

Louis A. Curcio

Exhibit A



Capital One, N.A.
275 Broadhollow Road
P.O. Box 8914
Melville, NY 11747

631.844.1000
capitalonebank.com

May 6, 2010

J. Golt Corp.
c/o Mr. Jeff Yoffe
GF Financial, Inc.
525 E. County Line Road
Suite #9
Lakewood, NJ 08701

Re: 863 Hancock Street
Brooklyn, New York 11233
Application No. 09-0971TWR

Gentlemen:

We are pleased to advise you that Capital One, N.A. (the "Bank") has approved a loan to you (the "Borrower") in the principal sum of \$1,100,000.00 (the "Loan") to be secured by a first mortgage lien on the land and improvements located at and known as 863 Hancock Street, Brooklyn, NY (the "Property").

The Loan will be made and accepted subject to and in accordance with the following terms and conditions:

1. TERMS OF THE LOAN:

<u>Borrower:</u>	J. Golt Corp.
<u>Principal Amount:</u>	\$1,100,000.00
<u>Term:</u>	Five (5) years (the "Initial Term") with an option for an additional five (5) years (the "Extended Term") as hereinafter set forth.
<u>Rate of Interest:</u>	During the Initial Term the interest rate shall be five and three quarters (5.75%) percent per annum. If the Borrower exercises its option, the interest rate during the Extended Term of the Loan will be the greater of (i) five and three quarters (5.75%) percent per annum, or (ii) three hundred and sixty (360) basis points above the U.S. Treasury Note Yield on five (5) year U.S. Treasury Notes or Bonds as of ninety (90) days before the expiration of the Initial Term.

fifty (350)

Exercise of Option:

The term of the loan shall be automatically extended for an additional five (5) years (the "Extended Term") unless the Borrower delivers written notice to the Bank at least 30 days, but not more than 90 days, prior to the end of the Initial Term that the Borrower does not wish to extend the term of the Loan as provided herein with time being of the essence.

Notwithstanding the foregoing, the Bank shall have the right, but not the obligation, to decline to extend the term of the Loan if (i) the loan is in default, (ii) the Borrower has failed to furnish all of the information and documentation the Borrower is required to furnish to the Bank pursuant to the loan documents, and (iii) the Borrower has been late in making the monthly payments during the Initial Term more than three (3) times in any twelve (12) month period.

Monthly Payments:

The monthly payments will consist of payments of principal and interest in the amount of \$6,419.30 (based upon a 30-year payout). During the Extended Term, if any, the monthly payments will include amortization of principal based upon a 25-year payout.

Prepayment:

The Borrower shall have the right to prepay the principal in multiples of \$10,000.00 with interest computed to the last day of the month in which any prepayment is made; provided, however, that if prepayment is made during the first year of the Initial Term, the Borrower shall pay a prepayment penalty equal to 5% of the amount of principal prepaid, reducing by 1% in each subsequent year to minimum prepayment penalty of 1% of the amount of principal prepaid. The same provisions shall apply during the Extended Term, i.e., 5% during the sixth year, reducing by 1% in each subsequent year to a minimum of 1% of the amount of principal prepaid. The Borrower shall have the right to prepay without penalty during the last 60 days of the Initial Term and/or the Extended term of the Loan.

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