

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

----- X  
CREDIT SUISSE, CAYMAN ISLANDS BRANCH, as :  
Administrative and Collateral Agent, :

Plaintiff, :

- against - :

GINN-WEST END GP, LLC; LUBERT-ADLER REAL :  
ESTATE FUND IV, L.P.; LUBERT-ADLER REAL :  
ESTATE PARALLEL FUND IV, L.P.; LUBERT-ADLER :  
CAPITAL REAL ESTATE FUND IV, L.P.; ERG :  
ENTERPRISES, LP; GINN-LA CS BORROWER, LLC; :  
GINN-LA CONDUIT LENDER, INC.; GINN-LA CS :  
HOLDING COMPANY, LLC; GINN-LA WEST END :  
LTD., LLLP; GINN-LA WEST END, LIMITED; :  
LUBERT-ADLER REAL ESTATE FUND III, L.P.; :  
LUBERT-ADLER REAL ESTATE PARALLEL FUND :  
III, L.P.; LUBERT-ADLER CAPITAL REAL ESTATE :  
FUND III, L.P.; WILMINGTON TRUST FSB; "JOHN :  
DOES # 1-100," the names of the JOHN DOE being :  
fictitious and unknown to Plaintiff, Plaintiff intending to :  
designate thereby persons or parties having or claiming to :  
have an interest the described equity interest, :

Defendants. :

Index No.

09601622

SUMMONS

**FILED**  
**MAY 22 2009**  
**NEW YORK**  
**COUNTY CLERK'S OFFICE**

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TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Verified Complaint in the  
above-entitled action and to serve a copy of your Verified Answer on the plaintiff's attorney  
within twenty (20) days after the service of this Summons, exclusive of the day of service, or  
within thirty (30) days after the completion of service where service is made in any other manner

than by personal delivery within the State. In case of failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

New York County is designated as the place of trial. The basis of venue is a contractual provision fixing venue pursuant to CPLR 501.

Dated: New York, New York  
May 22, 2009



Christopher P. Malloy  
Donald D. Lewis  
SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP  
Four Times Square  
New York, New York 10036  
Telephone: (212) 735-3000  
Facsimile: (212) 735-2000

Attorneys for Plaintiff Credit Suisse  
Cayman Islands Branch, as Administrative  
and Collateral Agent

TO:

Ginn-West End GP, LLC  
c/o Ginn Development Company, LLC  
1 Hammock Beach Parkway  
Palm Coast, Florida 32127  
Attention: Bobby Masters

Lubert-Adler Real Estate Fund IV, L.P.  
c/o Lubert-Adler Partners, L.P.  
The CIRA Centre  
2929 Arch Street  
Philadelphia, Pennsylvania 19104-2868  
Attention: R. Eric Emrich, CFO

Lubert-Adler Real Estate Parallel Fund IV, L.P.  
c/o Lubert-Adler Partners, L.P.  
The CIRA Centre  
2929 Arch Street  
Philadelphia, Pennsylvania 19104-2868  
Attention: R. Eric Emrich, CFO

Lubert-Adler Capital Real Estate Fund IV, L.P.  
c/o Lubert-Adler Partners, L.P.  
The CIRA Centre  
2929 Arch Street  
Philadelphia, Pennsylvania 19104-2868  
Attention: R. Eric Emrich, CFO

ERG Enterprises, LP  
c/o Ginn Development Company, LLC  
1 Hammock Beach Parkway  
Palm Coast, Florida 32127  
Attention: Bobby Masters

Ginn-LA CS Borrower, LLC  
c/o Ginn Development Company, LLC  
1 Hammock Beach Parkway  
Palm Coast, Florida 32127  
Attention: Bobby Masters

Ginn-LA Conduit Lender, Inc.  
c/o Ginn Development Company, LLC  
1 Hammock Beach Parkway  
Palm Coast, Florida 32127  
Attention: Bobby Masters

Ginn-LA CS Holding Company, LLC  
c/o Ginn Development Company, LLC  
1 Hammock Beach Parkway  
Palm Coast, Florida 32127  
Attention: Bobby Masters

Ginn-LA West End Ltd., LLLP  
c/o Ginn Development Company, LLC  
1 Hammock Beach Parkway  
Palm Coast, Florida 32127  
Attention: Bobby Masters

Ginn-LA West End, Limited  
c/o Ginn Development Company, LLC  
1 Hammock Beach Parkway  
Palm Coast, Florida 32127  
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The CIRA Centre  
2929 Arch Street  
Philadelphia, Pennsylvania 19104-2868  
Attention: R. Eric Emrich, CFO

Wilmington Trust FSB  
50 South Sixth Street  
Suite 1290  
Minneapolis, Minnesota 55402  
Attention: Jeffery Rose

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CAPITAL REAL ESTATE FUND IV, L.P.; ERG :  
ENTERPRISES, LP; GINN-LA CS BORROWER, LLC; :  
GINN-LA CONDUIT LENDER, INC.; GINN-LA CS :  
HOLDING COMPANY, LLC; GINN-LA WEST END :  
LTD., LLLP; GINN-LA WEST END, LIMITED; :  
LUBERT-ADLER REAL ESTATE FUND III, L.P.; :  
LUBERT-ADLER REAL ESTATE PARALLEL FUND :  
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designate thereby persons or parties having or claiming to :  
have an interest the described equity interest, :

Defendants. :

: Index No.

: VERIFIED COMPLAINT

----- X

Plaintiff Credit Suisse, Cayman Islands Branch (“Agent”), as Administrative and Collateral Agent for the Lenders (as defined below), as and for its complaint against the above-captioned Defendants, respectfully alleges as follows on knowledge as to itself and its own acts and on information and belief as to all other matters except as indicated otherwise.

09601622

### INTRODUCTION

1. This action relates to certain secured debt obligations totaling \$525 million (the “Loans”) incurred in June 2006 by Ginn-LA CS Borrower, LLC, and Ginn-LA Conduit Lender, Inc. (collectively, the “Borrowers”), in connection with the development of certain real estate projects.

2. The projects originally consisted of five residential resort development properties, four located domestically and one in West End, Grand Bahamas. The Loans were secured by certain real and personal property collateral in each of the five properties.

3. The collateral pledged in connection with the property located in West End, Grand Bahamas is the subject matter of this action.

4. As security for the Loans, certain affiliates of the Borrowers pledged to the Agent, as Collateral Agent on behalf of the Lenders,<sup>1</sup> their ownership interests (the “West End Entity Interests”) in Ginn-LA West End Ltd., LLLP, a limited liability limited partnership organized under the laws of Georgia, and its general partner, Ginn-West End GP, LLC, a limited liability company organized under the laws of Georgia (collectively, the “West End Entity”), which indirectly owns the property located in West End, Grand Bahamas.

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<sup>1</sup> The “Lenders” refers to a group of banks, financial institutions and other entities as defined in the Credit Agreement (defined in Paragraph 10 below).

5. The pledgors are Defendants Lubert-Adler Real Estate Fund IV, L.P., Lubert-Adler Real Estate Parallel Fund IV, L.P., Lubert-Adler Capital Real Estate Fund IV, L.P., Ginn-West End GP, LLC, and ERG Enterprises, LP (collectively, the "West End Pledgors").

6. On June 30, 2008, the Borrowers defaulted on the Loans by, among other items, failing to make required payments of interest, principal, and other amounts due under the Loans. Such payments of interest, principal, and other amounts due under the Loans, together with default interest accrued thereon, remain owing and unpaid.

7. The Borrowers, the West End Pledgors, certain other affiliates and equityholders of the Borrowers (collectively, the "Ginn/LA Parties"), the Agent, and certain of the Lenders (the "Loan Parties," and, together with the Ginn/LA Parties, the "Restructuring Parties") entered into a comprehensive Master Restructuring Agreement on December 19, 2008 agreeing to certain rights and obligations of the Restructuring Parties in connection with a work out of the Loans (the "Restructuring Agreement").

8. Pursuant to the Restructuring Agreement, the West End Pledgors agreed that the Loans were in default, that the Lenders were entitled to foreclose on the West End Entity Interests, and that the West End Pledgors have no defense to such foreclosure.

9. The Agent brings this action to foreclose upon the West End Entity Interests.

## FACTUAL BACKGROUND

10. Plaintiff Credit Suisse, Cayman Islands Branch is Administrative and Collateral Agent for the Lenders under a \$525,000,000 First Lien Credit Agreement dated June 8, 2006, with Ginn-LA Conduit Lender, Inc., and Ginn-LA CS Borrower, LLC (as amended from time to time thereafter, the "Credit Agreement").

11. The Credit Agreement was entered into in order to finance the development of certain real estate projects of the Borrowers.

12. The projects consisted of five residential resort developments, including Ginn Sur Mer, a private resort community located in West End, Grand Bahamas Island (the "West End Property").

13. To secure the Loans and the obligations of the Borrowers under the Credit Agreement, the Agent entered into a Pledge Agreement and Limited Recourse Guaranty (First Lien) dated June 8, 2006 (the "Pledge Agreement") with Lubert-Adler Real Estate Fund IV, L.P., Lubert-Adler Real Estate Parallel Fund IV, L.P., and Lubert-Adler Capital Real Estate Fund IV, L.P. (collectively, the "Lubert-Adler Pledgors"), ERG Enterprises, LP ("ERG"), and Ginn-West End GP, LLC ("West End GP") (the Lubert-Adler Pledgors, ERG, and West End GP are, collectively, the "West End Pledgors").

14. Pursuant to the Pledge Agreement, (i) the Lubert-Adler Pledgors and West End GP pledged to the Agent their ownership interest in Ginn-LA West End Ltd., LLLP, a limited liability limited partnership organized under the laws of Georgia ("West End LLLP"), and (ii) ERG pledged to the Agent its ownership interest in West End GP (the foregoing pledged interests, collectively, the "West End Entity Interests").



15. The Pledge Agreement provides:

To further secure Borrower's obligations and liabilities under the Loan Documents and Pledgor's obligations under this Pledge Agreement, including Pledgor's obligations to make all payments and render all performance required by this Pledge Agreement, Pledgor does hereby pledge, assign and hypothecate to Agent and grant to Agent a continuing security interest in, to and under the Entity Interest.

(The "Entity Interest" in the Pledge Agreement is referred to in this Complaint as the "West End Entity Interests," a full description of which is attached hereto as Schedule A.)

16. The West End Pledgors made the following representations and warranties in the Pledge Agreement as to their ownership of the West End Entity Interests and the validity and priority of the Agent's security interest in the West End Entity Interests:

Pledgor owns the Entity Interest, free and clear of all liens, security interests and encumbrances thereon or adverse claims of title or any other interest whatsoever therein, subject to the provisions of the Entity Agreement. This Agreement, the Security Interest, and any exercise of Agent's rights under this Agreement fully comply with all requirements in the Entity Agreement. Other than this Pledge Agreement, no financing statement, mortgage, deed of trust, security agreement, or other security instrument or filing gives notice of any pledge of the Entity Interest or any portion thereof or any proceeds thereof, whether or not on file in any public office, except in favor of Agent. The Security Interest is valid and constitutes a first and prior perfected security interest in the Entity Interest.

17. The Borrowers subsequently were unable to make required payments of interest and principal due under the Loans, and acknowledged that certain Events of Default (as defined therein) had occurred under the Credit Agreement. Section 5.18 of the Pledge Agreement provides that an Event of Default (as defined in the Pledge Agreement) occurs thereunder when an Event of Default occurs under, among other loan documents, the Credit Agreement.

18. On December 19, 2008, the Restructuring Parties entered into the Restructuring Agreement, whereby the Restructuring Parties agreed to certain rights and obligations in connection with a workout of the Loans. On December 23, 2008, certain affiliates

of the Borrowers (the "Chapter 7 Debtors") filed for bankruptcy in the U.S. Bankruptcy Court for the Southern District of Florida under Chapter 7 of the U.S. Bankruptcy Code, in cases styled *In re Ginn-LA St. Lucie Ltd., LLLP, et al.*, Case No. 08-29769-BKC-EPK, Chapter 7, Jointly Administered (collectively, the "Chapter 7 Cases"). In connection with the Chapter 7 Cases, the Agent has received \$14,942,645.74 from the liquidation of the assets of the Chapter 7 Debtors and filed proofs of claim in order to comply with the bar date for claims ordered in such cases.

19. Pursuant to the Restructuring Agreement, the West End Pledgors agreed that the Loans were in default, that the Lenders were entitled to foreclose on the West End Entity Interests, and that the West End Pledgors have no defense to such foreclosure.

#### **JURISDICTION AND VENUE**

20. The Pledge Agreement provides that any disputes thereunder shall be governed by the laws of New York and that the parties thereto submit to the personal jurisdiction of courts of this State.

21. Jurisdiction and venue are proper in this Court.

#### **THE PLAINTIFF**

22. Plaintiff Credit Suisse, Cayman Islands Branch serves as the Administrative and Collateral Agent for the Lenders under the Credit Agreement.

23. The Credit Agreement includes the following provision authorizing the Agent to act on behalf of the Lenders with respect to the Loans:

**Section 8.1A Appointment Authority.** Each of the Lenders hereby irrevocably appoints Credit Suisse as the Administrative Agent and the Collateral Agent hereunder and under the other Loan Documents and authorizes Credit Suisse, in such capacities, to take such actions on its behalf and to exercise such powers as are delegated to Credit Suisse, in such capacities by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Each Agent agrees to act upon the express conditions contained in this Agreement and the other Loan Documents [including the Pledge Agreement], as applicable. In performing its functions and duties under this Agreement, each Agent shall act

solely as an agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for the Borrower or any of its Subsidiaries. The provisions of this Section 8 are solely for the benefit of the Agents, the Lenders and the Borrower shall not have rights as third party beneficiaries of any of such provisions.

24. The Pledge Agreement includes the following provision authorizing the Agent to exercise any remedies on behalf of the Lenders upon an Event of Default:

Section 5.2 Agent's Remedies. Upon and during the continuance of an Event of Default, Lender shall have the following rights and remedies, which shall be cumulative and shall not limit any other rights or remedies available to Agent under this Pledge Agreement or under any other Loan Document.....

Section 5.2.8 Other Actions. Agent may, at Pledgor's sole cost and expense, take any and all additional steps as Agent may, in its sole and absolute discretion, determine to (i) protect its rights in the Entity Interest; (ii) aid in the execution of any power herein granted or (iii) enforce any and all other legal or equitable remedies.

Section 5.2.10 Other. Agent may exercise any other rights and remedies available pursuant to applicable law.

## **THE DEFENDANTS**

### **The West End Pledgors**

25. Defendant Ginn-West End GP, LLC, is a limited liability company having organized under the laws of the State of Georgia and pledged its ownership in the West End Entity pursuant to the Pledge Agreement.

26. Defendant Lubert-Adler Real Estate Fund IV, L.P., is a limited partnership having organized under the laws of the State of Delaware and pledged its ownership interest in the West End Entity pursuant to the Pledge Agreement.

27. Defendant Lubert-Adler Real Estate Parallel Fund IV, L.P., is a limited partnership having organized under the laws of the State of Delaware and pledged its ownership interest in the West End Entity pursuant to the Pledge Agreement.

28. Defendant Lubert-Adler Capital Real Estate Fund IV, L.P., is a limited partnership having organized under the laws of the State of Delaware and pledged its ownership interest in the West End Entity pursuant to the Pledge Agreement.

29. Defendant ERG Enterprises, LP, is a limited partnership having organized under the laws of the State of Georgia and pledged its ownership interest in the West End Entity pursuant to the Pledge Agreement.

#### **The Borrowers**

30. Defendant Ginn-LA CS Borrower, LLC, is a limited liability company having organized under the laws of the State of Delaware.

31. Defendant Ginn-LA Conduit Lender, Inc., is a corporation having organized under the laws of the State of Delaware.

32. Each of the Borrowers granted to Agent a first-lien security interest in all personal property held by such Borrower pursuant to a Security Agreement (First Lien), dated as of June 8, 2006.

#### **The Limited Recourse Borrowers**

33. Defendant Ginn-LA CS Holding Company, LLC, is a limited liability company having organized under the laws of the State of Delaware.

34. Defendant Ginn-LA West End Ltd., LLLP, is a limited liability limited partnership having organized under the laws of the State of Georgia.

35. Defendant Ginn-LA West End, Limited, is an International Business Company having organized under the laws of the Bahamas.

36. Defendant Lubert-Adler Real Estate Fund III, L.P., is a limited partnership having organized under the laws of the State of Delaware.

37. Defendant Lubert-Adler Real Estate Parallel Fund III, L.P., is a limited partnership having organized under the laws of the State of Delaware.

38. Defendant Lubert-Adler Capital Real Estate Fund III, L.P. (together with Defendants Lubert-Adler Real Estate Fund III, L.P., and Lubert-Adler Real Estate Parallel Fund III, L.P., "Lubert-Adler Fund III"; Lubert-Adler Fund III, together with Defendants Ginn-LA CS Holding Company, LLC, Ginn-LA West End Ltd., LLLP, Ginn-LA West End, Limited and the West End Pledgors, collectively, the "Limited Recourse Borrowers"), is a limited partnership having organized under the laws of the State of Delaware.

39. The interests pledged by each of the Limited Recourse Borrowers are set forth in Schedule B hereto.

**Wilmington Trust FSB**

40. Defendant Wilmington Trust FSB ("Wilmington" or "Second Lien Agent") is a federally chartered savings bank. Wilmington, pursuant to a Successor Agent Agreement dated July 14, 2008, succeeded Plaintiff Credit Suisse, Cayman Islands Branch, as Administrative Agent and Collateral Agent under a \$150,000,000 Second Lien Credit Agreement dated June 8, 2006, with Ginn-LA Conduit Lender, Inc., and Ginn-LA CS Borrower, LLC (as amended from time to time thereafter, the "Second Lien Credit Agreement"). The obligations under the Second Lien Credit Agreement are secured by a Pledge Agreement and Limited Recourse Guaranty (Second Lien) dated June 8, 2006, pursuant to which the West End Pledgors pledged to the Second Lien Agent a second lien security interest in the West End Entity Interests.

**FIRST CAUSE OF ACTION**  
**(To Foreclose the West End Entity Interests)**

41. The Agent repeats and realleges the preceding paragraphs as if fully set forth herein.

42. The Pledge Agreement includes the following provisions providing the Agent with broad authority to seek remedies on behalf of the Lenders where an Event of Default has occurred:

Section 5.2 Agent's Remedies. Upon and during the continuance of an Event of Default, Lender shall have the following rights and remedies, which shall be cumulative and shall not limit any other rights or remedies available to Agent under this Pledge Agreement or under any other Loan Document.

Section 5.2.8 Other Actions. Agent may, at Pledgor's sole cost and expense, take any and all additional steps as Agent may, in its sole and absolute discretion, determine to (i) protect its rights in the Entity Interest; (ii) aid in the execution of any power herein granted or (iii) enforce any and all other legal or equitable remedies.

Section 5.2.10 Other. Agent may exercise any other rights and remedies available pursuant to applicable law.

43. The West End Entity Interests were pledged to secure the indebtedness incurred by the Borrowers in connection with the Loans (the "Indebtedness"). The Pledge Agreement provides in part:

A. On the Effective Date, the Lenders have made a loan (the "Loan") to Ginn-LA CS Borrower, LLC, a Delaware limited liability company and Ginn-LA Conduit Lender, Inc., a Delaware corporation (collectively, Borrower) in the aggregate principal amount of Five Hundred Twenty-Five Million Dollars (\$525,000,000).

C. Pledgor owns the Entity Interest (as defined in Exhibit A) in the Entity (as defined in Exhibit A). The Entity was formed pursuant to the Entity Agreement as defined in Exhibit A. Pledgor's Entity Interest includes all right, title and interest and other property of Pledgor as described in such Exhibit A, which also defines some terms used in this Pledge Agreement.

E. As further security for the Loan, and to induce the Lenders to make the Loan, without which the Lenders would not make the Loan or be obligated to make the Loan, Pledgor desires to pledge to Agent, on behalf of each Lender, the Entity Interest and to grant to Agent a security interest in the Entity Interest (the "Security Interest").

**NOW, THEREFORE**, in consideration for, and as an inducement to, the making of the Loan, and for other good and valuable consideration, the mutual receipt and legal sufficiency of which are hereby acknowledged, Pledgor and Agent do hereby agree as follows: To further secure Borrower's obligations and liabilities under the Loan Documents and Pledgor's obligations under this Pledge Agreement, including Pledgor's obligations to make all payments and render all performance required by this Pledge Agreement, Pledgor does hereby pledge, assign and hypothecate to Agent and grant to Agent a continuing security interest in, to and under the Entity Interest.

44. The West End Entity Interests consist primarily of ownership interests in Ginn-LA West End Ltd., LLLP, and associated rights in the property, profits, and distributions of such entity, and are fully defined under the Pledge Agreement (as the "Entity Interest") as follows:

- (i) 100% of the partnership interests in Ginn-LA West End Ltd., LLLP ("West End") and 100% of the membership interests in Ginn-West End GP, LLC ("West End GP") ("West End" and "West End GP", collectively, the "Pledged Entity") including (a) all of Pledgor's right, title and interest as a partner or member, and all of Pledgor's partnership or membership interests, whether now existing or hereafter created or arising, in and with respect to the Pledged Entity and the certain Agreement of Limited Partnership of West End dated August 5, 2005 and the certain Operating Agreement of West End GP dated October 28, 2004 (collectively, "Entity Agreement"), which constitutes a 100% interest in the Pledged Entity;
- (ii) All of Pledgor's rights, title and interest in and to any and all distributions, issues, profits, and shares (including rights in the nature of warrants, purchase options, or options to acquire any property or further interest in the Pledged Entity) payable or distributable by the Pledged Entity, whether in cash or otherwise, whether of capital or income or surplus or otherwise, pursuant to the Entity Agreement or otherwise from the Pledged Entity, including distributions upon liquidation, dissolution, revision, reclassification, split, or other change or transaction affecting the Pledged Entity, or as a result of any sale, refinancing, or other capital transaction affecting any asset(s) or property of the Pledged Entity, or any borrowing by the Entity whether secured or not secured ("Distributions");

- (iii) All of Pledgor's rights with respect to, including Pledgor's right to receive, any Distributions or other payments from the Pledged Entity, regardless of how such payments are characterized, including management fees, disposition fees, administrative fees, reimbursements, development fees, partners' or members' fees, guaranteed payments, fees for services or for guaranteeing indebtedness, and any and all other payments from the Pledged Entity of any kind whatsoever;
- (iv) (a) All of Pledgor's capital account in the Pledged Entity; (b) any right of Pledgor to require the Pledged Entity or any other members or partners of the Pledged Entity, other than Pledgor ("Other Partners"), to purchase Pledgor's interest in the Pledged Entity or any portion thereof, and the proceeds of any such sale by Pledgor; (c) the proceeds of any loan that the Pledged Entity may make to Pledgor or for Pledgor's benefit, and any right of Pledgor to require the Pledged Entity to make any loan to or for the benefit of Pledgor; (d) all rights of Pledgor with respect to any property or asset of the Pledged Entity; (e) all rights of Pledgor to receive the proceeds of any insurance, bond, indemnity, warranty, or guaranty pursuant to the Entity Agreement; (f) any interest or other return (preferred or otherwise) that may be earned or accrued on account of Pledgor's interest in the Pledged Entity;
- (v) All of Pledgor's rights, title, and interest as a creditor of the Pledged Entity, including all notes and other evidence of indebtedness of the Pledged Entity to Pledgor, including to be paid any payments Pledgor may receive or may be entitled to receive from the Pledged Entity on account of the Pledged Entity's indebtedness to Pledgor (whether such payments constitute principal, interest, fees, or any other amounts);
- (vi) All of Pledgor's rights and claims against any Other Partners, with respect to the Pledged Entity or the financing and funding of the Pledged Entity and its activities, including any claims for: (a) reimbursement of sums advanced by Pledgor on account of any Other Partner's failure to perform under the Entity Agreement; (b) any claims for contribution or indemnity against any Other Partner or its principals; and (c) any claims of Pledgor against any Other Partner under the Entity Agreement;
- (vii) (a) All certificates or documents representing any Distribution; (b) all of Pledgor's rights under the Entity Agreement; (c) all of Pledgor's rights to vote upon, approve, or consent to (or withhold consent or approval to) any matter pursuant to the Entity Agreement, or otherwise to control, manage, or direct the affairs of the Pledged Entity; (d) all rights of Pledgor to terminate, amend, supplement, modify or waive performance under the Entity Agreement, to perform thereunder, and to compel performance and otherwise to exercise all remedies thereunder; (e) all certificates or documents representing Pledgor's interest and rights with respect to the Pledged Entity;



- (viii) (a) Any and all other rights, claims, property interests, or other interests of any kind that Pledgor may have from time to time with respect to or against the Pledged Entity or any other partner, and any other or greater interest that Pledgor may have from time to time in, to, or with respect to the Entity; (b) and all replacements, additions, modifications, accessions, substitutions, products, and proceeds relating to or arising from any of the foregoing, and all documents, ledger sheets, files, and books and records of Debtor relating thereto.

45. The Borrowers are in default under the Credit Agreement.

46. The Borrowers have failed to pay certain Indebtedness due in connection with the Loans, and such amounts remain due, owing, and unpaid.

47. The Pledge Agreement and the Credit Agreement grant the Agent broad authority to exercise remedies upon Events of Default, including bringing an action such as the present.

48. The Pledge Agreement and the Credit Agreement provide that a failure by the Borrowers to pay the amounts due under the Loans shall constitute an Event of Default, permitting the Agent to exercise remedies for such default.

49. Because the date for certain scheduled payments in connection with the Loans has passed, an Event of Default has occurred and the Agent is entitled to seek remedies, including foreclosure of the West End Entity Interests.

50. Pursuant to the Restructuring Agreement, the West End Pledgors agreed that the Loans were in default, that the Lenders were entitled to foreclose on the West End Entity Interests, and that the West End Pledgors have no defense to such foreclosure.

51. No other action has been brought for recovery of the Indebtedness, or any part thereof, and secured by the Pledge Agreement.

\* \* \* \*

WHEREFORE, Plaintiff demands judgment as follows

A. On the First Cause of Action:

(1) that the West End Pledgors and all others who are parties herein, persons claiming any interest in or relating to the West End Entity Interests through or under them subsequent to the filing of the UCC-1 Financing Statements in the office of the Secretary of State of the State of Delaware and the Clerk of Superior Court, Fulton County, Georgia, with the Filing Numbers 60200607173 (Georgia), 60200607172 (Georgia), 6198436 8 (Delaware), 6198439 2 (Delaware) and 6198584 5 (Delaware), and all parties claiming any interest in the West End Entity Interests, be forever barred and foreclosed of all rights, claims, liens, interests, and equity of redemption in the West End Entity Interests;

(2) that a Judgment of Foreclosure and Sale on the West End Entity Interests be entered and that the West End Entity be sold according to the law;

(3) that the money resulting from the foreclosure sale be brought into Court;

(4) that the amount be adjudged, and that from the money arising from the foreclosure sale, the Agent be paid the amount of the Indebtedness with interest (including, but not limited to, interest at the default rate as provided in the Credit Agreement), to the time of such payment together with the costs and expenses of the sale and any gains or tax liability due upon foreclosure of the West End Entity Interests;

(5) that the Agent have judgment against the Borrowers for any deficiency which may remain after paying the proceeds of the sale;

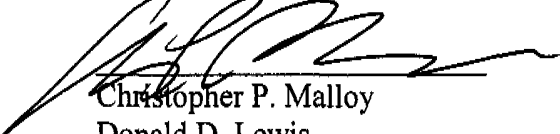
(6) that the Agent have further judgment against the Limited Recourse Borrowers excluding the Lubert-Adler Pledgors and Lubert-Adler Fund III for such deficiency enforceable solely against the collateral pledged and/or mortgaged by the Limited Recourse Borrowers;

(7) that the Agent may have such other and further relief in the West End Entity

Interests as may be just and equitable.

Dated: New York, New York  
May 22, 2009

Respectfully submitted,



Christopher P. Malloy

Donald D. Lewis

SKADDEN, ARPS, SLATE,

MEAGHER & FLOM LLP

Four Times Square

New York, New York 10036

Telephone: (212) 735-3000

Facsimile: (212) 735-2000

Attorneys for Plaintiff Credit Suisse

Cayman Islands Branch, as Administrative  
and Collateral Agent

SCHEDULE A  
ENTITY INTEREST

“Debtor (Pledgor)”: LUBERT-ADLER REAL ESTATE FUND IV, L.P. (“Fund IV”), LUBERT-ADLER REAL ESTATE PARALLEL FUND IV, L.P. (“P IV”), LUBERT-ADLER CAPITAL REAL ESTATE FUND IV, L.P. (“C IV”), ERG ENTERPRISES, LP (“ERG”), and GINN-WEST END GP, LLC, collectively

“Secured Party”: CREDIT SUISSE, CAYMAN ISLANDS BRANCH as Collateral Agent for the Lenders

I. Definitions.

For purposes of the foregoing, the following terms shall have the following meanings:

A. Distributions. The “Distributions” means all of Debtor’s right, title, and interest in and to (including the right to receive, and all rights of Debtor against the Entity or any Other Partner with respect to) any and all distributions, issues, profits, and shares (including rights in the nature of warrants, purchase options, or options to acquire any property or further interest in the Entity) payable or distributable by the Entity, whether in cash or otherwise, whether of capital or income or surplus or otherwise, pursuant to the Entity Agreement or otherwise from the Entity, including distributions upon liquidation, dissolution, revision, reclassification, split-up, or other change or transaction affecting the Entity, or as a result of any sale, refinancing, or other capital transaction affecting any asset(s) or property of the Entity, or any borrowing by the Entity whether or not secured.

B. Entity. The “Entity” means (i) that certain limited liability limited partnership formed, pursuant to its respective LLLP agreement under the limited liability limited partnership law of Georgia, which is known as Ginn-LA West End Ltd., LLLP (“West End”) and (ii) that certain limited liability company formed, pursuant to its respective operating agreement under the limited liability company law of Georgia, which is known as Ginn-West End GP, LLC. (“West End GP”). West End’s Certificate of Limited Partnership was filed with the Secretary of State of the State of Georgia on November 2, 2004. West End GP’s Certificate of Formation was filed with the Secretary of State of Georgia on October 28, 2004.

C. Entity Agreement. The “Entity Agreement” means (i) that certain Agreement of Limited Partnership of West End dated August 5, 2005 and (ii) that Certain Operating Agreement of West End GP dated October 28, 2004 (as may be amended, restated, amended and restated, and modified from time to time in accordance with this Agreement).

D. Entity Interest. The “Entity Interest” means the following, whether in existence on the Effective Date or accrued and arising thereafter:

1. Rights as Partner/Member. All of Debtor’s right, title and interest as a partner or member, and all of Debtor’s partnership or membership interests, whether now existing or hereafter created or arising, in and with respect to the Entity and the Entity Agreement, which Entity Interest of Debtor as of the date hereof constitutes, collectively, a 100% interest in West End, as such interest may be increased or otherwise adjusted from time to time, allocated to each Pledgor as follows: (i) Fund IV owns a 72.9692% interest in West End; (ii) P IV owns a 2.2403% interest in West End; (iii) C IV owns a 4.7905% interest in West End (whereby collectively the Lubert-Adler Pledgors own an 80% interest in West End); and (iv) ERG owns a 100% interest in West End GP, which in turn owns a 20% interest in West End;

2. *Distributions.* All of Debtor's right, title and interest in and to any and all Distributions;

3. *Other Payments and Rights Thereto.* All of Debtor's rights with respect to, including Debtor's right to receive, any Distributions or other payments from the Entity, regardless of how such payments are characterized, including management fees, disposition fees, administrative fees, reimbursements, development fees, partners' or members' fees, guarantied payments, fees for services or for guaranteeing indebtedness, and any and all other payments from the Entity of any kind whatsoever;

4. *Capital Account.* Debtor's capital account in the Entity;

5. *Mandatory Purchase.* Any right of Debtor to require the Entity or any Other Partner to purchase the Entity Interest or any portion thereof, and the proceeds of any such sale of the Entity Interest by Debtor;

6. *Loans.* The proceeds of any loan that the Entity may make to Debtor or for Debtor's benefit, and any right of Debtor to require the Entity to make any loan to or for the benefit of Debtor;

7. *Property.* All rights of Debtor with respect to any property or asset of the Entity;

8. *Third-Party Proceeds.* All rights of Debtor to receive the proceeds of any insurance, bond, indemnity, warranty, or guaranty pursuant to the Entity Agreement;

9. *Return on Entity Interest.* Any interest or other return (preferred or otherwise) that may be earned or accrued on account of Debtor's Entity Interest;

10. *Rights as a Creditor.* All of Debtor's right, title and interest as a creditor of the Entity, including all notes and other evidences of indebtedness of the Entity to Debtor, including to be paid any payments Debtor may receive or be entitled to receive from the Entity on account of the Entity's indebtedness to Debtor (whether such payments constitute principal, interest, fees, or any other amounts);

11. *Rights Against Other Partners.* All of Debtor's rights and claims against any Other Partners with respect to the Entity or the financing and funding of the Entity and its activities, including any claims for: (a) reimbursement of sums advanced by Debtor on account of any Other Partner's failure to perform under the Entity Agreement; (b) any claims for contribution or indemnity against any Other Partner or its principals; and (c) any claims of Debtor against any Other Partner under the Entity Agreement;

12. *Documents.* All certificates or documents representing any Distribution;

13. *Entity Agreement.* All of Debtor's rights under the Entity Agreement;

14. *Management and Control Rights.* All of Debtor's right to vote upon, approve, or consent to (or withhold consent or approval to) any matter pursuant to the Entity Agreement, or otherwise to control, manage, or direct the affairs of the Entity;

15. *Related Rights.* All rights of Debtor to terminate, amend, supplement, modify or waive performance under the Entity Agreement, to perform thereunder, and to compel performance and otherwise to exercise all remedies thereunder;

16. *Documents.* All certificates or documents representing Debtor's interest in and rights with respect to the Entity;

17. *Other.* Any and all other rights, claims, property interests, or other interests of any kind that Debtor may have from time to time with respect to or against the Entity or any other partner, and any other or greater interest that Debtor may have from time to time in, to or with respect to the Entity; and

18. *Replacements, Proceeds, Etc.* All replacements, additions, modifications, accessions, substitutions, products, and Proceeds relating to or arising from any of the foregoing, and all documents, ledger sheets, files, and books and records of Debtor relating thereto.

E. *Other Partners.* The "Other Partners" means all members or partners of the Entity, other than Debtor, if any.

F. *Proceeds.* The "Proceeds" shall include the following, whether in cash or not in cash:

1. *Certain Payments.* Any proceeds, products, rents, revenues, issues, profits, royalties, income, benefits, accessions, additions, substitutions, and replacements of the Entity Interest;

2. *Dispositions.* Whatever is received by Debtor upon the sale, exchange, collection or other disposition of any item of Collateral, whether such proceeds constitute inventory, accounts, accounts receivable, general intangibles, instruments, securities, credits, documents, letters of credit, chattel paper, documents of title, warehouse receipts, leases, deposit accounts, money, contract rights, goods or equipment;

3. *Applications of Proceeds.* Any such items that are now or hereafter acquired by Debtor with any proceeds of any collateral hereunder; and

4. *Insurance.* Any insurance proceeds payable by reason of loss or damage to the Entity Interest, the assets of the Entity, or any proceeds thereof.

## II. Limitation of Liability.

Notwithstanding anything to the contrary in the foregoing, Secured Party shall have no obligations or liability with respect to the Entity Interest unless and until Secured Party has succeeded to ownership thereof. Even then, Secured Party's liability shall: (a) terminate if and when Secured Party has transferred or abandoned such Entity Interest; and (b) under all circumstances be limited to Secured Party's interest in the Entity Interest.

SCHEDULE B  
PLEDGED INTERESTS

Owning Entity	Interest
Ginn-LA CS Holding Company, LLC	owns a 100% interest in Ginn-LA CS Borrower, LLC and pledged such interest to the Agent pursuant to a Pledge Agreement and Limited Recourse Guaranty (First Lien), dated as of June 8, 2006.
Ginn-LA West End Ltd., LLLP	owns a 100% interest in Ginn-LA Conduit Lender, Inc. ("Conduit Lender") and a 100% interest in Ginn-LA International Business Company, Ltd. ("IBC"), and pledged 100% of its interest in Conduit Lender and 65% of its interest in IBC to the Agent pursuant to a Pledge Agreement and Limited Recourse Guaranty (First Lien), dated as of June 8, 2006.
Ginn-LA West End, Limited	owns portions of the West End Property and assigned and conveyed such property to Conduit Lender pursuant to a Supplemental Debenture, dated as of June 9, 2006, which Supplemental Debenture was assigned to the Agent pursuant to a Transfer of Supplemental Debenture, dated as of June 9, 2006 and Omnibus Assignment, dated as of December 24, 2008.
Lubert-Adler Real Estate Fund III, L.P.	owns a 27.56% interest in Ginn-LA CS Holding Company, LLC and pledged such interest to the Agent pursuant to a Pledge Agreement and Limited Recourse Guaranty (First Lien), dated as of June 8, 2006.
Lubert-Adler Real Estate Parallel Fund III, L.P.	owns a 0.59% interest in Ginn-LA CS Holding Company, LLC and pledged such interest to the Agent pursuant to a Pledge Agreement and Limited Recourse Guaranty (First Lien), dated as of June 8, 2006.
Lubert-Adler Capital Real Estate Fund III, L.P.	owns a 3.87% interest in Ginn-LA CS Holding Company, LLC and pledged such interest to the Agent pursuant to a Pledge Agreement and Limited Recourse Guaranty (First Lien), dated as of June 8, 2006.

VERIFICATION

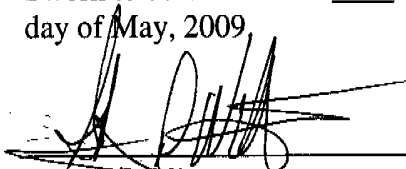
STATE OF NEW YORK    )  
  ): ss.  
COUNTY OF NEW YORK )

Kyle Elliott, being duly sworn, deposes and says:

I am Director of Credit Suisse, Cayman Islands Branch, as Administrative and Collateral Agent, plaintiff in the within action. I have read the foregoing Verified Complaint and know the contents thereof to be true to my own knowledge except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

  
\_\_\_\_\_  
Kyle Elliott

Sworn to before me this 21  
day of May, 2009,

  
\_\_\_\_\_  
Notary Public

SHARON D. WILLIAMS  
Notary Public, State of New York  
No. 01W16203907  
Qualified in New York County  
Commission Expires April 13, 2019



Index No.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

CREDIT SUISSE, CAYMAN ISLANDS BRANCH, as  
Administrative and Collateral Agent,

Plaintiff,

-against-

GINN-WEST END GP, LLC, et al.

Defendant.

SUMMONS AND VERIFIED COMPLAINT

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

ATTORNEYS FOR PLAINTIFF

**FILED**  
**MAY 22 2009**  
NEW YORK  
COUNTY CLERK'S OFFICE

FOUR TIMES SQUARE  
BOROUGH OF MANHATTAN  
CITY OF NEW YORK  
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