

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION

WHITE OAK HEALTHCARE FINANCE, LLC,

Plaintiff,

v.

ARIEL FEIN, SAMUEL GOLDNER, and  
IRVING LANGER,

Defendants.

Index No.: \_\_\_\_\_

Plaintiff White Oak Healthcare Finance, LLC (“**Plaintiff**” or “**White Oak**”), by and through its attorneys, as and for its complaint against Defendants Ariel Fein, Samuel Goldner, and Irving Langer (“**Defendants**” or “**Guarantors**”), alleges as follows:

**NATURE OF THE ACTION**

1. This is an action by White Oak, as administrative agent and lender, to recover indebtedness from Defendants as guarantors to borrowers for loans with a present balance in excess of \$155,018,413.55.

2. The borrower Companies (defined below) are the operators of seventeen nursing homes. The Defendants hold material equity interests in the Companies. The Companies are indebted to White Oak pursuant to a Term Loan (defined below) in the initial principal amount \$138,000,000 and a Revolving Loan (defined below) with an initial commitment of \$20,000,000 (collectively, the “**Loans**”).

3. In connection with the Loan Documents (defined below), Defendants individually and unconditionally guaranteed a substantial portion, and if certain events occur the full amount, of the Companies’ debts to White Oak pursuant to a Term Loan Guaranty (defined below) and a

Revolving Loan Guaranty (defined below) (collectively, the “**Guaranties**”). The Loans are cross-guaranteed, cross-defaulted, and cross-collateralized.

4. Since receiving the Loans, the Companies have incurred numerous and material events of default under their Loan Documents with White Oak, and certain amounts thereunder have been declared due and payable and remain unpaid. As a result, Defendants are liable to White Oak pursuant to the Guaranties for the amounts described below. Despite being provided notice and demand for payment under the Guaranties, to date, Defendants have failed to comply with their obligations pursuant to the Guaranties.

#### **THE PARTIES**

5. Plaintiff White Oak Healthcare Finance, LLC is a limited liability company formed under the laws of Delaware. White Oak’s principal place of business is New York.

6. Defendant Ariel Fein is a resident of the State of New York.

7. Defendant Samuel Goldner is a resident of the State of New York.

8. Defendant Irving Langer is a resident of the State of New York.

9. Each Defendant has contractually consented to venue and jurisdiction in this court pursuant to the Guaranties.

#### **BACKGROUND**

10. In December 2018, White Oak agreed to provide financing in connection with the acquisition of 17 nursing home facilities in the State of Ohio. Each facility is held pursuant to a two-company structure: a property owning entity that owns and leases the facility’s underlying land, buildings and improvements (each a “**Property Company**” and collectively, the “**Property Companies**”), and an operating entity that is the lessee under the Property Company and manages the nursing home facility (each, an “**Operating Company**”, and collectively, the “**Operating**

**Companies**”). The Property Companies and Operating Companies are collectively referred to as the “**Companies**.”

11. The Property Companies are owned by Boulder Property Holdings, LP (“**Boulder Property**”), in which Defendants Fein, Goldner and Langer hold, either directly or indirectly, all or virtually all of the equity interests. The Operating Companies are owned by Boulder Operations Holdings, LLC (“**Boulder Operations**”), a company owned by Boulder FG Holdings LLC (“**Boulder FG**”), which is solely owned by Defendant Fein.

12. White Oak funded the Companies’ acquisition and operation of these nursing homes by providing a Term Loan and Revolving Loan under loan agreements (the “**Loan Agreements**”), executed through the transactions described below.

#### **TERM LOAN TRANSACTION**

13. White Oak entered into a Term Loan Agreement dated December 21, 2018 (the “**Term Loan Agreement**”) with, among other parties, Boulder Property and each of its 17 Property Companies as borrowers (collectively, the “**Term Loan Borrowers**”). A true and correct copy of the Term Loan Agreement is attached hereto as **Exhibit 1**.

14. Pursuant to the Term Loan Agreement, White Oak agreed to provide a loan to the Term Loan Borrowers in the initial principal amount of \$138,000,000.00 (the “**Term Loan**”).

15. In connection with the Term Loan Agreement, the Term Loan Borrowers executed and delivered a Promissory Note dated December 21, 2018 (the “**Term Loan Promissory Note**”), pursuant to which White Oak provided the Term Loan. A true and correct copy of the Term Loan Promissory Note is attached hereto as **Exhibit 2**.

16. The Term Loan Borrowers executed additional, related documents in connection with the Term Loan (the “**Term Loan Documents**”), including (a) a Pledge Agreement dated December 21, 2018 (the “**Term Loan Pledge Agreement**”), and (b) a Security Agreement dated

December 21, 2018 (the “**Term Loan Security Agreement**”), each of which secures the Term Loan. A true and correct copy of the Term Loan Pledge Agreement is attached hereto as **Exhibit 3**, and a true and correct copy of the Term Loan Security Agreement is attached hereto as **Exhibit 4**.

17. The Term Loan is additionally secured by mortgages executed by the Property Companies, dated December 21, 2018 (the “**Term Loan Mortgages**”), granting White Oak, among other things, security interests in all Property as defined therein.

18. The Revolving Loan Borrowers (defined below) guaranteed the Term Loan Borrowers’ obligations due to White Oak under the Term Loan. The Term Loan is also secured by the collateral that secures the Revolving Loan (defined below).

#### **REVOLVING LOAN TRANSACTION**

19. In addition to the Term Loan Agreement, White Oak entered into a Loan Agreement dated December 21, 2018 (the “**Revolving Loan Agreement**”) with, among other parties, Boulder Operations and each of its 17 Operating Companies as borrowers (collectively, the “**Revolving Loan Borrowers**”). A true and correct copy of the Revolving Loan Agreement is attached hereto as **Exhibit 5**.

20. Pursuant to the Revolving Loan Agreement, White Oak agreed to provide a revolving loan to the Revolving Loan Borrowers with a lending commitment, subject to the terms and conditions set forth therein, of up to the principal amount of \$20,000,000.00 (the “**Revolving Loan**”).

21. In connection with the Revolving Loan Agreement, the Revolving Loan Borrowers executed and delivered a Promissory Note dated December 21, 2018 (the “**Revolving Loan Promissory Note**”), pursuant to which White Oak provided the Term Loan. A true and correct copy of the Revolving Loan Promissory Note is attached hereto as **Exhibit 6**.

22. The Revolving Loan Borrowers executed additional, related documents in connection with the Revolving Loan (the “**Revolving Loan Documents**”), including (a) a Pledge Agreement dated December 21, 2018 (the “**Revolving Loan Pledge Agreement**”), and (b) a Security Agreement dated December 21, 2018 (the “**Revolving Loan Security Agreement**”), each of which secures the Revolving Loan. A true and correct copy of the Revolving Loan Pledge Agreement is attached hereto as **Exhibit 7**, and a true and correct copy of the Revolving Loan Security Agreement is attached hereto as **Exhibit 8**. The Revolving Loan Documents and the Term Loan Documents are collectively referred to herein as the “**Loan Documents**.”

23. The Revolving Loan is additionally secured by mortgages executed by the Property Companies, dated December 21, 2018 (the “**Revolving Loan Mortgages**”), granting White Oak, among other things, security interests in all Property as defined therein.

24. The Term Loan Borrowers guaranteed the Revolving Loan Borrowers’ obligations due to White Oak under the Revolving Loan Agreement. The Revolving Loan is also secured by the collateral that secures the Term Loan.

#### **DEFENDANTS’ GUARANTY OF THE LOAN DOCUMENTS**

25. In connection with the Term Loan Agreement, Defendants entered into a Recourse Carve-out and Limited Repayment Guaranty dated December 21, 2018 (the “**Term Loan Guaranty**”). A true and correct copy of the Term Loan Guaranty is attached hereto as **Exhibit 9**.

26. Defendants, in addition to their guaranties of the Term Loan, entered into a Recourse Carve-out and Limited Repayment Guaranty dated December 21, 2018 in connection with the Revolving Loan (the “**Revolving Loan Guaranty**”). A true and correct copy of the

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