

**Illinois Anti-Predatory  
Lending Database  
Program**

**Certificate of Exemption**

**Report Mortgage Fraud  
800-532-8785**

The property identified as: **PIN: 07-35-309-021-0000**

439 80512

**Address:**

**Street:** 522 Sequoia Trl

**Street line 2:**

**City:** Roselle

**State:** IL

**ZIP Code:** 60172

**Lender:** Firstmerit Bank

**Borrower:** MATTHEW D HERBST, MATTHEW HERBST, NOT AS JOINT TENANTS OR TENANTS BY THE ENTIRETY, BUT AS TENANTS IN COMMON.

**Loan / Mortgage Amount:** \$22,000.00

This property is located within the program area 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:** 7085E38D-2C82-4D0A-8EBC-BF2A1E26791B

**Execution date:** 08/30/2011

**UNOFFICIAL COPY****RECORDATION REQUESTED BY:**

FirstMerit Bank, N.A.  
 Roselle  
 III Cascade Plaza / MTG 48  
 Akron, OH 44308

**WHEN RECORDED MAIL TO:**

FirstMerit Bank, N.A.  
 Roselle  
 III Cascade Plaza / MTG 48  
 Akron, OH 44308

**SEND TAX NOTICES TO:**

FirstMerit Bank, N.A.  
 Roselle  
 III Cascade Plaza / MTG 48  
 Akron, OH 44308

**FOR RECORDER'S USE ONLY**

This Mortgage prepared by: *Jesse Richards*  
*2878 State St.*  
*Cuyahoga Falls, OH 44223*

**MORTGAGE***43926512*

**MAXIMUM LIEN.** At no time shall the principal amount of indebtedness secured by the Mortgage, not including sums advanced to protect the security of the Mortgage, exceed \$22,000.00.

**THIS MORTGAGE** dated August 30, 2011, is made and executed between **MATTHEW D HERBST, MATTHEW HERBST, NOT AS JOINT TENANTS OR TENANTS BY THE ENTIRETY, BUT AS TENANTS IN COMMON.** (referred to below as "Grantor") and FirstMerit Bank, N.A., whose address is III Cascade Plaza / MTG 48, Akron, OH 44308 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor mortgages, warrants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Cook County, State of Illinois:

See the exhibit or other description document which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

The Real Property or its address is commonly known as 522 SEQUOIA TRL, ROSELLE, IL 60172. The Real Property tax identification number is 07-35-309-021-0000.

**REVOLVING LINE OF CREDIT.** This Mortgage secures the Indebtedness including, without limitation, a revolving line of credit and shall secure not only the amount which Lender has presently advanced to Grantor under the Credit Agreement, but also any future amounts which Lender may advance to Grantor under the Credit Agreement within twenty (20) years from the date of this Mortgage to the same extent as if such future advance were made as of the date of the execution of this Mortgage. The revolving line of credit obligates Lender to make advances to Grantor so long as Grantor complies with all the terms of the Credit Agreement

**UNOFFICIAL COPY****MORTGAGE  
(Continued)**

and Related Documents. Such advances may be made, repaid, and remade from time to time, subject to the limitation that the total outstanding balance owing at any one time, not including finance charges on such balance at a fixed or variable rate or sum as provided in the Credit Agreement, any temporary overages, other charges, and any amounts expended or advanced as provided in this paragraph, shall not exceed the Credit Limit as provided in the Credit Agreement. It is the intention of Grantor and Lender that this Mortgage secures the balance outstanding under the Credit Agreement from time to time from zero up to the Credit Limit as provided in the Credit Agreement and any intermediate balance.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF EACH OF GRANTOR'S AGREEMENTS AND OBLIGATIONS UNDER THIS MORTGAGE. THIS MORTGAGE IS INTENDED TO AND SHALL BE VALID AND HAVE PRIORITY OVER ALL SUBSEQUENT LIENS AND ENCUMBRANCES, INCLUDING STATUTORY LIENS, EXCEPTING SOLELY TAXES AND ASSESSMENTS LEVIED ON THE REAL PROPERTY, TO THE EXTENT OF THE MAXIMUM AMOUNT SECURED HEREBY. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Hazardous Substances.** Grantor represents and warrants that the Property never has been, and never will be so long as this Mortgage remains a lien on the Property, used for the generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance in violation of any Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims and losses resulting from a breach of this paragraph of the Mortgage. This obligation to indemnify and defend shall survive the payment of the Indebtedness and the satisfaction of this Mortgage.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Illinois law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished

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## MORTGAGE (Continued)

to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for the Existing Indebtedness referred to in this Mortgage or those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due and except as otherwise provided in this Mortgage.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage:

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, for the maximum amount of Grantor's credit line and the full unpaid principal balance of any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Lender's Expenditures.** If Grantor fails (1) to keep the Property free of all taxes, liens, security interests, encumbrances, and other claims, (2) to provide any required insurance on the Property, (3) to make repairs to the Property or to comply with any obligation to maintain Existing Indebtedness in good standing as required below, then Lender may do so. If any action or proceeding is commenced that would materially affect Lender's interests in the Property, then Lender on Grantor's behalf may, but is not required to, take any action that Lender believes to be appropriate to protect Lender's interests. All expenses incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Credit Agreement from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (1) be payable on demand; (2) be added to the balance of the Credit Agreement and be apportioned among and be payable with any installment payments to become due during either (a) the term of any applicable insurance policy; or (b) the remaining term of the Credit Agreement; or (3) be treated as a balloon payment which will be due and payable at the Credit Agreement's maturity.

**Warranty; Defense of Title.** The following provisions relating to ownership of the Property are a part of this Mortgage:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in the Existing Indebtedness section below or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons.

**Existing Indebtedness.** The following provisions concerning Existing Indebtedness are a part of this Mortgage:

**Existing Lien.** The lien of this Mortgage securing the Indebtedness may be secondary and inferior to an existing lien. Grantor expressly covenants and agrees to pay, or see to the payment of, the Existing Indebtedness and to prevent any default on such indebtedness, any default under the instruments evidencing such indebtedness, or any default under any security documents for such indebtedness.

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## MORTGAGE (Continued)

**Full Performance.** If Grantor pays all the Indebtedness when due, terminates the credit line account, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**Events of Default.** Grantor will be in default under this Mortgage if any of the following happen: (1) Grantor commits fraud or makes a material misrepresentation at any time in connection with the Credit Agreement. This can include, for example, a false statement about Grantor's income, assets, liabilities, or any other aspects of Grantor's financial condition. (2) Grantor does not meet the repayment terms of the Credit Agreement. (3) Grantor's action or inaction adversely affects the collateral or Lender's rights in the collateral. This can include, for example, failure to maintain required insurance, waste or destructive use of the dwelling, failure to pay taxes, death of all persons liable on the account, transfer of title or sale of the dwelling, creation of a senior lien on the dwelling without Lender's permission, foreclosure by the holder of another lien, or the use of funds or the dwelling for prohibited purposes.

**Rights and Remedies on Default.** Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Credit Agreement or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Election of Remedies.** All of Lender's rights and remedies will be cumulative and may be exercised alone or together. An election by Lender to choose any one remedy will not bar Lender from using any other remedy. If Lender decides to spend money or to perform any of Grantor's obligations under this Mortgage, after Grantor's failure to do so, that decision by Lender will not affect Lender's right to declare Grantor in default and to exercise Lender's remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Credit Agreement rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to

**UNOFFICIAL COPY****MORTGAGE  
(Continued)**

the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**Miscellaneous Provisions.** The following miscellaneous provisions are a part of this Mortgage:

**Governing Law.** With respect to procedural matters related to the perfection and enforcement of Lender's rights against the Property, this Mortgage will be governed by federal law applicable to Lender and to the extent not preempted by federal law, the laws of the State of Illinois. In all other respects, this Mortgage will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Ohio without regard to its conflicts of law provisions. However, if there ever is a question about whether any provision of this Mortgage is valid or enforceable, the provision that is questioned will be governed by whichever state or federal law would find the provision to be valid and enforceable. The loan transaction that is evidenced by the Credit Agreement and this Mortgage has been applied for, considered, approved and made, and all necessary loan documents have been accepted by Lender in the State of Ohio.

**Choice of Venue.** If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of the State of Illinois, in the county in which Grantor's following address is located: 522 SEQUOIA TRL, ROSELLE, IL 60172-1046.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Waiver of Homestead Exemption.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all indebtedness secured by this Mortgage.

**Definitions.** The following words shall have the following meanings when used in this Mortgage:

**Borrower.** The word "Borrower" means MATTHEW D HERBST and includes all co-signers and co-makers signing the Credit Agreement and all their successors and assigns.

**Credit Agreement.** The words "Credit Agreement" mean the credit agreement dated August 30, 2011, with credit limit of \$22,000.00 from Grantor to Lender together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The interest rate on the Credit Agreement is a variable interest rate based upon an index. The index currently is 3.250% per annum. If the index increases, the payments tied to the index, and therefore the total amount secured hereunder, will increase. Any variable interest rate tied to the index shall be calculated as of, and shall begin on, the commencement date indicated for the applicable payment stream. NOTICE: Under no circumstances shall the interest rate on this Mortgage be less than 3.990% per annum or more than the lesser of 25.000% per annum or the maximum rate allowed by applicable law. The maturity date of the Credit Agreement is August 29, 2021. **NOTICE TO GRANTOR: THE CREDIT AGREEMENT CONTAINS A VARIABLE INTEREST RATE.**

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Existing Indebtedness.** The words "Existing Indebtedness" mean the indebtedness described in the Existing Liens provision of this Mortgage.

**Grantor.** The word "Grantor" means MATTHEW D HERBST.

**UNOFFICIAL COPY****MORTGAGE  
(Continued)**

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**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Credit Agreement or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Credit Agreement or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means FirstMerit Bank, N.A., its successors and assigns. The words "successors or assigns" mean any person or company that acquires any interest in the Credit Agreement.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.**

**GRANTOR:**

X   
MATTHEW D HERBST

**WAIVER OF HOMESTEAD EXEMPTION**

I am signing this Waiver of Homestead Exemption for the purpose of expressly releasing and waiving all rights and benefits of the homestead exemption laws of the State of Illinois as to all debts secured by this Mortgage. I understand that I have no liability for any of the affirmative covenants in this Mortgage.

X   
MATTHEW D HERBST

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## MORTGAGE (Continued)

### INDIVIDUAL ACKNOWLEDGMENT

STATE OF Illinois )  
 ) SS  
 COUNTY OF Da Page )

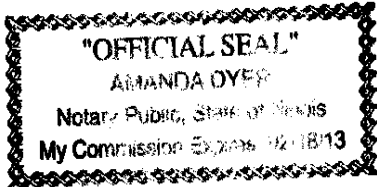
On this day before me, the undersigned Notary Public, personally appeared **MATTHEW D HERBST**, to me known to be the individual described in and who executed the Mortgage, and acknowledged that he or she signed the Mortgage as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 30<sup>th</sup> day of August, 2011.

By *[Signature]* Residing at Roselle  
 AMANDA DYER

Notary Public in and for the State of Illinois

My commission expires 2-18-13



OFFICIAL SEAL

### INDIVIDUAL ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) SS  
 COUNTY OF \_\_\_\_\_ )

AMANDA DYER  
 NOTARY PUBLIC - STATE OF ILLINOIS  
 MY COMMISSION EXPIRES 02/18/13

On this day before me, the undersigned Notary Public, personally appeared **MATTHEW D HERBST**, to me known to be the individual described in and who executed the Waiver of Homestead Exemption, and acknowledged that he or she signed the Waiver of Homestead Exemption as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By \_\_\_\_\_ Residing at \_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_

My commission expires \_\_\_\_\_



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**MORTGAGE**  
**(Continued)**

Property of Cook County Clerk's Office

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## EXHIBIT A

SITUATED IN THE COUNTY OF COOK AND STATE OF ILLIONIS, TO WIT:

PARCEL 1:



LOT 112 IN TRAILS UNIT 2, BEING A SUBDIVISION IN THE SOUTH WEST 1/4 OF SECTION 35, TOWNSHIP 41 TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 18, 1972 AS DOCUMENT 21870672, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

RIGHTS AND EASEMENTS FOR THE INGRESS AND EGRESS APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE GRANT OF EASEMENT RECORDED AS DOCUMENT 21992274 AND AS CREATED BY THE GRANT OF EASEMENT RECORDED AS DOCUMENT 22223915, IN COOK COUNTY, ILLINOIS.

PPN: 07-35-309-021-0000  
MATTHEW HERBST, NOT AS JOINT TENANTS OR TENANTS BY THE ENTIRETY, BUT AS TENANTS IN COMMON

522 SEQUOIA TRAIL, ROSELLE IL 60172  
Loan Reference Number : 696863-776543-26881  
First American Order No: 43926512  
Identifier: L/

 **HERBST**  
**43926512**  
**FIRST AMERICAN ELS**  
**MORTGAGE**  


IL

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WHEN RECORDED, RETURN TO:  
FIRST AMERICAN MORTGAGE SERVICES  
1100 SUPERIOR AVENUE, SUITE 200  
CLEVELAND, OHIO 44114  
NATIONAL RECORDING