

1 Cory A. Baskin (SBN 240517)
2 cb@witkowlaw.com
3 witkow | baskin
4 21031 Ventura Boulevard, Suite 700
5 Woodland Hills, California 91364
6 Tel: 818.296.9508

7 Joshua L. Seifert (SBN 296399)
8 jseifert@seifertpllc.com
9 Joshua L. Seifert PLLC
10 251 South Lake Ave Suite 800
11 Pasadena, California 91101
12 Tel: 646.470.2746

13 *Attorneys for Plaintiff and Proposed Class*

14 UNITED STATES DISTRICT COURT
15 SOUTHERN DISTRICT OF CALIFORNIA

16 GIANNI SUTANIMAN, individually
17 and on behalf of all others similarly
18 situated,

19 Plaintiff,

20 v.

21 AXOS BANK, d/b/a/ UFB DIRECT,

22 Defendant.

23 Case No. '23CV2266 RSH SBC

24 **COMPLAINT**

25 **CLASS ACTION**

26 **DEMAND FOR JURY TRIAL**

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1 Plaintiff Gianni Sutaniman (“Sutaniman”), individually and on behalf of all
2 others similarly situated, by and through his counsel, brings the following Complaint
3 against Defendant Axos Bank d/b/a UFB Direct (“UFB”):

4 **NATURE OF THE ACTION**

5 1. Plaintiff brings this action on behalf of himself and others similarly situ-
6 ated who have had savings accounts with UFB since January 1, 2022.

7 2. UFB is a division of Axos Bank (“Axos” or the “Bank”) that offers
8 online-only banking services, including high-yield savings accounts. On its website,
9 UFB touts its “innovative digital banking model,” which “allows us to keep our over-
10 head costs down and pass our savings along to you in the form of free services and
11 exceptionally competitive interest rates.”

12 3. UFB’s website features a dedicated tab heading entitled “High Yield Sav-
13 ings.” From at least January 1, 2022, to approximately November 16, 2022, any visi-
14 tor to the site who clicked this tab would be taken immediately to a “splash” page
15 advertising what UFB referred to as its “highest-yielding savings account,” offering
16 a variable interest rate and corresponding annual percentage yield (“APY”).

17 4. UFB also describes its high yield savings account as being “tiered” based
18 on the size of the account holder’s savings account balance. However, at all relevant
19 times, UFB has offered the same APY and interest rate to any particular account
20 holder regardless of tier. In other words, whether a particular account holder had a
21 balance of \$10 or \$100,000, that account holder’s interest rate would be the same.

22 5. Its Personal Deposit Account Agreement and Schedule of Fees (“Account
23 Agreement”) similarly describes UFB’s savings accounts as variable and tiered. A
24 true and correct copy of the Account Agreement effective as of November 16, 2023,
25 is attached hereto as Exhibit 1.

26 6. In reliance on these representations and promises, consumers who opened
27 UFB savings accounts from January 1, 2022, through at least November 15, 2023,
28 reasonably believed they were receiving—and would continue to receive as long as



1 they maintained a positive balance regardless of tier—the highest interest rate and
2 APY offered by UFB.

3 7. These consumers also reasonably believed that the interest rates on their
4 savings accounts would vary in accord with general market conditions, in particular,
5 the federal funds rate—*i.e.*, the interest rate that the Federal Reserve’s Federal Open
6 Market Committee (“FOMC”) sets as the targeted interest rate banks pay one another
7 to borrow or loan money overnight. The FOMC meets eight times each year to set the
8 federal funds rate and its decisions at these meetings have a major impact on the U.S.
9 economy.

10 8. As interest rates began to rise steeply in early 2022 in line with the Federal
11 Reserve’s post-pandemic monetary policy, UFB in turn began aggressively marketing
12 its high yield savings accounts to consumers as a place to park their money and “put
13 [their] savings on autopilot.” The results were staggering. Whereas the total number
14 of interest-bearing checking and savings accounts maintained by Axos increased by
15 approximately 8,000 accounts between June 30, 2021, and June 30, 2022, this number
16 increased tenfold between June 30, 2022, and June 30, 2023, with almost 83,000 new
17 interest bearing accounts being added to the Bank’s ledgers. Upon information and
18 belief, the majority of these accounts were opened with UFB. The increase in con-
19 sumer funds held by the Bank in its savings accounts was equally impressive. After a
20 modest increase of \$80 million between June 30, 2021, and June 30, 2022, the bank’s
21 savings deposits swelled by more than \$500 million between June 30, 2022 and June
22 30, 2023.

23 9. Axos Financial’s most recent Form 10-K documents these impressive
24 gains. Axos admitted that this dramatic “increase in interest-bearing checking and
25 savings accounts in 2023 was primarily due to increased consumer deposit accounts
26 *from increased marketing efforts.*”
27
28

The number of deposit accounts at the end of each of the last three fiscal years is set forth below:

	At June 30,		
	2023	2022	2021
Non-interest bearing	45,640	42,372	36,726
Interest-bearing checking and savings accounts	427,299	344,593	336,068
Time deposits	6,340	8,734	12,815
Total number of deposit accounts	479,279	395,699	385,609

The increase in interest-bearing checking and savings accounts in 2023 was primarily due to increased consumer deposit accounts from increased marketing efforts.

Deposit Composition. The following table sets forth the dollar amount of deposits by type and weighted-average interest rates at the end of each of the last three fiscal years:

(Dollars in thousands)	At June 30,					
	2023		2022		2021	
	Amount	Rate ¹	Amount	Rate ¹	Amount	Rate ¹
Non-interest-bearing	\$ 2,898,150	—	\$ 5,033,970	—	\$ 2,474,424	—
Interest-bearing:						
Demand	3,334,615	2.43 %	3,611,889	0.61 %	3,369,845	0.15 %
Savings	9,575,781	4.20 %	4,245,555	0.95 %	3,458,687	0.21 %
Total demand and savings	\$ 12,910,396	3.74 %	\$ 7,857,444	0.79 %	\$ 6,828,532	0.18 %
Time deposits						
\$250 and under ²	\$ 932,436	3.72 %	\$ 651,392	1.22 %	\$ 1,070,139	1.30 %
Greater than \$250	382,126	4.36 %	403,616	1.41 %	442,702	1.03 %
Total time deposits	\$ 1,314,562	3.91 %	\$ 1,055,008	1.25 %	\$ 1,512,841	1.22 %
Total interest-bearing ²	\$ 14,224,958	3.76 %	\$ 8,912,452	0.85 %	\$ 8,341,373	0.37 %
Total deposits	\$ 17,123,108	3.12 %	\$ 13,946,422	0.54 %	\$ 10,815,797	0.29 %

¹ Based on weighted-average stated interest rates at the end of the period.

² The total interest-bearing includes brokered deposits of \$2,028.5 million and \$1,032.7 million as of June 30, 2023 and 2022, respectively, of which \$600.9 million and \$250.0 million are time deposits classified as \$250,000 and under.

The following tables set forth the average balance, the interest expense and the average rate paid on each type of deposit at the end of each of the last three fiscal years:

(Dollars in thousands)	For the Fiscal Year Ended June 30,								
	2023			2022			2021		
	Average Balance	Interest Expense	Avg. Rate Paid	Average Balance	Interest Expense	Avg. Rate Paid	Average Balance	Interest Expense	Avg. Rate Paid
Non-interest-bearing	\$ 3,730,524	\$ —	—	\$ 3,927,195	\$ —	—	\$ 2,182,009	\$ —	—
Interest-bearing:									
Demand	\$ 4,047,717	\$ 99,119	2.45 %	\$ 3,873,382	\$ 12,429	0.32 %	\$ 3,817,516	\$ 14,444	0.38 %
Savings	6,164,020	206,536	3.35 %	2,899,939	7,624	0.26 %	3,387,182	14,587	0.43 %
Time deposits	1,225,537	33,826	2.76 %	1,226,774	13,567	1.11 %	1,825,795	31,498	1.73 %
Total interest-bearing deposits	\$ 11,437,274	\$ 339,481	2.97 %	\$ 8,000,095	\$ 33,620	0.42 %	\$ 9,030,493	\$ 60,529	0.67 %
Total deposits	\$ 15,167,798	\$ 339,481	2.24 %	\$ 11,927,290	\$ 33,620	0.28 %	\$ 11,212,502	\$ 60,529	0.54 %

See Axos Financial, Inc., Annual Report (“Axos Form 10-K”) (Aug. 29, 2023), available at <https://d18rn0p25nwr6d.cloudfront.net/CIK-0001299709/98655e5e-a58a-4179-97af-3bb8c1f3a848.html>.

10. Unbeknownst to the tens of thousands of consumers nationwide lured into opening new accounts with UFB via the Bank’s “increased marketing efforts,” they were—or soon would become—the victims of a classic bait and switch.

11. Specifically, beginning in or around early 2022, UFB began implementing a scheme in which it would advertise a savings account product it described as its “highest-yielding savings account” with a “variable” interest rate. UFB would drive consumer interest and demand to its offerings via, among other tools, targeted advertising and features on popular internet sites such as “The Motley Fool” (www.fool.com), “NerdWallet” (www.nerdwallet.com), and “Forbes Advisor” (www.forbes.com/advisor/).

12. After signing-up thousands of new depositors, UFB would then cap the interest rates on those savings accounts and begin marketing its savings accounts

1 under a slightly different name with a higher interest rate and APY. UFB would ad-
2 vertise the new savings account product as its “highest yielding” variable rate savings
3 account without notifying any of its current account holders of this change or that
4 their accounts would no longer receive UFB’s highest available interest rates.

5 13. When renaming its savings account, and still without any notice to its
6 existing savings account holders, UFB would also rewrite its account agreement to
7 characterize its previous “highest-yield savings” accounts as “legacy” accounts.

8 14. Contemporaneously, and again without any notice to existing savings ac-
9 count holdings, UFB would cap the interest rates on these “legacy” accounts at a rate
10 lower than its newly-minted highest-yielding savings account.

11 15. Consumers with funds in legacy accounts were thereby duped into leav-
12 ing their funds to languish at dramatically lower APY than they anticipated and far
13 below the rates offered by other banks with online-only, high-yield savings account
14 programs.

15 16. Over the course of 2022 and 2023, UFB perpetrated this bait and switch
16 at least ten times. On information and belief, UFB intentionally chose unremarkable
17 adjectives for each account rebrand to minimize the chances of detection by even the
18 most vigilant account holders. Thus, UFB Savings begat UFB “Rewards” Savings,
19 then UFB “Elite” Savings, then UFB “High-Rate” Savings, then UFB “Best” Savings,
20 then UFB “Preferred” Savings, then UFB “Premier” Savings, then UFB “Priority”
21 Savings, then UFB “High-Yield” Savings (collectively, the “Legacy Accounts”), and
22 finally (or at least presently) UFB “Secure” Savings, which took effect on or about
23 November 16, 2023.

24 17. Each time UFB changed the name of its savings account program, the
25 advertised APY increased in step with the increased federal funds rate, *i.e.*, as the
26 federal funds rate increased from 0.0% in March 2022 to 5.25%-5.50% in November
27 2023, the APY associated with UFB’s savings account products increased from
28 0.20% to 5.25%.



18. But each time UFB changed the name of its savings account program, UFB capped the APY on the preceding Legacy Accounts and, to the extent it varied them at all, only varied them downward. For example, in December 2022, the APY on a UFB “High-Rate” Savings account was 3.91% APY. When UFB began offering its “Best” Savings Account a few weeks later, UFB capped the interest rate on the “High-Rate” savings accounts without providing any notice to its “high-rate” savers that their accounts were no longer the UFB’s “best.” Thus, a consumer who opened a High-Rate Savings account still receives 3.91% APY today, even though the federal funds rate—and the APY offered by UFB on newly opened accounts—has soared since then. Indeed, a consumer who opened a UFB “Secure” Savings account today would receive 5.25% APY.

19. A consumer visiting UFB’s website would not perceive any distinction between UFB’s current and “legacy” accounts because the only change to the website text would be the subtle replacement of the adjective describing the UFB’s highest-yielding offerings. At all relevant times, each savings account product was advertised as variable and UFB’s “highest-yielding savings account.”

20. Thus, consumers who believed they were investing their savings in UFB’s variable, “highest-yielding savings account,” in fact had invested in accounts that UFB would only be the its “highest-yielding savings account” for a trivial, arbitrary, and undisclosed period.

21. Lead Plaintiff Sutaniman is one of those depositors victimized by UFB’s APY bait and switch. In February 2023, he opened a UFB Preferred Savings account, when the advertised APY was 4.55%. Based upon UFB’s advertisements and its representations that the interest rate was “variable” and that the UFB Preferred Savings account was its “highest-yielding interest rate,” Sutaniman invested funds and set up an auto-transfer from his checking account to his UFB Preferred Savings account, expecting his savings account would always be UFB’s “highest-yielding savings account.”



1 22. But, since opening his account, Sutaniman has been cheated out of hun-
2 dreds of dollars and continues to be cheated every day.

3 23. Over the course of 2023, the APY on Sutaniman's UFB Preferred Savings
4 account was capped at 5.02% and then decreased to 4.50% in September 2023, where
5 it has remained ever since. Meanwhile, UFB currently advertises savings accounts
6 with an APY of 5.25%. Despite UFB's representation and contractual promise that
7 Sutaniman's APY would vary—*i.e.*, continue to vary in accord with the federal funds
8 rate as UFB's "highest-yielding" savings account—Sutaniman's APY has instead re-
9 mained stagnant while UFB offers higher rates to new consumers.

10 24. UFB was financially motivated to breach the covenant of good faith and
11 fair dealing and to make materially false and misleading statements and/or omissions
12 with respect to its high-yield savings accounts. UFB accomplished this increase in
13 profits in part by exercising its discretion unfairly with respect to the interest rate it
14 paid to its high-yield savings account customers.

15 25. Plaintiff brings this case to hold UFB to account to all eligible Class mem-
16 bers for its pernicious misconduct.
17

18 PARTIES

19 26. Plaintiff Sutaniman is a natural person who is a citizen of the United
20 States and who is domiciled in California. He has been a UFB customer and ac-
21 countholder since February 2023, and is still a UFB customer and accountholder as
22 of the filing of this Complaint.

23 27. Defendant UFB is an American federally chartered savings and loan as-
24 sociation and direct bank headquartered in San Diego, California. It is the online-only
25 banking brand of Axos, which is a wholly-owned subsidiary of Axos Financial, Inc.

26 28. Axos markets its UFB online banking products to consumers nationwide.
27 Specifically, in its most recent 10-K, Axos states: "The Company provides banking
28 and securities products and services to its customers through its online and low-cost
distribution channels and affinity partners. The Bank's deposit products are demand

1 accounts, savings and money market accounts, and time deposits marketed to con-
2 sumers and businesses located in all fifty states.” Axos Form 10-K at F-9.

3 29. Gregory Garrabrants, a former Goldman Sachs banker and McKinsey &
4 Co. consultant, is the CEO of Axos. Before joining Axos in October 2007, Garra-
5 brants was an executive at Indymac, a California savings and loan that collapsed in
6 July 2008 under, according to bank regulators, a mountain of toxic mortgages. In-
7 dymac was one of the nation’s biggest bank failures, costing the FDIC fund more than
8 \$10 billion, a government investigator estimated. *See* Gretchen Morgenson, “The
9 Trump Organization used to borrow from major banks. Now look who's lending it
10 money,” *NBC News* (Apr. 7, 2022), available at [nbcnews.com/politics/donald-](https://www.nbcnews.com/politics/donald-trump/trump-organization-used-borrow-major-banks-now-look-lending-money-rcna22068)
11 [trump/trump-organization-used-borrow-major-banks-now-look-lending-money-](https://www.nbcnews.com/politics/donald-trump/trump-organization-used-borrow-major-banks-now-look-lending-money-rcna22068)
12 [rcna22068](https://www.nbcnews.com/politics/donald-trump/trump-organization-used-borrow-major-banks-now-look-lending-money-rcna22068).

13 30. In 2018, Garrabrants earned \$34.5 million. The massive payday reportedly arose
14 from contract incentives, earning Garrabrants a percentage of the company’s returns
15 when they rise above industry averages. *See* Tim Dickinson & Andy Kroll, *Rolling*
16 *Stone*, “The Totally Dodgy Backstory of the Bank that Just Refinanced Trump Tower:
17 How Axos—a financial firm tied to GOP politics and high-profile lawsuits—became
18 Trumps’ lender of last resort” (Mar. 13, 2022), available at [rollingstone.com/poli-](https://www.rollingstone.com/politics/politics-news/axos-bank-trump-tower-donald-trump-1320670/)
19 [tics/politics-news/axos-bank-trump-tower-donald-trump-1320670/](https://www.rollingstone.com/politics/politics-news/axos-bank-trump-tower-donald-trump-1320670/).

20 JURISDICTION AND VENUE

21 31. This Court has personal jurisdiction over Defendant because its principal
22 place of business is in California.

23 32. Personal jurisdiction is also proper because Defendant is headquartered
24 in San Diego, California.

25 33. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §
26 1332(d), because this action is a class action in which there are 100 or more Class
27 members; the matter in controversy exceeds the sum of \$5,000,000, exclusive of in-
28 terest and costs; and at least one Plaintiff and member of the Class is a citizen of a

1 state different from Defendants.

2 34. Upon information and belief, UFB has tens of thousands of account hold-
3 ers nationwide and thousands of those account holders are citizens of states other than
4 California.

5 35. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a
6 substantial part of the events or omissions giving rise to the claims occurred in this
7 district.

8 **FACTUAL ALLEGATIONS**

9 **I. UFB’s High-Yield Savings Accounts**

10 36. In the context of bank deposit accounts, including savings accounts, in-
11 terest is the amount of money that the bank pays the depositor for use of the deposi-
12 tor’s funds, typically represented as a percentage of the total deposit amount. The
13 annual percentage yield, or APY, is the percentage reflecting the total amount of in-
14 terest paid on an account based on the interest rate and frequency of compounding for
15 a 365-day period.

16 37. A “variable” rate savings account has an interest rate that is subject to
17 change according to business and economic conditions. The rates typically increase
18 in step with the federal funds rate. The Fed began increasing the federal funds rate in
19 March 2020, when it was 0.0%. As of the date of this Complaint, the federal funds
20 rate is 5.25% to 5.50%. In March 2022, the top-paying nationally available savings
21 account was paying 0.70% APY. Since then, high-yield savings rates have surged
22 past 5%. *See* Sabrina Karl, “What’s Better for My Savings Right Now: a Fixed or
23 Variable Rate?” (June 13, 2023), [investopedia.com/whats-better-for-my-savings-
24 right-now-a-fixed-or-variable-interest-rate-7511362](https://investopedia.com/whats-better-for-my-savings-right-now-a-fixed-or-variable-interest-rate-7511362).

25 38. UFB followed suit, or at least it appeared to. In March 2022, UFB adver-
26 tised that its high-yield savings account returned an APY of 0.20%. As of the date of
27 this filing, UFB is advertising its high-yield savings account as offering an APY of
28 5.25%.

1 39. However, UFB does not advise its customers, on its website or elsewhere,
2 that its high-yield savings accounts would be capped when UFB changes the name of
3 its high-yield savings account product. That is to say, UFB does not advise its cus-
4 tomers that it will convert their variable high-yield savings accounts into *non-high-*
5 *yield accounts that will only vary downward* with no notice.

6 40. UFB account holders who have discovered the Bank's account re-naming
7 scheme have left scathing reviews of the bank on sites such as depositaccounts.com.
8 As of this writing, of the 212 reviews of UFB on depositaccounts.com, 140 give the
9 bank only 1 star. For example:

Scam For Sure.

★ ★ ★ ★ ★ Posted by: nate311 | Dec 1, 2023

Without notifying me, UFB reduced the interest rate on my "Preferred" savings account at the same time they launched the new "Secure" savings account product. I had to check their website to see the new advertised rate, and they upgraded my account from Preferred to Secure after I contacted them about the problem.

After contacting them through a secure message, they told me unceremoniously that they are totally unable to notify me when they screw around with my interest rate, and it's up to me to contact them requesting an upgrade.

I am now looking for a new bank that does not reduce my interest rate simply because they "launch new products," forcing me to go through the rigmarole of contacting them to change my account type after wasting time with an inferior interest rate that I was not notified of.

👍 2 votes | 🚩 Report Post

Comments (1) | 🗨 Comment

axosbank | Dec 4, 2023

Hello nate311, We understand and apologize for any inconvenience caused. We are always looking to improve and our review has been shared with our teams to help us. Thank you for your feedback.

👍 1 vote | 🚩 Report Post

Worst Bank Ever

★ ★ ★ ★ ★ Posted by: ssantiago | Nov 6, 2023

They continue to change their product offerings and lower your interest rate with no notification. I will be moving all my money

👍 11 votes | 🚩 Report Post

Comments (1) | 🗨 Comment

axosbank | Nov 7, 2023

Hello ssantiago, We apologize for any inconvenience and regret to hear that we'll be losing your business. Your feedback will be shared with our teams to help us improve. Thank you.

👍 1 vote | 🚩 Report Post

ALERT: UFB Bank Robs Customers

★ ★ ★ ★ ★ Posted by: MoneyForNothing | Aug 28, 2023

Verified Bank Customer

I'm deeply disappointed AXOS Bank (the "Bank") has benefited from the use of my money and I have been robbed by a loss of interest earned. On 8/10/2023, the Bank had decided to create a new account (i.e., High Yield Savings). However, the Bank didn't inform me (in advance) of this new account. Rather, the Bank had enjoyed earning the difference in what it would've otherwise paid to its customers. Hence, the Bank's overall savings are substantial by not telling its customers. Does the Bank not have my contact information (mobile # and/or via an email blast - of course they do!) to let me know, in advance, the Bank is creating a new type of account wherein customers can enjoy a higher rate of interest? Would this not have been good customer service to earn the loyalty from its customers, who are the very bedrock of the Bank's future growth? Instead, the Bank throws me a \$35 bone in lieu of what I could have earned on my \$162,400+ . I'm planning to moving my money, as a result.

👍 27 votes | 🚩 Report Post

Comments (4) | 🗨️ Comment

axosbank | Aug 29, 2023

Hello MoneyForNothing , we apologize for any frustration or inconvenience caused and hope you can reconsider. I have shared your review with our team as we are always looking for opportunities to improve. We value your thoughts and appreciate your feedback. Please send us an email at asupport2@axosbank.com so we can escalate this to the appropriate team to assist you.

👍 3 votes | 🚩 Report Post

41. Third-parties have also recently discovered this practice. Motley Fool now advises consumers, "If you see that the current UFB savings offer has a higher APY than what you're getting in your account, contact the bank and ask to be switched to the new savings account type." [fool.com/the-ascent/banks/savings-accounts/ufb-direct-high-yield-savings-account-review/](https://www.fool.com/the-ascent/banks/savings-accounts/ufb-direct-high-yield-savings-account-review/).

42. This conduct is particularly nefarious because, as everyone knows, savings accounts are designed to hold customer money for long periods of time. Like virtually all banks, UFB imposes limitations on the number and amount of transfers from its savings accounts. Indeed, UFB's website encourages its customers to "Put Your Savings on Autopilot." ufbdirect.com/ufb-blog/2019/04/11/17/21/Put-Your-Savings-on-Autopilot. In other words, by advertising variable, high-yield savings accounts, UFB lulls its depositors into complacency, leading them to believe that they have opened UFB's highest-yielding savings account, when, in fact, it will only UFB's "highest-yielding account" with upward variability for a short period of time.

1 **II. UFB Advertises High-Yield Variable Savings Accounts, But Covertly**
2 **Converts them to Non-Variable Accounts, Misleading and Defrauding**
3 **Consumers**

4 43. UFB is an on-line only bank that was established in 1999. It is the online-
5 only division of Axos.

6 44. The Account Agreement references a number of legacy high-yield ac-
7 counts that are no longer available.

8 45. Though they have identical descriptions and investment tiers, UFB's Leg-
9 acy Accounts have slightly different names and very different interest rates. But a
10 consumer would never know this difference from UFB's website or advertisements.

11 46. Most importantly, a consumer would not realize UFB planned to unilat-
12 erally modify the account terms without notice or disclosure. As detailed below, UFB
13 planned to unilaterally cap the APY on its Legacy Accounts and, in some instances,
14 arbitrarily *lower* the APY while it offered higher rates to new account holders, all
15 while assuring consumers that they were receiving UFB's highest APY and that they
16 should stand pat.

17 **a. UFB High Yield Savings Account**

18 47. From at least January 1, 2022, until at least April 1, 2022, UFB offered a
19 high-yield savings account it called "High Yield Savings." See <http://ufbdirect.com>
20 (accessed on December 5, 2023, via Wayback Machine at URL [https://web.ar-](https://web.archive.org/web/20220401101559/https://www.ufbdirect.com/)
21 chive.org/web/20220401101559/https://www.ufbdirect.com/).

22 48. The advertised APY was up to 0.20%. *Id.*

23 49. Advertised as "At up to 0.20% APY, the High Yield Savings Account is
24 a high-yielding, competitively tiered, variable-rate savings account. Enjoy 3 times the
25 national average rates on balances of \$10,000 or greater." *Id.*

26 50. UFB's website further stated, "If the return on your money is your top
27 priority, choose UFB High Yield Savings. It's our highest-yielding savings account.
28 Earn up to 0.20% APY* on balances of \$10,000 and above."

1 51. UFB’s site clarified that the rate was variable: “The interest rate and cor-
2 responding APY for savings is variable and is set at our discretion. This is a tiered
3 variable rate account.” *Id.*

4 52. Upon information and belief, UFB capped the APY on its High Yield
5 Savings accounts in April 2022, and the APY on UFB High Yield Savings accounts
6 is still 0.20% APY.

7 **b. UFB Savings Account**

8 53. From April 2022 until August 2022, UFB offered a high-yield savings
9 account it called “Savings.” See <http://ufbdirect.com> (accessed on December 5, 2023,
10 via Wayback Machine at URL [https://web.ar-
11 chive.org/web/20220518223539/https://www.ufbdirect.com/](https://web.archive.org/web/20220518223539/https://www.ufbdirect.com/)).

12 54. Initially, the advertised APY was initially up to 0.81%. *Id.* Over the next
13 three months, UFB increased the advertised APY up to 1.81%. See [http://ufbdi-
14 rect.com](http://ufbdirect.com) (accessed on December 5, 2023, via Wayback Machine at URL
15 <https://web.archive.org/web/20220714225413/https://www.ufbdirect.com/>).

16 55. UFB advertised the Savings Account product as follows: “Earn up to
17 0.81% APY* with no maintenance fees or minimum balance requirements. Harness
18 the power of compound interest and reach your financial goals faster.”

19 56. UFB’s website further stated, “If the return on your money is your top
20 priority, choose UFB Savings. It’s our highest-yielding savings account. Earn up to
21 0.81% APY*.” See <https://www.ufbdirect.com/Savings/UFB-Savings> (accessed on
22 December 5, 2023, via Wayback Machine at URL [https://web.ar-
23 chive.org/web/20220511212908/https://www.ufbdirect.com/Savings/UFB-Savings](https://web.archive.org/web/20220511212908/https://www.ufbdirect.com/Savings/UFB-Savings)).

24 57. UFB’s site clarified that the rate was variable: “The interest rate and cor-
25 responding APY for savings is variable and is set at our discretion. This is a tiered
26 variable rate account.” *Id.*

27 58. Upon information and belief, UFB capped the APY on its Savings ac-
28 counts in August 2022, and the APY on UFB Savings accounts is still 0.81%.

1 **c. UFB Rewards Savings**

2 59. From about August 12, 2022, until at least September 25, 2022, UFB of-
3 fered a high-yield savings account it called “Rewards Savings.” See <http://ufbdirect.com>
4 (accessed on December 5, 2023, via Wayback Machine at URL
5 <https://web.archive.org/web/20220812201352/https://www.ufbdirect.com/>).

6 60. The advertised APY was initially up to 2.21%. *Id.* Over the next three
7 months, UFB increased the advertised APY up to 2.61%. See <http://ufbdirect.com>
8 (accessed on December 5, 2023, via Wayback Machine at URL [https://web.ar-](https://web.archive.org/web/20220925231444/https://www.ufbdirect.com/)
9 <chive.org/web/20220925231444/https://www.ufbdirect.com/>).

10 61. UFB advertised Reward Savings product as follows: “Earn up to 2.21%
11 APY* with no maintenance fees or minimum balance requirements. Harness the
12 power of compound interest and reach your financial goals faster.” *Id.*

13 62. UFB’s website further stated, “If the return on your money is your top
14 priority, choose UFB Rewards Savings. It’s our highest-yielding savings account.”
15 <https://www.ufbdirect.com/Savings/UFB-Rewards-Savings> (accessed on December
16 5, 2023, via Wayback Machine at URL [18 <Savings>\).](https://web.archive.org/web/20220901124657/https://www.ufbdirect.com/Savings/UFB-Rewards-
17 <a href=)

19 63. UFB’s site clarified that the rate was variable: “The interest rate and cor-
20 responding APY for savings is variable and is set at our discretion. This is a tiered
21 variable rate account.” *Id.*

22 64. Upon information and belief, UFB capped the APY on its Rewards Sav-
23 ings accounts in September 2022, and the APY on UFB Rewards Savings accounts is
24 still no more than 2.81%.

25 **d. UFB Elite Savings**

26 65. From about September 28, 2022, until at least October 31, 2022, UFB
27 offered a high-yield savings account it called “Elite Savings.” See <http://ufbdirect.com>
28 (accessed on December 5, 2023, via Wayback Machine at URL

1 <https://web.archive.org/web/20220928091242/https://www.ufbdirect.com/>).

2 66. The advertised APY was initially up to 2.81%. *Id.* Over the next month,
3 UFB increased the advertised APY up to 3.16%. See <http://ufbdirect.com> (accessed
4 on December 5, 2023, via Wayback Machine at URL <https://web.archive.org/web/20221031200826/https://www.ufbdirect.com/>).

5
6 67. UFB advertised Elite Savings as follows: “Earn up to 2.85% APY* with
7 no maintenance fees or minimum balance requirements. Harness the power of com-
8 pound interest and reach your financial goals faster.”

9 68. UFB’s website further stated, “If the return on your money is your top
10 priority, choose UFB Elite Savings. It’s our highest-yielding savings account.” See
11 <https://www.ufbdirect.com/Savings/UFB-Elite-Savings> (accessed on December 5,
12 2023, via Wayback Machine at URL <https://web.archive.org/web/20220927201028/https://www.ufbdirect.com/Savings/UFB-Elite-Savings>).

13
14
15 69. UFB’s site clarified that the rate was variable: “The interest rate and cor-
16 responding APY for savings is variable and is set at our discretion. This is a tiered
17 variable rate account.” *Id.*

18 70. Upon information and belief, UFB capped the APY on its Elite Savings
19 accounts in October 2022, and the APY on UFB Elite Savings accounts is still no
20 more than 3.16%.

21 **e. UFB High Rate Savings**

22 71. From November 16, 2022, until at least December 7, 2022, UFB offered
23 a high-yield savings account it called “High Rate Savings.” See <http://ufbdirect.com>
24 (accessed on December 5, 2023, via Wayback Machine at URL <https://web.archive.org/web/20221116175211/https://www.ufbdirect.com/>).

25
26 72. The advertised APY was initially up to 3.83%. *Id.* Over the next month,
27 UFB increased the advertised APY up to 3.91%. See <http://ufbdirect.com> (accessed
28 on December 5, 2023, via Wayback Machine at URL

1 <https://web.archive.org/web/20221031200826/https://www.ufbdirect.com/>).

2 73. UFB advertised High Rate Savings as follows: “Earn up to 3.83% APY*
3 with no maintenance fees or minimum balance requirements. Harness the power of
4 compound interest and reach your financial goals faster.” *Id.*

5 74. UFB’s website further stated, “If the return on your money is your top
6 priority, choose UFB High Rate Savings. It’s our highest-yielding savings account.”
7 *See* <https://www.ufbdirect.com/Savings/UFB-Savings> (accessed on December 5,
8 2023, via Wayback Machine at URL [https://web.ar-
9 chive.org/web/20221210001047/https://www.ufbdirect.com/Savings/ufb-high-rate-
10 savings](https://web.archive.org/web/20221210001047/https://www.ufbdirect.com/Savings/ufb-high-rate-savings)).

11 75. UFB’s site clarified that the rate was variable: “The interest rate and cor-
12 responding APY for savings is variable and is set at our discretion. This is a tiered
13 variable rate account.” *Id.*

14 76. Upon information and belief, UFB capped the APY on its High Rate Sav-
15 ings accounts in December 2022, and the APY on UFB High Rate Savings accounts
16 is still no more than 3.91%.

17 **f. UFB Best Savings**

18 77. From December 16, 2022, until at least February 2, 2023, UFB offered a
19 high-yield savings account it called “Best Savings.” *See* <http://ufbdirect.com> (ac-
20 cessed on December 5, 2023, via Wayback Machine at URL [https://web.ar-
21 chive.org/web/20221216183806/https://www.ufbdirect.com/](https://web.archive.org/web/20221216183806/https://www.ufbdirect.com/)).

22 78. The advertised APY was initially up to 4.11%. *Id.* Over the next month,
23 UFB increased the advertised APY to 4.21%. *See* <http://ufbdirect.com> (accessed on
24 December 5, 2023, via Wayback Machine at URL [https://web.ar-
25 chive.org/web/20230202200911/https://www.ufbdirect.com/](https://web.archive.org/web/20230202200911/https://www.ufbdirect.com/)).

26 79. UFB advertised Best Savings as follows: “Earn up to 4.11% APY* with
27 no maintenance fees or minimum balance requirements. Harness the power of com-
28 pound interest and reach your financial goals faster.”

1 80. UFB’s website further stated, “If the return on your money is your top
2 priority, choose UFB Best Savings. It’s our highest-yielding savings account.” See
3 <https://www.ufbdirect.com/Savings/UFB-Best-Savings> (accessed on December 5,
4 2023, via Wayback Machine at URL [https://web.ar-
5 chive.org/web/20230203105042/https://www.ufbdirect.com/Savings/ufb-best-sav-
6 ings](https://web.archive.org/web/20230203105042/https://www.ufbdirect.com/Savings/ufb-best-savings)).

7 81. UFB’s site clarified that the rate was variable: “The interest rate and cor-
8 responding APY for savings is variable and is set at our discretion. This is a tiered
9 variable rate account.” *Id.*

10 82. Upon information and belief, UFB capped the APY on its Best Savings
11 accounts in February 2023, and the APY on UFB Best Savings accounts is still no
12 more than 4.21%.

13 **g. UFB Preferred Savings**

14 83. From at least March 7, 2023, until at least April 13, 2023, UFB offered a
15 high-yield savings account it called “Preferred Savings.” See <http://ufbdirect.com> (ac-
16 cessed on December 5, 2023, via Wayback Machine at URL [https://web.ar-
17 chive.org/web/20230307120024/https://www.ufbdirect.com/](https://web.archive.org/web/20230307120024/https://www.ufbdirect.com/)).

18 84. The advertised APY was initially up to 4.55%. *Id.* Over the next few
19 weeks, UFB increased the advertised APY up to 5.02%. See <http://ufbdirect.com> (ac-
20 cessed on December 5, 2023, via Wayback Machine at URL [https://web.ar-
21 chive.org/web/20230315005352/https://www.ufbdirect.com/](https://web.archive.org/web/20230315005352/https://www.ufbdirect.com/)).

22 85. UFB advertised Preferred Savings as follows: “Earn up to 4.55% APY*
23 with no maintenance fees or minimum balance requirements. Harness the power of
24 compound interest and reach your financial goals faster.”

25 86. UFB’s website further stated, “If the return on your money is your top
26 priority, choose UFB Preferred Savings. It’s our highest-yielding savings account.”
27 See <https://www.ufbdirect.com/Savings/ufb-preferred-savings> (accessed on Decem-
28 ber 5, 2023, via Wayback Machine at URL

1 [https://web.archive.org/web/20230413014727/https://www.ufbdirect.com/Sav-](https://web.archive.org/web/20230413014727/https://www.ufbdirect.com/Savings/ufb-preferred-savings)
2 [ings/ufb-preferred-savings](https://web.archive.org/web/20230413014727/https://www.ufbdirect.com/Savings/ufb-preferred-savings)).

3 87. UFB’s site clarified that the rate was variable: “The interest rate and cor-
4 responding APY for savings is variable and is set at our discretion. This is a tiered
5 variable rate account.” *Id.*

6 88. Upon information and belief, UFB capped the APY on its Preferred Sav-
7 ings accounts in April 2023, and the APY on UFB Preferred Savings accounts is pres-
8 ently no more than 5.02%. In fact, Plaintiff Sutaniman, a Preferred Savings “legacy”
9 account holder, is currently receiving 4.50% APY on his account.

10 **h. UFB Premier Savings**

11 89. From at least April 17, 2023, until at least July 1, 2023, UFB offered a
12 high-yield savings account product it called “Premier Savings.” See [http://ufbdirect-](http://ufbdirect.com)
13 [rect.com](http://ufbdirect.com) (accessed on December 5, 2023, via Wayback Machine at URL
14 <https://web.archive.org/web/20230417221816/https://www.ufbdirect.com/>).

15 90. The advertised APY was up to 4.81%. *Id.*

16 91. UFB advertised Premier Savings as follows: “Earn up to 4.81% APY*
17 with no maintenance fees or minimum balance requirements. Harness the power of
18 compound interest and reach your financial goals faster.”

19 92. UFB’s website further stated, “If the return on your money is your top
20 priority, choose UFB Premier Savings. It’s our highest-yielding savings account.” See
21 <https://www.ufbdirect.com/Savings/UFB-Premier-Savings> (accessed on December 5,
22 2023, via Wayback Machine at URL [https://web.ar-](https://web.archive.org/web/20230622113757/https://www.ufbdirect.com/Savings/ufb-premier-savings)
23 [chive.org/web/20230622113757/https://www.ufbdirect.com/Savings/ufb-premier-](https://web.archive.org/web/20230622113757/https://www.ufbdirect.com/Savings/ufb-premier-savings)
24 [savings](https://web.archive.org/web/20230622113757/https://www.ufbdirect.com/Savings/ufb-premier-savings)).

25 93. UFB’s site clarified that the rate was variable: “The interest rate and cor-
26 responding APY for savings is variable and is set at our discretion. This is a tiered
27 variable rate account.” *Id.*

28 94. Upon information and belief, UFB capped the APY on its Premier

1 Savings accounts in July 2023, and the APY on UFB Premier Savings accounts is still
2 no more than 4.81%.

3 **i. UFB Priority Savings**

4 95. From at least August 4, 2023, until August 11, 2023, UFB offered a high-
5 yield savings account product it called “Priority Savings.” See <http://ufbdirect.com>
6 (accessed on December 5, 2023, via Wayback Machine at URL [https://web.ar-](https://web.archive.org/web/20230804003248/https://www.ufbdirect.com/)
7 [chive.org/web/20230804003248/https://www.ufbdirect.com/](https://web.archive.org/web/20230804003248/https://www.ufbdirect.com/)).

8 96. The advertised APY was up to 5.06%. *Id.*

9 97. UFB advertised Priority Savings as follows: “Earn up to 5.06% APY*
10 with no maintenance fees or minimum balance requirements. Harness the power of
11 compound interest and reach your financial goals faster.”

12 98. UFB’s website further stated, “If the return on your money is your top
13 priority, choose UFB Savings. It’s our highest-yielding savings account.” See
14 <https://www.ufbdirect.com/Savings/ufb-priority-savings> (accessed on December 5,
15 2023, via Wayback Machine at URL [https://web.ar-](https://web.archive.org/web/20230804043854/https://www.ufbdirect.com/Savings/ufb-priority-savings)
16 [chive.org/web/20230804043854/https://www.ufbdirect.com/Savings/ufb-priority-](https://web.archive.org/web/20230804043854/https://www.ufbdirect.com/Savings/ufb-priority-savings)
17 [savings](https://web.archive.org/web/20230804043854/https://www.ufbdirect.com/Savings/ufb-priority-savings)).

18 99. UFB’s site clarified that the rate was variable: “The interest rate and cor-
19 responding APY for savings is variable and is set at our discretion. This is a tiered
20 variable rate account.” *Id.*

21 100. Upon information and belief, UFB capped the APY on its Priority Sav-
22 ings accounts in August 2023, and the APY on UFB High Rate Savings accounts is
23 still no more than 5.06%.

24 **j. UFB High Yield Savings**

25 101. From August 12, 2023, until at least November 16, 2023, UFB offered a
26 high-yield savings account product it called “High Yield Savings.” See [http://ufbdi-](http://ufbdirect.com)
27 [rect.com](http://ufbdirect.com) (accessed on December 5, 2023, via Wayback Machine at URL
28 <https://web.archive.org/web/20230812101404/https://www.ufbdirect.com/>).

1 102. The advertised APY was up to 5.25%. *Id.*
2 103. UFB advertised High-Yield Savings as follows: “Earn up to 5.25% APY*
3 with no maintenance fees or minimum balance requirements. Harness the power of
4 compound interest and reach your financial goals faster.”

5 104. UFB’s website further stated, “If the return on your money is your top
6 priority, choose UFB High Yield Savings. It’s our highest-yielding savings account.”
7 See <https://www.ufbdirect.com/Savings/ufb-high-yield-savings> (accessed on Decem-
8 ber 5, 2023, via Wayback Machine at URL [https://web.ar-
9 chive.org/web/20230822125513/https://www.ufbdirect.com/Savings/ufb-high-yield-
10 savings](https://web.archive.org/web/20230822125513/https://www.ufbdirect.com/Savings/ufb-high-yield-savings)).

11 105. UFB’s site clarified that the rate was variable: “The interest rate and cor-
12 responding APY for savings is variable and is set at our discretion. This is a tiered
13 variable rate account.” *Id.*

14 **k. UFB Secure Savings**

15 106. From at least November 21, 2023, through the filing of this Complaint,
16 UFB has been offering a high-yield savings account it called “Secure Savings.” See
17 <http://ufbdirect.com> (accessed on December 5, 2023, via Wayback Machine at URL
18 <https://web.archive.org/web/20231121133711/https://www.ufbdirect.com/>).

19 107. The advertised APY was up to 5.25%. *Id.*

20 108. UFB advertised Secure Savings as follows: “Earn up to 5.25% APY* with
21 no maintenance fees or minimum balance requirements. Harness the power of com-
22 pound interest and reach your financial goals faster.”

23 109. Unlike the prior iterations, UFB’s website now states, “If raising the bar
24 for your finances is your top priority, there’s no better option than our high-yield Se-
25 cure Savings account.” See [https://www.ufbdirect.com/Savings/high-yield-savings-
26 account](https://www.ufbdirect.com/Savings/high-yield-savings-account).

27 110. That is to say, for the first time, UFB is not advertising its savings account
28 as its “highest-yielding account.”

1 111. In reliance on UFB’s contractual obligations and advertisements, custom-
2 ers deposit their funds with UFB with the expectation that UFB will raise the interest
3 rates on their accounts in accord with the federal funds rate and the market place. But
4 they are wrong.

5 **III. Plaintiff Sutaniman is a Victim of UFB’s False and Misleading Practices**

6 112. In early 2023, Sutaniman was looking for high-yield savings accounts.

7 113. He saw that UFB was offering its “highest-yielding savings account,”
8 with variable APY.

9 114. Based upon those representations, Sutaniman opened a UFB Preferred
10 Savings account on or about February 26, 2023, when the advertised APY was 4.55%.

11 115. He established an auto-transfer, sending \$1,000 every two weeks into his
12 UFB savings account.

13 116. Six weeks later, he received a marketing email from UFB informing him
14 that the APY on his Preferred Savings account had risen to 5.02%.

15 117. The email said that, effective April 13, 2023, UFB would no longer offer
16 Preferred Savings to new customers.

17 118. UFB assured him, “**This will not affect your account in any way.** Sit
18 back, relax, and continue to enjoy 5.02% APY – no action needed on your part!”
19 (emphasis original).

20 119. Because of UFB’s prior representations that he had its highest-yielding
21 savings account with a variable APY, and because UFB assured him that he needed
22 to do nothing else, Sutaniman reasonably believed that the APY on his account would
23 continue to increase in accord with the federal funds rate, and that he would always
24 receive the highest-yield among the savings accounts offered by UFB.

25 120. In reliance on those representations, Sutaniman has deposited more than
26 \$20,000.

27 121. But he had been duped. Though UFB initially raised his APY to 5.02%,
28 it also *capped* his APY at 5.02%.

1 122. More importantly, though UFB continued raising the APY it was selling
2 to new customers, it did not raise the APY on Sutaniman’s account. Since April 13,
3 2023, UFB has advertised savings accounts with 5.06% and 5.25% APY. As of the
4 filing of this Complaint, UFB is advertising savings accounts at 5.25%, while the
5 APY for Sutaniman’s account is 4.50%. Thus, UFB not only failed to pay Sutaniman
6 its highest-yield—as promised—but it also arbitrarily *reduced* his APY.

7 123. Sutaniman never received any notice from UFB that UFB was no longer
8 paying him its highest-yielding savings account or that his APY had been capped.

9 124. Contemporaneous with the filing of this action, Sutaniman is transmitting
10 to UFB a notice letter pursuant to Cal. Civ. Code § 1782(a) on behalf of himself and
11 the proposed Class to UFB for violations of the California Legal Remedies Act. If the
12 30-day notice period passes without UFB remedying its misconduct, Sutaniman in-
13 tends to amend this Complaint to include, among other things, a claim for a violation
14 of Cal. Civ. Code § 1770.

15 **CLASS ALLEGATIONS**

16 125. This action is brought by Plaintiff, for himself and on behalf of all others
17 similarly situated, as a class action pursuant to Fed. R. Civ. P. 23(a), (b)(2), and (b)(3).
18 Plaintiff seeks to represent a class of all persons who have been UFB high-yield sav-
19 ings accountholders since UFB created the high-yield savings account (the “Class”).
20 Upon completion of discovery with respect to scope of the Class, Plaintiff reserves
21 the right to amend the Class definition. Excluded from the Class are UFB and any
22 person, firm, trust, corporation, or other entity related to or affiliated with any of
23 UFB’s partners, subsidiaries, affiliates or joint ventures.

24 126. The members of the Class are so numerous and dispersed that it would be
25 impracticable to join them individually. At all relevant times, there were thousands of
26 high-yield savings accountholders. The precise number of Class members and their
27 identities are unknown to Plaintiff at this time but can be determined through discov-
28 ery.

1 127. Common questions of law and fact exist as to all members of the Class
2 and predominate over any questions affecting solely individual members of the Class.
3 Among the questions of law and fact common to Class are:

- 4 i. Whether UFB adjusted (or did not adjust) the interest rate associ-
5 ated with its high-yield savings accounts dishonestly, unfairly,
6 and/or in bad faith;
- 7 ii. Whether UFB breached the implied covenant of good faith and fair
8 dealing in its contracts with high-yield savings account holders;
- 9 iii. Whether UFB’s conduct violates the California Business and Pro-
10 fessions Code § 17200 and § 17500;
- 11 iv. Whether UFB’s conduct violates principles of quasi-contract and
12 caused UFB to be unjustly enriched;
- 13 v. Whether UFB’s conduct violates principles of promissory estop-
14 pel;
- 15 vi. Whether UFB’s wrongful conduct caused Plaintiff and the Class
16 members damages;
- 17 vii. The amount of damages suffered by Plaintiff and Class members;
- 18 viii. The amount of restitution to which Plaintiff and Class members are
19 entitled;
- 20 ix. Whether Plaintiff and the Class members are entitled to punitive
21 damages;
- 22 x. Whether Plaintiff and Class members are entitled to a reasonable
23 award of attorney fees, interest, and costs of suit.

24 128. To the extent any particular claim alleged herein on behalf of the nation-
25 wide Class is available only to consumers residing in the State of California, Plaintiff
26 hereby alleges such claim(s) exclusively on behalf of the sub-class of all California
27 consumers within the nationwide Class.

28 129. Plaintiff’s claims are typical of the claims of the members of the Class he



1 seeks to represent because they were all UFB high-yield savings account holders.

2 130. Plaintiff will adequately represent and protect the interests of the Class
3 and has no interests that conflict with or are antagonistic to the interests of Class
4 members. Plaintiff has retained attorneys who are experienced and capable of prose-
5 cutting class actions and complex litigation. Plaintiff's attorneys will actively conduct
6 and be responsible for prosecuting this litigation, and have adequate resources, expe-
7 rience, and commitment to litigate this matter.

8 131. A class action is superior to any other method available for the fair and
9 efficient adjudication of this controversy because it would be impractical and unduly
10 burdensome for each of the individual Class members to bring a separate action. Since
11 the damages suffered by individual Class members may be relatively small, the ex-
12 pense and burden of individual litigation make it virtually impossible for the respec-
13 tive Class members to seek redress for the wrongful conduct alleged. Plaintiff knows
14 of no difficulty that will be encountered in the management of this litigation that
15 would preclude its maintenance as a class action. Moreover, individual litigation has
16 the potential to result in inconsistent or contradictory judgments. A class action in this
17 case presents fewer management problems and provides the benefits of a single adju-
18 dication, economies of scale, and comprehensive supervision by a single court.

19 132. UFB has acted on grounds that apply generally to the Class, such that
20 final injunctive relief or corresponding declaratory relief is appropriate respecting the
21 Class as a whole.

22 133. Class certification is also appropriate because there is a readily identifica-
23 ble class on whose behalf this action can be prosecuted. Class members are readily
24 ascertainable from UFB's records. A notice of pendency or resolution of this class
25 action can be provided to Class members by direct mail, email, publication notice, or
26 other similar means.

27 134. To the extent reliance is an element of any of the claims asserted herein,
28 Class members are presumed to have relied on UFB's conduct. Other than the interest

1 rate paid on the accounts, the high-yield savings accounts offered by UFB are identi-
2 cal. No rational person would maintain an identical account that paid materially lower
3 interest absent UFB’s wrongful conduct.

4 **FIRST CAUSE OF ACTION**

5 For Breach of Contract

6 135. Plaintiff repeats and realleges each of the foregoing allegations, as though
7 fully set forth herein.

8 136. The Account Agreement is governed by the laws of the State of Califor-
9 nia.

10 137. The Account Agreement provides, “The interest rate and corresponding
11 APY for savings and money market accounts are variable and are set at our discre-
12 tion.”

13 138. UFB breached the Account Agreement by, among other things, ceasing
14 to vary the interest rates on the accounts held by savings account customers each time
15 the bank offered a newly-named savings account product to new customers.

16 139. Plaintiff and his fellow Class members have performed all, or substan-
17 tially all, of the obligations imposed on them under the Account Agreement.

18 140. Plaintiff and his fellow Class members have sustained damages as a result
19 of UFB’s breaches of the Account Agreement, which damages undoubtedly number
20 in the millions—and likely tens of million—of dollars, and which damages will con-
21 tinue to accrue so long as UFB continues its account re-naming practices.

22 **SECOND CAUSE OF ACTION**

23 For Breach of the Implied Covenant of Good Faith and Fair Dealing

24 141. Plaintiff repeats and realleges each of the foregoing allegations, as though
25 fully set forth herein.

26 142. The Account Agreement is governed by the laws of the State of Califor-
27 nia.

28 143. Under California law, every contract carries with it an implied covenant

1 of good faith and fair dealing. Good faith and fair dealing, in connection with execut-
2 ing contracts and discharging performance and other duties according to their terms,
3 means preserving the spirit – not merely the letter – of the bargain. Put differently,
4 the parties to a contract are mutually obligated to comply with the substance of their
5 contract in addition to its form. The covenant requires faithfulness to an agreed com-
6 mon purpose and consistency with the justified expectations of the other party to a
7 contract. Evading the spirit of the bargain and abusing the power to specify terms
8 constitute examples of bad faith in the performance of contracts.

9 144. UFB breached the implied covenant inherent in its Account Agreement
10 with Plaintiff and his fellow Class members by inducing them to sign up for savings
11 accounts it specifically advertised as being the bank’s “highest-yielding savings ac-
12 count” at an industry-leading “variable” interest rate. Shortly thereafter, typically
13 within a few months, but sometimes in a matter of days after a new customer would
14 open such an account, the bank would furtively replace what had been the bank’s
15 “highest-yielding savings account” with a similarly-named “new” account offering a
16 higher interest rate to new customers, but not to these now “legacy” account holders.

17 145. In other words, though UFB described its savings accounts as variable,
18 they were not—or rather, they were only variable for a short time. As UFB knew and
19 intended, any savings account it offered at any given time would only be its “highest-
20 yielding savings account” for a short period of time until it began offering a new
21 savings account product under a slightly different name.

22 146. UFB never provided notice to any of its current account holders that their
23 accounts (some opened just days before), once converted to “legacy” account status,
24 would no longer receive the bank’s highest available interest rates.

25 147. Plaintiff and his fellow Class members have performed all, or substan-
26 tially all, of the obligations imposed on them under the Account Agreement.

27 148. Plaintiff and his fellow Class members have sustained damages as a result
28 of UFB’s breaches of the implied covenant of good faith and fair dealing inherent in



1 the Account Agreement, which damages undoubtedly number in the millions—and
2 likely tens of million—of dollars, and which damages will continue to accrue so long
3 as UFB continues its pernicious account re-naming practices.

4 **THIRD CAUSE OF ACTION**

5 **For Fraud**

6 149. Plaintiff repeats and realleges each of the foregoing allegations, as though
7 fully set forth herein.

8 150. UFB represented that Plaintiff and the Class members had opened its
9 “highest-yielding savings account” and that the APY was variable.

10 151. UFB’s representations implied that the APY on the accounts opened by
11 Plaintiff and the Class member would be the highest APY offered by Axos on any
12 savings account at any time.

13 152. UFB’s representations further implied that the APY would vary in a non-
14 arbitrary manner and that the APY would vary in accord with the federal funds rate.

15 153. UFB’s representations were false.

16 154. Contrary to UFB’s representations, shortly after Plaintiff and the Class
17 members opened their accounts, Axos converted their accounts to Legacy Accounts,
18 capped the APY on their accounts so it could not vary above an arbitrary percentage,
19 and began offering higher-yielding savings accounts.

20 155. UFB knew that its representations were false when it made them.

21 156. UFB’s false representations were part of a pattern and practice that it re-
22 peated on at least ten different occasions over the course of two years.

23 157. UFB intended that Plaintiff and the Class members rely on its representa-
24 tions.

25 158. UFB’s fraudulent intent is evidenced by, among other things, that it was
26 able to dupe Plaintiff and Class members into leaving their funds in savings accounts
27 with lower APY, whereby UFB was able to reap significant, undeserved profits from
28 thousands of new depositors, as evidenced by Axos’s most recent 10-K.



1 159. In fact, Axos’s CEO’s compensation is tied to whether the Bank’s profits
2 exceed industry averages. If Axos can increase its deposits by promising its “highest-
3 yielding” savings accounts, but then covertly converting those deposits to accounts
4 with an APY that is far below those offered by other banks, then Axos’s profits can
5 exceed industry averages.

6 160. Plaintiff and the Class members reasonably relied upon UFB’s misrepresen-
7 tations, which were material to their decisions to deposit funds with UFB, and
8 which were advertised nationwide.

9 161. Indeed, Plaintiff and the Class members would have deposited their funds
10 elsewhere if they had known UFB’s true intentions.

11 162. Plaintiff and the Class members were harmed in an amount equal to the
12 APY they were promised and expected to receive from UFB, and/or the APY they
13 would have received had they invested their savings at a competing bank or financial
14 institution offering high yield savings that actually varied to match the federal funds
15 rate (such as Bask Bank and/or Raisin (formerly SaveBetter)).

16 163. In engaging in the conduct alleged herein, UFB acted with oppression,
17 fraud, and/or malice justifying an award of punitive damages in an amount to be de-
18 termined at trial up to ten times the amount of compensatory and consequential dam-
19 ages awarded to Plaintiff his fellow Class members.

20 **FOURTH CAUSE OF ACTION**

21 For Violations of Cal. Bus. & Prof. Code § 17200

22 164. Plaintiff repeats and realleges each of the foregoing allegations, as though
23 fully set forth herein.

24 165. UFB’s conduct described herein violates the Unfair Competition Law (the
25 “UCL”), codified at California Business and Professions Code § 17200, *et seq.*

26 166. The UCL prohibits, and provides civil remedies for, unfair competition.
27 Its purpose is to protect both consumers and competitors by promoting fair competition
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1 in commercial markets for goods and services. In service of that purpose, the Legisla-
2 ture framed the UCL's substantive provisions in broad, sweeping language.

3 167. By defining unfair competition to include "any unlawful, unfair or fraud-
4 ulent business act or practice," the UCL permits violations of other laws to be treated
5 as unfair competition that is independently actionable and sweeps within its scope
6 acts and practices not specifically proscribed by any other law.

7 168. UFB committed fraudulent business acts and practices in violation of the
8 UCL in the following respects, among others:

- 9 • UFB represented that Plaintiff and the Class members had opened its
10 "highest-yielding savings account," but failed to disclose that would only
11 be the case for a very short period of time;
- 12 • UFB's representations implied that the APY on the accounts opened by
13 Plaintiff and the Class member would be the highest APY offered by
14 Axos on any savings account at any time, which was false;
- 15 • UFB's representations further implied that the APY would vary in a non-
16 arbitrary manner and that the APY would vary in accord with the federal
17 funds rate, which was false.

18 169. The harm to Plaintiff and his fellow Class members arising from UFB's
19 unfair practices relating to the renaming of its "highest-yielding" savings accounts,
20 retiring its previous "highest-yielding" savings accounts as "legacy" accounts without
21 notice to such "legacy" account holders, and freezing the supposedly "variable" in-
22 terest rate on these "legacy" accounts while offering substantially higher "variable"
23 interest rates only to the bank's new account holders outweighs the utility, if any, of
24 those practices.

25 170. Plaintiff and his fellow Class members relied on UFB's misrepresenta-
26 tions and omissions in its Account Agreements and targeted advertisements concern-
27 ing its product offerings when opening and continuing to use their accounts, reason-
28 ably expecting that they were at all times earning interest at the highest interest rate

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1 and APY offered by the bank with respect to its savings accounts. Other than the
2 interest rate paid on the accounts, the high-yield savings accounts offered by UFB are
3 identical. No rational person would maintain an identical account that paid materially
4 lower interest absent UFB’s wrongful conduct.

5 171. UFB’s unfair business practices relating to the account re-naming scheme
6 alleged herein are immoral, unethical, oppressive, unscrupulous, unconscionable,
7 and/or substantially injurious to Plaintiff and his fellow Class members.

8 172. As a result of UFB’s violations of the UCL, Plaintiff and his fellow class
9 members have each lost substantial sums and will continue to suffer actual harm. By
10 the same token, as a result of these same practices, UFB has unfairly reaped substan-
11 tial gains by maximizing the gap between the interest rates it pays out to its customers
12 who believe they are receiving the bank’s best and highest available rates and the
13 rates the bank itself earns on its customer’s funds by investing those funds for itself
14 in higher yielding products such as short term notes.

15 173. Because UFB continues to deceive current and prospective accounthold-
16 ers, public injunctive relief under the UCL is also necessary.

17 **FIFTH CAUSE OF ACTION**

18 For Violations of Cal. Bus. & Prof. Code § 17500

19 174. Plaintiff repeats and realleges each of the foregoing allegations, as though
20 fully set forth herein.

21 175. UFB’s conduct described herein violates California’s False Advertising
22 Law (the “FAL”), codified at California Business and Professions Code section
23 17200, *et seq.*

24 176. The FAL provides in pertinent part, that “[i]t is unlawful for any person,
25 firm, corporation or association, or any employee thereof . . . to perform services,
26 professional or otherwise, or anything of any nature whatsoever or to induce the pub-
27 lic to enter into any obligation relating thereto, to make or disseminate or cause to be
28 made or disseminated before the public in this state, or to make or disseminate or

1 cause to be made or disseminated from this state before the public in any state, in any
2 newspaper or other publication, or any advertising device, or by public outcry or proc-
3 lamation, or in any other manner or means whatever, including over the Internet, any
4 statement, concerning . . . those services, professional or otherwise, or concerning any
5 circumstance or matter of fact connected with the proposed performance or disposi-
6 tion thereof, which is untrue or misleading, and which is known, or which by the
7 exercise of reasonable care should be known, to be untrue or misleading, or for any
8 person, firm, or corporation to so make or disseminate or cause to be so made or
9 disseminated any such statement as part of a plan or scheme with the intent not to sell
10 . . . those services, professional or otherwise, so advertised at the price stated therein,
11 or as so advertised. . . .

12 177. Like the UCL, the FAL expressly provides for injunctive relief, and also
13 contains provisions denoting its public purpose. A claim for injunctive relief under the
14 FAL is brought by a plaintiff acting in the capacity of a private attorney general. Al-
15 though the private litigant controls the litigation of a FAL claim, the private litigant is
16 not entitled to recover compensatory damages for his own benefit, but only disgorge-
17 ment of profits made by the defendant through untrue or misleading advertising in
18 violation of the statutory scheme or restitution to victims of the untrue or misleading
19 advertising.

20 178. UFB engaged in untrue and/or misleading advertising practices in viola-
21 tion of the FAL in the following respects, among others:

- 22 • UFB represented that Plaintiff and the Class members had opened its
23 “highest-yielding savings account,” but failed to disclose that would only
24 be the case for a very short period of time;
- 25 • UFB’s representations implied that the APY on the accounts opened by
26 Plaintiff and the Class member would be the highest APY offered by
27 Axos on any savings account at any time, which was false;
- 28 • UFB’s representations further implied that the APY would vary in a non-

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arbitrary manner and that the APY would vary in accord with the federal funds rate, which was false.

179. The harm to Plaintiff and his fellow Class members arising from UFB’s untrue and/or misleading advertising practices relating to the interest rates and APYs available in connection with its “highest-yielding” savings accounts outweighs the utility, if any, of those practices.

180. Plaintiff and his fellow Class members relied on UFB’s misrepresentations and omissions in its Account Agreements and targeted advertisements concerning its product offerings when opening and continuing to use their accounts, reasonably expecting that they were at all times earning interest at the highest interest rate and APY offered by the bank with respect to its savings accounts. Other than the interest rate paid on the accounts, the high-yield savings accounts offered by UFB are identical. No rational person would maintain an identical account that paid materially lower interest absent UFB’s wrongful conduct.

181. UFB’s untrue and/or misleading advertising practices relating to the interest rates and APYs available in connection with its “highest-yielding” savings accounts as alleged herein are immoral, unethical, oppressive, unscrupulous, unconscionable, and/or substantially injurious to Plaintiff and his fellow Class members.

182. As a result of UFB’s violations of the FAL, Plaintiff and his fellow class members have each lost substantial sums and will continue to suffer actual harm. By the same token, as a result of these same practices, UFB has unfairly reaped substantial gains by maximizing the gap between the interest rates it pays out to its customers who believe they are receiving the bank’s best and highest available rates and the rates the bank itself earns on its customer’s funds by investing those funds for itself in higher yielding products such as short term notes.

183. Because UFB continues to deceive current and prospective accountholders, public injunctive relief under the FAL is also necessary.

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PRAYER FOR RELIEF

Wherefore, Plaintiff demands judgment:

- (a) Certify this action as a class action, appoint Plaintiff as the Class representative, and designate the undersigned as Class counsel;
- (b) Declare UFB’s conduct unlawful;
- (c) Enjoin UFB from the unlawful conduct alleged herein, including by ordering UFB to immediately provide variable, high-yield interest rates to all UFB savings account holders commensurate with the rates applied to UFB’s highest-yielding savings account product;
- (d) Award Plaintiff and the Class damages under common law and/or by statute, including punitive damages;
- (e) Award Plaintiff and the Class restitution and/or disgorgement;
- (f) Award Plaintiff attorney fees, costs, and pre-judgment and post-judgment interest; and
- (g) Grant such other and further relief as this Court may deem just and proper.

Respectfully submitted,

Dated: December 12, 2023

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Joshua L. Seifert PLLC

By: /s/ Cory A. Baskin

Cory A. Baskin

*Attorneys for Plaintiff
and the Proposed Class*

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as to all issues so triable in the present action.

Dated: December 12, 2023

Respectfully submitted,

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Joshua L. Seifert PLLC

By: /s/ Cory A. Baskin

Cory A. Baskin

*Attorneys for Plaintiff
and the Proposed Class*

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [UFB Direct Hit with Lawsuit Over Allegedly Deceptive Advertising of 'Highest-Yield' Savings Accounts](#)
