

COMMONWEALTH OF MASSACHUSETTS

Suffolk, S.S.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.:

MOHAMAD HAYEK,

Plaintiff,

v.

DOLCE FUMO RESTAURANT GROUP, CORP.

and

JASON SILVESTRI and

KIM FONTAINE,

Defendants.

kg

VERIFIED COMPLAINT

PARTIES

1. Plaintiff, Mohamad Hayek ("Hayek"), is a citizen of the Commonwealth of Massachusetts residing at 218 Bremen Street, East Boston, Massachusetts.

2. Defendant, Dolce Fumo Restaurant Group, Corp. ("Borrower") is a Massachusetts corporation with a principal office at 2 Battery Wharf, Boston, Massachusetts and is currently operating a restaurant located at 73 Salem Street, Boston, Massachusetts.

3. Defendant, Jason Silvestri ("Silvestri") is a citizen of the Commonwealth of Massachusetts residing at 286 Maple Avenue, Rutland, MA. At all times relevant hereto, Silvestri has been the President, Treasurer, Secretary and a director of the Borrower.

4. Defendant, Kim Fontaine ("Fontaine") is a citizen of the Commonwealth of Massachusetts residing at 74 West Street, Attleboro, MA. At all times relevant hereto, Fontaine has been a Vice-President and a director of the Borrower.

COUNT I
(Hayek v. Borrower- Suit on a Note)

5. Hayek repeats and realleges the allegations of paragraphs 1 through 4 as if expressly restated herein.

6. On or about December 2, 2019, the Borrower executed and delivered to Hayek a promissory note (the “Note”), a true and accurate copy of which is attached hereto as Exhibit A.

7. On November 6, 2024, Hayek made demand for repayment of the Note in full, a copy of which is attached hereto as Exhibit B.

8. The Borrower has failed to repay the Note in accordance with its terms and as demanded and has failed to give Hayek assurance that prompt full repayment will be made.

9. In accordance with the agreement of the parties, as set forth in the Note, as of December 13, 2024, the Borrower owes Hayek unpaid principal in the sum of \$360,000.00 accrued interest of \$71,452.79 late charges of \$2087.28 and continuing interest, late fees and costs of collection including legal expenses and court costs.

WHEREFORE, Hayek demands judgment against the Borrower, plus interest, legal fees and court costs of collection.

COUNT II
(Hayek v. Silvestri and Fontaine – Breach of Guaranty)

10. Hayek repeats and realleges the allegations of paragraphs 1 through 9 as if expressly restated herein.

11. At all times relevant hereto, Silvestri and Fontaine have been the guarantors of all of the obligations of the Borrower to Hayek, including repayment of the Note pursuant to the Personal Guaranty executed by Silvestri and Fontaine on or about December 2, 2019 (the

“Guaranty”), a true and accurate copy of which is attached hereto as Exhibit C.

12. On or about November 6, 2024, Hayek made demand upon Silvestri and Fontaine for repayment of the obligation due pursuant to the Note in full accordance with the Guaranty, a copy of which is attached hereto as Exhibit B.

13. Silvestri and Fontaine have failed to repay the obligations due on the Note to Hayek in accordance with the terms of the Note, the Guaranty and as demanded nor have they assured Hayek that prompt full repayment of the Note would be made.

14. The Note and Guaranty allow Hayek to recover sums due pursuant to the Note and Guaranty, including his costs of collections, court costs and legal expenses and fees.

15. In accordance with the agreement of the parties, as set forth in the Note and Guaranty, as of Silvestri and Fontaine owe Hayek unpaid principal in the sum of \$360,000.00 accrued interest of \$71,452.79 late charges of \$2087.28 plus continuing interest, late fees, legal fees, costs of collection and court costs.

WHEREFORE, Hayek demands judgment against Silvestri and Fontaine for sums due on the Guaranty and the Note plus continuing interest, late fees, legal fees, costs of collection and court costs.

WHEREFORE, Hayek demands judgment against the Borrower, Silvestri and Fontaine together, jointly and severally, for sums due on the Note and Guaranty, plus continuing interest, late fees, legal fees, costs of collection and court costs.

VERIFICATION

I, Mohamad Hayek, on oath, do hereby certify that I have read the foregoing, and that it is true to the best of my knowledge, information and belief.



Mohamad Hayek

Mohamad Hayek

Plaintiff, Mohamad Hayek
By his attorney,

Dated: December 2024



Joseph G. Butler, BB#544284
Law Office of Joseph G. Butler
355 Providence Highway
Westwood, MA 02090
Tel: 781-636-3638
jgb@jgbutlerlaw.com

EXHIBIT A

PROMISSORY NOTE

December 2, 2019

\$360,000.00

Boston, Massachusetts

FOR VALUE RECEIVED, Dolce Fumo Restaurant Group Corp., a Massachusetts corporation having a principal place of business at 2 Battery Wharf #2303, Boston, Massachusetts 02109 ("Maker"), hereby unconditionally promises to pay to the order of Mohamad Hayek, (holder of this promissory note, "Lender"), with a mailing address of 218 Bremen Street, East Boston, MA 02128, at Lender's office, or such other place as Lender may from time to time designate, the principal sum of Three Hundred & Sixty Thousand and 00/100 U.S. Dollars (\$360,000.00), together with interest thereon, as hereinafter set forth.

Maker shall pay consecutive monthly installments of principal and interest in an amount calculated in accordance with the terms hereof on the 1st day of May 2020. Maker's monthly payments of principal and interest shall be calculated on a six-year amortization schedule. On the Maturity Date (defined below), Maker shall make a final payment equal to the outstanding principal amount and all accrued interest thereon then outstanding. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before principal. If any monies paid by the holder of this promissory note (this "Note") to cure any default of Maker shall not have been repaid, payments made on account of monies due under this Note may, at the option of the holder of this Note, be applied first to reimburse Lender for such monies paid and the balance, if any, shall be applied on account of interest and then to principal. The maturity date of this Note shall be May 1, 2026 (the "Maturity Date").

The indebtedness evidenced by this Note shall bear interest at an annual rate equal to five percent per annum (the "Interest Rate"). Interest shall be computed and shall accrue based on the daily rate produced assuming a three hundred sixty (360) day year, multiplied by the actual number of days elapsed.

This Note may be prepaid, in whole or in part, at any time, without penalty. The holder of this Note will use any prepayment to reduce the amount of outstanding principal that remains under this Note. However, the holder of this Note may apply any prepayment to any accrued and unpaid interest before applying any such prepayment to reduce the outstanding principal amount of this Note. If Maker makes any partial prepayment, there will be no change in the Maturity Date or in the amount of the monthly payment of principal and interest unless the holder of this Note agrees in writing to any such changes.

If at any time any amount payable by Maker to Lender hereunder shall not be paid for a period of ten days after the due date thereof, Maker shall then pay to Lender, upon written demand, in addition to all other amounts payable, a late charge equal to three percent of the amount so overdue.

1/23/24, 2:

If a default shall occur in the making of any payment provided for in this Note and such default shall continue for 30 days, then the holder hereof may at that time or at any time thereafter, without notice, declare immediately due and payable the entire debt then remaining unpaid.

Failure of the holder hereof to exercise the option for acceleration of maturity following any default, or to exercise any other option granted hereunder, or the acceptance by the holder hereof of partial payment hereunder shall not constitute a waiver of any such default, but such options shall remain continuously in force.

Maker hereby waives presentment for payment, demand, notice of dishonor, diligence in collection, protest, and all other demands and notices (other than notices specifically and expressly provided for herein or in any other document that evidences or secures the indebtedness evidenced by this Note) in connection with the delivery, acceptance, performance, default, or enforcement of this Note or any other security for this Note, and agrees to pay all costs of collection incurred therewith, including reasonable attorneys' fees, and to perform and comply with each of the covenants, conditions, provisions, and agreements of the undersigned contained in every instrument evidencing or securing the indebtedness evidenced by this Note. No extension of the time for the payment of this Note or any installment hereof made by agreement with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change, or affect the liability of Maker.

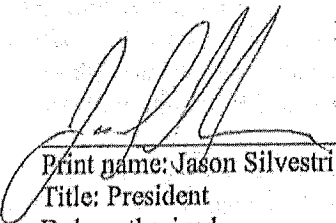
This Note shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts. If any provision of this Note shall be determined to be invalid or unenforceable under law, such determination shall not affect the validity or enforcement of the remaining provisions of this Note. Notwithstanding any provision contained in this Note or in any instrument now or hereafter given as security for this Note or in connection with the loan for which this Note is evidence, the maximum amount of interest and other charges in the nature thereof contracted for or payable shall not exceed the maximum amount which may be lawfully contracted for or payable. If said amount of interest and other charges shall be determined to exceed said maximum amount, the same shall be reduced to said maximum amount.

In witness whereof, Maker has executed and delivered this Note as a sealed instrument effective as of the date first above written.


MAKER:

Dolce Fumo Restaurant Corp

By:


Print name: Jason Silvestri
Title: President
Duly authorized

By:


Print name: Kim Fontaine
Title: Vice President
Duly authorized

WITNESS:


Name:

EXHIBIT B

PERSONAL GUARANTY

For good and valuable consideration, the receipt and adequacy of which are acknowledged, Jason Silvestri and Kim Fontaine, as individuals, jointly, unconditionally guarantee, in accordance with the terms hereof and without any prior written notice, the payment and performance of a promissory note (the "Note") in the amount of Three Hundred and Fifty Thousand Dollars and Zero Cents (\$350,000.00), plus interest, executed simultaneously with this Guaranty of Dolce Fumo Restaurant Corp. with an address at 2 Battery Wharf, 2303, Boston, MA 02109 (the "Borrower") to Mohamad Hayek, with a mailing address of 218 Bremen Street, East Boston, MA 02128 (hereinafter, with any subsequent holder hereof, "Lender"). All references herein to "Borrower" include the Borrower acting alone and/or with another or others. The Note, which is incorporated by reference herein, is provided to secure the obligations of the Borrower as evidenced by the Note.

"Costs of Collection" includes, without limitation, all attorneys' fees and expenses incurred by the Lender's attorneys, and all costs incurred by the Lender in the administration of the Liabilities, this Guaranty, and all other instruments and agreements executed in connections with or relating to the Liabilities including, without limitation, costs and expenses associated with travel on behalf of the Lender. "Costs of Collection" also includes, without limitation, all the Lender's attorneys' fees and expenses and all other out-of-pocket expenses of the Lender including, without limitation, costs and expenses associated with travel by or on behalf of the Lender, all of which costs and expenses are directly or indirectly related to or in respect of the Lender's efforts to preserve, protect, collect, or enforce the Liabilities and/or the Lender's rights and remedies (hereinafter defined) or any of the Lender's rights and remedies against or in respect of the Borrower, any other guarantor, endorser or other person and/or entity liable in respect of any or all of the Liabilities or any collateral granted to the Lender by the Borrower, the undersigned, such other guarantor, or such other person and/or entity (whether or not suit is instituted in connection with such efforts). The Costs of Collection shall be added to the Liabilities of the Borrower to the Lender, as if such had been lent, advanced, and credited by the Lender to, or for the benefit of, the Borrower.

For good and valuable consideration, the undersigned also agrees to indemnify, defend and hold the Lender harmless of and from any claims brought or threatened against the Lender by the Borrower, the undersigned, any other guarantor or endorser of any or all of the Liabilities or any other person and/or entity (as well as from attorneys' fees and expenses in connection therewith) on account of the Lender's relationship with the Borrower, the undersigned or any other guarantor or endorser of the Liabilities (each of which may be defended, compromised, settled, or pursued by the Lender with counsel of the Lender's selection, but at the expense of the undersigned). The undersigned agrees to pay on demand interest on all amounts due to the Lender under this Guaranty, or arising under any documents, instruments, or agreements relative to any collateral securing the Guaranty, from the time the Lender first demands payment of this Guaranty at a rate equal to the highest rate chargeable to the Borrower after the earlier of (i) demand or (ii) the occurrence of any event of default hereunder.

The obligations of the undersigned hereunder shall not be affected by any fraudulent, illegal, or improper act by the Borrower, nor by any release, discharge or invalidation, by operation of law or otherwise, of any or all of the Liabilities, or by the legal incapacity of the Borrower, the undersigned, or any other person and/or entity liable or obligated to the Lender for or on the Liabilities. Interest and Costs of Collection shall continue to accrue and shall continue to be deemed Liabilities guaranteed hereby notwithstanding any stay to the enforcement thereof against the Borrower or disallowance of any claim thereof or against the Borrower.

The obligations of the undersigned hereunder are primary, with no recourse necessary by the Lender against the Borrower or any collateral given to secure the Liabilities or against any other person and/or entity liable for or on the Liabilities prior to proceeding against the undersigned hereunder. The undersigned assents to any indulgence or waiver which the Lender may grant or give to the Borrower and/or any other person and/or entity liable or obligated to the Lender for or on the Liabilities. No compromise, settlement, or release by the Lender of any or all of the Liabilities or of any or all of all of the obligations of any such other person and/or entity (whether or not jointly liable with the undersigned) and no release of any collateral securing any or all of the Liabilities or securing any or all of the obligations of any such person and/or entity shall affect the obligations of the undersigned hereunder. No action by the Lender which has been assented to herein shall affect the obligations of the undersigned to the Lender hereunder.

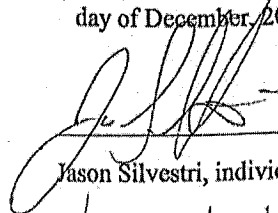
The rights, remedies, powers, privileges and discretions of the Lender under this Guaranty and/or the Liabilities ("Lender's Rights and Remedies") shall be cumulative and not exclusive of any rights or remedies which it would otherwise have. No delay or omission by the Lender in exercising or enforcing any of the Lender's Rights and Remedies shall operate as, or constitute, a waiver thereof on that occasion nor on any other occasion. No waiver by the Lender of any of the Lender's Rights and Remedies or of any default or remedies under any other agreement with or by the undersigned, or of any default under any agreement with or by the Borrower, or any other person and/or entity liable or obligated for or on the Liabilities, shall operate as a waiver of (a) any other of the Lender's Rights and Remedies, (b) any default or remedy hereunder or thereunder, or (c) any other provision hereunder or thereunder. All of the Lender's Rights and Remedies and all of the Lenders rights, remedies, powers, privileges and discretions under any other agreement or transaction with the undersigned, the Borrower, or any such other person and/or entity shall be cumulative and not alternative or exclusive, and may be exercised by the Lender at such time or times and in such order of preference as the Lender in its sole discretion may determine.

The undersigned (a) agrees that this instrument shall be governed and construed under the laws of the Commonwealth of Massachusetts, except that as to all instances of conflict of laws or choice of law (if any), Massachusetts substantive and procedural law shall also govern without regard to principles of conflicts of law, and not the law of any other forum; (b) agrees that this instrument is deemed executed and delivered to the Lender in the Commonwealth of Massachusetts, to whose jurisdiction the undersigned submits as the sole forum in which the undersigned may ever bring any claim or lawsuit against the Lender under, relating to, or in

connection with, this instrument, as well as for all purposes in connection with any other now existing and/or hereafter arising relationship between the undersigned and the Lender, and any and all rights and obligations relating hereto or thereto, or arising hereunder or thereunder; (c) agrees that all warranties, representations, provisions and agreements contained herein are joint and several of each of the undersigned, if more than one; and (d) agrees that the obligations of the undersigned hereunder shall not be affected by (i) any fraudulent, illegal or improper act by the Borrower and/or any of the undersigned, (ii) any release, discharge or invalidation, by operation of law or otherwise, of the Liabilities, unless the Liabilities are paid and performed in full, and/or (iii) the legal incapacity of the Borrower and/or any of the undersigned. This instrument may be signed in counterparts, if the undersigned is more than one, however, shall constitute one agreement. THE UNDERSIGNED WAIVES ANY NOW EXISTING AND/OR HEREAFTER ARISING RIGHT TO TRIAL BY JURY IN ANY CASE OR CONTROVERSY AGAINST THE LENDER REGARDING, ARISING FROM, OR IN CONNECTION WITH, THIS AGREEMENT, ANY ENDORSEMENT OR OTHER GUARANTY HERETOFORE, HERewith AND/OR HEREAFTER BY THE UNDERSIGNED (WHETHER ALONE AND/OR WITH ANOTHER OR OTHERS) OF ANY PROMISSORY NOTE PAYABLE TO THE LENDER OR ORDER, THE MAKER OF WHICH IS THE BORROWER (WHETHER WITH OR WITHOUT ANY OTHER CO-MAKER OR CO-MAKERS), THE LIABILITIES, AND/OR ANY AND ALL RIGHTS AND OBLIGATIONS RELATING HERETO OR THERETO, OR ARISING HEREUNDER OR THEREUNDER.

Except as set forth in the next sentence, the obligations of the undersigned hereunder shall remain in full force and effect as to all Liabilities, without regard to any reduction of the Liabilities other than by payment and performance in full by the Borrower or by the undersigned pursuant to this Guaranty, until the earlier of (a) ten (10) days following the actual receipt by the Lender at its main address set forth herein of written notice signed by the undersigned of the termination thereof, or (b) the delivery of written notice of termination dated and signed by a duly authorized officer of the Lender, which notice of termination includes specific reference to this Guaranty. No termination hereof shall affect the guaranty by the undersigned of any of the Liabilities in existence or outstanding ten (10) days following the date of such actual receipt by the Lender or delivery to the Lender (including, without limitation, those which are contingent or not then due and those which arise out of any check, draft, item, or paper which was made, executed or drawn prior to the expiration of such ten (10) days, even if received by the Lender thereafter) nor any obligation of the undersigned hereunder, including, without limitation, any which by its terms includes any of the Liabilities of a contingent nature (including, without limitation, the indemnification provided for herein).

The undersigned certifies that the undersigned has read this Guaranty prior to its execution. This instrument is signed as a sealed instrument this _____ day of December, 2019.



Jason Silvestri, individually



Kim Fontaine, individually