

UNOFFICIAL COPY

MORTGAGE
(Participation)

90319733

\$17.00

This mortgage made and entered into this 29th day of June 1990, by and between Columbia National Bank of Chicago, not personally, but as Trustee under Trust Agreement dated 9-30-86 and known as Trust No. 2413 (hereinafter referred to as mortgagor) and ITT Small Business Finance Corporation, a Delaware corporation (hereinafter referred to as mortgagee), who maintains an office and place of business at 2055 Craigshire Road, St. Louis, Missouri 63146

WITNESSETH, that for the consideration hereinafter stated, receipt of which is hereby acknowledged, the mortgagor does hereby mortgage, sell, grant, assign, and convey unto the mortgagee, his successors and assigns, all of the following described property situated and being in the County of Cook State of Illinois, commonly known as 1437-43 W. Montrose Avenue, Chicago, Illinois 60613 and legally described as follows:

Lots 4, 5, 6 and 7 in Block 1 in Sulzer's Addition to Ravenswood, being a subdivision of that part lying West of Clark Street in the North 1/2 of the North West 1/4 of the South West 1/4 of Section 17, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 14-17-301-011

COOK COUNTY, ILLINOIS
DEED RECORDS

1990 JUN 29 PM 2:58

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This mortgage is subordinate to a mortgage dated 8-31-87 in favor of Columbia National Bank to secure a note for \$226,319.22.

Together with and including all buildings, all fixtures including but not limited to all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air conditioning apparatus, and elevators (the mortgagor hereby declaring that it is intended that the items herein enumerated shall be deemed to have been permanently installed as part of the realty), and all improvements now or hereafter existing thereon; the hereditaments and appurtenances and all other rights thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, all rights of redemption, and the rents, issues, and profits of the above described property (provided, however, that the mortgagor shall be entitled to the possession of said property and to collect and retain the rents, issues, and profits until default hereunder). To have and to hold the same unto the mortgagee and the successors in interest of the mortgagee forever in fee simple or such other estate, if any, as is stated herein. Mortgagor hereby releases and waives all rights under and by virtue of the homestead exemption laws of the State of Illinois.

The mortgagor covenants that he is lawfully seized and possessed of and has the right to sell and convey said property; that the same is free from all encumbrances except as hereinabove recited; and that he hereby binds himself and his successors in interest to warrant and defend the title aforesaid thereto and every part thereof against the claims of all persons whomsoever.

This instrument is given to secure the payment of a promissory note dated June 29, 1990 in the principal sum of \$ 212,000.00 signed by Nicolette Vizzano and Eugene S. Spataro, ~~President and Secretary~~ President and Secretary, respectively, of Frank's Live Bait and Sports, Inc., an Illinois corporation. Said promissory note is further secured by a guaranty secured by a mortgage (the "North Avenue Mortgage") relating to property commonly known as 1308 W. North Avenue, Chicago, Illinois.

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MORTGAGE

70

RECORDING DATA

RETURN TO:

Name

Address

Property of Cook County Clerk's Office

SEE ATTACHED TRUSTEE'S ACKNOWLEDGMENT

(Add Appropriate Acknowledgment)

90319733

(CORPORATE SEAL)

Executed and delivered in the presence of the following witnesses:

ITS

x

ATTEST:

ITS

x

COLUMBIA NATIONAL BANK OF CHICAGO, not personally, but as Trustee under Trust Agreement dated 9/30/66 and known as Trust No. 2413

IN WITNESS WHEREOF, the mortgagee has executed the instrument and the mortgagee has accepted delivery of this instrument as of the day and year above written.

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Said promissory note was given to secure a loan in which the Small Business Administration, an agency of the United States of America, has participated. In compliance with section 101.1(d) of the Rules and Regulations of the Small Business Administration (13 C.F.R. 101.1(d)), this instrument is to be construed and enforced in accordance with applicable Federal law.

1. The mortgagor covenants and agrees as follows:

a. He will promptly pay the indebtedness evidenced by said promissory note at the times and in the manner therein provided.

b. He will pay all taxes, assessments, water rates, and other governmental or municipal charges, fines, or impositions, for which provision has not been made hereinbefore, and will promptly deliver the official receipts therefor to the said mortgagee.

c. He will pay such expenses and fees as may be incurred in the protection and maintenance of said property, including the fees of any attorney employed by the mortgagee for the collection of any or all of the indebtedness hereby secured, or foreclosure by mortgagee's sale, or court proceedings, or in any other litigation or proceeding affecting said property. Attorneys' fees reasonably incurred in any other way shall be paid by the mortgagor.

d. For better security of the indebtedness hereby secured, upon the request of the mortgagee, its successors or assigns, he shall execute and deliver a supplemental mortgage or mortgages covering any additions, improvements, or betterments made to the property hereinabove described and all property acquired by it after the date hereof (all in form satisfactory to mortgagee). Furthermore, should mortgagor fail to cure any default in the payment of a prior or inferior encumbrance on the property described by this instrument, mortgagor hereby agrees to permit mortgagee to cure such default, but mortgagee is not obligated to do so; and such advances shall become part of the indebtedness secured by this instrument, subject to the same terms and conditions.

e. The rights created by this conveyance shall remain in full force and effect during any postponement or extension of the time of the payment of the indebtedness evidenced by said promissory note or any part thereof secured hereby.

f. He will continuously maintain hazard insurance, of such type or types and in such amounts as the mortgagee may from time to time require on the improvements now or hereafter on said property, and will pay promptly when due any premiums thereof. All insurance shall be carried in companies acceptable to mortgagee and the policies and renewals thereof shall be held by mortgagee and have attached thereto loss payable clauses in favor of and in form acceptable to the mortgagee. In event of loss, mortgagor will give immediate notice in writing to mortgagee, and mortgagee may make proof of loss if not made promptly by mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to mortgagee instead of to mortgagor and mortgagee jointly, and the insurance proceeds, or any part thereof, may be applied by mortgagee at its option either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged or destroyed. In event of foreclosure of this mortgage, or *od ex* transfer of title to said property in extinguishment of the indebtedness secured hereby, all right, title, and interest of the mortgagor in and to any insurance policies then in force shall pass to the purchaser or mortgagee or, at the option of the mortgagee, may be surrendered for a refund.

g. He will keep all buildings and other improvements on said property in good repair and condition; will permit, commit, or suffer no waste, impairment, deterioration of said property or any part thereof; in the event of failure of the mortgagor to keep the buildings on said premises and those erected on said premises, or improvements thereon, in good repair, the mortgagee may make such repairs as in its discretion it may deem necessary for the proper preservation thereof; and the full amount of each and every such payment shall be immediately due and payable; and shall be secured by the lien of this mortgage.

h. He will not voluntarily create or permit to be created against the property subject to this mortgage, any lien or liens inferior or superior to the lien of this mortgage without the written consent of the mortgagee; and further, that he will keep and maintain the same free from the claim of all persons supplying labor or materials for construction of any and all buildings or improvements now being erected or to be erected on said premises.

i. He will not rent or assign any part of the rent of said mortgaged property or demolish, or remove, or substantially alter any building without the written consent of the mortgagee.

j. All awards of damages in connection with any condemnation for public use of or injury to any of the property subject to this mortgage are hereby assigned and shall be paid to mortgagee, who may apply the same to payment of the installments last due under said note, and mortgagee is hereby authorized, in the name of the mortgagor, to execute and deliver valid acquittances thereof and to appeal from any such award.

k. The mortgagee shall have the right to inspect the mortgaged premises at any reasonable time.

2. Default in any of the covenants or conditions of this instrument or of the ^{guaranty of the} note or loan agreement secured hereby shall terminate the mortgagor's right to possession, use, and enjoyment of the property, at the option of the mortgagee or his assigns (it being agreed that the mortgagor shall have such right until default). Upon any such default, the mortgagee shall become the owner of all of the rents and profits accruing after default as security for the indebtedness secured hereby, with the right to enter upon said property for the purpose of collecting such rents and profits. This instrument shall operate as an assignment of any rentals on said property to that extent.

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SBA FORM 928 (11-85)

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Mortgagee, on behalf of himself/herself and each and every person claiming by, through or under Mortgage, hereby waives any and all rights of redemption, statutory or otherwise, without prejudice to Mortgagee's right to any remedy, legal or equitable, which Mortgagee may pursue to enforce payment or to effect collection of all or any part of the indebtedness secured by this Mortgage, and without prejudice to Mortgagee's right to a deficiency judgment or any other appropriate relief in the event of foreclosure of this Mortgage.

10 Any written notice to be issued to the mortgagor pursuant to the provisions of this instrument shall be addressed to the mortgagee at 1308 W. North Avenue, Chicago, Illinois 60622 and any written notice to be issued to the mortgagee shall be addressed to the mortgagee at the address first set forth above

8. A judicial decree, order, or judgment holding any provision or portion of this instrument invalid or unenforceable shall not in any way impact or preclude the enforcement of the remaining provisions or portions of this instrument.

8. No waiver of any covenant herein or of the obligation secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the note secured hereby.

7. The covenants herein contained shall bind and the benefits and advantages shall inure to the respective successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

6. In the event the mortgagor fails to pay any Federal, state, or local tax assessment, income tax or other tax lien, charge, fee, or other expense charged against the property the mortgagee is hereby authorized at his option to pay the same. Any sums so paid by the mortgagee shall be added to and become a part of the principal amount of the indebtedness evidenced by said note, subject to the terms and conditions. If the mortgagor shall pay and discharge the indebtedness evidenced by said promissory note, and shall pay such sums and shall discharge all taxes and liens and the costs, fees, and expenses of making, enforcing, and executing this mortgage, then this mortgage shall be canceled and surrendered.

5. In the event said property is sold at a judicial foreclosure sale or pursuant to the power of sale hereinabove granted, and the proceeds are not sufficient to pay the total indebtedness secured by this instrument and evidenced by said promissory note, the mortgagee will be entitled to a deficiency judgment for the amount of the deficiency which shall be paid to the mortgagee.

4. The proceeds of any sale of said property in accordance with the preceding paragraphs shall be applied first to pay the costs and expenses of said sale, the expenses incurred by the mortgagee for the purpose of protecting or maintaining said property, and reasonable attorneys' fees; secondly, to pay the indebtedness secured hereby; and thirdly, to pay any surplus or excess to the person or persons legally entitled thereto.

In the event of a sale as hereinbefore provided, the mortgagor or any persons in possession under the mortgage shall then become and be tenants holding over and shall forthwith deliver possession to the purchaser at such sale or be summarily disposed of in accordance with the provisions of law applicable to tenants holding over. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise, and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(III) take any other appropriate action pursuant to state or Federal statute either in state or Federal court or otherwise for the disposition of the property.

(II) at the option of the mortgagee, either by auction or by solicitation of sealed bids, for the highest and best bid complying with the terms of sale and manner of payment specified in the published notice of sale, first giving four weeks' notice of the time, terms, and place of such sale, by advertisement not less than once during each of said four weeks in a newspaper published or distributed in the county in which said property is situated, all other notice being hereby waived by the mortgagor (and said mortgagee, or any person on behalf of said mortgagee, may bid with the unpaid indebtedness evidenced by said note). Said sale shall be held at or on the property to be sold or at the Federal, county, or city courthouse for the county in which the property is located. The mortgagee is hereby authorized to execute for and on behalf of the mortgagor and to deliver to the purchaser at such sale a sufficient conveyance of said property, which conveyance shall contain recitals as to the happening of the default upon which the execution of the power of sale herein granted depends; and the said mortgagor hereby consents and appoints the mortgagee or any agent or attorney of the mortgagee, the agent and attorney in fact of said mortgagor to make such recitals and to execute said conveyance and hereby covenants and agrees that the recitals so made shall be effectual to bar all equity or right of redemption, homestead, dower, and all other exemptions of the mortgagor, all of which are hereby expressly waived and conveyed to the mortgagee; or

(I) at judicial sale pursuant to the provisions of 28 U.S.C. 2001 (a); or

3. The mortgagor covenants and agrees that if he shall fail to pay and discharge or any part thereof when due, or shall fail to perform any covenant or agreement of this instrument or shall be in default hereof, the entire indebtedness hereby secured shall immediately become due, payable, and collectible without notice, at the option of the mortgagee or assign, regardless of maturity, and the mortgagee or his assigns may before or after entry and sale of property without appraisal (the mortgagor having waived said assignment to the mortgagee all rights of appraisal): "Or if there is a default in the North Avenue Mortgage

90319733



This mortgage is executed by Columbia National Bank of Chicago, not personally, but as Trustee under a deed or deeds in trust delivered pursuant to Trust Agreement dated September 30, 1986, and known as Trust No. 2413 in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Bank hereby warrants that it possesses full power and authority to execute this instrument and the note secured hereby) and no personal liability shall exist or be asserted or enforceable against the said Bank generally or in any capacity other than as Trustee as aforesaid, because or in respect of this mortgage or the said note, and its liability as such trustee shall be limited to and enforceable only out of the property described in this mortgage, by enforcement of the lien hereof, and no duty shall rest upon said bank to sequester, hold or maintain as a continuing trust asset, any property now or hereafter held by it as trustee as aforesaid, nor any of the income therefrom nor proceeds or avails of any sale or other disposition thereof.

This sheet is attached to and forms a part of the certain mortgage dated June 29, 1990 from the undersigned, Columbia National Bank of Chicago, not personally but as a Trustee as aforesaid, Mortgage, covering real estate in Cook County, Illinois.

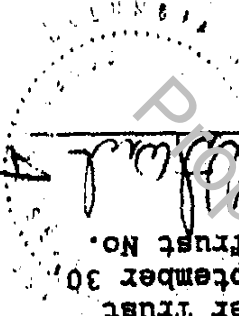
(CORPORATE SEAL)

ATTEST:

By: [Signature]

COLUMBIA NATIONAL BANK OF CHICAGO, not personally, but as Trustee under Trust Agreement dated September 30, 1986 and known as Trust No. 2413

By: [Signature]



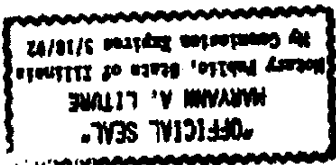
TRUSTEE ACKNOWLEDGMENT

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Property of Cook County Clerk



Chicago, Illinois 60606
17th Floor
300 W. Washington Street
LAPIN & ASSOCIATES
Andrew W. Lapin

This instrument prepared by: *AWL*

BOX 333-GG

My Commission Expires: _____

Harvam A. Litvak
Notary Public

(NOTARIAL SEAL)

GIVEN under my hand and Notarial Seal this 29th day of _____, 1990.

I, _____, a Notary Public in and for said county, in the state aforesaid, DO HEREBY CERTIFY, that PHILIS J. WITWICK and HELEN M. HYHC, of the Columbia National Bank of Chicago and known to me to be the same persons whose names are subscribed to the foregoing instrument as such TRUST OFFICERS and ASST. TRUST OFFICERS respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Bank, for the uses and purposes therein set forth; and the said TRUST OFFICERS and Secretary did also then and there acknowledge that he, as custodian of the corporate seal of said Bank, did affix the said corporate seal of said Bank to said instrument as his own free and voluntary act, and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

STATE OF ILLINOIS
)
) SS
) COUNTY OF COOK
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Property of Cook County Clerk's Office

