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Eugene "Gene" Moore Fee: \$26.50
Cook County Recorder of Deeds
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STATE OF ILLINOIS

COUNTY OF COOK

LIS PENDENS

I, the undersigned, do certify, that on or about April 4, 2004 a request for arbitration was filed by Marshall Castle, plaintiff, against Joseph Weiss, defendant, with the Beth Din Ecclesiastical Judicature of the Chicago Rabbinical Council, Inc. in the case entitled *Castle v. Weiss* to resolve conflicting claims of ownership of that parcel of real estate otherwise commonly known as 6758 North California Avenue, Chicago, Illinois (the "Property"). After hearing argument, the Beth Din Ecclesiastical Judicature of the Chicago Rabbinical Council, Inc. ruled on September 14, 2004 that the Property belonged to Mr. Castle. A copy of the order is attached hereto as Exhibit 1. The Property affected by this ruling is legally described as follows:

PARCEL 1: LOTS 1, 2, 3, 4 IN SALLINGER AND HUBBARD'S ADDITION TO ROGERS PARK IN THE SOUTH WEST 1/4 OF SECTION 36, TOWNSHIP 41, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING NORTH OF INDIAN BOUNDARY LINE ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 15, 1914 AS DOCUMENT NUMBER 5494309 IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOTS 1 IN CALIFORNIA ALBION ADDITION TO ROGERS PARK IN THE NORTH EAST 1/4 OF THE SOUTH WEST 1/4 OF SECTION 36, TOWNSHIP 41, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

P.L.N.: 10-36-306-017, 018, 019, 021, 022.

SIGNATURE: , Attorney of Record
Harold L. Moskowitz

BETH DIN ZEDEK UNOFFICIAL COPY

בית דין צדק דק"ק שיקגו והגליל

דמועת הרבנים דשיקגו

BETH DIN ZEDEK ECCLESIASTICAL JUDICATURE OF THE CHICAGO RABBINICAL COUNCIL, INC. 2701 West Howard Street • Chicago, Illinois 60645 773/465-3900 • FAX: 773/465-6632

הרב ישראל מאיר קרנו, ראב"ד מלפנים RABBI ISRAEL M. KARNO Av Beth Din Emeritus

הרב חיים חוד רענשברג, זצ"ל, מייסד הבר"ץ RABBI C. DAVID REGENSBURG, of blessed memory Founding Av Beth Din

כס"ד

הרב גדליה דוב שווארץ, ראב"ד RABBI GEDALIA DOV SCHWARTZ Av Beth Din

הרב יוסף שאול אזרובסקי RABBI DR. JOSEPH S. OZAROWSKI Menahel

הרב אברהם מרדכי אברמסון RABBI ALAN M. ABRAMSON Sgan Menahel

D.T. # 04/08 Castle v Weiss

In regard to the controversy between Marshall Castle, the plaintiff, and Joseph Weiss, the defendant regarding the status of the property agreement between them, the Beth Din Zedek of the Chicago Rabbinical Council has carefully reviewed the presentations of both sides and scrupulously examined the various documents presented by both sides in the aforementioned case.

The essence of the case focused on the question as to whether the transactional arrangement between Mr. Weiss and Mr. Castle in regard to ownership of the Marshall's Car Castle property was in the form of a sale and subsequent rental back, or in the form of a loan. The Beth Din spent many hours reviewing the evidence and considering the case. We also spoke with several experts in the field of real estate law. We believe there is much more to the case than the evidence presented by both sides suggests. Nevertheless, the Beth Din will restrict itself to the issue at hand, namely, who is considered by Halacha to be the owner and has the right to sell the property.

The Beth Din rules as follows:

- 1 The prima facie documentation we saw strongly indicated that this arrangement was a full sale and full subsequent rental agreement. The papers were fully signed by both parties.
2 Nevertheless, experts with whom we consulted inform us that such transactions can indeed be seen as loans and not sales.
3 As a result we are faced with a case of halachic doubt (ספק). In such a case, the land remains in the jurisdiction of the previous clear owner, namely Mr. Castle. This follows the principle of Rav Nachman in קבא מצמח קבא of בעליה קיימת. This is also codified in שיע חושן משפט קמא ועין ערהש שם וגם שיע חושן משפט ש"ב טו.
4 Mr. Castle's right to use of the property is fully protected under the terms of the agreement, as long as all fees are paid and responsibilities discharged per those terms. This is indicated by the language in Section 10:5 of the agreement.
5 As both sides have signed the Shtar Berurin recognizing the authority of the Beth Din in this case, the above psak precludes any eviction order in the Civil Courts, subject to the conditions mentioned above in item 4.

As indicated in the introduction to the psak, there seem to be many other issues within this arrangement that have not been shared with the Beth Din. The Beth Din will consider hearing other aspects of the case if both parties agree.

The Beth Din urges all parties to live in peace and harmony following the resolution of this matter.

In testimony thereof we set our hand יום ג' האינו כח' אלול תשס"ד September 14, 2004

Gedalia Dov Schwartz signature and name: Rabbi Gedalia Dov Schwartz Av Beth Din

Rabbi Zev M. Shandalov signature and name: Rabbi Zev M. Shandalov Dayan דייט דק"ק שיקגו והגליל

Rabbi Yosef Posner signature and name: Rabbi Yosef Posner Dayan

Edubet 1