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8 Attorneys for Plaintiffs
9 FLAGSHIP WEST, LLC, MARVIN G. REICHE
and KATHLEEN REICHE

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA (FRESNO)

12
13 FLAGSHIP WEST, LLC, a California
14 limited liability company, MARVIN G.
REICHE, and KATHLEEN REICHE,

15 Plaintiffs,

16 v.

17 EXCEL REALTY PARTNERS, L.P., a
18 Delaware limited partnership, NEW
PLAN EXCEL REALTY TRUST, INC.,
19 a Maryland corporation, THE MONEY
STORE COMMERCIAL MORTGAGE,
20 INC., a corporation, FIRST UNION
SMALL BUSINESS CAPITAL, a North
21 Carolina corporation, and DOES 1
through 50, inclusive,

22 Defendants.
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Case No. CIV. F-02-5200 REC DLB

JUDGMENT

Trial Date: November 20, 2003
Action Filed: February 21, 2002
Judge: Honorable Oliver W. Wanger

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JUDGMENT

1 On December 3, 2003, a jury returned verdicts in favor of Plaintiffs, awarding Plaintiffs
2 \$1,480,740 in contract damages. Plaintiffs then elected the remedy of rescission. Following
3 post-judgment proceedings, judgment was entered on December 14, 2006, and amended June 15,
4 2007, which judgment was appealed to the United States Court of Appeals for the Ninth Circuit.
5 On July 2, 2009, the Court of Appeal vacated the June 15, 2007, judgment, after which it
6 remanded the matter to this court. Following proceedings on remand, this Court issued its
7 Memorandum Decision and Order Granting Plaintiffs' Motion for Interpretation of Lease and
8 Denying Defendant's Motion to Strike and/or For Leave to File Sur-Reply Brief, its Memorandum
9 Decision and Order Re Defendant's Motion to Strike and Plaintiff's Request for Entry of
10 Judgment of Rescission and for Prejudgment Interest; and its Memorandum of Decision and
11 Order regarding Defendants' Motion to Reconsider Decision and Order dated July 5, 2011.

12 **JUDGMENT IS ENTERED AS FOLLOWS:**

13 1. The Ground Lease ("Lease") entered into between Plaintiffs and Defendant, EXCEL
14 REALTY PARTNERS L.P., (attached as Exhibit B to Plaintiffs' Second Amended Complaint),
15 signed by the individual Plaintiffs as guarantors in their individual capacities to pay rent and
16 perform all covenants, is rescinded from its date of execution, and such Lease shall have no
17 further force and effect, as if all Plaintiffs and Defendants had not entered into and executed the
18 Lease;

19 2. Plaintiffs FLAGSHIP WEST, LLC, MARVIN G. REICHE, and KATHLEEN
20 REICHE, and each of them, are awarded \$ 2,134,430 for damages in rescission and consequential
21 damages resulting from Defendants' breach of contract following application of credits due
22 Defendants, plus pre-judgment interest on \$214,350, at the rate of \$58.73 per day, from and after
23 April 27, 2001 through the date of judgment in the amount of \$233,716.68, and therefore shall
24 recover from Defendants EXCEL REALTY PARTNERS, L.P. and NEW PLAN EXCEL
25 REALTY TRUST, INC., jointly and severally, a total judgment of \$2,358,146.68;

26 3. Plaintiffs shall recover their costs as allowed by law upon filing of a Cost Bill as
27 provided in Rule 54-292 of this Court;
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4. Any motion for attorney's fees shall be filed within 28 days of the date of entry of this judgment as provided in Local Rule 54-293 of this Court.

IT IS SO ORDERED.

Dated: September 28, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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