

UNOFFICIAL COPY

RECORDING COVER SHEET



Doc#: 1012418049 Fee: \$56.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 05/04/2010 12:51 PM Pg: 1 of 11

ON DECEMBER 22, 2008, IN COOK COUNTY CASE NO 07 CH 18808, JUDGMENT WAS ENTERED IN FAVOR OF MUTUAL BANK AND AGAINST DEFENDANTS NICHOLAS MITCHELL, MITCHELL PROPERTIES L.L.C. AND MITCHELL HOSPITALITY GROUP, INC. IN THE AMOUNT OF \$2,349,443.02.

PREPARED BY:

KEVIN HUNT
STAHL COWEN CROWLEY ADDIS, LLC
55 W MONROE ST, STE 1200
CHICAGO, IL 60603
312-641-0060

Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION

Mutual Bank,)	
)	
Plaintiff,)	
)	
v.)	No. 07 CH 18808
)	
Mitchell Properties L.L.C., an Illinois)	
limited liability company, et al.,)	
)	
Defendants,)	
_____)	
)	
Bank of the West,)	
)	
Counter-Plaintiff)	
)	
v.)	
)	
Mutual Bank, et al.,)	
)	
Counter-Defendants.)	

JUDGMENT OF FORECLOSURE AND SALE

This cause having been heard before this Court on Plaintiff's Motion for Default Judgment and Summary Judgment and for an entry of an Order for foreclosure and Sale, the Court having considered the pleadings, the evidence presented and the arguments of counsel and being fully advised on the premises and finds as follows:

1. That it has jurisdiction of the parties and the subject matter of this action.
2. That all material allegations of the Complaint are true and proven, and the allegations are supported by the evidence presented.
3. By virtue of the Note and Mortgage there is due to the Plaintiff the following amounts:

Unpaid Principal balance as of 8/27/08: \$ 2,175,000.00

UNOFFICIAL COPY

Accrued Interest on Note through 8/27/08: \$ 125,608.22

Per diem: \$301.94 x 117 days: \$ 35,326.98

Subtotal: \$ 2,335,935.20

Costs Advanced:

Clerk of the Circuit Court of Cook County:

File Complaint \$ 294.00

Cook County Recorder of Deeds:

Record Lis Pendens \$ 48.50

Law Bulletin:

Publication Costs \$ 550.00

Sheriff of Cook County:

Service of Summons \$ 319.00

Illinois Secretary of State:

Affidavit of Compliance for Service \$ _____

Chicago Title Ins. Company:

Minutes of Foreclosure \$ 825.00

Subtotal Costs: \$ 2,036.50

Attorney's Fees to Regas, Frezados & Dallas LLP \$ 11,471.32

TOTAL \$ 2,349,443.02

4. That Mitchell Properties L.L.C., Mitchell Hospitality Group, Inc. and Nicholas Mitchell are personally liable for all amounts owed thereunder.

5. That under the provisions of the Mortgage herein sought to be foreclosed, the costs of the foreclosure are an additional indebtedness for which the Plaintiff should be reimbursed, the Court having reviewed said costs and finding that they are the usual, customary and reasonable expenses incurred in like causes, the Court orders that such expenses are hereby allowed to the Plaintiff.

UNOFFICIAL COPY

6. That advances made in order to protect the lien of the judgment and preserve the real estate, such as but not limited to property inspections, real estate taxes or assessments, property maintenance and insurance premiums, incurred by the Plaintiff after the date this judgment is entered and prior to the foreclosure sale shall become an additional indebtedness secured by the judgment lien and bear interest from the date of the advance at the mortgage rate of interest pursuant to 735 ILCS 5/15-1505 and 15 1603.

7. That the Mortgage described in the Complaint and hereby foreclosed appears of record in the Office of the Cook County Recorder as Document Number 0030338560, and the property herein referred to and directed to be sold is described as follows:

LOT 8 IN FIRST ADDITION TO OAK LEAF COMMONS OFFICE PLAZA, BEING A RESUBDIVISION OF LOT 7 IN OAK LEAF COMMONS OFFICE PLAZA, BEING A RESUBDIVISION OF PART OF LOTS 5 AND 6 IN CARL LAGERHAUSEN ESTATE DIVISION, AND PART OF LOT 1 IN WILLIAM LAGERHAUSEN DIVISION, ALL IN THE SOUTHWEST QUARTER OF SECTION 20 TOWNSHIP 41 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Commonly known as: 1050 E. Cakton St., Des Plaines, Illinois
 Permanent Index Number: 09-20-322-001

8. The Mortgage as applicable was executed by Mutual Bank as mortgagee and Mitchell Properties L.L.C, as mortgagor.

9. The date when mortgagor was served with summons, by publication or otherwise submitted to the jurisdiction of this Court was about July 6, 2008. Mortgagor's right of reinstatement expired on June 6, 2008.

10. That the Mortgagor is the owner of the right of redemption pursuant to 735 ILCS 5/15-1212. Mortgagors right of redemption is waived pursuant to section 5.08 of the Mortgage.

11. The mortgaged real estate is Commercial property improved with stores.

UNOFFICIAL COPY

12. The Mortgage constitutes a valid lien upon the real estate which is prior, paramount and superior to the rights and interests of all other parties and non-record claimants in and to the property: Upon entry herein, the rights of the Plaintiff shall be secured by a lien upon the mortgaged real estate, which lien shall have the same priority as the Mortgage to which the judgment relates. The rights and interests of all other parties and non-record claimants are subject, subordinate and inferior to the rights of the Plaintiff herein.

Mortgage
 mes.
 006200
 1-0
 006101
 low.
 which
 is separate
 judgment
 of
 foreclosure
 sale
 was
 entered
 11/3/08

13. That judgment of Foreclosure and Sale is entered in favor of Plaintiff.

14. That the premises herein legally described shall be sold by the Sheriff of Cook County, Illinois at the Cook County Sheriff's Office, Richard J. Daley Center, Clark and Washington, in the City of Chicago, County of Cook, State of Illinois.

15. The attorneys for the Plaintiff shall give public notice of the time, place and terms of sale. The public notice of sale shall be published at least three (3) consecutive calendar weeks (Sunday through Saturday), once each week, the first such notice to be published not more than forty five (45) days prior to the sale, the last such notice to be published not less than seven (7) days prior to the sale, by advertisement in a newspaper circulated to the general public in the county in which the real estate is located, in the section of that newspaper where legal notices are commonly placed and separate advertisements in the section of such newspaper, which may be the same newspaper in which the real estate other than real estate being sold as part of legal proceedings is commonly advertised to the general public; provided, that where both advertisements could be published in the same newspaper and that newspaper does not have separate legal notices and real estate advertisement sections, a single advertisement with the legal description shall be sufficient.

UNOFFICIAL COPY

16. Said public notice shall include the information required pursuant to 735 ILCS 5/15-1507 (c)(1), but an immaterial error in the information shall not invalidate the legal effect of the public notice.

17. Notice of sale shall also be given by the attorneys for Plaintiff to all parties in the action who have appeared and not have heretofore been found by the Court to be in default for failure to plead. Such notice shall be given in the manner provided in the applicable rules of court for service of papers other than process and complaint, not more than forty five (45) days nor less than seven (7) days prior to the date of sale. After notice is given as required in this section, a copy thereof shall be filed in the office of the clerk of this Court together with a certificate of counsel or other proof that notice has been served in compliance with this section.

18. The notice of sale may be given prior to the expiration of the redemption period previously determined.

19. The sheriff may adjourn or continue the sale subject to the notice and advertisement requirements of 735 ILCS 5/15 1507(c)(4).

20. The sheriff shall offer for sale the real estate described herein, with all improvements, fixtures and appurtenances thereto; or so much of said real estate which may be divisible and sold separately without material injury to the parties in interest. The real estate shall be sold at public auction to the highest bidder for cash requiring payment not less than ten (10%) percent at the time of sale and the balance within twenty four (24) hours plus interest at the statutory judgment rate on any unpaid portion of the sale price from the date of sale to the date of payment. All payments of the amount bid shall be in cash or certified funds payable to the sheriff. In the event the bidder fails to comply with the terms of the purchase as required, then upon demand by the Plaintiff in a notice served on the sheriff and on the bidder, the funds

UNOFFICIAL COPY

submitted shall be forfeited to the Plaintiff or the Plaintiff has the option to have the property sold to the next highest bidder. In the event there is a third party bidder other than the Plaintiff, the sheriff shall obtain the name, address (other than a post office box), and telephone number of that bidder. Notice by regular mail to the address given by the bidder and to the officer conducting the sale shall be deemed to be sufficient notification by the Plaintiff to exercise its option to forfeit the funds. The subject property is offered for sale without any representation as to quality or quantity of title and without recourse to Plaintiff.

21. The Plaintiff or any of the parties to this cause may become the purchasers at such sale. If Plaintiff is the successful bidder at said sale, the amount due the Plaintiff, plus all costs, advances and fees together with interest incurred between entry of judgment and confirmation of sale shall be taken as a credit on its bid.

22. That out of the proceeds of said sale, the sheriff shall make distribution in the following order of priority:

- a. The sheriff shall be paid his reasonable sale expenses;
- b. To the Plaintiff or its attorney, the amounts set forth in paragraph 3 of this Judgment plus any additional costs of sale with statutory interest from the date hereof.
- c. To the Plaintiff or its attorney, the reasonable expenses of securing possession before sale, holding, maintaining and preparing the real estate for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, receiver's and management fees and to the extent provided for in the mortgage or other recorded agreement and not prohibited by law, reasonable attorneys' fees, payments made pursuant to 735 ILCS 5/15-1505 and other legal expenses incurred by the mortgagee;
- d. If after payment of the above items there shall be a remainder, the sheriff shall hold this surplus subject to the further order of this Court;
- e. If the remainder of the proceeds shall not be sufficient to pay the above described amounts and interest, the sheriff shall then specify the amount of the deficiency in his report of sale. The Plaintiff shall be entitled to a

UNOFFICIAL COPY

judgment in personam for the amount of such deficiency against Faithfulworks LLC and Nicholas Mitchell and a memorandum of judgment shall issue to Plaintiff with the sale lien priority as to the underlying mortgage herein foreclosed, without any rights of homestead.

23. At the sale of the mortgaged real estate, the sheriff shall give to the purchaser a receipt of sale. The receipt shall describe the real estate purchased and shall show the amount paid or to be paid therefor. An additional receipt shall be given at the time of the subsequent payment.

24. Upon the sale of the mortgaged real estate, the sheriff may give and record a certificate of sale in accordance with 735 ILCS 5/12-119 and 12-121. The certificate of sale shall be freely assignable.

25. The sheriff shall promptly make a report of sale to the Court. Upon motion and notice in accordance with Court rules applicable to motions generally, the Court shall then enter an order confirming the sale, which confirmation order may also:

- a. approve the mortgagee's fees, costs and additional advances arising between the entry of the judgment of foreclosure and the confirmation hearing;
- b. provide for a personal judgment against any party for a deficiency; and
- c. determine the priority of the judgments of parties who deferred proving the priority pursuant to 735 ILCS 5/15-1506(h), but the Court shall not defer confirming the sale pending the determination of such priority.

26. Upon confirmation of the sale and payment of the purchase price and any other amount required to be paid by purchaser at sale, the sheriff shall execute and deliver to the holder of the certificate of sale, or if no certificate has been issued, then to the holder of the receipt of sale or the assignee thereof, a deed sufficient to convey title. Said conveyance shall be an entire bar to all claims to the parties to the foreclosure and all persons claiming thereunder.

subject to Bank of West mortgage's

but for Bank of West

0001
0001001
0001001

27. Thereupon, the grantee in such deed, or its legal representative or assigns shall be let into possession of the premises. That the parties hereto who shall be in possession of said

UNOFFICIAL COPY

premises, or any part thereof, including leaseholders or any person who may have come into such possession under them or any of them, since the inception of the mortgage or commencement of this suit, shall upon presentment of said sheriff's deed, surrender possession of said premises to said grantee, its representative or assigns, and in default of so doing, an order of possession shall issue.

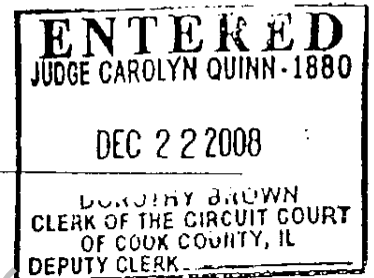
28. The Court hereby retains jurisdiction of the subject matter of this cause, and of all the parties hereto, for the purpose of enforcing this Judgment.

29. There is no just reason to delay the enforcement or appeal of this final judgment order.

DATED: December 22, 2008

ENTERED:

JUDGE



Richard S. Springer, Esq.
Regas, Frezados & Dallas LLP
111 West Washington Street, Suite 1525
Chicago, Illinois 60602
(312) 236 4400
Attorney No. 8189

UNOFFICIAL COPY

Page 2 of 2
Mutual Bank v. Mitchell, et al

Dated: December 22, 2008

ENTERED:

Carolyn Quinn
Judge

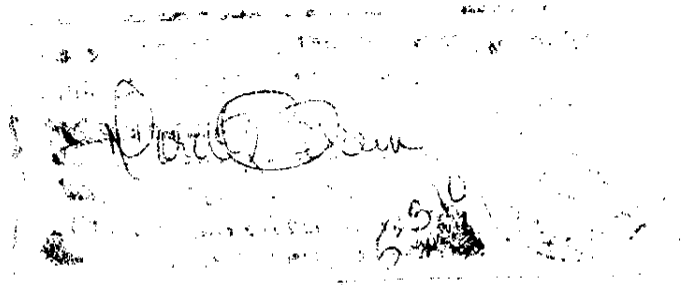
Richard S. Springer
Regas, Frezados & Dallas LLP
111 West Washington Street, Suite 1525
Chicago, IL 60602
(312) 236-4400
Attorney No. 8189

ENTERED
JUDGE CAROLYN QUINN 1880
DEC 22 2008
DORIS BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office



RECEIVED IN BAD CONDITION