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Doc#: 0909818054 Fee: \$108.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
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Prepared by: Ms. Susan M. Fitzgerald
GE Capital Franchise Finance Corporation
8377 East Hartford Drive
Suite 200
Scottsdale, Arizona 85255

Mail to: Ms. Susan M. Fitzgerald
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STATE OF FLORIDA)
) ss.
 COUNTY OF ORANGE)

AFFIDAVIT

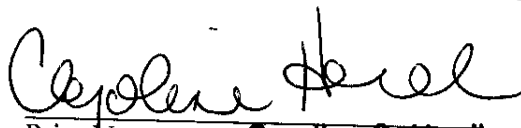
I, Caroline C. Hardin ("**Affiant**"), being first duly sworn upon oath, depose and state that I am an Authorized Signatory of **CNL APF PARTNERS, LP** a Delaware limited partnership ("**Seller**") successor by merger to CNL Income Fund VIII, Ltd., a Florida limited partnership ("**CNL**") of that certain real property and improvements situated in Deerfield, Cook County, Illinois, legally described in Exhibit A hereto (the "**Premises**"). On December 21, 1999 **CNL-BB Corp.**, a Florida corporation, as landlord, entered into a lease with respect to the Premises with **Steak and Ale of Illinois, Inc.**, a Nevada corporation ("**Former Tenant**"), as tenant (the "**Lease**"). A Memorandum of the Lease was recorded on December 22, 1999 as Document #09188867 and further assigned to CNL pursuant to that certain Assignment of Lease and Memorandum of Lease recorded on August 3, 2000 as Document #00590865.

Affiant states, to the best of his/her knowledge and belief, as follows:

1. That on or about May 26, 2008, Company sent written notice to Former Tenant duly terminating the Lease for the Premises.
2. That on or about July 29, 2008, Former Tenant filed a petition for relief under Chapter 7 of the Bankruptcy Code, 11 U.S.C. Section 101, et seq. with the Court.
3. That on or about August 26, 2008 the Court filed a Motion (the "**Motion**") declaring that Company duly terminated the Lease prior to the petition date and stating that Former Tenant has no interest whatsoever in the Premises and the Premises are not property of the Former Tenant's bankruptcy estate (see attached copy of the Motion as Exhibit B).
4. As a result pursuant to the Motion, Former Tenant no longer has any right to possession of the Premises, nor does it have any further rights under the Lease, including, without limitation, the option to purchase contained therein.

Further, affiant saith not.


Dated this 26th day of March, 2009.



 Print Name Caroline C. Hardin

SWORN to and subscribed before me this the 26th day of March, 2009.

My Commission Expires:

10/16/09


 Notary Public

NOTARY PUBLIC-STATE OF FLORIDA
 **Jocelyn Mennenga**
 Commission # DD482088
 Expires: OCT 16, 2009
 Bonded Thru Atlantic Bonding Co., Inc.

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EXHIBIT A

LEGAL DESCRIPTION

Parcel 1:

Lot 3 in the Final Plat of Deerfield Depot Subdivision being a subdivision of part of the Northwest 1/4 of Section 4, Township 42 North, Range 12, East of the Third Principal Meridian, according to the plat thereof recorded March 9, 1998 as Document Number 98183480, in Cook County, Illinois.

Parcel 2:

Easement for the benefit of Parcel 1 as contained in Document Number 91488781.

Parcel 3:

Reciprocal Easement and Operating Agreement for the benefit of Parcel 1 in Document Number 98183483 as amended by instruments recorded as Document Numbers 98639499 and 09188866.

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EXHIBIT B
Court order

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08/26/2008

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In re:

S & A RESTAURANT CORP., *et al.*

Debtors.

§
§
§
§
§

Chapter 7 Case No. 08-41898

Jointly Administered

**ORDER GRANTING TRUSTEE'S MOTION FOR APPROVAL, PURSUANT TO
BANKRUPTCY RULE 4001(D), OF STIPULATION REGARDING
PROCEDURES FOR (A) SALE OF CERTAIN ASSETS, (B) ASSUMPTION,
ASSIGNMENT AND SALE OF DEBTORS' INTERESTS UNDER CERTAIN
LEASES, AND (C) TRANSFER OF LIENS TO PROCEEDS**

CAME ON before the Court on August 21, 2008 the Trustee's Motion (the "Motion") for Approval, Pursuant to Bankruptcy Rule 4001(d), of Stipulation Regarding Procedures for (A) Sale of Certain Assets (B) Assumption, Assignment, and Sale of Debtors' Interests Under Certain Leases, and (C) Transfer of Liens to Proceeds (the "Sale Procedures Stipulation"), filed by Michelle Chow, the Chapter 7 Trustee (the "Trustee") of the above-referenced jointly administered bankruptcy estates of S&A Restaurant Corp., *et al.* Upon consideration of the Motion, of which the Trustee has given adequate notice pursuant to the Federal Rules of Bankruptcy Procedure and applicable local rules, and the Trustee having announced an agreement reached with GE (as defined in the Motion) as embodied in the provisions of the Sale Procedures Stipulation attached hereto as Exhibit A, and any timely filed objections or other written responses to the Motion having been withdrawn, waived, or overruled, the Court hereby FINDS as follows:

1. The Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334. Consideration of the Motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

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2. The Trustee engaged in good faith, arms-length negotiations regarding the terms of the Sale Procedures Stipulation and has reached an agreement with GE as reflected by the provisions of the Motion and Sale Procedures Stipulation.

3. The Sale Procedures Stipulation is fair, reasonable and in the best interests of the Debtors, their estates and creditors.

IT IS THEREFORE,

ORDERED that the Motion shall be and is hereby GRANTED in its entirety; and it is further

ORDERED that the Sale Procedures Stipulation attached hereto as Exhibit A is hereby approved in its entirety and the Trustee or its counsel is authorized to carry out the terms of the Sale Procedures Stipulation; and it is further

ORDERED that notwithstanding Bankruptcy Rule 7062(a), this Order shall become effective immediately upon its entry; and it is further

ORDERED that this Court shall reserve jurisdiction to interpret and enforce the terms of this Order and the Sale Procedures Stipulation.

IT IS SO ORDERED this _____ day of _____, 2008.

Signed on 8/26/2008

Brenda T. Rhoades SR
HONORABLE BRENDA T. RHOADES,
UNITED STATES BANKRUPTCY JUDGE

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EXHIBIT A

Sale Procedures Stipulation

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

In re:

S & A Restaurant Corp., *et al.*

Debtors.

§
§
§
§
§

Chapter 7 Case No. 08-41898, *et seq.*¹

Jointly Administered

**Stipulation Regarding Procedures for (A) Sale of Certain Assets,
(B) Assumption, Assignment and Sale of Debtors' Interests Under
Certain Leases, and (C) Transfer of Liens to Proceeds**

Michelle Chow, Chapter 7 Trustee (the "Trustee") and General Electric Capital Business Asset Funding Corporation of Connecticut; GECPAC Investment II, Inc.; Net Lease Funding, 2005, LP; CNL Funding 2000-A, LP; GE Capital Franchise Finance Corporation; CNL APF Partners, LP; CNL/Lee Vista Joint Venture; CNL Funding 98-1; CNL Net Lease Funding 2001, LP (collectively, "GE"), and together with the Trustee, the "Parties"), by and through their respective undersigned counsel, hereby file this Stipulation Regarding Procedures for (A) Sale of Certain Assets, (B) Assumption, Assignment and Sale of Debtors' Interests Under Certain

¹ The following affiliated entities also sought Chapter 7 relief on July 29, 2008: S & A Properties Corp.; Jolly Ox Club of Kansas, Inc.; S & A Payroll Agent II, Inc.; S and A Leasing Corp.; Steak and Ale of Texas, Inc.; Bennigan's of Waldorf, Inc.; Bennigan's Gift Card, Inc.; Steak and Ale of Alabama, Inc.; Steak and Ale of Virginia, Inc.; Bennigan's of Las Vegas, Inc.; Steak and Ale of Colorado, Inc.; Bennigan's of Security, Inc.; Steak and Ale of West Virginia, Inc.; Steak and Ale of Columbia, Inc.; Bennigan's of Laurel, Inc.; Steak and Ale of Florida, Inc.; Steak and Ale of Oklahoma City No. 1, Inc.; Bennigan's of Roosevelt Field, Inc.; Steak and Ale of Georgia, Inc.; Bennigan's of Maryland, Inc.; Steak and Ale of Pennsylvania, Inc.; Steak and Ale of Delaware, Inc.; Steak and Ale of Illinois, Inc.; Steak and Ale of Tennessee, Inc.; Steak and Ale of Louisiana, Inc.; Steak and Ale of Indiana, Inc.; Steak and Ale of California, Inc.; Steak and Ale of Massachusetts, Inc.; Steak and Ale of New Mexico, Inc.; Steak and Ale of Michigan, Inc.; S & A of Montgomery County, Inc.; Steak and Ale of Minnesota, Inc.; Steak and Ale of Missouri, Inc.; Steak and Ale of New Jersey, Inc.; Steak and Ale of Little Rock, Inc.; Steak and Ale of Ohio, Inc.; 100 W. Timonium Road, Inc.; Bennigan's Club of Dallas-Shiloh, Inc.; Bennigan's Club of Fort Worth, Inc.; Bennigan's Club of Mesquite, Inc.; Bennigan's Club of Tyler, Inc.; Steak and Ale No. 108 Club; Steak and Ale Club of Mesquite, Inc.; and Jamie's Inc., together with S & A Restaurant Corp., the "Debtors". The case numbers associated with the preceding Debtors are: 08-41899 through 08-41935, and 08-41952 through 08-41959.

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Leases, and (C) Transfer of Liens to Proceeds (the "Stipulation") and hereby stipulate and agree as follows:

RECITALS:

General Background

- A. On July 29, 2008 (the "Petition Date"), the Debtors commenced cases under chapter 7 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Texas (the "Bankruptcy Court"). On or about July 30, 2008, the Trustee was appointed.
- B. The meeting of creditors is scheduled for August 29, 2008.
- C. The Debtors formerly operated their businesses through direct and indirect ownership or control of restaurants located in a number of states. Upon information and belief, the Trustee understands that the Debtors own a number of restaurant locations and lease others, all of which have been closed and are no longer operating. GE represents that it is the lessor on certain property leased by the Debtors and holds one fee mortgage and other leasehold interests on other property owned or leased by the Debtors and on which the Debtors formerly operated their restaurants. Upon information and belief, the Trustee understands that certain of the leased properties are leased from third parties having no connection or affiliation with the Debtors and others are leased from non-debtor special purpose entities ("SPEs"), which are represented to the Trustee to be owned by the Debtors.
- D. On July 31, 2008, the Trustee and certain GE lessors, among others, entered into a Stipulation and Order to Change Locks and Transfer Utilities, which was approved and allowed by the Bankruptcy Court on August 1, 2008 (Docket No. 30) (the "August 1st Stipulation"). Pursuant to the August 1st Stipulation, certain GE lessors were authorized to change the locks on

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certain restaurants. Additionally, the GE lessors were authorized, but not obligated, to transfer services provided by utility companies to the names of such GE lessors or any other entities designated by those lessors.

E. The August 1st Stipulation also provided that certain of the GE lessors or their affiliates would advance to the Trustee amounts to be used by the Trustee solely to pay scheduled competition rents due for the month of August 2008 (the "August Rent Advance") for certain identified restaurants.

Lease Transactions

F. GE has represented to the Trustee that the Debtors entered into thirty-eight lease agreements with GE (the "Lease Transactions") whereby a Debtor entity agreed to lease the subject properties (the "GE Owned Units") on the terms specified therein for the purpose of operating a restaurant upon such properties. In many instances, the properties were then subleased to other Debtor entities. The Parties to the Lease Transactions and the location of the GE Owned Units are identified on Exhibit A attached hereto.

G. GE has represented to the Trustee that the lease obligations were guaranteed by certain Debtors and GE was granted security interests in, among other things, substantially all personal property, equipment, receivables, intellectual property, documents and other tangibles relating to the subject properties.

H. By letters dated May 14, 2008, GE notified the Debtor-lessees of their default for failure to pay when due amounts owing under the lease documents. GE has represented to the Trustee that the Debtor-lessees did not cure the defaults under the Lease Transactions and, as such, there was a continuing default. GE provided copies of the relevant documents that purported to terminate the Lease Transactions to counsel for the Trustee, and based on those

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documents and GE's representation of the Debtor-lessees' failure to cure, the Trustee concedes that GE duly terminated the Lease Transactions prior to the Petition Date pursuant to letters dated May 26, 2008.

Fee Mortgage Transactions

I. A non-Debtor SPE and one Debtor entity (collectively, the "Fee Mortgage Borrowers") obtained loans (the "Fee Mortgage Transactions") from GE or entities for which GE is a loan servicer (collectively, the "Lender Parties") in connection with the operation of eleven restaurants (collectively, the "Fee Mortgage Units"). Of the eleven Fee Mortgage Transactions, a Debtor is a borrower in one such transaction and the SPE is the borrower on the remaining ten transactions. The Parties to the Fee Mortgage Transactions and the location of the Fee Mortgage Units are identified on Exhibit B attached hereto.

J. GE has represented to the Trustee that with respect to its ten loans, the non-Debtor SPE executed promissory notes and mortgages and security agreements in favor of the Lender Parties and then directly or indirectly leased or subleased the subject properties to certain Debtor entities. GE has represented to the Trustee that certain Debtor-lessees executed guaranty agreements and other Debtor-lessees/sublessees executed limited guaranty agreements whereby they guaranteed payment of the loans. GE has further represented to the Trustee that the Debtor-lessee/sublessee that operated the restaurants granted the Lender Parties security interests in, among other things, substantially all personal property, equipment, receivables, intellectual property, documents and other tangibles relating to the subject properties. GE has represented to the Trustee that all of the SPE's loans related to the Fee Mortgage Units are cross-collateralized.

K. GE has represented to the Trustee that with respect to its loan, the Debtor-borrower also executed a promissory note and a mortgage and security agreement in favor its

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respective Lender Party. GE has represented to the Trustee that the Debtor-borrower granted the Lender Party a security interest in, among other things, substantially all personal property, equipment, receivables, intellectual property, documents and other tangibles relating to the subject property (the "Debtor Fee Mortgage Unit"). GE has represented to the Trustee that a Debtor entity guaranteed payment of the loan. GE has represented to the Trustee that the Debtor-borrower's loan is cross-collateralized with certain other Debtor loans that are in default.

L. By letters dated May 14, 2008, GE notified the Fee Mortgage Borrowers and guarantors of their default for failure to pay when due amounts owing under the loan documents. GE has represented to the Trustee that the defaults under the Fee Mortgage Transactions were not cured and, as such, there is a continuing default under the loan documents.

M. Pursuant to the Trustee's *Emergency Motion to Reject Unexpired Leases of Non-Residential Real Property and to Establish Rejection Procedure* (Docket No. 56) (the "Rejection Motion"), the Trustee sought to reject all the Debtors' real property leases related to the Fee Mortgage Transactions, and the Court has entered an order approving such rejection. *See Order Approving Trustee's Emergency Motion to Reject Unexpired Leases of Non-Residential Real Property and to Establish Rejection Procedures* (Docket No. 166) (the "Lease Rejection Order").

Leasehold Mortgage Transactions

N. GE has represented to the Trustee that a non-Debtor SPE and certain Debtor entities (collectively, the "Leasehold Mortgage Borrowers") obtained loans (the "Leasehold Mortgage Transactions") from the Lender Parties in connection with the operation of thirty-one restaurants (collectively, the "Leasehold Mortgage Units"). GE has represented to the Trustee that of the thirty-one Leasehold Mortgage Transactions, a Debtor is a borrower in fourteen such transactions and the SPE is the borrower on the remaining seventeen transactions. The Parties to

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the Leasehold Mortgage Transactions at the location of the Leasehold Mortgage Units are identified on Exhibit C attached hereto.

O. With respect to the SPE's seventeen loans, GE has represented to the Trustee that the SPE executed promissory notes and mortgages and security agreements in favor of the Lender Parties. A Debtor-entity separately entered into a lease agreement with an unaffiliated third party landlord pertaining to a particular Leasehold Mortgage Unit, which lease agreement was then assigned to the non-Debtor SPE. GE has further represented to the Trustee that the non-Debtor SPE simultaneously subleased the Leasehold Mortgage Unit to a Debtor-entity, which also executed a limited guaranty agreement whereby it guaranteed payment of the loan and granted the Lender Parties a security interest in, among other things, substantially all personal property, equipment, receivables, intellectual property, documents and other tangibles relating to the subject property. GE has represented to the Trustee that all of the SPE's loans related to Leasehold Mortgage Units are cross-collateralized.

P. GE has represented to the Trustee that with respect to their fourteen loans, the Debtor-borrowers executed promissory notes, mortgages and security agreements in favor the Lender Parties, and such obligations were guaranteed by other affiliated Debtor entities. GE has represented to the Trustee that the Debtor-borrowers granted the Lender Parties security interests in, among other things, substantially all personal property, equipment, receivables, intellectual property, documents and other tangibles relating to the subject properties. GE has further represented to the Trustee that the Debtor-borrowers separately and simultaneously entered into lease agreements with unaffiliated third party landlords pertaining to the Leasehold Mortgage Unit in which the Lender Parties held leasehold security interests. GE has also represented to the

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Trustee that the Debtor-borrowers' loans are cross-collateralized with certain other Debtor loans that are in default.

Q. By letters dated May 14, 2008, GE notified the Leasehold Mortgage Borrowers and guarantors of their default for failure to pay when due amounts owing under the loan documents. GE has represented to the Trustee that the defaults under the Leasehold Mortgage Transactions were not cured and, as such, there is a continuing default under the loan documents.

R. Of the thirty-one Leasehold Mortgage Units, the Debtors have seven properties (the "Included Leasehold Mortgage Units") identified on Exhibit D attached hereto, which are the subject of the August 1st Stipulation and with respect to which GE paid or has advanced funds to the Trustee to pay the August Rent Advance.

S. The Debtors have sought to reject the leases related to eleven Leasehold Mortgage Transactions pursuant to the Rejection Motion, but have not sought to reject the Included Leasehold Mortgage Units and thirteen other Leasehold Mortgage Units, and the Court has entered an order approving such rejection. *See Lease Rejection Order.*

Related Motions

T. The Trustee has notified certain landlords of her intent to reject their leases with the Debtors pursuant to the Rejection Motion, wherein the Trustee sought to reject all leases related to all premises in which GE has an interest, other than leases related to the Included Leasehold Mortgage Units and thirteen other Leasehold Mortgage Units. Additionally, the Trustee sought relief pursuant to section 365(d)(3) of the Bankruptcy Code with respect to the August Rent Advance (to the extent that August 2008 rent payments were not timely made) and any other postpetition rent obligations that may be required for the month of September 2008. All such relief has been granted by the Court. *See Lease Rejection Order.*

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U. Unless otherwise agreed to by the Parties, the Trustee shall file a motion (the "Broker Retention Motion") seeking authorization to retain a broker acceptable to GE in its sole discretion to conduct the sale process described herein on or before August 26, 2008. The Trustee shall seek expedited consideration of the Broker Retention Motion.

V. GE intends to separately retain the same broker as retained by the Trustee to market and sell substantially all of the GE Owned Units and Fee Mortgage Units not included in the Trustee's sale process, including all equipment and personal property (the "FF&E") in which GE holds a security interest that is located thereon. GE may also retain a separate broker to market and sell any FF&E located on any Leasehold Mortgage Unit for which the Debtors have rejected the underlying lease. Any broker or brokers retained by the Trustee and GE shall hereinafter be referred to collectively as the "Broker".

W. On or about August 8, 2008, GE filed its *Expedited Motion for Relief from the Automatic Stay With Respect to Real and Personal Property and Request for Hearing* (Docket No. 68) (the "Stay Relief Motion") wherein GE sought to modify the automatic stay to permit the Parties to carry out the terms of this Stipulation. During a hearing held on August 21, 2008, the Court granted the Stay Relief Motion. Pending entry of an order thereon, the stay will be modified with respect to the Debtor Fee Mortgage Unit, the Included Leasehold Mortgage Units and any Leasehold Mortgage Units (other than the Included Leasehold Mortgage Units) under which the Debtors are a lessee or sublessee and which are not subject to the Rejection Motion, and any personal property located at such locations.

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Negotiation of this Stipulation

X. The Included Leasehold Mortgage Units and Debtor Fee Mortgage Unit may suffer substantial and irreversible loss in value if steps are not taken on an expedited basis to market, and if appropriate, assume and assign for value the leases for such properties.

Y. The Trustee has negotiated this Stipulation with GE and believes it will maximize the value of certain assets of the estate, and benefit unsecured creditors.

Z. The Parties believe this Stipulation is in the best interests of the estates and their creditors.

AA. In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto stipulate and agree as follows:

STIPULATION

Disposition of Assets

1. In consultation with GE, the Trustee shall use her best efforts to sell, and assume and assign as applicable, the Included Leasehold Mortgage Units and, at GE's election, the Debtor Fee Mortgage Unit, and any FF&E related thereto pursuant to section 363 and 365 of the Bankruptcy Code in accordance with the form of sale procedures (the "Sale Procedures") attached hereto as Exhibit E.

2. To the extent that GE has a lien on any FF&E located in an Included Leasehold Mortgage Unit or the Debtor Fee Mortgage Unit, GE may elect to include such FF&E in the sale process in connection with the underlying unit. To the extent that the Trustee has sought to reject an underlying lease for a unit containing FF&E in which GE has a lien, GE shall have the right to utilize the Broker to dispose of such FF&E as it deems necessary.

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3. GE shall pay the Trustee (1) the greater of (a) 5% of the gross sale proceeds realized from the sale of the Included Leasehold Mortgage Units and, if GE elects, the Debtor Fee Mortgage Unit, or (b) \$200,000.00, and (2) 3% of the gross sale proceeds realized from the sale of any Leasehold Mortgage Unit (other than the Included Leasehold Mortgage Unit) that is property of the estate (collectively, the "Trustee Fee"), which fee will be used for the benefit of professional fees (inclusive of the commissions, fees and expenses of the Trustee and the Trustee's professionals other than the Broker, who shall be paid from gross sale proceeds and not the Trustee Fee or any successor Chapter 7 Trustee and such Chapter 7 Trustee's professionals) and unsecured creditors in this chapter 7 case or any subsequent Chapter 7 case. Within three days of the Effective Date (as defined below) of this Stipulation, GE shall advance \$75,000.00 of the Trustee Fee (the "Trustee Fee Advance") to the Trustee. The remaining balance of the Trustee Fee shall be paid to the Trustee within five days from the later of the date on which (a) the last Included Leasehold Mortgage Unit or Debtor Fee Mortgage Unit is sold, or (b) GE notifies the Trustee that it will no longer advance the postpetition obligations associated with any Included Leasehold Mortgage Units that have not been sold.
4. Upon GE's payment of the Trustee Fee to the Trustee, GE shall be protected from any further or additional claims for costs or assessments under section 506(c) of the Bankruptcy Code or otherwise, as it relates to the Included Leasehold Mortgage Units, Debtor Fee Mortgage Unit, and any other Leasehold Mortgage Units sold through the Trustee's sale process, and such claims under section 506(c) shall be waived and barred by the entry of an order by the Bankruptcy Court approving this Stipulation.
5. GE shall notify the Trustee in writing whether it has elected to (a) include the Debtor Fee Mortgage Unit in the sale process, or (b) accept a deed in lieu of foreclosure from the

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Trustee with respect to the Debtor Fee Mortgage Unit. Any deed in lieu provided by the Trustee shall be "as-is, where-is" any convey only the Debtors' interest, subject to all liens, claims and encumbrances. If GE elects to accept a deed in lieu of foreclosure from the Trustee, GE shall pay the Trustee the sum of \$10,000.00 for the execution and delivery of the deed in lieu (the "Deed in Lieu Fee").

6. To the extent there are additional secured creditors or parties to additional leases, the Trustee shall use her best efforts to secure orders from the Court to permit the transfer of all assets subject to this Stipulation free and clear of such liens, and to assume and assign such leases.

7. The Trustee will establish a link on the case webpage, www.krcl.com/sacorp, to direct any inquiries and expressions of interests with respect to any Included Leasehold Mortgage Unit, the Debtor Fee Mortgage Unit, or any FF&E related thereto to the Broker.

Rent and Expense Advances

8. To the extent that GE elects in its sole discretion to advance any additional amounts to the Trustee to be used by the Trustee solely for postpetition rent payments in connection with the Included Leasehold Mortgage Units (the "Additional Rent Advances"), such payments shall be made on a month-to-month basis. GE and the Trustee shall separately agree in writing as to the amounts to be paid prior to the issuance of any checks by the Trustee to any landlords.

9. GE shall provide the Trustee written notice if at any time GE elects not to continue paying postpetition obligations with respect to any Included Leasehold Mortgage Unit and such unit shall not be included in the sale process. Such notice must be provided by the 19th day of any calendar month to be effective to terminate GE's obligation to pay postpetition

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obligations for the next calendar month, and upon GE providing such notice to the Trustee, GE shall bear no additional expenses associated with such Included Leasehold Mortgage Unit. Upon the Trustee's receipt of such notice, the Trustee immediately shall notice the rejection of the designated/identified lease in accordance with the procedures set forth in the Rejection Motion and any related order, and no further orders of the Bankruptcy Court shall be required to effectuate such rejection.

10. The Parties shall negotiate in good faith to reach terms and conditions pursuant to which GE shall fund amounts necessary to satisfy the requirements of section 366 of the Bankruptcy Code with respect to the Included Leasehold Mortgage Units and, at GE's election, the Debtor Fee Mortgage Unit, and any other Leasehold Mortgage Unit. Upon the closing of a sale of any such property, any funds paid by GE to satisfy the requirements of section 366 of the Bankruptcy Code shall be promptly returned to GE.

Broker's Commission

11. Except for the compensation set forth in the Broker Retention Motion, which may be shared by the Broker with participating brokers, no other broker's commission or other fees shall be paid to any broker, investment banker, auctioneer, or other professional by the Debtor with respect to the sale of any Included Leasehold Mortgage Units and, at GE's election, the Debtor Fee Mortgage Unit, or any FF&E related thereto.

Sale Proceeds

12. The outstanding ad valorem taxes shall be paid in full at closing, and any liens asserted against the Transferred Assets shall be transferred to proceeds in their existing order of

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priority. Net Store Proceeds² shall be paid to GE upon each sale closing, or if applicable, held by the Trustee or his counsel in escrow for disputed secured claims pending further orders of the Bankruptcy Court.

13. All liens, claims, encumbrances, and rights of parties (collectively, the "PACA Trust Creditors") asserted pursuant to the trust (the "PACA Trust") created by the Perishable Agricultural Commodities Act of 1930 shall be preserved, and any liens, claims, encumbrances, and trust rights shall attach to the proceeds of any sale of estate property pursuant to the Sale Procedures. The PACA Trust Creditors shall be provided with notice of any sale of property of the Debtors' estates or any assumption and assignment of a lease pursuant to this Stipulation and the Sale Procedures, and such notice shall include reasonable detail as to the assets sold and the proceeds received by the estates.

² The term "Net Store Proceeds" shall mean the gross sale proceeds resulting from the sale of a store, less the Specific Sale Costs, Common Sale Costs, and the Trustee Fee.

The term "Specific Sale Costs" shall mean (1) to the extent not assumed by a purchaser and to the extent the estate incurs such expenses with respect to the Included Leasehold Mortgage Units and Debtor Fee Mortgage Units, the ordinary closing costs associated therewith (examples of which include deed preparation, revenue stamps, recording fees, and legal fees), (2) the percentage commission due the Broker pursuant to the Sale Procedures, (3) property taxes, (4) recovery of funds advanced for lease payments or cures of monetary lease defaults, and (5) repairs, improvements or escrows required as a condition of the sale, and other similar, property-specific charges.

The term "Common Sale Costs" shall mean the liquidation costs incurred or reasonably expected to be incurred with respect to the stores (i.e., restaurant units) sold in accordance with this Stipulation to the extent such costs are not property-specific. Common Sale Costs shall be allocated, from time to time, to a store and paid by GE, as Common Sale Costs are incurred, per capita based upon the number of unsold stores at that time (without regard to the ultimate sale price or disposition of the property and with each such store being an equal amount of Common Sale Costs). Each time that a store is sold, such store shall be withdrawn from the sale process, and the Common Sale Costs incurred thereafter shall be allocated as they are incurred per capita based upon the number of unsold stores at that time.

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GE Owned Units

14. GE duly terminated the Lease Transactions prior to the Petition Date and, therefore, the Debtors have no interest whatsoever in the GE Owned Units and the GE Owned Units are not property of the Debtors' bankruptcy estates.

SPE Units

15. The fee interests of the non-Debtor SPE in the Fee Mortgage Units, and the leasehold interests of the non-Debtor SPE in the Leasehold Mortgage Units do not constitute property of the Debtors' bankruptcy estates.

Conditions Precedent

16. Because the Lease Rejection Order has now been entered by this Court, the effectiveness of this Stipulation shall be expressly conditioned upon only the following conditions precedent (collectively, the "Conditions Precedent"):

- i. entry of an Order approving this Stipulation;
- ii. entry of an order granting the Stay Relief Motion;
- iii. the Trustee's filing of the Broker Retention Motion by August 26, 2008 and the Trustee seeking expedited consideration thereof.

Miscellaneous

17. This Stipulation does not authorize or prohibit a sale, transfer or other disposition (and does not determine any alleged ownership, rights, and interests therein) of any fountain beverage dispensing equipment, bar guns, carbon dioxide canisters, or equipment related thereto owned by Pepsi-Cola Fountain Company, Inc. located at the Debtor Fee Mortgage Unit, any Included Leasehold Mortgage Units, or any Leasehold Mortgage Units (other than the Included Leasehold Mortgage Units) under which the Debtors are a lessee or sublessee and which lease has not been rejected.

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18. The Parties hereby agree that this Stipulation is the entire understanding of the Parties with respect to the properties identified on Exhibits A, B, C, D and E attached hereto, and is intended to be the complete and exclusive statement of terms thereof. The Parties agree that each participated equally in the preparation of this Stipulation, and that no provision shall be construed against either as draftsman.

19. The Parties have provided sufficient notice of the terms of this Stipulation to all third parties who may be effected thereby.

20. The Parties represent and warrant to each other that: (1) the signatories to this Stipulation are authorized to execute this Stipulation; (2) each has full power and authority to enter into this Stipulation; and (3) this Stipulation is duly executed and delivered, and constitutes a valid and binding agreement in accordance with its terms; provided, however, that the Trustee's representations as to same are dependent on the Bankruptcy Court's entry of an order approving this Stipulation.

21. Notwithstanding anything to the contrary herein this Stipulation is expressly subject to and contingent upon approval by the Bankruptcy Court and the occurrence of the Conditions Precedent. If this Stipulation, or any portion hereof, is not approved by the Bankruptcy Court or if it is overturned or modified on appeal, this Stipulation shall be null and void and have of no further force and effect and, in such event, neither this Stipulation nor any negotiations and writings in connection herewith shall in any way be construed as or deemed to be evidence of or an admission on behalf of any Party hereto regarding any claim or right that such Party may have against any other Party hereto.

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22. This Stipulation shall become effective immediately upon entry of an order by the Bankruptcy Court approving this Stipulation, and satisfaction of the Conditions Precedent (the "Effective Date").
23. Upon the Effective Date, this Stipulation shall be binding and enforceable against the Parties and their respective successors and assigns and shall inure to the benefit of and be enforceable by the Parties and their respective successors and permitted assigns.
24. This Stipulation may not be changed, modified, or amended except in a writing signed by the Parties and/or their counsel.
25. This Stipulation may be executed in any number of counterparts and shall constitute one agreement, binding upon all Parties hereto as if all Parties signed the same document; all facsimile signatures shall be treated as originals for all purposes.
26. Each Party hereto shall bear its own expenses incurred in connection with the negotiation, execution and Bankruptcy Court approval of this Stipulation.
27. This Stipulation shall be governed by, construed and enforced in accordance with applicable federal bankruptcy law and the laws of the State of Texas, irrespective of its choice of law rules.
28. The Bankruptcy Court shall retain exclusive jurisdiction with respect to any and all issues or disputes that may arise in connection with this Stipulation.
29. The descriptive headings of the several sections of this Stipulation are inserted for convenience of reference only and do not constitute a part of this Stipulation.

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Dated: August 25, 2008

AGREED AS TO FORM AND SUBSTANCE:

/s/ Joseph A. Friedman

Joseph A. Friedman
Robert J. Taylor
Gregory M. Zarin

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3700 Thanksgiving Tower
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*Proposed Attorneys for Michelle Chow, Chapter
7 Trustee*

/s/ Lydia T. Protopapas

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and

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*Attorneys for General Electric Capital
Business Asset Funding Corporation of
Connecticut; GECPAC Investment II, Inc.
Net Lease Funding, 2005, LP; CNL
Funding 2000-A, LP; GE Capital
Franchise Finance Corporation; CNL APF
Partners, LP; CNL/Lee Vista Joint
Venture; CNL Funding 98-1; CNL Net
Lease Funding 2001, LP*

UNOFFICIAL COPY**EXHIBIT A****GE OWNED UNITS**

UNIT	LESSOR	LESSEE	PROPERTY ADDRESS	CONCEPT
1038	CNL APF Partners, LP	S&A Properties Corp.	2206 E Fowler Tampa, FL 33612	Bennigans
1076	CNL APF Partners, LP	S&A Properties Corp.	3499 N University Dr. Sunrise, FL 33351	Bennigans
1445	CNL APF Partners, LP	Steak & Ale of IL, Inc.	649 Lake Cook Rd. Deerfield, IL 60015	Bennigans
1048	CNL Funding 2000-A LP	S&A Properties Corp.	2640 Gulf To Bay Blvd. Clearwater, FL 33759	Bennigans
1115	CNL Funding 2000-A, LP	S&A Properties Corp.	1477 Virginia Ave. College Park, GA 30337	Steak & Ale
3711	CNL Funding 2000-A, LP	S&A Properties Corp.	4710 East 51st St. Tulsa, OK 74165	Steak & Ale
4437	CNL Funding 2000-A, LP	S&A Properties Corp.	2425 Mangum Road Houston, TX 77092	Steak & Ale
4441	CNL Funding 2000-A, LP	S&A Properties Corp.	11109 Katy Freeway Houston, TX 77079	Steak & Ale
4449	CNL Funding 2000-A, LP	S&A Properties Corp.	222 North Belt Houston, TX 77060	Bennigans
4466	CNL Funding 2000-A, LP	S&A Properties Corp.	810 North I-45 Conroe, TX 77301	Steak & Ale
4480	CNL Funding 2000-A, LP	S&A Properties Corp.	3726 Town Crossing Blvd. Mesquite, TX 75150	Steak & Ale
616	CNL Funding 2000-A, LP	S&A Properties Corp.	3502 N Academy Blvd. Colorado Springs, CO 80917	Bennigans
618	CNL Funding 2000-A, LP	S&A Properties Corp.	9281 E Arapahoe Rd. Englewood, CO 80112	Bennigans
623	CNL Funding 2000-A, LP	S&A Restaurant Corp.	5390 Wadsworth Bypass Arvada, CO 80002	Bennigans
1014	CNL Funding 2000-A, LP	S&A Properties Corp.	6324 International Dr. Orlando, FL 32819	Bennigans

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UNIT	LESSOR	LESSEE	PROPERTY ADDRESS	CONCEPT
1025	CNL Funding 2000-A, LP	S&A Properties Corp.	7253 Plantation Rd. Pensacola, FL 32504	Bennigans
1031	CNL Funding 2000-A, LP	S&A Properties Corp.	9090 So West 97th Ave. Miami, FL 33176	Steak & Ale
2415	CNL Funding 2000-A, LP	S&A Properties Corp.	6475 Wayzata Blvd. St. Louis Park, MN 55426	Bennigans
3116	CNL Funding 2000-A, LP	S&A Properties Corp.	119 Columbia Turnpike Florham Park, NJ 07932	Bennigans
3122	CNL Funding 2000-A, LP	S&A Properties Corp.	1102 Route 73 Mount Laurel, NJ 08054-5115	Bennigans
3161	CNL Funding 2000-A, LP	S&A Properties Corp.	1287 Highway 35 Middletown, NJ 07748	Bennigans
4121	CNL Funding 2000-A, LP	S&A Properties Corp.	700 N Pleasantburg Dr. Greenville, SC 29607	Steak & Ale
1142	CNL Funding 2000-A, LP	S&A Properties Corp.	6025 Oakbrook Pkwy. Norcross, GA 30093	Steak & Ale
3443	CNL Funding 2000-A, LP	S&A Properties Corp.	7858 Northpoint Blvd. Winston-Salem, NC 27106	Bennigans
1429	CNL Net Lease Funding 2001, LP	S&A Properties Corp.	1001 E 75th St. Woodridge, IL 60517	Bennigans
4324	CNL Net Lease Funding 2001, LP	S&A Properties Corp.	6201 Poplar Ave. Memphis, TN 38119	Steak & Ale
5407	CNL Net Lease Funding 2001, LP	S&A Properties Corp.	2101 W Airport Frwy. Bedford, TX 76021	Bennigans
5416	CNL Net Lease Funding 2001, LP	Steak & Ale of TX, Inc.	2215 Grapevine Mills Circle Grapevine, TX 76051	Bennigans
626	CNL Net Lease Funding 2001, LP	Steak & Ale of CO, Inc.	9220 Park Meadows Dr. Lone Tree, CO 80124	Bennigans
1011	CNL Net Lease Funding 2001, LP	S&A Properties Corp.	640 South Orlando Ave. Maitland, FL 32751	Steak & Ale

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UNIT	LESSOR	LESSEE	PROPERTY ADDRESS	CONCEPT
1015	CNL Net Lease Funding 2001, LP	S&A Properties Corp.	234 W Highway 436 Altamonte Spring, FL 32714	Steak & Ale
121	CNL Net Lease Funding 2001, LP	S&A Properties Corp.	3815 University Drive Huntsville, AL 35816	Steak & Ale
1020	CNL Net Lease Funding 2001, LP	S&A Properties Corp.	8440 Blanding Blvd. Jacksonville, FL 32244	Bennigans
1002	CNL/See Vista Joint Venture	S&A Restaurant Corp.	7055 S. Semoran Blvd. Orlando, FL 32822	Bennigans
627	Net Lease Funding 2005, LP	Steak & Ale of CO, Inc.	7101 Tower Road Denver, CO 80249	Bennigans
2162	Net Lease Funding 2005, LP	Bennigans of Waldorf	35 St. Patrick's Drive Waldorf, MD 20603	Bennigans
625	Net Lease Funding 2005, LP	Steak & Ale of CO, Inc.	2540 Tendertoot Hill St. Colorado Springs, CO 80906	Bennigans
3660	Net Lease Funding 2005, LP	Steak & Ale of OH, Inc.	7824 Reynolds Rd. Mentor, OH 44060	Bennigans

UNOFFICIAL COPY**EXHIBIT B****FEE MORTGAGE UNITS**

UNIT	LENDER	BORROWER	PROPERTY ADDRESS	CONCEPT
3934	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	325 Stoke Park Road Bethlehem, PA 18017	Steak & Ale
1047	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	5125 So Florida Ave Lakeland, FL 33813	Steak & Ale
1055	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	2210 W Brandon Blvd Brandon, FL 33511	Bennigans
1058	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	11460 N Kendall Dr Miami, FL 33176	Bennigans
1070	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	12499 Cleveland Ave Ft. Meyers, FL 33907	Steak & Ale
1419	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	1250 Torrence Ave Calumet City, IL 60409	Bennigans
4420	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	3401 I-40 West Amarillo, TX 79109	Bennigans
5413	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	2290 S Stemmons Fwy Lewisville, TX 75067	Bennigans
1062	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	830 E Lafayette St Tallahassee, FL 32301	Steak & Ale
4444	CNL Funding 98-1	S&A Fee Properties SPE I, LLC	325 I-10 North Beaumont, TX 77707	Bennigans
917	GEC PAC Investment II, Inc	Steak & Ale of FL, Inc.	4520 W. State Road 46 Sanford, FL 32771	Bennigans

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EXHIBIT C

LEASEHOLD MORTGAGE UNITS

UNIT	LENDER	BORROWER	PROPERTY ADDRESS	CONCEPT
621	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	1699 S Colorado Blvd Denver, CO 80222	Bennigans
821	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	601 Ogletown Rd. Newark, DE 19711	Bennigans
1063	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	2520 N. Dale Mabry Hwy Tampa, FL 33607	Bennigans
1067	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	3449 Le Jeune Rd. Miami, FL 33142	Bennigans
1079	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	3621 S Florida Ave Lakeland, FL 33803-4864	Bennigans
1087	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	6109 Westwood Blvd. Orlando, FL 32821	Bennigans
1423	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	8420 W Bryn Mawr Ave Chicago, IL 60631	Bennigans
2411	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	2601 Southtown Drive Bloomington, MN 55431	Steak & Ale
4469	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	140 FM 1960 E Bypass Humble, TX 77338	Bennigans
4475	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	4833 S Hulen St Ft. Worth, TX 76132	Bennigans
4482	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	916 Six Flags Drive Arlington, TX 76011	Steak & Ale
4912	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	1119 Charleston Town Ctr. Charleston, WV 25389	Bennigans
5405	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	4300 W. Airport Freeway Irving, TX 75062	Bennigans
1077	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	665 NW 62nd St Ft. Lauderdale, FL 33309	Bennigans
1096	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	4250 E Colonial Dr Orlando, FL 32803	Bennigans
2141	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	6002 Greenbelt Rd Greenbelt, MD 20770	Bennigans

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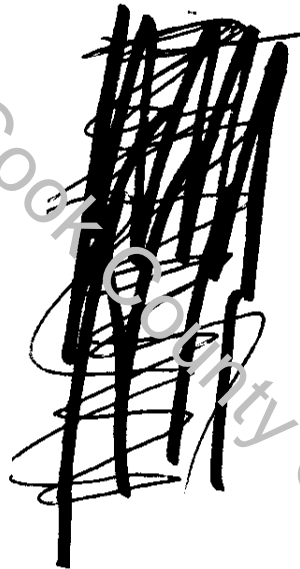
UNIT	LENDER	BORROWER	PROPERTY ADDRESS	CONCEPT
3131	CNL Funding 98-1	S&A Leased Properties SPE I, Inc.	335 State Route 17 Upper Saddle River, NJ 07458	Steak & Ale
919	GEC PAC Investment II, Inc	Steak & Ale of FL, Inc.	1245 N. Federal Highway Ft. Lauderdale, FL 33304	Bennigans
1444	GEC PAC Investment II, Inc.	Steak & Ale of IL, Inc.	5650 Touhy Ave. Niles, IL 60714	Bennigans
1447	GEC PAC Investment II, Inc.	Steak & Ale of IL, Inc.	3615 E. Main Street St. Charles, IL 60174	Bennigans
5417	GEC PAC Investment II, Inc.	Steak & Ale of TX, Inc.	515 W. Houston Ft. Worth, TX 76102	Bennigans
5418	GEC PAC Investment II, Inc.	Steak & Ale of TX, Inc.	3601 Dallas Parkway Plano, TX 75093	Bennigans
5431	GEC PAC Investment II, Inc.	Steak & Ale of TX, Inc.	416 N. Hwy 67 Cedar Hill, TX 75104	Bennigans
5432	GEC PAC Investment II, Inc.	Steak & Ale of TX, Inc.	20210 Katy Freeway Katy, TX 77449	Bennigans
918	General Electric Capital Business Asset Funding Corporation of Connecticut	Steak & Ale of FL, Inc.	18001 Highwoods Preserve Parkway Tampa, FL 33647-1761	Bennigans
923	General Electric Capital Business Asset Funding Corporation of Connecticut	Steak & Ale of FL, Inc.	4050 N. W. Federal Highway Jensen Beach, FL 34957	Bennigans
1446	General Electric Capital Business Asset Funding Corporation of Connecticut	Steak & Ale of IL, Inc.	5016 Northwest Highway Crystal Lake, IL 60014	Bennigans
3664	General Electric Capital Business Asset Funding Corporation of Connecticut	Steak & Ale of OH, Inc.	4824 Great Northern Blvd. North Olmstead, OH 44070- 3340	Bennigans
3665	General Electric Capital Business Asset Funding Corporation of Connecticut	Steak & Ale of OH, Inc.	1550 W. River Road Elyria, OH 44035	Bennigans
4468	General Electric Capital Business Asset Funding Corporation of Connecticut	Steak & Ale of TX, Inc.	12008 E Freeway Houston, TX 77029	Bennigans
5438	GE Capital Franchise Finance Corporation	Steak & Ale of TX, Inc.	305 Central Expressway N. Allen, TX 75013	Bennigans

UNOFFICIAL COPY**EXHIBIT D****INCLUDED LEASEHOLD MORTGAGE UNITS**

UNIT	LENDER	BORROWER	PROPERTY ADDRESS	CONCEPT
918	GENERAL ELECTRIC CAPITAL BUSINESS ASSET FUNDING CORPORATION OF CONNECTICUT	STEAK AND ALE OF FLORIDA, INC.	18001 HIGHWOODS PRESERVE PARKWAY TAMPA, FL 33647-1761	BENNIGANS
919	GECAPAC INVESTMENT II INC.	STEAK AND ALE OF FLORIDA, INC; STEAK AND ALE OF ILLINOIS, INC., STEAK AND ALE OF TEXAS, INC.	1245 N. FEDERAL HIGHWAY FT. LAUDERDALE, FL 33304-1425	BENNIGANS
923	GENERAL ELECTRIC CAPITAL BUSINESS ASSET FUNDING CORPORATION OF CONNECTICUT	STEAK AND ALE OF FLORIDA, INC.	4050 N. W. FEDERAL HIGHWAY JENSEN BEACH, FL 34957	BENNIGANS
1444	GECAPAC INVESTMENT II, INC.	STEAK AND ALE OF FLORIDA, INC; STEAK AND ALE OF ILLINOIS, INC. STEAK AND ALE OF TEXAS, INC.	5650 TOUCHY AVE. NILES, IL 60711	BENNIGANS
1446	GENERAL ELECTRIC CAPITAL BUSINESS ASSET FUNDING CORPORATION OF CONNECTICUT	STEAK AND ALE OF ILLINOIS, INC.	5016 NORTHWEST HIGHWAY CRYSTAL LAKE, IL 60014	BENNIGANS
5418	GECAPAC INVESTMENT II, INC.	STEAK AND ALE OF FLORIDA, INC; STEAK AND ALE OF ILLINOIS, INC. STEAK AND ALE OF TEXAS, INC.	3601 DALLAS PARKWAY PLANO, TX 75093	BENNIGANS

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UNIT	LENDER	BORROWER	PROPERTY ADDRESS	CONCEPT
5432	GECPAC INVESTMENT II, INC.	STEAK AND ALE OF FLORIDA, INC; STEAK AND ALE OF ILLINOIS, INC. STEAK AND ALE OF TEXAS, INC.	20210 KATY FREEWAY KATY, TX 77449	BENNIGANS



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EXHIBIT E

SALE PROCEDURES

The following sale procedures will be used for the sale and transfer of property of S&A Restaurant Corp. and certain of its subsidiaries and affiliates (collectively, the "S&A Entities"), including certain of the S&A Entities (collectively, the "Debtors") which commenced cases under chapter 7 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of Texas (the "Bankruptcy Court"). A chapter 7 trustee (the "Trustee") has been appointed in the Debtors' cases. GE Capital Franchise Finance Corporation and/or certain of its affiliates (collectively, "GE") have interests in certain properties. The property in this sale is subject to the terms and conditions outlined herein and in any sales brochure, property specific package (the "PSP"), and/or website concerning the properties, and any assumption and assignment agreements or purchase and sale agreements (collectively, the "Transfer Documents").

Transferred Assets. The assets to be sold or otherwise transferred (collectively, the "Property") shall consist of real property fee and leasehold interests, personal property and all tangible or intangible assets of the S&A Entities directly associated with and located at the Included Leasehold Mortgage Units and Debtor Fee Mortgage Unit (collectively, the "GE Property"), except for the "Excluded Assets" described below. The Property shall be sold and leases assumed and assigned to the initial bidder or such other party (with respect to each sale, the "Purchaser") as may submit the best offer as described below pursuant to Transfer Documents and, as applicable, sections 363 and 365 of the Bankruptcy Code, free and clear of any liens, claims, encumbrances or interests asserted by any party except as expressly provided below. No GE Property shall be sold or otherwise transferred without the written consent of GE.

Excluded Assets. The assets of the Debtors that shall not be sold (the "Excluded Assets") and which shall remain property of the estate subject to sale or other disposition pursuant to existing and subsequent orders of the Bankruptcy Court consist of (a) funds on deposit, (b) inventory and accounts receivables, or the proceeds thereof, (c) any retainers or similar funds on deposit with any professionals retained by the Debtors and the Trustee, (d) Bennigan's Franchising Company, L.P. and Steak and Ale Franchising, L.P.'s interests in any and all trademarks, copyrights, service marks, and other intellectual property, (e) all claims or causes of action that the Debtors or the Trustee may assert against any person or entity, including but not limited to any "Bankruptcy Causes of Action" which the Trustee may have pursuant to §§ 544, 545, 547, 549, 553, or 724 of the Bankruptcy Code, (f) the Debtors' books and records, (g) any personal property or general intangibles not located or associated with the Included Leasehold Mortgage Units and Debtor Fee Mortgage Unit, (h) any other assets withheld from sale by mutual agreement of the Trustee and GE, and (i) any assets that the Trustee may not sell under applicable law.

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Bid Deadline. All bids must be received by the Broker by 3:00 p.m. Central Time on October 31, 2008 (the "Bid Deadline") or such other date as may be agreed upon in writing by the Broker, GE, and the Trustee. All bids should be sent to:

NRC Realty Advisors, LLC
 363 W. Erie Street, Suite 300E
 Chicago, IL 60610
 ATTN: SEALED BID SALE 820
 (866) 447-0680 Monday-Friday 8:00 a.m.-6:00 p.m. (Central Time)

Bid Procedures. A separate bid must be made for each Property. Bidders making bids on more than one Property may designate their bids (a) All or Nothing Bids or (b) bids for multiple properties ("Multiple Bids") by filling out the bid designation form included in the PSP package.

Bidding Options. Bidders designating an All or Nothing Bid will be awarded all their Property or none. Successful bidders designating a Multiple Bid will be awarded all, some or one of their Property.

Bid Deposits. Bidders must include a bid deposit (the "Bid Deposit") with their bid in the amount of \$10,000 or 2.5% of the bid price, whichever is greater, by certified or cashiers check made payable to the Broker. Successful bidders must increase their Bid Deposit to 10% of the bid price by certified or cashiers check made payable to the Broker (but not less than \$10,000) within two (2) days of acceptance of their bid.

Court Approval. All bids for Property of the S&A Debtor Entities are subject to approval by the Bankruptcy Court.

Confidentiality. All information contained in the PSP package is confidential and is to be kept confidential by each person and entity receiving same. By ordering a PSP package, bidders shall be deemed to consent to the contents of this paragraph. However, such party may disclose information obtained from the PSP package, on a "need to know" basis, to the following persons and entities provided that they first agree to keep the information confidential: (a) the employees, officers, and directors of such party or of such party's affiliates, (b) third-parties being utilized to perform investigations, analyze information, so as to advise bidders with respect to bidding upon the Property; or (c) third-parties providing bidders with financing for purchase of the Property. The foregoing provisions of this paragraph requiring confidentiality shall terminate as to a party only if and when such party itself consummates the closing of said Property.

Pre-Bid Property Inspections: Bidders must inspect the Property on the dates and times set forth in the sales brochure and the website. No other inspections times will be available.

Rejected Bids. Bid Deposits for rejected bids will be returned via certified mail approximately sixty (60) days after the Bid Deadline.

Evaluation and Award of Bids. All bids received by the Bid Deadline will be reviewed. After consideration of all bids, successful bidders will be selected. The Trustee and GE reserve the

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right to review financial information concerning the bidder confirming the bidder's ability to close the sale prior to executing Transfer Documents.

Best and Final Bids. In the event the bid prices are clustered in a "competitive range", a best and final offer ("BAFO") may be solicited from the bidders whose bids fall within such range. Bidders will be notified if there is a solicitation of a BAFO by phone, fax, or mail, in which case bidders will be given an opportunity to raise their bid. BAFOs will be incorporated by written amendment to the Transfer Documents. Bidders may not lower BAFO bids below their original bid amount. If no BAFO is received, the original bid amount will remain in full force.

Non-Revocation of Bids. Sealed bids will be deemed in force as of the Bid Deadline and will remain in full force and effect for sixty (60) days after their submission to the Broker. Bids may not be revoked or withdrawn by the bidder during that time, during which period the Trustee or other appropriate party will execute the Transfer Documents for the successful bidder for any subject Property, and the bidder will be bound by the contract, subject only to Bankruptcy Court approval, as applicable.

Effective Date of Award of Bid. The effective date of the award of the bid for any subject Property shall be the date that the transferor executes the Transfer Documents. Since time is of essence, successful bidders will be notified of the award via fax, if possible, with the executed Transfer Documents to be sent by overnight mail.

Trustee's Reservations. Trustee, with GE's consent, reserves the right to decline any and all bids, postpone, extend or cancel any Bid Deadline, and in its sole discretion, to withdraw any GE Property from the sale at any time without notice.

Bid Allocations. Whenever the Broker sells any Property, the purchaser shall be asked to allocate the sales price between (a) the leasehold interest store or the fee-owned store (land and building) and (b) the equipment, or such other allocation as may otherwise be requested by the Trustee and GE.

Purchaser's Assumption of Leases. The Purchaser shall pay at closing or provide for the payment of the amounts, if any, which would be necessary to cure any prepetition defaults and/or compensate the counterparties to any leases assumed by the Purchaser for any actual pecuniary loss to such counterparties resulting from such default, and pay any postpetition amounts due as of closing. The Purchaser shall pay or assume all other obligations arising thereafter, and shall present competent and sufficient evidence to demonstrate the Purchaser's ability to provide adequate assurance of future performance under the assumed leases.

Closings. Closings shall be thirty (30) days after the date on which any Transfer Documents become effective. Failure to close in a timely fashion will result in the forfeiture of the bidder's Bid Deposit.

Free and Clear of All Liens. The Property will be conveyed by (i) free and clear of all liens, claims and encumbrances pursuant to orders of the Bankruptcy Court or (ii) by the provision of title insurance which will insure the purchaser and its lender(s) against any liens not transferred or released at closing, except for certain permitted exceptions outlined in the title commitment provided in the PSP package. Title insurance coverage will be at bidder's sole expense. Real

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estate taxes will be current as to the date of closing. All properties will be conveyed "AS IS, WHERE IS, WITH ALL FAULTS," regarding any conditions affecting the subject Property, with no representations or warranties whatsoever express or implied. GE Capital may assign to the Purchaser of any such GE Property the note and security interest with respect to the real and personal property sold, so that the Purchaser would be able to conduct a friendly foreclosure at a later date, if necessary to eliminate junior liens or junior interests.

Licenses, Permits and Authorization. The successful bidder will be responsible for obtaining, at its expense, any licenses, permits and authorizations (collectively "Licenses") required to acquire, manage, develop and/or operate the subject Property. Obtaining such Licenses will not be a condition to the successful bidder's obligation to close.

Conflicts. In the event of a conflict between this document and any Transfer Documents, the provisions of the Transfer Documents shall control.

Amendments. These Sale Procedures, any form of Transfer Documents, and any other required sale documents or closing documents may be amended only in writing and, with respect to the GE Property, only with the prior written consent of GE.

Disclaimer. The Trustee, Broker, and their employees, agents, subsidiaries or affiliates, acknowledge that the Trustee may not have complete knowledge of the physical or economic characteristics of any subject Property being sold. Accordingly (except as otherwise specifically stated in any Transfer Documents), Trustee, Broker, and their employees, agents, subsidiaries or affiliates, hereby disclaim any warranty, guaranty or representation, express or implied, oral or written, past, present, or future, of, as to, or concerning (a) the condition or state of repair of the Property, including, but not by way of limitation, any condition arising in connection with the generation, use, transportation, storage, release, or disposal of petroleum products, toxic or hazardous substances, on and under, above, upon, or in the vicinity of the Property such as water, soil and geology, and the suitability thereof and of the Property for any and all activities and use which the purchaser may elect to conduct thereon; (b) the extent of any right-of-way, lease, possession, lien, encumbrance, easements, license, reservation, or condition in connection with the Property; (c) the operation of the Property or its compliance with any applicable laws, ordinances, or regulations of any government or other body, including without limitation, compliance with any land use, Americans with Disabilities Act, wetland, or zoning law or regulation, or applicable environmental or coastal laws, rules, ordinances and regulations; (d) title to or the boundaries of the Property; and (e) the physical condition of the Property, including without limitation the structural, mechanical, electrical and engineering characteristics of the improvements to the Property.

Except as stated above and as set forth in any Transfer Documents, the sale of the subject Property shall be on an "AS IS, WHERE IS, WITH ALL FAULTS," basis, and purchaser expressly agrees that the Trustee, Broker, or their employees, agents, subsidiaries or affiliates, make no warranty or representation, express or implied, or arising by operation of law, including, but not limited to, any warranty of condition, habitability, merchantability or fitness for a particular purpose, with respect to the subject Property. Purchaser is buying the Property based on its own investigations, and, by accepting title to all or part of the Property, acknowledges that it has conducted such investigation as it has deemed necessary or advisable and that Purchaser is

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not relying upon any representations of Trustee or its agents whatsoever. The materials and information concerning the Property contained herein, together with, postcards, brochures, PSPs and bid packages, and any and all other information provided by the Trustee, Broker, their counsel and/or their employees, agents, subsidiaries or affiliates, is based in part upon information and materials obtained from sources deemed reliable without independent verification. Bidders must not base their bids upon information disseminated in the postcard, brochure, PSP, and bid package such as, but not limited to, environmental studies, repair estimates, or other studies, pro forma and financial information that may be provided by the Trustee or the Broker, but shall rely solely on their own estimates and studies. No warranty or representation, express or implied, is made by either the Trustee, Broker, or either of their employees and agents, as to the accuracy or completeness of any or all such information.

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