

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

INTEGRA BANK N.A.,

**a National Banking
Association,**

Plaintiff,

v.

Civil Action No. 6:06-cv-1952-ORL-19DAB

LOUIS J. PEARLMAN,

an individual,

and

**TRANS CONTINENTAL
AIRLINES, INC.,**

a Florida corporation,

Defendants.

COMPLAINT

Plaintiff Integra Bank N.A. ("Integra") sues Louis J. Pearlman ("Pearlman") and Trans Continental Airlines, Inc. ("TCA") and alleges as follows:

PARTIES AND JURISDICTION

1. Integra is a national banking association organized under the laws of the United States of America with its main office located in Evansville, Indiana. Accordingly, pursuant to 28 U.S.C. § 1348, Integra is a citizen of Indiana.
2. Pearlman is an individual who, on information and belief, is a citizen of Florida.

3. TCA is a for-profit corporation organized and existing under the laws of the state of Florida and which, on information and belief, has its principal place of business in Orlando, Florida. Accordingly, pursuant to 28 U.S.C. § 1332(c)(1), TCA is a citizen of Florida.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) in that this action is a suit between citizens of different states where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

5. The venue of this action is proper in this district pursuant to 28 U.S.C. § 1391(a)(1)-(2) since all of the defendants reside within this district and a substantial part of the events or omissions giving rise to the claims occurred in this district.

BACKGROUND FACTS

6. While Pearlman's public persona is that of a man whose life seems lifted from a Horatio Alger story – a life filled with glitz, glamour, and financial success beyond most peoples' dreams – Integra's recent dealings with Pearlman and his first company, TCA, would indicate that this outward mask conceals the fundamental economic instability more common to a Ponzi scheme.

7. Pearlman's business success began when Pearlman started TCA in 1975. TCA began as a small helicopter charter service, but soon moved into full-service lease and charter operations for commercial aircraft.

8. Through TCA, Pearlman did business with a host of celebrities, primarily in the music industry. Dazzled by these encounters, Pearlman set out to capture for himself some of the fame and wealth cast off by the superstars he served. Pearlman formed a variety of entertainment-related businesses – promoting boy bands, producing television shows and movies, and authoring his own "get rich" book – that have lifted him beyond his humble beginnings and have made him recognizable in his own right. While the more sensational enterprises may have brought him

more fortune, Pearlman continued to operate TCA, the business that started it all for him, acting as its Chairman.

9. On September 18, 2004, Integra and TCA entered into a Credit Agreement (the "Credit Agreement"), pursuant to which Integra agreed to provide TCA with (i) a revolving credit facility in the original principal amount of \$3,000,000, Loan Number 100084894 (the "Revolving Loan") and (ii) a term loan in the original principal amount of \$16,000,000, Loan Number 100084895 (the "Term Loan"). On the same day, TCA made a promissory note in favor of Integra on account of each of the Revolving Loan (the "Revolving Note") and the Term Loan (the "Term Note"). Copies of the Credit Agreement, the Revolving Note, and the Term Note are attached hereto as Exhibits 1, 2, and 3, respectively.

10. As security for the loans under the Credit Agreement, Pearlman pledged all of his shares in TCA pursuant to a Pledge Agreement by and between Pearlman and Integra dated September 18, 2004. A copy of the Pledge Agreement is attached hereto as Exhibit 4. Accordingly, if TCA defaulted on its loans, Pearlman could loose his stake in TCA, the company that made him what he is today.

11. TCA made good on its debts to Integra until the summer of 2006, when TCA went into arrears. TCA's sudden failure to pay its debts surprised Integra; according to the audited financial statements TCA provided to Integra as required by the Credit Agreement, TCA had more than enough cash on hand to make its debt service.

12. On information and belief, rather than maintaining a sufficient level of cash liquidity necessary to fulfill its ongoing obligations to Integra, TCA's insiders paid themselves tremendous dividends. When Integra raised the issue of TCA's failure to make its loan payments

under the Revolving Note and the Term Note, TCA – having previously distributed a substantial amount of its cash to the insiders, including Pearlman – could not pay its debts.

13. To avoid further default by TCA, Pearlman persuaded Integra to extend additional financing, this time in the form of a personal loan to Pearlman. On August 23, 2006, Integra loaned Pearlman funds (Loan Number CL100110544) (the “August Loan”), and Pearlman executed a promissory note in Integra’s favor in the amount of \$400,000 (the “August Note”). A copy of the August Note is attached hereto as Exhibit 5. Pearlman used the proceeds from the August Loan to partially satisfy TCA’s obligations to Integra under the Revolving Note and the Term Note. A copy of Pearlman’s disbursement request for the funds under the August Loan is attached hereto as Exhibit 6. Pursuant to the August Note, all of the unpaid principal and accrued but unpaid interest under the August Note will mature and become immediately due and payable as of February 23, 2007.

14. Along with the August Note, Pearlman, acting in his capacity as Chairman of TCA, signed a Modification Agreement. In exchange for Integra’s willingness to defer the monthly principal payments due under the Credit Agreement from September through December 2006, the Modification Agreement required TCA to come current on its payments. A copy of the Modification Agreement is attached hereto as Exhibit 7.

15. A month later, Pearlman came back to Integra again for more financing. Integra loaned Pearlman an additional \$552,380.96 (the “September Loan”) and received a personal promissory note from Pearlman dated September 29, 2006 (the “September Note”). A copy of the September Note is attached hereto as Exhibit 8. Once again, these funds were used to keep TCA out of default under the Credit Agreement. A copy of Pearlman’s disbursement request for the funds under the September Loan is attached hereto as Exhibit 9. Pursuant to the September

Note, all of the unpaid principal and accrued but unpaid interest under the September Note matured and became immediately due and payable as of November 15, 2006.

16. In light of the amounts of money outstanding, Integra sought additional protection for its loans. On September 29, 2006, Pearlman, again acting as Chairman of TCA, executed a Second Modification Agreement that added another term of default to the Credit Agreement. Pursuant to the Second Modification Agreement, a default under the August Note or the September Note would amount to a default by TCA under the Credit Agreement, enabling Integra to not only accelerate the total debt under the Revolving Note and the Term Note, but also to foreclose on Pearlman's shares in TCA to satisfy that debt. A copy of the Second Modification Agreement is attached hereto as Exhibit 10.

17. At the time of his request for the August Loan and again when he requested the September Loan, Pearlman made a series of representations to Integra regarding his net worth and his ability to repay the August Loan and September Loan. Because of the requirements of the Credit Agreement, Integra had a personal financial statement for Pearlman, prepared by Pearlman, that suggested that he possessed liquid assets with a value in excess of \$8 million. When questioned by Integra in connection with the loan approval process for the August Loan and the September Loan, Pearlman confirmed his possession of these assets and the continued accuracy of his personal financial statement. Based on these representations, Integra extended the August Loan and September Loan to Pearlman on an unsecured basis.

18. Much to Integra's surprise, the apparent success of TCA and Pearlman appears to be a sham. Both TCA and Pearlman – despite the representations in their financial reports, despite the additional funding, and despite the public perception of incredible wealth – failed to make their payments on their loans. On December 14, 2006, Integra, through counsel, sent a notice of

default and demand for payment to each of TCA (the "TCA Demand") and Pearlman (the "Pearlman Demand" and, together with the TCA Demand, the "Demands").

19. Pearlman failed to make several payments due under the August Note and failed to payoff the September Note upon its maturity. At the time of the Pearlman Demand, Pearlman's total outstanding debt to Integra under the August Note and the September Note exceeded \$954,000. A copy of the Pearlman Demand is attached hereto as Exhibit 11.

20. For its part, TCA failed to make any payments from September through November 2006 on either the Revolving Note or the Term Note, despite the fact that these payments had been reduced to interest-only payments through the Modification Agreement. TCA also failed to provide a number of reporting documents due to Integra under the Credit Agreement, including TCA's 2005 tax returns, Pearlman's 2005 tax returns, quarterly compliance certificates, and TCA's interim financial statements for the quarter ending July 31, 2006. Pearlman's failures to stay current on his personal debts also amounted to a default by TCA in accordance with the Second Modification Agreement. Pursuant to the TCA Demand, Integra notified TCA of its multiple monetary and non-monetary defaults and demanded that TCA immediately cure all of those defaults. A copy of the TCA Demand is attached hereto as Exhibit 12. At the time of the TCA Demand, TCA's total outstanding debt to Integra exceeded \$17 million.

21. As part of its Demands, Integra notified Pearlman and TCA of Integra's intention to immediately accelerate the Revolving Note, the Term Note, and the August Note without any further notice if Pearlman and TCA did not cure their various respective defaults by December 18, 2006. See Exhibits 11 and 12. Pearlman and TCA failed cure their defaults to avoid an acceleration of the debts, so, by the terms of the Demands and the various loan documents,

Pearlman and TCA collectively owe – and are obligated to immediately pay – Integra over \$18 million.

22. As of the date of this filing, multiple events of default continue to exist under the terms of Integra's various agreements with TCA and Pearlman. None of these events of default, whether by Pearlman or TCA, have been cured despite repeated demand and notice.

23. Though he has never formally responded on his own behalf or on behalf of TCA, Pearlman has called Integra several times, promising payment in an attempt to forestall this action. Pearlman has offered promises of funds coming from Theodore Walenkamper, a German national who is believed to be a TCA shareholder, who supposedly stands ready to rescue Pearlman and TCA in their time of need. Though his public persona – as well as his statements regarding his net worth to Integra – would suggest otherwise, Pearlman and his company appear to be wholly dependent on the whims of others for their financial survival.

24. Pearlman, the celebrated entertainment executive, and TCA, the business that gave him access to the stars, are either broke or, perhaps worse, are simply not willing to pay their debts, despite what they would have others believe. Integra, having believed the representations of both Pearlman and TCA, finds itself as the unlucky victim. With Pearlman and TCA apparently unable to generate the funds needed to meet their debts – either through their own resources or by convincing others to provide them – Integra is forced to bring this suit.

COUNT ONE
BREACH OF CONTRACT – THE REVOLVING NOTE

25. Integra incorporates paragraphs 1-24 herein as if fully set forth.

26. Under the terms of the Credit Agreement, the Revolving Note, and the Modification Agreement, TCA was obligated to:

- (a) Make payments to Integra as required by the Revolving Note and Sections 2.1(c), 2.9, and 7.1(b) of the Credit Agreement on September 30, 2006, October 31, 2006, and November 30, 2006, in the amounts required by the Credit Agreement, the Revolving Note, and the Modification Agreement;
- (b) Provide Integra with a copy of TCA's federal income tax return and all schedules thereto for the 2005 tax year as required by Sections 5.15 and 7.1(e) of the Credit Agreement;
- (c) Provide Integra with a copy of Louis J. Pearlman's federal income tax return and all schedules thereto for the 2005 tax year as required pursuant to Sections 5.15 and 7.1(e) of the Credit Agreement;
- (d) Provide Integra with a Compliance Certificate for the quarterly periods ending April 30, 2006 and July 31, 2006 as required by Sections 5.1(d) and 7.1(e) of the Credit Agreement; and
- (e) Provide Integra with a copy of TCA's interim financial statements for the quarterly period ending July 31, 2006 as required by Sections 5.1(b) and 7.1(e) of the Credit Agreement.

27. TCA has failed to honor these obligations, causing multiple Events of Default under the terms of the Credit Agreement.

28. Further, under the terms of the Second Modification Agreement, a default by Pearlman on either the August Note or the September Note constitutes a default by TCA under the Credit Agreement.

29. Pearlman has defaulted under both the August Note and the September Note, causing additional Events of Default by TCA under the Credit Agreement.

30. Pursuant to Section 7.2 of the Credit Agreement, these Events of Default entitled Integra to accelerate the Revolving Note and demand immediate payment of all outstanding sums due under the Revolving Note, which it has done.

31. As of the date of this filing, TCA has failed to pay the amounts due under the Revolving Note, thereby breaching the Credit Agreement and causing Integra to suffer damages in excess of \$3 million dollars.

32. Because of TCA's breach of the Credit Agreement, Integra is entitled to recover interest on the amounts due under the Revolving Note at the rate set forth in Section 2.10(b) of the Credit Agreement, as well as any applicable late charges pursuant to the Revolving Note.

33. Because of TCA's breach of the Credit Agreement, Integra has been required to retain counsel to bring this action and is entitled to recover all of its reasonable and necessary attorney's fees and costs incurred in connection with this action pursuant to Section 8.7(a) of the Credit Agreement.

34. All conditions precedent to the bringing of this action have occurred or been waived.

WHEREFORE Integra respectfully requests that the Court enter judgment:

(a) Adjudging that TCA has breached the terms of the Credit Agreement as aforepleaded;

(b) Adjudging that Integra was entitled to accelerate the debt under the Revolving Note pursuant to the TCA Demand;

(c) Awarding Integra all sums outstanding, due, and owing under the Revolving Note in an amount to be proven at trial, including all outstanding principal, accrued interest, late charges, expenses incurred in enforcement, reasonable and necessary attorney's fees and costs, and all other amounts;

(d) Retaining jurisdiction of this action for the necessary issuance of all further orders that are necessary and proper; and

(e) Granting such other and further relief to which Integra may be justly entitled.

COUNT TWO
BREACH OF CONTRACT – THE TERM NOTE

35. Integra incorporates paragraphs 1-24 herein as if fully set forth.

36. Under the terms of the Credit Agreement, the Term Note, and the Modification Agreement, TCA was obligated to:

(a) Make payments to Integra as required by the Term Note and Sections 2.2(c), 2.9, and 7.1(b) of the Credit Agreement on September 30, 2006, October 31, 2006, and November 30, 2006, in the amounts required by the Credit Agreement, the Term Note, and the Modification Agreement;

(b) Provide Integra with a copy of TCA's federal income tax return and all schedules thereto for the 2005 tax year as required by Sections 5.15 and 7.1(e) of the Credit Agreement;

(c) Provide Integra with a copy of Louis J. Pearlman's federal income tax return and all schedules thereto for the 2005 tax year as required pursuant to Sections 5.15 and 7.1(e) of the Credit Agreement;

(d) Provide Integra with a Compliance Certificate for the quarterly periods ending April 30, 2006 and July 31, 2006 as required by Sections 5.1(d) and 7.1(e) of the Credit Agreement; and

(e) Provide Integra with a copy of TCA's interim financial statements for the quarterly period ending July 31, 2006 as required by Sections 5.1(b) and 7.1(e) of the Credit Agreement.

37. TCA has failed to honor these obligations, causing multiple Events of Default under the terms of the Credit Agreement.
38. Further, under the terms of the Second Modification Agreement, a default by Pearlman on either the August Note or the September Note constitutes a default by TCA under the Credit Agreement.
39. Pearlman has defaulted under both the August Note and the September Note, causing additional Events of Default by TCA under the Credit Agreement.
40. Pursuant to Section 7.2 of the Credit Agreement, these Events of Default entitled Integra to accelerate the Term Note and demand immediate payment of all outstanding sums due under the Term Note, which it has done.
41. As of the date of this filing, TCA has failed to pay the amounts due under the Term Note, breaching the Credit Agreement and causing Integra to suffer damages in excess of \$14 million dollars.
42. Because of TCA's breach of the Credit Agreement, Integra is entitled to recover interest on the amounts due under the Term Note at the rate set forth in Section 2.10(b) of the Credit Agreement, as well as any applicable late charges pursuant to the Term Note.
43. Because of TCA's breach of the Credit Agreement, Integra has been required to retain counsel to bring this action and is entitled to recover all of its reasonable and necessary attorney's fees and costs incurred in connection with this action pursuant to Section 8.7(a) of the Credit Agreement.
44. All conditions precedent to the bringing of this action have occurred or been waived.

WHEREFORE Integra respectfully requests that the Court enter judgment:

- (a) Adjudging that TCA has breached the terms of the Credit Agreement as aforepleled;
- (b) Adjudging that Integra was entitled to accelerate the debt under the Term Note pursuant to the TCA Demand;
- (c) Awarding Integra all sums outstanding, due and owing under the Term Note in an amount to be proven at trial, including all outstanding principal, accrued interest, late charges, expenses incurred in enforcement, reasonable and necessary attorney's fees and costs, and all other amounts;
- (d) Retaining jurisdiction of this action for the necessary issuance of all further orders that are necessary and proper; and
- (e) Granting such other and further relief to which Integra may be justly entitled.

COUNT THREE
BREACH OF CONTRACT – THE AUGUST NOTE

- 45. Integra incorporates paragraphs 1-24 herein as if fully set forth.
- 46. Under the terms of the August Note, Pearlman was obligated to make payments to Integra as required by the August Note on September 30, 2006, October 30, 2006, and November 30, 2006, in the amounts required by the August Note.
- 47. Pearlman has failed to honor this obligation, causing multiple Events of Default under the terms of the August Note.
- 48. Pursuant to the August Note, these Events of Default entitled Integra to accelerate the August Note and demand immediate payment of all outstanding sums due under the August Note, which it has done.
- 49. As of the date of this filing, Pearlman has failed to pay the amounts due under the August Note, breaching the August Note and causing Integra to suffer damages in excess of \$350,000.

50. Because of Pearlman's breach of the August Note, Integra is entitled to recover interest on the amounts due under the August Note at the Default Rate Margin set forth in the August Note.

51. Because of Pearlman's breach of the August Note, Integra has been required to retain counsel to bring this action and is entitled to recover all of its reasonable and necessary attorney's fees and costs incurred in connection with this action.

52. All conditions precedent to the bringing of this action have occurred or been waived.

WHEREFORE Integra respectfully requests that the Court enter judgment:

(a) Adjudging that Pearlman has breached the terms of the August Note as aforeplead;

(b) Adjudging that Integra was entitled to accelerate the debt under the August Note pursuant to the Pearlman Demand;

(c) Awarding Integra all sums outstanding, due and owing under the August Note in an amount to be proven at trial, including all outstanding principal, accrued interest, late charges, expenses incurred in enforcement, reasonable and necessary attorney's fees and costs, and all other amounts;

(d) Retaining jurisdiction of this action for the necessary issuance of all further orders that are necessary and proper; and

(e) Granting such other and further relief to which Integra may be justly entitled.

COUNT FOUR
BREACH OF CONTRACT – THE SEPTEMBER NOTE

53. Integra incorporates paragraphs 1-24 herein as if fully set forth.

54. Under the terms of the September Note, Pearlman was obligated to payoff the entire sum due under the September Note on or before November 15, 2006.

55. Pearlman has failed to honor this obligation, causing an Event of Default under the terms of the September Note.

56. As of the date of this filing, Pearlman has failed to pay the amounts due under the September Note, breaching the September Note and causing Integra to suffer damages in excess of \$590,000.

57. Because of Pearlman's breach of the September Note, Integra is entitled to recover interest on the amounts due under the September Note at the Default Rate Margin set forth in the September Note.

58. Because of Pearlman's breach of the September Note, Integra has been required to retain counsel to bring this action and is entitled to recover all of its reasonable and necessary attorney's fees and costs incurred in connection with this action.

59. All conditions precedent to the bringing of this action have occurred or been waived.

WHEREFORE Integra respectfully requests that the Court enter judgment:

(a) Adjudging that Pearlman has breached the terms of the September Note as aforepleaded;

(b) Adjudging that Integra was entitled to accelerate the debt under the September Note pursuant to the Pearlman Demand;

(c) Awarding Integra all sums outstanding, due and owing under the September Note in an amount to be proven at trial, including all outstanding principal, accrued interest, late charges, expenses incurred in enforcement, reasonable and necessary attorney's fees and costs, and all other amounts;

(d) Retaining jurisdiction of this action for the necessary issuance of all further orders that are necessary and proper; and

(e) Granting such other and further relief to which Integra may be justly entitled.

COUNT FIVE
FORECLOSURE ON PEARLMAN'S PLEDGED SHARES

60. Integra incorporates paragraphs 1-24 herein as if fully set forth.
61. By way of the Pledge Agreement, Pearlman pledged his interest in 190,000 shares in TCA (the "Shares") to secure TCA's performance under the Credit Agreement, the Revolving Note, and the Term Note.
62. Integra's security interest in the Shares, which is more particularly described in the Pledge Agreement, has been duly and properly perfected.
63. TCA has defaulted on its obligations under the Credit Agreement, the Modification Agreement, the Second Modification Agreement, the Revolving Note, and the Term Note, all as alleged herein, and by reason of said defaults, Integra is entitled to cause the Shares to be sold to satisfy the amounts due to Integra from TCA.

WHEREFORE Integra respectfully requests that the Court enter judgment:

- (a) Adjudging the interest of Integra in the Shares to be senior and superior to the claims of Pearlman and any and all persons claiming any interest in the Shares by, through, and/or against Pearlman, and foreclosing the interest of Pearlman and any and all persons claiming by, through, and/or against Pearlman in the Shares;
- (b) Adjudging the amounts due Integra from Pearlman and TCA pursuant to the Credit Agreement, the Modification Agreement, the Second Modification Agreement, the Revolving Note, the Term Note, the August Note, and the September Note;
- (c) Adjudging that the Shares be sold under and pursuant to the Judgment of this Court on the date set by this Court, subject to Pearlman's right of redemption of the Shares in accordance with applicable law, if any;

(d) Retaining jurisdiction of this action for the necessary issuance of all further orders that are necessary and proper; and

(e) Granting such other and further relief to which Integra may be justly entitled.

McGUIREWOODS LLP

By 

David M. Wells

Florida Bar No. 0309291

William E. Adams, Jr.

Florida Bar No. 0467080

McGuireWoods LLP

50 N. Laura Street, Suite 3300

Jacksonville, Florida 32202

(904) 798-3200

(904) 798-3207 (fax)

ATTORNEYS AND TRIAL COUNSEL
FOR INTEGRAL BANK N.A.

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