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2002-04-18 15:31:55
Cook County Recorder 37.50

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This document prepared by and
after recording return to:



0020448526

Daniel M. Loewenstein
Evans, Loewenstein,
Shimanovsky & Moscardini, Ltd.
180 N. LaSalle, Suite 2401
Chicago, Illinois 60601

Property Address:

337-353 Park Avenue and
338-350 Tudor Court,
Glencoe, IL 60022

P.I.N. 05-07-200-038
05-07-200-039

**SECOND
MORTGAGE**

THIS SECOND MORTGAGE (this "Mortgage") is dated as of April 16, 2002. The mortgagor is **PARK AVENUE L.L.C.**, an Illinois limited liability company ("Borrower") whose address is 707 Skokie Boulevard, Suite 100, Northbrook, Illinois 60062. This Mortgage is given to John Weil whose address is 10849 E. Cochise, Scottsdale, Arizona 85259 ("Lender").

This Mortgage is given in favor of Lender to secure the repayment of the following (collectively "Borrower's Liabilities"):

- (a) all amounts due under that certain Mortgage Note in the original principal amount of \$60,246.30 dated concurrently herewith made by Borrower in favor of Lender (the "Note");
- (b) any note or evidence of indebtedness executed in amendment, renewal, substitution or extension of the Note; and
- (c) the payment of all other sums, with interest, advanced under the terms of the Note or this Mortgage.

For this purpose, and in consideration of One Dollar (\$1.00), in hand paid, the receipt and sufficiency whereof is hereby acknowledged, Borrower does hereby mortgage, grant and convey to Lender the property located at 337-353 Park Avenue and 338-350 Tudor Court, Glencoe, Illinois 60022, which is legally described on EXHIBIT A to this Mortgage together with all the

improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Mortgage. All of the foregoing property is referred to in this Mortgage as the "Mortgaged Property".

BORROWER REPRESENTS AND COVENANTS that Borrower holds fee simple title to the Mortgaged Property, free and clear of any and all liens and encumbrances (except as approved by Lender, which shall specifically include all exceptions listed on EXHIBIT B hereto) and Borrower has the right to mortgage, grant and convey the Mortgaged Property. Borrower warrants and will defend generally the title to the Mortgaged Property against all claims and demands.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal. Borrower shall promptly pay Borrower's Liabilities when due or properly declared due by Lender.

2. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender shall be applied: first, to any charges due under Borrower's Liabilities; second, to amounts advanced by Lender pursuant to the terms of the Note or this Mortgage; and last, to principal due.

3. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Mortgaged Property which may attain priority over this Mortgage. Borrower shall pay these obligations on time directly to the person owed payment. Upon request from Lender, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any other lien which has priority over this Mortgage. Notwithstanding the foregoing, Borrower shall have the right to contest the validity, priority, amount or other matter related to the aforementioned taxes, assessments, charges, fines and impositions provided the following conditions are met: (a) Borrower provides Lender with all other information relating thereto which is reasonably requested by Lender; (b) Borrower uses its best efforts and vigorously contests such taxes, assessments, charges, fines and impositions; (c) Borrower provides Lender with suitable protection of its interests granted hereunder.

4. Hazard or Mortgaged Property Insurance. (a) Borrower shall keep the improvements now existing or hereafter erected on the Mortgaged Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender reasonably requires. The insurance carrier providing the insurance shall be chosen by Borrower. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Mortgaged Property in accordance with paragraph 5.

(b) All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. If Borrower abandons the Mortgaged Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. The 30-day period will begin when the notice is given. In any event, Lender is authorized to collect all insurance proceeds and apply them, at its option, to the reduction of Borrower's Liabilities, whether due or not then due; provided, however, that if no Default (as defined below) shall have occurred, Lender shall allow Borrower to use such money, or any part thereof, in repairing the damage or restoring the improvements.

(c) Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments due on account of Borrower's Liabilities or change the amount of the payments. If the Mortgaged Property is acquired by Lender pursuant to this Mortgage, Borrower's right to any insurance policies and proceeds resulting from damage to the Mortgaged Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

5. Preservation, Maintenance and Protection of the Mortgaged Property. Borrower shall maintain or cause to be maintained the Mortgaged Property in good repair, working order, and condition and make or cause to be made, when necessary, all repairs, renewals, and replacements, structural, non-structural, exterior, interior, ordinary and extraordinary. Borrower shall refrain from and shall not permit the commission of waste in or about the Mortgaged Property. Borrower covenants and agrees that in the ownership, operation and management of the Mortgaged Property, Borrower will observe and comply with all applicable federal, state and local statutes, ordinances, regulations, orders and restrictions.

6. Protection of Lender's Rights in the Mortgaged Property. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the Mortgaged Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Mortgaged Property and Lender's rights in the Mortgaged Property. Lender's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees, maintaining insurance coverage for the Mortgaged Property and entering on the Mortgaged Property to make repairs. Although Lender may take action under this paragraph 6, Lender does not have to do so. ANY AMOUNTS DISBURSED BY LENDER UNDER THIS PARAGRAPH 6 SHALL BECOME ADDITIONAL DEBT OF BORROWER SECURED BY THIS MORTGAGE. UNLESS BORROWER AND LENDER AGREE TO OTHER TERMS OF PAYMENT, THESE AMOUNTS SHALL BEAR INTEREST FROM THE DATE OF DISBURSEMENT AND SHALL BE PAYABLE UPON NOTICE FROM LENDER TO BORROWER REQUESTING PAYMENT.

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7. Inspection. Lender or its agent may make reasonable entries upon and inspections of the Mortgaged Property. Lender shall give Borrower notice prior to an inspection specifying reasonable cause for the inspection.

8. Condemnation. Borrower shall promptly give notice to Lender of any condemnation or eminent domain proceeding affecting the Mortgaged Property. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Mortgaged Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender and held by Lender in escrow until all amounts secured hereunder are repaid to Lender or are applied pursuant to the Note, with any excess paid to Borrower; provided, however, that Lender may at its option, allow Borrower to use such award, or any part thereof, as Lender may deem appropriate in its reasonable discretion.

9. Transfer of the Mortgaged Property. If all or any part of the Mortgaged Property or any interest in it is sold or transferred without Lender's prior written consent (hereinafter a "Prohibited Transfer"), Borrower shall immediately pay in full all of Borrower's Liabilities. However, Lender shall not require such payment if prohibited by federal law as of the date of this Mortgage. If a Prohibited Transfer occurs and Lender exercises its right to accelerate the payment of Borrower's Liabilities, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all of Borrower's Liabilities. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

10. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Mortgaged Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Mortgaged Property that is in violation of any environmental law. The preceding two sentences shall not apply to the presence, use, or storage on the Mortgaged Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Mortgaged Property. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Mortgaged Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. As used herein, "Hazardous Substances" are those substances defined as toxic or hazardous substances under any federal, state or local law, rule or regulation that relate to health, safety or environmental protection.

11. Default. Any of the following occurrences or acts shall constitute an event of default (a "Default") under this Mortgage:

(a) the occurrence of a default under the Note which is not cured within any applicable cure, notice or grace period;

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(b) if Borrower fails or neglects to perform, keep or observe any term, provision, condition, covenant, warranty or representation contained in this Mortgage, which is required to be performed, kept or observed by Borrower and Borrower shall fail to remedy such within thirty (30) days of being served with written notice from Lender.

12. Remedies, Acceleration. If any such Default shall have occurred, then, to the extent permitted by applicable law, then Lender shall give notice to Borrower prior to acceleration following Borrower's default under this Mortgage (but not prior to acceleration under Paragraph 9 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding and sale of the Mortgaged Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender, at its option, may require immediate payment in full of all of Borrower's Liabilities without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 12, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

13. Borrower's Right to Reinstatement. If Borrower meets certain conditions, Borrower may have the right to have enforcement of this Mortgage discontinued pursuant to applicable law. Upon reinstatement by Borrower, this Mortgage and the obligations secured hereby shall remain fully effective as if no acceleration had occurred.

14. Remedies Cumulative and Non-Exclusive. The lien and remedies granted to Lender in this Mortgage are in addition to and exclusive of any other liens or security interests granted to Lender in any other agreement now or from time to time given to Lender to secure the repayment of the Borrower's Liabilities. Lender is under no obligation to seek enforcement of any other security interest or lien prior to its enforcement of the remedies accorded to Lender under this Mortgage.

15. Notices. All notices under this Mortgage shall be sent via facsimile with receipt confirmation, hand delivery or certified U.S. mail, return receipt requested and shall be deemed served on the date hand delivered or five (5) days after mailing the notice if served by certified mail. Notices to Borrower shall be sent to 707 Skokie Boulevard, Suite 100, Northbrook, Illinois 60062 and notices to Lender shall be sent to _____ (or any different address specified by Borrower or Lender in writing to other party).

16. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of Borrower's Liabilities granted by Lender to Borrower shall not operate to release the liability of Borrower. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

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17. Successors and Assigns Bound, Joint and Several Liability. The covenants and agreements of this Mortgage shall bind and benefit the successors, assigns, heirs and personal representatives of Lender and Borrower. In the event more than one person is executing this Mortgage on behalf of Borrower, then all persons so executing this Mortgage as a Borrower shall be jointly and severally liable hereunder.

18. Governing Law; Severability. This Mortgage shall be governed by the laws of the state of Illinois. In the event that any provision or clause of this Mortgage or the Note conflicts with Illinois law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision. To this end, the provisions of this Mortgage and the Note are declared to be severable.

19. Release. Upon payment of all of Borrower's Liabilities, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay any recordation costs.

20. Waiver of Homestead. Borrower waives all right of homestead exemption in the Mortgaged Property.

21. Modification, Waiver, etc. No modification, waiver, estoppel, amendment, discharge or change of this Mortgage or any related instrument shall be valid unless the same is in writing and signed by Borrower and Lender.

22. Subordination. This Mortgage shall be subordinate and junior to any other mortgage recorded prior to the date of recording of this Mortgage.

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BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Mortgage.

BORROWER:

Address:

PARK AVENUE L.L.C., an Illinois
limited liability company

By: 
Its Manager

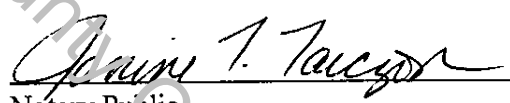
STATE OF Illinois)
))
COUNTY OF Cook)

SS

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I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Arthur Goldner, the Manager of Park Avenue L.L.C., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged before me that he signed and delivered the said instrument on behalf of the corporation as a free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 16th day of April, 2002.


Notary Public



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EXHIBIT "A"

Legal Description

LOT 13, 14, 15, 16, 17, 18 AND 19 IN LIGARE'S SUBDIVISION OF PART OF BLOCK 20 IN GLENCOE, BEING A SUBDIVISION OF PART OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 05-07-200-038
05-07-200-039

COMMON ADDRESS: 337-353 Park Avenue and
338-350 Tudor Court
Glencoe, Illinois 60022

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EXHIBIT "B"

Permitted Exceptions

All restrictions of record as of the date of this Agreement.

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