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8 RAZUKI INVESTMENTS, LLC and
9 SALAM RAZUKI

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

12 AVAIL SHIPPING, INC.

13 Plaintiff,

14 vs.

15 RAZUKI INVESTMENTS, LLC, et al.

16 Defendants.

CASE NO. 37-2018-00022710-CU-FR-CTL

**RAZUKI INVESTMENTS, LLC AND
SALAM RAZUKI'S ANSWER TO SAN
DIEGO UNITED HOLDINGS GROUP,
LLC'S VERIFIED CROSS-COMPLAINT**

17 SAN DIEGO UNITED HOLDINGS GROUP,
18 LLC

19 Cross-Complainant

20 vs.

21 RAZUKI INVESTMENTS, LLC, et al.

22 Cross-Defendants

23 COMES NOW Defendants/Cross-Defendants RAZUKI INVESTMENTS, LLC ("RI") and
24 SALAM RAZUKI ("Razuki")(collectively "Cross-Defendants") answering SAN DIEGO UNITED
25 HOLDINGS GROUP, LLC ("SD Untied)'s Cross Complaint (the "Cross-Complaint") on file herein,
26 allege as follows:

27 **I.**
RESPONSE TO SPECIFIC ALLEGATIONS

28 1. Cross-Defendants admit the allegations contained in paragraph 1 of the Cross-

1 Complaint.

2 2. Cross-Defendants admit the allegations contained in paragraph 2 of the Cross-
3 Complaint.

4 3. Cross-Defendants admit the allegations contained in paragraph 3 of the Cross-
5 Complaint.

6 4. Cross-Defendants admit the allegations contained in paragraph 4 of the Cross-
7 Complaint.

8 5. Cross-Defendants admit the allegations contained in paragraph 5 of the Cross-
9 Complaint.

10 6. Cross-Defendants admit the allegations contained in paragraph 6 of the Cross-
11 Complaint.

12 7. Cross-Defendants admit the allegations contained in paragraph 7 of the Cross-
13 Complaint.

14 8. Cross-Defendants do not possess the requisite knowledge to admit or deny the
15 allegations of paragraph 8 and therefore deny said allegations.

16 9. Cross-Defendants admit the allegations contained in paragraph 9 of the Cross-Complaint
17 insofar as Razuki is an agent of RI only. Cross-Defendants deny the remaining allegations contained
18 in said paragraph.

19 10. Cross-Defendants admit the allegations contained in paragraph 10 of the Cross-
20 Complaint.

21 11. Cross-Defendants admit the allegations contained in paragraph 11 of the Cross-
22 Complaint.

23 12. Cross-Defendants do not possess the requisite knowledge to admit or deny the
24 allegations of paragraph 12 and therefore deny said allegations.

25 13. Cross-Defendants do not possess the requisite knowledge to admit or deny the
26 allegations of paragraph 13 and therefore deny said allegations.

27 14. Cross-Defendants do not possess the requisite knowledge to admit or deny the
28

1 allegations of paragraph 8 and therefore deny said allegations.

2 15. Cross-Defendants admit the allegations contained in paragraph 15 of the Cross-
3 Complaint insofar as Cross-Defendants learned the Properties were for sale. Cross-Defendants do not
4 possess the requisite knowledge to admit or deny the remaining allegations of paragraph 15 and
5 therefore deny said allegations.

6 16. Cross-Defendants admit the allegations contained in paragraph 16 of the Cross-
7 Complaint insofar as Cross-Defendants offered to purchase the Properties. Cross-Defendants do not
8 possess the requisite knowledge to admit or deny the remaining allegations of paragraph 16 and
9 therefore deny said allegations.

10 17. Cross-Defendants admit the allegations contained in paragraph 17 of the Cross-
11 Complaint.

12 18. Cross-Defendants admit the allegations contained in paragraph 18 of the Cross-
13 Complaint.

14 19. Cross-Defendants admit the allegations contained in paragraph 19 of the Cross-
15 Complaint.

16 20. Cross-Defendants deny the allegations contained in paragraph 20 of the Cross-
17 Complaint.

18 21. Cross-Defendants deny the allegations contained in paragraph 21 of the Cross-
19 Complaint.

20 22. Cross-Defendants admit the allegations contained in paragraph 22 of the Cross-
21 Complaint.

22 23. Cross-Defendants admit the allegations contained in paragraph 23 of the Cross-
23 Complaint insofar as SD United was listed as the borrower on a said deed of trust. Cross-Defendants
24 deny the remaining allegations contained in said paragraph.

25 24. Cross-Defendants do not possess the requisite knowledge to admit or deny the
26 allegations of paragraph 24 and therefore deny said allegations.

27 25. Cross-Defendants admit the allegations contained in paragraph 25 of the Cross-
28

1 Complaint.

2 26. Cross-Defendants admit the allegations contained in paragraph 26 of the Cross-
3 Complaint.

4 27. Cross-Defendants deny the allegations contained in paragraph 27 of the Cross-
5 Complaint.

6 28. Cross-Defendants do not possess the requisite knowledge to admit or deny the
7 allegations of paragraph 28 and therefore deny said allegations.

8 29. Cross-Defendants deny the allegations contained in paragraph 29 of the Cross-
9 Complaint.

10 30. Cross-Defendants do not possess the requisite knowledge to admit or deny the
11 allegations of paragraph 30 and therefore deny said allegations.

12 31. Paragraph 31 merely realleges previously stated allegations and therefore does not
13 require Cross-Defendants to respond.

14 32. Cross-Defendants do not possess the requisite knowledge to admit or deny the
15 allegations of paragraph 32 and therefore deny said allegations.

16 33. Cross-Defendants do not possess the requisite knowledge to admit or deny the
17 allegations of paragraph 33 and therefore deny said allegations.

18 34. Paragraph 34 of the Cross-Complaint only contains legal arguments/conclusions and
19 does not require Cross-Defendants to respond.

20 35. Paragraph 35 of the Cross-Complaint only contains legal arguments/conclusions and
21 does not require Cross-Defendants to respond.

22 36. Paragraph 36 of the Cross-Complaint only contains legal arguments/conclusions and
23 does not require Cross-Defendants to respond.

24 37. Paragraph 37 merely realleges previously stated allegations and therefore does not
25 require Cross-Defendants to respond.

26 38. Paragraph 38 of the Cross-Complaint only contains legal arguments/conclusions and
27 does not require Cross-Defendants to respond.

28

1 39. Paragraph 39 of the Cross-Complaint only contains legal arguments/conclusions and
2 does not require Cross-Defendants to respond.

3 40. Paragraph 40 of the Cross-Complaint only contains legal arguments/conclusions and
4 does not require Cross-Defendants to respond.

5 41. Paragraph 41 of the Cross-Complaint only contains legal arguments/conclusions and
6 does not require Cross-Defendants to respond.

7 42. Paragraph 42 of the Cross-Complaint only contains legal arguments/conclusions and
8 does not require Cross-Defendants to respond.

9 43. Paragraph 43 of the Cross-Complaint only contains legal arguments/conclusions and
10 does not require Cross-Defendants to respond.

11 44. Paragraph 44 of the Cross-Complaint only contains legal arguments/conclusions and
12 does not require Cross-Defendants to respond.

13 45. Paragraph 45 of the Cross-Complaint only contains legal arguments/conclusions and
14 does not require Cross-Defendants to respond.

15 46. Paragraph 46 of the Cross-Complaint only contains legal arguments/conclusions and
16 does not require Cross-Defendants to respond.

17
18 **II.**
SEPARATE AFFIRMATIVE DEFENSES

19 **First Affirmative Defense**

20 **(Failure to State a Cause of Action)**

21 Cross-Defendants are informed and believe and thereon allege that the Cross-Complaint and
22 each purported cause of action therein fails to state facts sufficient to constitute a cause of action against
23 Defendants.

24 **Second Affirmative Defense**

25 **(Statute of Limitations)**

26 Cross-Defendants are informed and believe and thereon allege that each cause of action set forth
27 in the Cross-Complaint is barred by the applicable statute of limitations.
28

1 **Third Affirmative Defense**

2 **(Voluntary Assumption of Risk)**

3 Cross-Defendants are informed and believe and thereon allege that at the time and place of the
4 incident described in the Cross-Complaint, Cross-Complainant voluntarily assumed the risk of the
5 activities alleged in the Cross-Complaint on file herein, under the circumstances and conditions then
6 and there existing, and the resultant damages, if any, sustained by Cross-Complainant was proximately
7 contributed to and caused by Cross-Complainant's own voluntary assumption of the risk.

8 **Fourth Affirmative Defense**

9 **(Cross-Complainant Bound by Releases)**

10 Cross-Defendants are informed and believe and thereon allege that there were in existence at the
11 time and place of the incident releases and other matters of contract by which the Cross-Complainant is
12 bound herein, and which preclude Cross-Complainant's recovery of damages.

13 **Fifth Affirmative Defense**

14 **(Cross-Complainant Fully or Partially Compensated)**

15 Cross-Defendants are informed and believe and thereon allege that Cross-Complainant has been
16 fully or partially compensated for its damages, if any, arising out of the allegations of the Cross-
17 Complaint on file herein, has waived its right to further discovery, and its recovery is barred or
18 diminished by that amount.

19 **Sixth Affirmative Defense**

20 **(Unclean Hands)**

21 Cross-Defendants are informed and believe and thereon allege that Cross-Complainant comes
22 to this court with unclean hands and for that reason is barred from equitable relief.

23 **Seventh Affirmative Defense**

24 **(Waiver)**

25 Cross-Defendants are informed and believe and thereon allege that any recovery herein based
26 upon the purported causes of action contained in the Cross-Complaint was, at all times material herein,
27 and now remains barred by waiver.

1 **Eighth Affirmative Defense**

2 **(Failure and Refusal to Mitigate Damages)**

3 Cross-Defendants are informed and believe and thereon allege that Cross-Complainant failed
4 and refused to reasonably mitigate its damages, if any, thus barring or proportionally diminishing Cross-
5 Complainant's recovery, if any.

6 **Ninth Affirmative Defense**

7 **(Apportionment)**

8 Cross-Defendants allege that if, at the time of trial, the court or jury determines that there was
9 some degree of responsibility on the part of Cross-Defendants, and that Cross-Defendants' conduct was
10 a proximate cause of Cross-Complainant's alleged damages, Cross-Defendants are informed and
11 believe and thereon allege and contend that such injuries and damages, if any, were proximately caused
12 by the concurrent negligence of Cross-Complainant and/or other as yet unknown persons or entities,
13 and that Cross-Defendants' liability, if any, is limited to the extent of these Cross-Defendants'
14 proportionate responsibility.

15 **Tenth Affirmative Defense**

16 **(Contribution)**

17 Cross-Defendants are informed and believe and thereon allege that, if Cross-Complainant
18 recovers a judgment against Defendants, that the negligence, strict liability and/or acts or omissions of
19 Cross-Defendants and each of them exceeded that of Cross-Defendants who is therefore entitled to
20 contribution from, and to an apportionment of the liability of, defendants. Cross-Defendants further
21 allege that the negligence, strict liability and/or acts or omissions of defendants, and each of them,
22 contributed in an undetermined percentage to the loss, injury, or damage allegedly sustained by Cross-
23 Complainant. Cross-Defendants further contend that it is entitled to contribution from and to an
24 apportionment of the liability of Cross-Defendants herein, and each of them, to the extent that the
25 negligence and strict liability of Cross-Defendants proximately caused and contributed to the loss or
26 injury allegedly sustained by Cross-Complainant.

27 **Eleventh Affirmative Defense**

1 (Offset)

2 Cross-Defendants are informed and believe and thereon allege that any recovery to which Cross-
3 Complainant may otherwise be entitled is subject to a complete or, at minimum, partial offset.

4 **Twelfth Affirmative Defense**

5 (Denial of Breach)

6 Cross-Defendants deny that it has breached any contract or warranty to the Cross-Complainant
7 giving rise to the damages alleged herein, and Cross-Defendants further allege that any damages
8 incurred herein by Cross-Complainant are solely and totally due to the acts or omissions of Cross-
9 Complainant and/or Cross-Complainant's employees, agents, or customers, for which Cross-
10 Defendants have no responsibility.

11 **Thirteenth Affirmative Defense**

12 (Estoppel)

13 Cross-Defendants are informed and believe and thereon allege that any recovery herein based
14 upon the purported causes of action contained in the Cross-Complaint was, at all times material herein,
15 and now remains barred under principles of estoppel.

16 **Fourteenth Affirmative Defense**

17 (Estoppel *in pais*)

18 Cross-Defendants are informed and believe and thereon allege that any recovery herein based
19 upon the purported causes of action contained in the Cross-Complaint was, at all times material, and
20 now remains barred under principles of estoppel *in pais*.

21 **Fifteenth Affirmative Defense**

22 (Res Judicata)

23 Cross-Defendants are informed and believe and thereon allege that any recovery herein based
24 upon the purported causes of action contained in the Cross-Complaint was, at all times material herein,
25 and now remains barred under the doctrine of res judicata.

26 **Sixteenth Affirmative Defense**

27 (Collateral Estoppel)

1 Cross-Defendants are informed and believe and thereon allege that any recovery herein based
2 upon the purported causes of action contained in the Cross-Complaint was, at all times material herein,
3 and now remains barred under principles of collateral estoppel and/or claim preclusion and/or issue
4 preclusion.

5
6 **Seventeenth Affirmative Defense**

7 **(Uncertainty and/or Statute of Frauds)**

8 Cross-Defendants are informed and believe and thereon allege that Cross-Complainant's
9 pleadings are ambiguous and uncertain, and the alleged contract sued upon is too indefinite and
10 uncertain to be enforceable, or is unenforceable under the Statute of Frauds.

11 **Eighteenth Affirmative Defense**

12 **(Reasonable Reliance)**

13 Cross-Defendants are informed and believe and thereon allege that any contract between Cross-
14 Complainant and Cross-Defendants was, at all times herein material, and remains now unenforceable
15 and subject to rescission by reason of Cross-Complainant's non-reliance or unreasonable reliance upon
16 any representations or contract of other named defendant or Defendants, or any of them.

17 **Nineteenth Affirmative Defense**

18 **(Willful Misconduct)**

19 Cross-Defendants are informed and believe and thereon allege that Cross-Complainant was
20 guilty of willful misconduct, and wanton and reckless behavior in and about the matters and events set
21 forth in said Cross-Complaint, and that said willful misconduct and wanton and reckless behavior
22 proximately contributed to the injuries and/or damages alleged, if any there were.

23 **Twentieth Affirmative Defense**

24 **(Consent)**

25 Cross-Defendants are informed and believe and thereon allege that prior to the time when Cross-
26 Defendants are alleged to have committed the acts complained of, Cross-Complainant invited, gave
27 permission to, and consent to the acts alleged in the Cross-Complaint. Each of the acts alleged in the
28 Cross-Complaint, which acts are expressly denied by Defendants, was done within the scope of this

1 consent and permission.

2 **Twenty-first Affirmative Defense**

3 **(Comparative Fault of Cross-Complainant)**

4 Cross-Defendants are informed and believe and thereon allege that at all times mentioned in the
5 Cross-Complaint, Cross-Complainant's conduct and actions were careless, reckless, and negligent as to
6 cause and contribute in some degree to the alleged incident and to the damages and injuries, if any,
7 alleged to have been sustained by said Cross-Complainant and therefore completely bars any recovery;
8 or, in the alternative, it reduces the right of recovery by that amount which said negligence contributed
9 to this incident as set forth under the doctrine of comparative negligence.

10 **Twenty-second Affirmative Defense**

11 **(Ratification)**

12 Cross-Complainant is barred from asserting each and all of its causes of action by reason of its
13 ratification of the conduct of the answering Defendant.

14 **Twenty-third Affirmative Defense**

15 **(Privilege/Justification)**

16 Cross-Defendants are informed and believe and thereon allege to the extent that the Cross-
17 Complaint or any cause of action alleged therein is based on a purported agreement, any recovery
18 thereon is barred in whole or in part on the ground that every action undertaken with respect to Cross-
19 Complainant was privileged and/or justified.

20 **Twenty-fourth Affirmative Defense**

21 **(Reserved Defenses)**

22 Defendant reserves the right to assert additional affirmative defenses if discovery of facts and/or
23 additional legal research reveal the need for same.

III.
PRAYER OF RELIEF

WHEREFORE, Defendants prays that:

1. Plaintiff take nothing by the Complaint;
2. Defendants be awarded costs of suit incurred herein; and
3. The Court grant any additional relief that the Court finds to be just and proper.

DATED: September 10, 2018

/s/ Douglas Jaffe, Esq.

Douglas Jaffe, Esq.

Attorney for Defendants/Cross-Defendants
RAZUKI INVESTMENTS, LLC and SALAM
RAZUKI

VERIFICATION OF ANSWER

Case Name: *Avail Shipping, Inc. v. Razuki Investments, LLC, et al.*

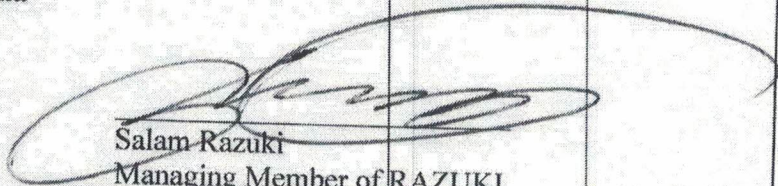
Case No.: 37-2018-00022710-CU-FR-CTL

I, Salam Razuki, declare:

I am the managing member of RAZUKI INVESTMENTS, LLC, one of the Defendants/Cross-Defendants in the above-entitled matter. I am authorized to make this verification on behalf of the RAZUKI INVESTMENTS, LLC.

I have read the foregoing RAZUKI INVESTMENTS, LLC AND SALAM RAZUKI'S ANSWER TO SAN DIEGO UNITED HOLDINGS GROUP, LLC'S VERIFIED CROSS-COMPLAINT and know of the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 10, 2018 at San Diego, California



Salam Razuki
Managing Member of RAZUKI
INVESTMENTS, LLC

VERIFICATION OF ANSWER

Case Name: *Avail Shipping, Inc. v. Razuki Investments, LLC, et al.*

Case No.: 37-2018-00022710-CU-FR-CTL

I, Salam Razuki, declare:

I have read the foregoing RAZUKI INVESTMENTS, LLC AND SALAM RAZUKI'S ANSWER TO SAN DIEGO UNITED HOLDINGS GROUP, LLC'S VERIFIED CROSS-COMPLAINT and know of the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 10, 2018 at San Diego, California



Salam Razuki