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Morrison Cohen LLP Scores Major Victory Vindicating Rights of Aggrieved Israeli Pensioners In Connection With Their Investment in Failed Manhattan Hotel

New York, New York – April 20, 2016. By Memorandum Decision, Justice Charles Ramos of the Commercial Division of the New York State Supreme Court, New York County has awarded in excess of \$16.4 million to Morrison Cohen LLP's client, **U-Trend New York Investment LP** ("U-Trend"). The decision represents a significant victory, after nearly two years of bitter and intense litigation, vindicating the rights of U-Trend, which is comprised of more than 200 Israeli investors, many of whom invested their pension monies, with regard to its investment in a building located at 440 West 41st Street, New York, New York 10036 that U-Trend later learned was being operated illegally as a daily-stay hotel and plundered by the local minority partner, Benzion Suky.

The Court's Decision represents a complete vindication of U-Trend's claims and a reaffirmation in the virtues of hard work, faith and perseverance, even in the face of overwhelming opposition and wrongdoing. "We are gratified that, having considered all of the evidence, the Court has begun to grant the justice that U-Trend and its pensioners deserve," said Morrison Cohen Partner [Y. David Scharf](#). "This decision, however, represents only the beginning. We will continue to prosecute U-Trend's substantive claims against Mr. Suky and Aura in order to recover the millions that were looted from US Suite LLC. On behalf of U-trend, we will also explore and actively pursue other responsible parties who participated in the wrongdoing and/or harmed US Suite LLC and its stakeholders. We will continue to persevere and keep faith that, ultimately, U-Trend will receive the full compensation – including not only full repayment of its loans with all accrued interest, but also recovery on its equity – to which it is lawfully entitled."

Background

Between 2009 and 2010, U-Trend put up approximately \$10.2 million, in two loans, that (together with a first mortgage of approximately \$10 million) provided the funding necessary for the acquisition and renovation of the building by US Suite LLC, a Delaware limited liability company. The property's ownership was structured as a three-way joint venture. 440 West 41st LLC (of which Mr. Suky the managing member) owned a 30% interest. U-Trend and Aura Investments Ltd. collectively own the remaining 70% membership interest (35% each) indirectly

through subsidiaries. Aura is an Israeli company whose shares and other debt securities are publicly traded on the Tel Aviv Stock Exchange.

U-Trend filed the lawsuit in July 2014 alleging that Mr. Suky was operating the property illegally as a daily-stay hotel and looting millions from the property's operating accounts through a variety of schemes. U-Trend's lawsuit sought, among other relief, the appointment of a receiver to replace Mr. Suky as the property manager. U-Trend also sought a court-supervised sale of the property at auction with the proceeds used to satisfy its loans (with accrued interest) and distribution of any remaining proceeds pro rata to all owners in accordance with their ownership percentages. U-Trend also asserted myriad claims against Mr. Suky and Aura for mismanagement and looting and/or for aiding and abetting in that misconduct.

U-Trend contended from the outset of the litigation that the property, in the hands of a competent and ethical manager, would be worth as much as \$35 million or more to potential buyers. Mr. Suky, on the other hand, insisted on a sale of the property to Solly Assa at a price, initially, as low as \$24 million (later increased to \$27 million through U-Trend's efforts). Mr. Suky's connection to Solly Assa is a matter of public record. After several of Mr. Suky's other real estate investments were run into bankruptcy (including, by way of example, the Mave Hotel in Manhattan), Mr. Assa invariably wound up acquiring the properties out of bankruptcy.

In January of 2015, the City of New York filed its own suit against the building and Mr. Suky (and others) alleging that it was operating as an illegal hotel (the very same allegation that U-Trend had made in its lawsuit six months earlier). The City's case was assigned to Justice Ramos, who granted the City an injunction prohibiting the property from being operated as a daily stay hotel. Later in April 2015, by order of Justice Ramos, the property was sold to an entity owned by Mr. Assa with the net sale proceeds – approximately \$15.8 million – deposited into an escrow account with Signature Bank.

Since the sale, U-Trend and its pensioners have vigorously litigated before Justice Ramos for the right to receive all of the sale proceeds, which only partially repay U-Trend what it is owed on account of its loans with accrued interest. The Court's April 7, 2016 Memorandum Decision (docketed on April 14, 2016), among other things, acknowledges that U-Trend made the \$10.2 million loans, finds it is entitled to more than \$6.2 million in interest (through mid-April), and directs Signature Bank to release all of the \$15.8 million to U-Trend in partial satisfaction of its loan claims with accrued interest.

Defendants No Stranger to Controversy and Litigation

Apart from being associated with several bankruptcy filings with respect to other failed real estate investments, Mr. Suky has been sued directly by the City of New York with respect to this property and another Manhattan building, both of which the City alleges were operated illegally as daily-stay hotels. His former counsel, JSBarkats PLLC, has also been ordered by Justice Ramos to turn over approximately \$316,000 which Mr. Suky had transferred to a JSBarkats IOLA Account for the stated purpose of paying down US Suite LLC's mortgage, but which later was disbursed from that account without ever being used to pay down the mortgage. According to papers filed by JSBarkats in the litigation, at least approximately \$200,000 of those funds

were taken by JSBarkats to satisfy its own alleged legal fees. The funds have not yet been repaid.

Aura's conduct has been similarly reprehensible. Despite the absence of any evidence that it invested any money in the acquisition, Aura nonetheless contended during the course of the litigation that it, and not U-Trend should receive "repayment" of the \$10.2 million loan principal, speculating that perhaps it was loaned by Aura, and not by U-Trend. It also suggested that the \$10.2 million may have been given to US Suite LC as a "gift" from U-Trend for which no repayment is owed. The Court rejected these arguments, noting among other things that none of Aura's publicly filed financial statements makes any mention of having loaned \$10.2 million, or that it had a right or expectation of payment of such a large amount, in connection with this property.

About Morrison Cohen LLP

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