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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ANARU ENDEAVORS, INC., a California corporation; PABBY CO INC., a California corporation; on behalf of themselves and all others similarly situated, Plaintiffs, v. SIGNATURE PAYMENTS, LLC, a California corporation; MERRICK BANK CORPORATION, a Utah corporation; and DOES 1 through 10, Defendants.	Case No. CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL Hon. ________________

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Plaintiffs (collectively, "**Plaintiffs**"), by and through their attorneys of record, bring this action on behalf of themselves and all others similarly situated against Defendants SIGNATURE PAYMENTS, LLC, MERRICK BANK CORPORATION and DOES 1 through 10, (collectively, "**Defendants**") and, based on personal knowledge with respect to those allegations that pertain to the named Plaintiffs, and based on information and belief with respect to those allegations that pertain to others similarly situated, allege and complain as follows:

SUMMARY OF THE ACTION

1. This is a class action that asserts claims for breach of contract against Defendants, who offer payment processing services to businesses to enable them to accept debit and credit card payments from their customers.

2. Plaintiffs bring this action on behalf of a Class of businesses (defined below) that applied to and contracted with Defendants for payment processing services.

3. This case arises out of Defendants' serial breaches of contract in connection with Defendants' withholding of substantial "reserve funds" following conclusion of the processing relationship with Plaintiffs and subsequent withholding of the subject amounts notwithstanding the fact that all available risk periods under the operative agreements and the incorporated Card Brand Rules had lapsed and the release of the held funds to the Plaintiffs and the other Class members was warranted.

4. By this action, and on behalf of the other Class members, Plaintiffs seek compensatory damages from Defendants based on Defendants' serial breaches of contract, along with injunctive relief barring Defendants from continuing to engage in these practices.

THE PARTIES

5. Plaintiff ANARU ENDEAVORS, INC. ("ANARU") is a California corporation with its principal place of business in Porter Ranch, California.

6. Plaintiff PABBY CO, INC. ("PABBY") is a California corporation with its principal place of business in Lancaster, California.

7. Defendant SIGNATURE PAYMENTS, LLC ("SIGNATURE"), is a California corporation with its principal place of business located at 2815 Townsgate Road, Thousand Oaks, California 91361.

8. Defendant MERRICK BANK ("MERRICK"), is a Utah Corporation with its principal place of business located at 10705 S Jordan Gateway, Ste 200, South Jordan, UT, 84095.

9. The true names or capacities, whether individual, corporate, or otherwise, of defendants named in this action as DOES 1 through 10 are unknown to Plaintiffs, who therefore sue these defendants by such fictitious names. Plaintiffs will amend their complaint to show the true names and capacities of the fictitiously named defendants when they have been ascertained.

10. Plaintiffs are informed and believe, and thereon allege, that each of these fictitiously named defendants is responsible in some form or manner for those acts or omissions herein alleged, and that Plaintiffs' damages as herein alleged were proximately caused by said acts or omissions.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over the claims alleged herein pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28 U.S.C. § 1332(d), because this is a class action in which the aggregate amount in controversy exceeds $5,000,000, exclusive of interest and costs, the proposed Class consists of more than 100 members, and at least one Class member, including Plaintiffs, is a citizen of a state different from at least one Defendant, thereby establishing minimal diversity.

12. This Court has personal jurisdiction over Defendants based on Defendants' minimum contacts with the State of California, including that each of the Defendants transact substantial business in the State of California and/or purposefully availed themselves of the rights and privileges of transacting business in California.

13. Venue lies within this district pursuant to 28 U.S.C. § 1391 because Defendants are subject to the Court's personal jurisdiction with respect to this action,

and there is no other district in which this action may be brought against all Defendants.

FACTUAL ALLEGATIONS

A. Background on Payment Processing

14. In order to accept debit and credit cards ("payment cards") as payment over the Internet, a business (commonly referred to as a "merchant" in the payment processing industry) must first open a "merchant account" for payment processing services with a member bank of Visa Inc. and Mastercard International Incorporated (collectively, the "Card Brands").

15. Such member banks have direct agreements with the Card Brands that enable them to process payments made by holders of payment cards issued by the Card Brands to purchase goods and services from "merchants" that contract with such member banks for payment processing services. This process is called "acquiring," and the banks are commonly referred to as "acquirers," in the payments industry.

16. Acquirers, in turn, may contract with third party organizations and sponsor them for registration with the Card Brands to provide processing-related services to merchants in support of the acquirer's merchant program (the "Program"). Once registered with the Card Brands under an acquirer's sponsorship, such third party organizations are generally referred to as "Third Party Agents" ("TPAs") in Visa parlance or "Member Service Providers" ("MSPs") in Mastercard parlance.

17. In providing payment processing services to merchants, each acquiring bank is required to strictly comply—and ensure the strict compliance of its sponsored TPA/MSPs and merchants—with a comprehensive set of rules and standards promulgated and periodically updated from time to time by the Card Brands (the "Card Brand Rules") as a contractual condition of the bank's membership agreements with the Card Brands. *See Owner-Operator Indep. Drivers Ass'n, Inc. v. Concord EFS Inc*., 59 S.W.3d 63, 66 (Tenn. 2001) ("Only banks and other similar financial institutions may become members of the Visa and Mastercard associations. These banks enter into membership agreements with Visa and Mastercard; the agreements incorporate the rules

and regulations of Visa and Mastercard and allow the member banks to provide credit card processing services.”).

18. Applying these terms here, MERRICK is an acquiring bank that sponsors SIGNATURE for registration with the Card Brands as an “Independent Sales Organization” (“ISO”), which is a particular category of TPA/MSP that is authorized by virtue of its registration with the Card Brands to market payment processing services to merchants (such as Plaintiffs and the other Class members) to solicit their participation in MERRICK’s Program, and perform certain types of merchant services on behalf of MERRICK in support of its Program, including application processing, customer service, and monthly statement preparation.

19. Independent Sales Organizations like SIGNATURE commonly contract with other third-party organizations (known as “sales agents”) to solicit and refer prospective merchants on behalf of the ISO in return for a share of the fees collected by the bank and the ISO from the merchants’ processing activity. Because such sales agents perform these services pursuant to a contractual relationship with the ISO rather than the acquirer, and are not sponsored by the acquirer for registration with the Card Brands, the scope of the services they provide is generally limited to the initial solicitation of the merchant, preparation of the merchant application package (including collection of signatures and required documentation) for presentation to the ISO for review, and facilitation of communication between the merchant and the ISO related to basic customer service issues. Sales agents are generally prohibited from using any form of merchant application and agreement other than the ISO’s standard, pre-approved forms for soliciting prospective merchants for participation in the relevant Program.

20. As shall be more fully discussed below, SIGNATURE collected applicants for payment processing services offered by MERRICK through SIGNATURE via a sales agent called ARC Payments, whose principal at all times relevant herein was an individual named Michael Grindem.

21. As the sponsor bank, MERRICK must at all times be entirely responsible

for, and manage, direct and control, all aspects of its Program and Program-related services performed by TPA/MSPs like SIGNATURE, and establish and enforce all Program management and operating policies in accordance with the Card Brand Rules. As the sponsor bank, MERRICK must also approve all Program materials (including merchant applications and agreements) before their distribution by an ISO, and maintain prompt and unrestricted physical access to all original, executed merchant agreements. Mastercard Rule 7.2.8 (Program Materials); Mastercard Rule 7.6.3 (Access to Documentation).

22. The Card Brand Rules mandate that a merchant agreement must include a separate or distinct fee disclosure (a "**Fee Disclosure**"), which must clearly and conspicuously detail the methodology by which each merchant fee (a "**Fee**") is calculated. For this purpose, a "**Fee**" means any charge by an acquirer to a merchant related to or arising from the merchant agreement, including but not limited to transaction processing charges; authorization, clearing or settlement charges; the pass-through of any acquirer obligation to a third party; and, most importantly for the purposes of this lawsuit, any merchant agreement termination charge. Moreover, the method used to calculate each Fee listed in the Fee Disclosure, including any conditions, terms or contingencies that are or could be applicable to the Fee, must be clearly explained in plain terms. The acquirer must ensure that pricing schemes used by agents are clearly communicated in writing to the merchant and have the merchant's written acceptance. Proper disclosure of such fees is a mandatory condition precedent to an acquiring bank's right to charge such fees to a merchant. *See* Mastercard Rule 5.1.2 (Required Merchant Agreement Terms) for the U.S. Region; *see also* Visa Global Acquirer Standards, Rule 8.3 (Acquirer Responsibilities when Using Agents).

23. According to custom and practice in the payments industry, all parties to a merchant agreement must strictly comply with all Card Brand Rules; and the Fee Disclosure is an integral part of each and every merchant application, which must clearly, conspicuously, and transparently disclose the complete scope of Fees to which

a merchant will or may potentially be subject in connection with the resulting merchant agreement.

B. <u>The Signature Merchant Application</u>

24. Each of the Plaintiffs applied through a SIGNATURE sales agent for a merchant account with SIGNATURE and MERRICK by completing, signing and submitting a standard form SIGNATURE merchant application for participation in MERRICK's Program: ANARU completed, signed and submitted its application to SIGNATURE's sales agent, Arc Payments, on or about January 4, 2022; and PABBY completed, signed and submitted its application to SIGNATURE's sales agent, Arc Payments, on or about November 11, 2021.

25. Plaintiffs are informed and believe that each Class member also applied for one or more merchant accounts with SIGNATURE and MERRICK by completing, signing and submitting a standard form SIGNATURE merchant application to SIGNATURE's sales agent, Arc Payments, through Arc Payments' sub-agent, The Web Rep LLC or another of Arc Payments' sub-agents.

26. Arc Payments, in turn, submitted the SIGNATURE Merchant Application of each of the Plaintiffs and other Class members to SIGNATURE for review and approval.

27. Plaintiffs are informed and believe and based thereon allege that, apart from merchant applicant-specific information, the standard form SIGNATURE merchant application signed by Plaintiffs and each of the other Class members is substantively identical in all relevant and material respects, as described herein. A true and correct copy of the standard form SIGNATURE merchant application signed and submitted by Plaintiffs (hereinafter, the "**Signature Merchant Application**") is attached hereto as **Exhibit 1** and incorporated herein by this reference as though set forth in full.

28. The Signature Merchant Application makes the "**Signature Merchant Agreement**" available for review and download via a link to the SIGNATURE website

and incorporates them by reference into the Signature Merchant Application, which together with the Signature Merchant Application, constitute the "**Signature Merchant Agreement**." A true and correct copy of the Signature Merchant Agreement downloaded from the SIGNATURE website is attached hereto as **Exhibit 2** and incorporated herein by this reference as though set forth in full.

29. Each of the Plaintiffs and Class members agreed to the Signature Merchant Agreement by signing and dating the "Agreement" section of the Signature Merchant Application.

30. SIGNATURE and MERRICK, in turn, entered into the Signature Merchant Agreement with Plaintiffs and each of the other Class members by approving each application and issuing a corresponding merchant account to each of them, thereby forming a contract between SIGNATURE and MERRICK, on the one hand, and Plaintiffs and each of the other Class members, on the other hand.

31. The Signature Merchant Application requires the merchant-applicant and/or sales agent to input various information regarding the merchant, including legal name, DBA, location address, mailing address, federal tax ID, primary contact information, length of time in business, ownership type, site inspection info, beneficial owner details, and banking account information, among other items.

32. The Signature Merchant Application includes a "Fees" section, which, pursuant to the Card Brand Rules, communicates the complete scope of agreed fees and charges that may be assessed by MERRICK pursuant to the SIGNATURE Merchant Agreement.

33. The Signature Merchant Application includes a "Disclosure" section that identifies MERRICK as the "Member Bank" responsible for (i) extending acceptance of Visa products to the merchant, (ii) being a principal (signer) to the Merchant Agreement, (iii) educating the merchant on pertinent Visa operating regulations, (iv) all settlement funds, and (v) all funds held in reserve that are derived from settlement. The Disclosure also includes MERRICK's contact information and advises that MERRICK

"is the ultimate authority should the Merchant have any problems."

34. By way of explanation, the "settlement process" refers to the transfer of funds from the cardholder's account to the merchant's account, and "settlement funds" are the proceeds of a merchant's sales transactions, which are credited to the merchant account after deduction of the applicable Discount Rate, transaction fees and reserve percentage, and then deposited by the acquiring bank into the merchant's demand deposit account.

35. "Reserve funds" are deducted by the acquiring bank from a merchant's "settlement funds" (typically in an agreed upon percentage of 5 to 10%) and set aside in a "reserve account" to protect both the merchant and the acquiring bank against the risk of loss in connection with the merchant's processing activity, such as for "chargebacks" (where a cardholder or the card issuing bank disputes a charge) or Card Brand fines (amounts assessed by Visa or Mastercard against the acquiring bank based on a merchant's alleged violation of the Card Brand Rules). Conceptually, a "reserve account" is similar to a security deposit for an apartment rental or collateral for a loan.

36. The Card Brand Rules prohibit an ISO from having access to any account for funds due to a merchant (settlement funds) or withheld from a merchant for chargebacks (reserves); and prohibit an acquirer from assigning or transferring to an ISO an obligation to pay or reimburse a merchant if the obligation arises from the merchant's processing activity. *See, e.g.*, Mastercard Rule 7.3 (Access to Merchant Account). Discount rates (or similar charges called by other terms) due to an acquirer from a merchant must be collected directly by the acquirer and not by the ISO. *See, e.g.*, Mastercard Rule 7.6.2 (Collection of Funds from a Merchant). Thus, the SIGNATURE Merchant Agreement makes clear that MERRICK is solely responsible for holding, administering and controlling all settlement and reserve funds.

37. Section 10 of the Signature Merchant Agreement allows MERRICK to establish a Reserve Account to ensure MERRICK's recovery of any liabilities owed to it by merchant pursuant to the SIGNATURE Merchant Agreement; but also obligates

MERRICK to release funds, "[u]pon expiration of this six-month period, any balance remaining in the Reserve Account will be paid to Merchant. Bank will inform Merchant in writing of any charges debited to the Reserve Account during this six-month period."

C. The Payment Processing Relationship

38. Each of the Plaintiffs and other Class members agreed to the terms of the Signature Merchant Agreement by signing the Signature Merchant Application and submitting it to SIGNATURE and MERRICK through SIGNATURE's sales agent, Arc Payments, and its sub-agents, and SIGNATURE and MERRICK accepted the terms of the Signature Merchant Agreement and entered into a binding contract with each of the Plaintiffs and other Class members by approving each application and issuing a merchant account to each of them.

39. Throughout the active term of each Signature Merchant Agreement, each of the Plaintiffs and other Class members submitted sales transactions through its respective merchant account for processing by SIGNATURE and MERRICK.

40. Throughout the active term of each Signature Merchant Agreement, SIGNATURE and MERRICK set aside a percentage (typically, ten percent) of the settlement funds from the daily batch activity of each of the Plaintiffs and other Class members to hold and maintain as "reserves" to secure SIGNATURE and MERRICK against the risk of loss in connection with each merchant's processing activity.

41. Throughout the active term of each Signature Merchant Agreement, SIGNATURE and MERRICK caused monthly billing statements (commonly referred to as "**merchant statements**") to be sent or made available to each of the Plaintiffs and other Class members summarizing each merchant's processing activity for the corresponding month, including the total count and volume of Sales, Credits, and Debit transactions; Reserve Percentage and Reserve Held; Discount Fees and Other Fees, including Merchant Authorizations, and Miscellaneous Fees such as Address Verification Fees and Chargeback Fees; and Batch Summary, summarizing the transaction count, volume and reserve withholding on a daily basis. SIGNATURE

provided this information directly in the form of monthly "**Merchant Statements**."

42. After each of the Plaintiffs and other Class members had processed with SIGNATURE and MERRICK for a period of time (ranging from months to years), SIGNATURE and MERRICK terminated the SIGNATURE Merchant Agreement with each of the Plaintiffs and other Class members.

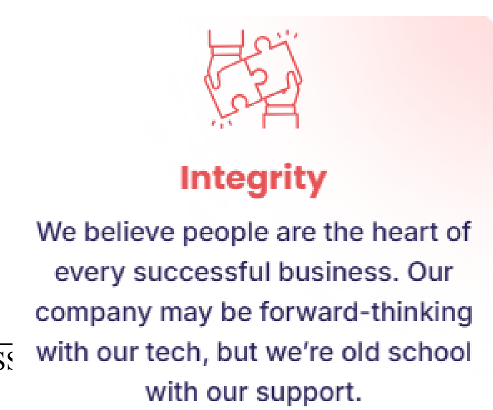
43. After all "trailing" (i.e. post-termination) chargeback activity on the corresponding merchant account had ended and all associated risk of loss had already passed, the remaining funds should have been paid out to Plaintiffs and the members of the proposed Class. Here, Anaru's account was closed on or about December 2023 whereas Pabby's account was closed on or about February 2024. In the case of Anaru, the reserves should have been released no later than July 2024, i.e. six (6) months after termination of processing. In the case of Pabby, the reserves should have been released by no later than September 2024, also six (6) months after termination. They were not.

44. Instead, SIGNATURE and MERRICK withheld the funds without any explanation in the evident expectation that the Plaintiffs and the proposed members of the proposed Class simply forget or abandon their claims to the leftover funds which Plaintiffs believe are in the 8-figure range or substantially higher. They are holding these funds as of the date of this Complaint.

D. <u>Signature Routinely Converts Funds Payable to its Merchants</u>

45. Like every company aiming to persuade others to lure others with promises of honesty and integrity, SIGNATURE, too, boasts about its purported base of honesty and integrity.

46. For instance, its website prominently lists its foremost attribute as follows:



> We're business owners too so we know how important it is to get paid. Since 1997, we've helped thousands of businesses of all types and sizes accept credit cards easily, while keeping it affordable, secure and forward-thinking.
>
> Our company values of integrity, innovation and accessibility can be felt throughout the company in the work we do for our merchants and our partners day in and day out.

(Screenshots from https://signaturepayments.com/company/).

47. Unfortunately, these bold statements regarding honesty and integrity are little more than lip service. In fact, SIGNATURE routinely converts funds from merchants through devious practices consisting of frivolous assertions of "risk" and prospects of "fines" as a basis for withholding moneys held as security, called "merchant reserves."

48. When the claims of "risk" become stale due to SIGNATURE's inability to substantiate any actual threat that would expose it to economic liability warranting continued withholding of the money, SIGNATURE then proceeds to invent "requirements" which the merchants must meet in order to collect their reserves. These requirements include demands that merchants submit executed forms requesting their funds.

49. When these forms are submitted, SIGNATURE moves onto its next contrived "requirement" that the merchants provide not merely signed but, rather, notarized forms demanding payment of their money.

50. Even then, when the merchants satisfy SIGNATURE's ever-changing demands and provide the notarized forms, SIGNATURE simply stops communicating and, of course, simply fails to pay over the funds. Its attorneys suddenly become non-

responsive, refusing to answer phone calls and ignoring all e-mails. Plaintiffs believe that during the statutory period SIGNATURE has converted funds in excess of eight (8) figures through these practices.

51. Indeed, the filing of this action has not, and is unlikely to, cause SIGNATURE and its parent, NORTH, to re-examine its course. For example, for several months Plaintiffs' counsel has been requesting that NORTH, through its subsidiary Humboldt Merchant Services ("HBMS"), provide information regarding two merchants unrelated to this litigation and release their funds, which are outside of the risk period. But the funds were not released.

52. It was not until a class action suit was initiated by those merchants against HBMS and the sponsor bank that the practice was confirmed.[1] During that case, those merchants, who are also represented by the undersigned counsel, met with defense counsel who confirmed that the funds were being withheld.

53. Following that meeting, those merchants received a written communication from HBMS and the sponsor bank stating that more than $12,000 was being withheld in each of their accounts **for years following termination of the relationship**. The letter gave no explanation for the withholding, nor did it provide any justification for why the funds had not previously been released despite repeated requests. A true and correct copy of the August 22, 2025 letter is attached hereto as **Exhibit 3**. Of course, HBMS offered to repay only these funds and not the funds belonging to the entire class represented by these Plaintiffs.

54. Having converted funds belonging to those merchants, HBMS forced those plaintiffs and members of that class into a prolonged and futile process of navigating through its various departments while receiving repeated assurances that their concerns would be investigated and corrected. In the end, HBMS only offered to release funds related to the named plaintiffs but did not represent that the funds for members of that

[1] *Galloso, Inc. et al. v. 5967 Ventures, LLC d/b/a Humboldt Merchant Services & BMO Bank, N.A.* (E.D. Mich., case no. 2:25-cv-11096).

class would also be released.

55. SIGNATURE is following the same playbook employed by NORTH and HBMS by wrongfully withholding funds belonging to its merchants, including Plaintiffs, and refusing to release money that does not belong to it. It employs the same counsel and answers to the same "Risk" department which was recently centralized at NORTH. In effect, the parent company, NORTH, controls all the efforts by its subsidiaries to prevent the distribution of owed funds to their respective merchants.

56. As with those practices, SIGNATURE makes repeated promises to investigate the issue but ultimately goes silent, leaving Plaintiffs, and other members of the class without their funds and without any resolution.

CLASS ALLEGATIONS

57. Pursuant to Federal Rule of Civil Procedure 23, Plaintiffs state as follows:

A. Definition of the Class

58. Plaintiffs bring this class action on behalf of themselves and on behalf of the following proposed Class, initially defined as follows:

> All businesses or entities who have contracted with SIGNATURE and MERRICK in the United States by executing the Signature Merchant Application and who had leftover funds that were not distributed to them by SIGNATURE and MERRICK after conclusion of the processing relationship (the "**Class**").

59. Plaintiffs reserve the right to redefine the class definition prior to class certification and after having the opportunity to conduct discovery.

B. The Class Satisfies the Requirements of Rule 23

60. This action is properly brought as a class action under Rule 23 for the following reasons:

(a) **Numerosity**: The Class is so numerous and geographically dispersed throughout the United States that the joinder of all Class members is impracticable.

While Plaintiffs do not know the exact number and identity of the members of the Class, Plaintiffs are informed and believe that there are more than 100 members in the Class. The precise number of members in the Class may be ascertained through discovery.

(b) **Commonality and Predominance**: There are questions of law and fact common to the Class which predominate over any questions that may affect particular members of the Class. Such common questions of law and fact include, but are not limited to:

(i). Whether SIGNATURE and MERRICK breached the Signature Merchant Agreement by failing to release leftover funds in accounts belonging to members of the Class;

(ii). Whether SIGNATURE and MERRICK are liable on the California Penal Code § 496 by their conduct alleged herein;

(iii). Whether SIGNATURE and MERRICK were unjustly enriched at the expense of the Plaintiffs and the other members of the putative Class by their conduct alleged herein.

(c) **Typicality**: Plaintiffs' claims are typical of the claims of the other members of the Class. Plaintiffs and the other members of the Class have been injured by the same wrongful practices of Defendants. Plaintiffs' claims arise from the same practices and conduct that give rise to the claims of each of the other members of the Class and are based on the same legal theories.

(d) **Adequacy of Representation**: Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs have no interest antagonistic to the interests of the other members of the Class, and Plaintiffs have retained attorneys experienced in payments law, class actions, and complex business litigation.

(e) **Superiority**: A class action is superior to other available methods for the fair and efficient adjudication of this controversy for at least the following reasons:

(i) This action will promote an orderly and expeditious administration and adjudication of the claims of the Class; economies of time, effort and resources will be fostered; and uniformity of decisions will be ensured;

(ii) Without a class action, members of the Class will continue to suffer damages, and Defendants' violations of law will proceed without remedy while Defendants continue to reap and retain the substantial proceeds of their wrongful conduct;

(iii) Plaintiffs do not know of any difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action; and

(iv) Finally, as the damages suffered by some of the individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them.

61. Defendants have, or have access to, address information for each of the members of the Class, which may be used for the purpose of providing notice of the pendency of this class action.

62. Plaintiffs seek damages and equitable relief on behalf of the Class on grounds generally applicable to the entire Class.

63. In the alternative, common questions of fact and law are appropriate for issue certification on behalf of the proposed Class.

FIRST CLAIM FOR RELIEF

<u>Breach Of Contract</u>

(By Plaintiffs Against SIGNATURE And MERRICK)

64. Plaintiffs re-allege and hereby incorporate herein by this reference as though set forth in full each of the allegations contained in the preceding paragraphs of this Complaint.

65. This cause of action is brought by Plaintiffs on behalf of all Class members.

66. The Signature Merchant Agreement is a valid and enforceable written contract between each of the Plaintiffs and other Class members, on the one hand, and

SIGNATURE and MERRICK, on the other hand.

67. Each of the Plaintiffs and other Class members agreed to the Signature Merchant Agreement by signing the standard form Signature Merchant Application and submitting it to SIGNATURE and MERRICK through SIGNATURE's sales agent Arc Payments and its sub-agents to apply for merchant services through MERRICK's Program; and SIGNATURE and MERRICK manifested their consent and agreement to the SIGNATURE Merchant Agreement by approving the application of each of the Plaintiffs and other Class members for participation in MERRICK's Program and issuing a corresponding merchant account to each of them.

68. Each of the Plaintiffs and other Class members fully and faithfully performed all conditions, terms, covenants and agreements owed to SIGNATURE and MERRICK under the SIGNATURE Merchant Agreement. To the extent that Plaintiffs and the other Class members owed any other obligation to SIGNATURE and MERRICK under the SIGNATURE Merchant Agreement, each of Plaintiffs or other Class member's performance of such other condition, term, covenant or agreement has been excused, waived, or rendered impossible by SIGNATURE and MERRICK.

69. SIGNATURE and MERRICK have materially breached the SIGNATURE Merchant Agreement by failing to release leftover funds or withheld funds, i.e. the "reserve funds" following conclusion of the processing relationship with Plaintiffs' and the other Class members. This was done in direct derogation of Section 10 of the SIGNATURE Merchant Agreement providing that "[u]pon expiration of this six-month period, any balance remaining in the Reserve Account will be paid to Merchant. Bank will inform Merchant in writing of any charges debited to the Reserve Account during this six-month period."

70. Here, Anaru's account was closed on or about December 2023 whereas Pabby's account was closed on or about February 2024. In the case of Anaru, the reserves should have been released no later than July 2024, i.e. six (6) months after termination of processing. In the case of Pabby, the reserves should have been released

by no later than September 2024, also six (6) months after termination. They were not.

71. MERRICK has materially breached its duty under the Signature Merchant Agreement, and the Card Brand Rules incorporated by reference into the Signature Merchant Agreement, to hold, administer and control all reserve funds derived from settlement of each of the Plaintiffs' and other Class members' sales transactions by allowing SIGNATURE to take possession of their respective reserves and failing to distribute same to the merchants for whose benefit the funds were held after expiration of the risk period.

72. As a direct and proximate result of SIGNATURE and MERRICK's material breach of the SIGNATURE Merchant Agreement, as described above, each of the Plaintiffs and other Class members has been damaged and will continue to incur additional damages, in an amount to be proven at trial. Such damages are clearly ascertainable, both in nature and in origin.

SECOND CLAIM FOR RELIEF

Unjust Enrichment

(By Plaintiffs Against SIGNATURE And MERRICK)

73. Plaintiffs re-allege and hereby incorporate herein by this reference as though set forth in full each of the allegations contained in the preceding paragraphs of this Complaint.

74. This cause of action is brought by Plaintiffs on behalf of all Class members.

75. This claim is brought in the alternative to the Breach of Contract claim (Count 1).

76. SIGNATURE and MERRICK have received and retained a benefit from Plaintiffs and Class members and inequity has resulted.

77. SIGNATURE and MERRICK have benefitted from improperly retaining the funds held back as "reserves" and have failed to pay them over despite the fact that they no longer have any legal right to possess them.

78. Thus, Plaintiffs and members of the Class have conferred a benefit on

SIGNATURE and MERRICK and it is inequitable for SIGNATURE and MERRICK to retain these benefits, which they have done so knowingly.

79. The amount of SIGNATURE and MERRICK's unjust enrichment are clearly ascertainable.

THIRD CLAIM FOR RELIEF

Violation of Penal Code § 496

(By Plaintiffs Against SIGNATURE And MERRICK)

80. Plaintiffs re-allege and hereby incorporate herein by this reference as though set forth in full each of the allegations contained in the preceding paragraphs of this Complaint.

81. This cause of action is brought by Plaintiffs on behalf of all Class members.

82. As set forth above, funds amounting to millions of dollars were knowingly and deliberately stolen from Plaintiffs by SIGNATURE and MERRICK.

83. SIGNATURE and MERRICK received, concealed or withheld the stolen property or aided in receiving, concealing or withholding the stolen property from Plaintiffs with knowledge of its actions.

84. SIGNATURE and MERRICK knew they were required to return the withheld funds at the termination of the risk period and/or termination of services.

85. California Penal Code Section 496, subdivision (c) provides, "Any person who has been injured by a violation of subdivision (a) or (b) may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and reasonable attorney's fees."

86. Separately, the Signature Merchant Agreement contains a provision which provides as follows:

> NEITHER BANK NOR SIGNATURE SHALL BE LIABLE FOR ANY LOST PROFITS, PUNITIVE, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES TO MERCHANT OR TO ANY THIRD PARTY IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE SERVICES TO BE PERFORMED BY BANK OR SIGNATURE PURSUANT TO THIS

AGREEMENT.

Exhibit 2, Signature Merchant Agreement, Paragraph 36.

87. This provision purports to drastically limit SIGNATURE's exposure in the event it elects to breach the Signature Merchant Agreement or, as is the case here, steal Plaintiffs' reserves. While this provision is unconscionable and unenforceable, as will be more fully discussed below, in the unlikely event it is validated by the Court, Plaintiffs would nonetheless be deprived of their own funds, which Defendants have effectively stolen. Defendants then compounded this wrongful conduct by imposing a burdensome and ever-shifting process that purported to govern the release of reserves, continually moving the target of the allegedly required steps so that Plaintiffs could never obtain their rightful money.

88. As discussed above, the limitation of liability and damages provision purports to drastically limit SIGNATURE's exposure in the event it elects to breach the Signature Merchant Agreement or, as is the case here, by stealing reserves. The limitation of liability and damages provisions are unconscionable both procedurally and substantively. The provisions are procedurally unconscionable because the terms are presented on a take it or leave it basis to merchants such as Plaintiffs without affording Plaintiffs (or any other merchant) any opportunity to modify the terms governing the relationship. Moreover, the Signature Merchant Agreement is a lengthy document in small print that is attached as an appendix to the Signature Merchant Application and the limitations provisions are buried deep in the Signature Merchant Agreement.

89. The limitation of liability set forth in the Merchant Agreement is further substantively unconscionable because it provides an incentive for a company that has a practice of stealing funds to engage in the subject conduct with relative impunity.

90. The subject provisions are additionally substantively unconscionable because they purport to insulate SIGNATURE from its violation of a criminal statute, specifically California Penal Code Section 496, which provides:

> (a) Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a county jail for not more than one year, or imprisonment pursuant to subdivision (h) of Section 1170. However, if the value of the property does not exceed nine hundred fifty dollars ($950), the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year, if such person has no prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

Under a recent California Supreme Court decision of *Siry Inv. v. Farkhondehpour* (2022) 13 Cal.5th 333, this statute is specifically applicable to funds converted in a business relationship.

91. Here, SIGNATURE plainly violated Cal. Penal Code section 496 when it without justification withheld Plaintiffs' funds which are payable to Plaintiffs, and subsequently engaged in deliberate efforts to complicate the recovery of these funds by delaying and obfuscating the subject theft. Conduct amounting to theft and expressly prohibited by the California Penal Code is clearly unconscionable. Liability for such conduct cannot be restricted by a limitation of liability or damages provision as a matter of California public policy and cannot be waived.

92. As a result of the foregoing, Plaintiffs have been damaged and are entitled to recover three times the amount of its actual damages in addition to reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and each of the members of the Class, respectfully requests that the Court:

1. Certify this action as a class action, proper and maintainable pursuant to Federal Rule of Civil Procedure 23, appoint Plaintiffs as representatives of the Class,

and designate Plaintiffs' counsel as counsel for the Class;

2. Award Plaintiffs and the Class compensatory damages for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial;

3. Punitive damages and treble damages in an amount to be proven at trial, including treble damages as authorized by California Penal Code § 496(c);

4. Grant injunctive relief prohibiting Defendants from continuing to engage in the wrongful acts and practices alleged herein;

5. Award Plaintiffs and the Class pre- and post-judgment interest at the maximum legal rate;

6. Award costs and attorneys' fees; and

7. Grant all other such relief as it deems just and proper.

Dated: September 17, 2025

ROME LLP

By: */s/ Eugene Rome*

EUGENE ROME
Attorneys for Plaintiffs and the Putative Class

DEMAND FOR A JURY TRIAL

Plaintiffs hereby request a trial by jury on all issues triable by a jury.

DATED: September 17, 2025

ROME LLP
/s/ Eugene Rome
EUGENE ROME
Attorneys for Plaintiffs and the Putative Class