



California Corporate & Securities Law

Court Of Appeal Holds Note Investors May Be Liable For Usury

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Earlier this week, the California Court of Appeal issued an opinion in a case that should be interesting reading for anyone dealing with promissory notes. In [Creative Ventures, LLC v. Jim Ward & Associates](#), the court reached the following conclusions:

- Loans arranged by a corporation not licensed as a real estate broker are not entitled to the usury exemption for real estate secured loans made or arranged by a California licensed real estate broker (Cal. Civ. Code § 1916.1) even if the individual acting on behalf of the corporation was a licensed real estate broker.
- Investors in promissory notes may be liable for usury when the notes have not been negotiated to those investors and thus the investors were not holders in due course (see Cal. Comm. Code § 3305).

The case is also a reminder that California has long regulated the interest that lenders may impose on loans and forbearances. In fact, the people enacted a comprehensive usury law by initiative nearly a century ago and that law remains on the books today. Cal. Civ. Code §§ 1916.1 to 1916.3. In 1934, the limitations on interest rates were incorporated into the California Constitution. Cal. Const. Art. XV.

More on Usury

In this [post](#), I answer the question of whether a “usury permit” is fact or urban myth.

In this [post](#), I discuss a case in which the existence of a usury exemption actually worked against the plaintiff.

Please contact [Keith Paul Bishop](#) at Allen Matkins for more information kbishop@allenmatkins.com

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