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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 0905134069 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/20/2009 01:57 PM Pg: 1 of 8

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 05-08-314-029-0000

Address:

Street: 60 Harbor Street

Street line 2:

City: Glencoe

State: IL

ZIP Code: 60022

Lender: Alexander Kogan Revocable Trust u/t/a/d 4/28/2008 and Lena Kogan Revocable Trust u/t/a/d 4/28/2008

Borrower: Michael Loyfman and Faina Loyfman

Loan / Mortgage Amount: \$400,000.00

This property is located within Cook County and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

Certificate number: 7D9A6142-CC1F-4EF2-BF82-1BAEBB18986D

Execution date: 02/13/2009

UNOFFICIAL COPY***JUNIOR AND
SUBORDINATE
MORTGAGE***

THIS JUNIOR AND SUBORDINATE MORTGAGE ("Mortgage") is given on November 1, 2008. The Mortgagor is **Michael Loyfman and Faina Loyfman, husband and wife** (collectively the "Mortgagor"). This Mortgage is given to **Alexander Kogan Revocable Trust u/t/a/d 4/28/2008 and Lena Kogan Revocable Trust u/t/a/d 4/28/2008** (collectively the "Lender").

FOR RECORDERS USE ONLY

Michael Loyfman, individually, owes the Lender the principal sum of Four Hundred Thousand Dollars (\$400,000.00). This debt is evidenced by a Promissory Note made to the order of Alexander Kogan Revocable Trust u/t/a/d 4/28/2008 and Lena Kogan Revocable Trust u/t/a/d 4/28/2008 ("Note"), which provides for full payment of the full debt, if not paid earlier, on (A) July 15, 2009, unless extended pursuant to the terms of the Note, or (B) such earlier date on which said amount shall become due and payable on account of acceleration by Holder (the date so determined hereunder is hereinafter referred to as the "**Maturity Date**"). Faina Loyfman is executing this mortgage as an accommodation to Michael Loyfman. This Mortgage secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced to protect the security of this Mortgage; and (c) the performance of Mortgagors' covenants and agreements under this Mortgage and the Note. For this purpose, Mortgagor does hereby mortgage, grant and convey to Lender the following described property located in Cook County, Illinois:

Parcel 1:

That part of **Block 9 (except the southwesterly 50 feet thereof)** in Taylorsport, a subdivision in the southwest quarter of Section 8, Township 42 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois, described as follows.

Commencing at the northwest corner of Block 9, thence north 89 degrees 59 minutes 08 seconds east along the north line of said Block 9, a distance of 78.00 feet to the point of beginning, thence continuing north 89 degrees 59 minutes 08 seconds east along the north line of said Block 9 a distance of 167.40 feet to the east line of said Block 9, a thence south 01 degrees 06 minutes 31 seconds west along the east line of said Block 9, a distance of 109.32 feet, thence north 89 degrees 59 minutes 08 seconds west parallel with the north line of said Block 9, a distance of 165.42 feet thence north 00 degrees 04 minutes 27 seconds east parallel to the west line of said Block 9, a distance of 109.30 feet to the point of beginning.

Parcel 2:

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That part of the southeast fractional quarter of Section 8, Township 42 North, Range 13, East of the Third Principal Meridian which lies westerly to Lake Michigan, easterly of the easterly line of Block 9 of Taylorsport, being a subdivision of the southwest fractional quarter of the aforesaid Section 8, lying northerly of a line 109.30 feet southerly and parallel with the northerly line of Block 9, extended easterly to Lake Michigan and lying southerly of the northerly line of said Block 9 extended easterly of Lake Michigan, in Cook County, Illinois, together with all Riparian Rights thereunder appertaining of belonging.

which has the address of 60 Harbor Street, Glencoe, Illinois ("Property Address"), and P.I.N.S 105-08-314-029-0000; 05-08-400-001-0000; and 05-08-400-002-0000.

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

MORTGAGOR COVENANTS that Mortgagor is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Mortgagor warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrance of record.

MORTGAGOR AND LENDER COVENANT AND AGREE AS FOLLOWS:

1. Payment of Principal and Interest; Prepayment and Late Charges. Mortgagor shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any late charges due under the Note.

2. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 shall be applied: first, to any prepayment charges due under the Note; second, to interest due; third, to principal due; and last, to any late or other charges due under the Note.

3. Charges; Liens. Mortgagor shall pay all taxes, assessments, charges, fees and impositions attributable to the Property which may attain priority over this Mortgage, and leasehold payments or ground rents, if any. Mortgagor shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Mortgagor shall pay them on time directly to the person owed payment. Mortgagor shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Mortgagor makes these payments directly, Mortgagor shall promptly furnish to Lender receipts evidencing the payments.

Mortgagor shall promptly discharge any lien which has priority over this Mortgage unless Mortgagor (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Mortgage. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Mortgage, Lender may give Mortgagor a notice identifying the lien. Mortgagor shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

4. Hazard or Property Insurance. Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term

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"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 requires. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval which shall not be unreasonably withheld. If Mortgagor fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect lender's rights in the Property.

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, Mortgagor shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by the Mortgagor.

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Mortgagor. If Mortgagor abandons the 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. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due. The 30 day period will begin when the notice is given.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraph 1 or change the amount of the payments. If the Property is acquired by Lender, Mortgagors' right to any insurance policies and proceeds resulting from damage to the 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. Occupancy, Preservation, Maintenance and Protection of the Property; Mortgagors' Loan Application; Leaseholds. Mortgagor shall occupy, establish, and use the Property as Mortgagors' principal residence within sixty days after the execution of this Mortgage, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Mortgagors' control. Mortgagor shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Mortgagor shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Mortgage. Mortgagor may cure such a default and reinstate, as provided herein, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Mortgagors' interest in the Property or other material impairment of the lien created by this Mortgage. Mortgagor shall also be in default if Mortgagor, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Mortgagors' occupancy of the Property as a principal residence.

6. Protection of Lender's Rights In the Property. If Mortgagor 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 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 Property and Lender's rights in the 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 and entering on the Property to make repairs. Although Lender may take action under this paragraph, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph shall become additional debt of Mortgagor secured by this Mortgage. Unless Mortgagor and Lender agree to other terms of payment,

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these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Mortgagor requesting payment.

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

8. Condemnation. 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 Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Mortgagor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Mortgage immediately before the taking, unless Mortgagor and Lender otherwise agree in writing, the sums secured by this Mortgage shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Mortgagor. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Mortgagor and Lender otherwise agree in writing or unless applicable law otherwise provide, the proceeds shall be applied to the sums secured by this Mortgage whether or not the sums are then due.

If the Property is abandoned by Mortgagor, or if, after notice by Lender to Mortgagor that the condemnor offers to make an award or settle a claim for damages, Mortgagor fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Mortgage, whether or not then due.

Unless Lender and Mortgagor otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraph 1 or change the amount of such payments.

9. Mortgagor Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Mortgagor shall not operate to release the liability of the original Mortgagor or Mortgagors' successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Mortgagor or Mortgagors' successors in interest. 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.

10. Successors and Assigns Bound; Joint and Several Liability; Cosigners. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender and Mortgagor. Mortgagors' covenants and agreements shall be joint and several. Any Mortgagor who co-signs this Mortgage but does not execute the Note: (a) is co-signing this Mortgage only to mortgage, grant and convey that Mortgagors' interest in the Property under the terms of this Mortgage; (b) is not personally obligated to pay the sums secured by this Mortgage; and (c) agrees that Lender and any other Mortgagor may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without that Mortgagors' consent.

11. Loan Charges. If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such

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loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Mortgagor which exceeded permitted limits will be refunded to Mortgagor. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Mortgagor. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

12. Notices. Any notice to Mortgagor provided for in this Mortgage shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Mortgagor designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Mortgagor. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Lender when given as provided in this paragraph.

13. Governing Law; Severability. This Mortgage shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable 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. In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (herein called the "Act") the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

If any provision of this Mortgage shall grant to Lender any rights or remedies upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of said provision, Lender shall be vested with the rights granted in the Act to the full extent permitted by law.

Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in of this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

14. Mortgagors' Copy. Mortgagor shall be given one conformed copy of the Note and of this Mortgage.

15. Transfer of the Property or a Beneficial Interest In Mortgagor. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Mortgagor is sold or transferred and Mortgagor is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Mortgagor 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 Mortgagor must pay all sums secured by this Mortgage. If Mortgagor 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 Mortgagor.

16. Mortgagors' Right to Reinstate. If Mortgagor meets certain conditions, Mortgagor shall have the right to have enforcement of this Mortgage discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Mortgage; or (b) entry of a judgment enforcing this Mortgage. Those conditions are that Mortgagor: (a) pays Lender all sums which then would be due under this Mortgage and the Note as if no acceleration had occurred; (b) cures any default of any other

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covenants or agreements; (c) pays all expenses incurred in enforcing this Mortgage, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the Lien of this Mortgage, Lender's rights in the Property and Mortgagors' obligation to pay the sums secured by this Mortgage shall continue unchanged. Upon reinstatement by Mortgagor, this Mortgage and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 18.

17. Hazardous Substances. Mortgagor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Mortgagor shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Mortgagor shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Mortgagor has actual knowledge. If Mortgagor learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Mortgagor shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

18. Acceleration; Remedies. Lender shall give notice to Mortgagor prior to acceleration following Mortgagors' breach of any covenant or agreement in this Mortgage (but not prior to acceleration under paragraph 16 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 Mortgagor, by which date 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 Property. The notice shall further inform Mortgagor 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 Mortgagor 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 sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing all of the remedies provided in this paragraph, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

19. Release. Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay any recordation costs.

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

21. Existing Mortgages. This Mortgage is junior and subordinate only to the existing mortgage in favor of Edens Bank to secure an indebtedness in the original principal amount of \$4,500,000.00, under a mortgage dated _____ and recorded on _____ as document _____

22. Payment of Costs. The undersigned hereby expressly agrees that upon the occurrence of any

