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ASSIGNMENT OF LEASES

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74 6/6 3502  
Kest  
C. S. Kest  
70952

July 17, 1972 and known as  
Trust No. 25035

Security Agreement,

the commercial/retail leases  
of the Property as

and after any applicable cure period  
provided in the Loan Documents has lapsed,

use, retain, enjoy,

FOR VALUE RECEIVED American National Bank and Trust Company of Chicago, not personally but as Trustee under Trust Agreement dated \_\_\_\_\_, hereinafter called "Assignor", hereby assigns, transfers and sets over by first and prior assignment unto The Life Insurance Company of Virginia, a Virginia, hereinafter called the "Assignee", (i) all income derived from or because of the hereafter described Leases, including, without limitation, all income directly or indirectly or now or hereafter accruing with respect thereto and all rents and security deposits of every nature derived therefrom, all of said income, rents and security deposits being hereinafter collectively called "Lease Income", TOGETHER WITH (ii) all other rights, titles and interests of the Lessor (as hereinafter defined) in and to the hereafter described Leases, riders attached thereto and all modifications, renewals and extensions thereof, including, without limitation, all rights of said Lessor in said Leases to receive default notices or other notices given in connection with said Leases, all of the foregoing being assigned to Assignee as an inducement to Assignee either to make a loan made to, or to purchase a loan previously made to, the Assignor. The promissory note evidencing said loan, hereinafter called the "Note", is payable to Assignee, is in the amount of \$5,000,000 and is secured by an Illinois Mortgage and hereinafter called the "Deed of Trust", both said Note and Deed of Trust being dated the same date. An Assignment of Rents and Other Income dated of even date with said Deed of Trust (hereinafter called the "Assignment of Rents" was executed by Assignor in favor of Assignee to induce Assignee to either make or to purchase said loan, and said Note is secured by a separate assignment of all rents and other income which is contained in the Deed of Trust (hereinafter called the "Assignment of Income"). Said Note and all instruments now or hereafter securing said Note and all other "Loan Documents" as defined in said Deed of Trust will be hereinafter collectively referred to as the "Loan Documents".

The Lease(s) assigned herein are, more particularly described on Exhibit "B" attached hereto and made a part hereof.

The aforesaid Leases, together with all amendments thereof, all guaranties of all or any part of the tenant's obligations therein and all other security for such obligations, shall be referred to herein as the "Leases". Said Leases relate to the land described in Exhibit "A" attached hereto and made a part hereof, which land, together with all other "Property" as defined in said Deed of Trust (but expressly excluding all of said land and Property which do not now or hereafter pertain to any of the Leases), will hereinafter be called the "Leased Property". Reference is hereby made to each of said Leases for description of the space covered thereby. The lessor, its successors and assigns, in each of said Leases and each guarantor or other entity liable for any of lessor's liabilities set forth therein or arising in connection therewith shall hereinafter be both individually and collectively called the "Lessor", and the term "Lessor" shall expressly include Assignor.

This Assignment is being made, however, subject to the following terms and conditions, to-wit:

1. By accepting this Assignment, Assignee hereby grants to Assignor the license to control, manage and operate the Leased Property and Leases to the extent permitted or required by the Leases and not prohibited by or in violation of this Assignment or any of the other Loan Documents and to demand, collect, receive, sue for, attach, levy and apply all Lease Income to the extent and in the manner specified with respect to such Lease Income in said Assignment of Rents. Notwithstanding the immediately preceding sentence, however, in the event a default shall occur in any of said Loan Documents, or a default or alleged default by the Lessor shall occur in any of said Leases; then, the Assignee shall immediately have the right (but not the obligation) to terminate said license in whole or to whatever extent Assignee elects in writing from time to time. In such event, at the sole expense of Assignor, Assignee, to the extent Assignee so elects, shall also immediately have the right to control, operate and manage said Leased Property and exercise, enforce, perform and protect any or all rights and obligations of Lessor in the Leases (including the curing of all or any actual or alleged defaults in or violations of such Leases) and, to the extent permitted in the Assignment of Rents, demand, collect, receive, sue for, attach, levy and apply all Lease Income to the expenses incurred by or amounts owing to Assignee pursuant to or in connection with the following: (i) this Assignment, (ii) the Leases, (iii) the control, operation and management of the Leased Property and (iv) any one or more of the terms, covenants or conditions which are set forth in

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any of the Loan Documents or any amounts evidenced or secured by or due pursuant to any of such Loan Documents. All Lease Income so collected by Assignee shall be applied in such manner and in such order of priority as Assignee may elect from time to time, and the tenants in said Leases are hereby authorized and directed upon demand of the Assignee to pay the said Lease Income to Assignee in accordance with this Assignment and without requiring any legal action or proof of any such default, alleged default or license termination. Further, in the event of a default in any of the Loan Documents, or a ~~default or alleged default~~ by the Lessor in any of said Leases, and without taking possession of said Leased Property and without incurring any of the obligations associated with the control, operation and management of said Leased Property or any of the obligations of the Lessor in the Leases, Assignee is hereby authorized and entitled to the extent from time to time deemed necessary or desirable by Assignee to demand, collect, receive, sue for, attach, levy and apply all Lease Income in the manner specified in the two immediately preceding sentences. Should the license granted in this paragraph be terminated in whole or in part by Assignee following the occurrence of a default in any of the Loan Documents, or a ~~default or alleged default~~ by the Lessor in any of said Leases, such license or portion thereof may from time to time thereafter be granted by Assignee in writing subject to the terms, covenants and conditions specified herein, but Assignee shall not in any eventuality be required to grant such license or part thereof. A new license on the same terms, covenants and conditions as the license granted herein shall be automatically granted to any purchaser of an interest in the Property provided such purchaser acquires said interest in a manner which is itself not a default in any of the Loan Documents but such automatic license shall be granted only to the extent that the license granted herein is still effective immediately prior to such purchase.

2. This Assignment is expressly made subject to and is limited by the promises, undertakings and obligations of Lessor in said Leases. The Assignee assumes no financial responsibility to the tenants in any of said Leases or any obligation to do, perform or attend to any of the matters or things required by the Leases to be done, performed or attended to by the Lessor, and the tenants in said Leases shall look to the Lessor therein and to the Lease Income for their protection and reimbursement and not to Assignee. In no event do the parties hereto intend that Assignee will be a mortgagee in possession by the mere acceptance of this Assignment or by Assignee's mere collection of the Lease Income, nor shall Assignee be a mortgagee in possession except to the extent Assignee exercises in writing from time to time Assignee's rights to control, operate and manage the Leased Property, and then only when applicable law so provides.

3. Neither the collection or application as aforesaid of said Lease Income, nor the exercise, enforcement, performance or protection of any other rights, titles or interests assigned or granted herein, shall cure or waive any default or alleged default in or modify any of said Loan Documents or rights, titles or interests therein or invalidate any act done pursuant thereto. To be effective, any waiver of any of the terms, covenants or conditions hereof must be in writing and shall be valid only to the extent clearly set forth in such writing.

4. Assignor does hereby irrevocably appoint Assignee as Assignor's attorney-in-fact, coupled with an interest, to demand, collect, receive, sue for, attach, levy and apply any or all Lease Income as herein authorized, to cure any one or more defaults or alleged defaults of Lessor or others in any of said Leases and to exercise, enforce, perform and protect all other terms, covenants and conditions hereof or of the Loan Documents or of said Leases.

5. Assignor hereby indemnifies and holds harmless Assignee from and against all loss, cost or liability of every nature whatsoever suffered or incurred by Assignee in exercising, performing, enforcing or protecting its rights, titles and interests herein.

6. It is hereby expressly agreed that, unless Assignee shall first give its written consent, no alteration, supplementation, change or modification may be made in any of the Leases, nor shall any of such Leases be cancelled or surrendered by mutual agreement between the Lessor and the tenants therein without the prior written consent of the Assignee, nor shall any of such Leases be cancelled or surrendered for any other reason. The license granted in paragraph 1 hereof expressly excludes the right to take any action in violation

and after any applicable cure period provided in the Loan Documents has lapsed

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except if caused by Assignee's gross negligence.

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of the immediately preceding sentence, and any such action shall be void until Assignee gives its written consent thereto. If such written consent is granted by Assignee, then Assignor shall automatically possess the license to take any action specifically consented to by Assignee. Assignor covenants that no Lease Income shall be paid or accepted in advance of the time permitted in the Assignment of Rents.

except if disclosed on Schedule I attached hereto and incorporated herein by this reference

7. Assignor represents and warrants that (i) all Leases are in full force and effect, (ii) to the best of Assignor's knowledge and belief, no default or alleged default by the Lessor or the tenants in said Leases, nor any event which with the giving of notice or the lapse of time or both would constitute such a default, exists on the date hereof except as may have been disclosed to Assignee by a written disclosure delivered to Assignee prior to the date hereof, (iii) the Leases have not been modified or altered in any manner except as has been disclosed to Assignee by a written disclosure delivered to Assignee prior to the date hereof, (iv) Assignor has the absolute right, title and authority to assign to Assignee all of the rights, titles and interests of Lessor assigned herein and to agree to the terms, covenants and conditions set forth herein and (v) Assignor is the unencumbered owner of all of the Lessor's rights, titles and interests in said Leases, but subject to the terms, covenants and conditions hereof.

8. If the Assignee is not The Life Insurance Company of Virginia, a Virginia corporation, then the parties hereto agree that, prior to the purchase of said Note by The Life Insurance Company of Virginia, wherever there is a requirement herein that Assignor obtain Assignee's prior written consent or give Assignee any notices, that the term "Assignee" shall include The Life Insurance Company of Virginia as though The Life Insurance Company of Virginia were the original Assignee named herein. Notwithstanding the immediately preceding sentence, however, if The Life Insurance Company of Virginia's loan commitment pertaining to the Loan Documents is terminated by The Life Insurance Company of Virginia or expires without The Life Insurance Company of Virginia purchasing said Note or advancing any funds evidenced by said Note, then this paragraph shall become null and void unless The Life Insurance Company of Virginia extends such commitment within 60 days from such expiration. Upon any such extension, this paragraph shall continue from the date hereof to be in full force and effect subject to any subsequent such termination or expiration, in which case the earlier provisions of this paragraph regarding any such termination or expiration shall again be applicable as though no earlier termination or expiration had ever occurred.

9. Provided no foreclosure occurs, or deed in lieu of such foreclosure is given, in satisfaction or partial satisfaction of the Note, then upon payment in full (as determined solely by Assignee) to Assignee in good and sufficient funds satisfactory in all respects to Assignee of all amounts due under each of the Loan Documents and the satisfaction (as determined solely by Assignee) in full of all terms, covenants and conditions of each of the Loan Documents, this Assignment shall automatically become null and void and of no effect, and the rights, titles and interests assigned herein shall automatically revert to Assignor; and, thereafter, upon written demand of Assignor delivered to Assignee at its home office addressed to the attention of the Mortgage Division (which demand must include a specific description and street address of the Leased Property and the name of the original Assignor named herein), Assignee at the sole expense of Assignor will release this Assignment of record.

10. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

11. In the event a default occurs in any of the Loan Documents, or a default or alleged default by the Lessor occurs in any of the Leases, the Assignee is hereby given the option of (i) exercising, enforcing, performing or protecting its rights, titles or interests under said Assignment of Rents, Assignment of Income or this Assignment of Leases, separately and independently of each other, (ii) exercising, enforcing, performing, or protecting its rights, titles or interests under the Assignment of Rents, the Assignment of Income and this Assignment of Leases collectively as though all of said documents were actually only one document, or (iii) exercising, enforcing, performing or protecting its rights, titles or interests under any two of the documents mentioned in part "(i)" of this sentence separately and independently of the

and any after applicable cure period provided in the Loan Documents has lapsed

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other of such documents. The exercise of any one of the options granted in the immediately preceding sentence shall not prevent the later exercise from time to time by Assignee of any of the other options granted therein; provided, however, any such exercise shall automatically terminate all previous such exercises in order that only one of such options will be in effect at any one time.

In the event of a default or an alleged default under any of the Loan Documents,

12. At the expense of Assignor, Assignee is hereby given the authority to employ agents, attorneys and others in exercising, enforcing, performing or protecting Assignee's rights, titles or interests in any of the Loan Documents. Assignor agrees to reimburse Assignee for all monies advanced by Assignee in so exercising, enforcing, performing or protecting Assignee's rights, titles or interests in any of the Loan Documents, together with interest on all such advances by Assignee at the rate of four percent per annum in excess of the rate of interest which is then in effect with respect to the Note (assuming no default exists therein and that no acceleration of the unpaid principal balance thereof has occurred) from the date of each of such advances respectively.

13. Assignor agrees to deliver or cause to be delivered to Assignee written notice of and copies of any and all notices received by Assignor or Lessor in connection with said Leases -- ~~it being understood~~, however, that all such notices to be effective shall be given first to Assignee by the tenant giving such notice since Lessor's right to receive all of such notices has been assigned to Assignee herein.

14. In the event of any conflict between this Assignment of Leases, the Assignment of Rents or the Assignment of Income, this Assignment of Leases shall prevail; provided, however, nothing contained in this paragraph or in any of the Loan Documents shall ever be construed to deny Assignee the benefit of any rights, titles or interests granted to Assignee in any of such Loan Documents.

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15. Assignor covenants and agrees that neither Assignor nor Lessor shall commit, suffer or permit a default in or violation of any of the terms, covenants or conditions of the Leases.

16. If the Mortgage is a deed of trust or deed to secure debt instead of a mortgage; THEN AND ONLY THEN by making or purchasing (as the case may be) the loan evidenced by the aforesaid Note and the other Loan Documents, the Assignee acknowledges acceptance of this Assignment upon the terms herein stated, and the Assignee further agrees that all Leases shall at all times be and remain superior to the liens of the said Loan Documents except to the extent expressly provided to the contrary herein or by other written instrument executed either by Assignee or by others with the written consent of Assignee.

17. If any provision of this Assignment or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Assignment and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

18. This Assignment shall be interpreted, construed, and enforced according to the laws of the state of Illinois.

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This Assignment of Leases is executed by Assignor solely in the exercise of the authority conferred upon it as Trustee as aforesaid, and no personal liability or responsibility shall be assumed by, nor at any time be asserted or enforced against it, its beneficiaries (except as specifically provided in any Loan Document), agents or employees on account of any promises, covenants, undertakings or agreements herein or in said Note contained, either express or implied; all such liability, if any, being expressly waived and released by the mortgagee or holder or holders of said Note and by all persons claiming by, through or under said Mortgage or the holder or holders, owner or owners of said Note and by every person now or hereafter claiming any right or security thereunder. It is understood and agreed that Assignor, individually or as Trustee, shall have no obligation to see to the performance or non-performance of any of the covenants or promises herein contained, and shall not be liable for any action or non-action taken in violation of any of the covenants herein contained. It is further understood and agreed that the Assignor is not entitled to receive any of the rents, issues or profits of or from said trust property, and this instrument shall not be construed as an admission to the contrary.

IN WITNESS WHEREOF, the Assignor has executed this Assignment of Leases this 15<sup>th</sup> day of November, 1993.

AMERICAN NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO, not  
personally but solely as Trustee as aforesaid

By:   
SECOND Vice President

ATTEST:

  
ASSISTANT Secretary

THIS INSTRUMENT WAS PREPARED BY  
AND AFTER RECORDING RETURN TO:

Alison M. Mitchell, Esq.  
Rudnick & Wolfe  
203 North LaSalle Street  
Suite 1800  
Chicago, Illinois 60601

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STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF COOK )

I, Josephine Y. Hill, a Notary Public in and for said County in the State aforesaid, do hereby certify that [Name] Vice President of American National Bank and Trust Company of Chicago, and [Name], Assistant Secretary, of said Trust, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said Trust, as Trustee, for the uses and purposes therein set forth; and the said Assistant Secretary did also then and there acknowledge that he, as custodian for the corporate seal of said Trust, did affix the said instrument as his own free and voluntary act, and as the free and voluntary act of said Trust, as Trustee, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 15<sup>th</sup> day of November, 1993.

  
 Notary Public

My Commission Expires:

2/11/96

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4/11/2014 10:00 AM

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## JOINDER

The undersigned, being the owner of one hundred percent (100%) of the beneficial interest in, and being the sole beneficiary of the Trust which is the Assignor under the foregoing Assignment of Leases, hereby consents to and joins in the foregoing Assignment of Leases, intending hereby to bind any interest his or her heirs, executors, administrators, successors or assigns may have in the Property described in the foregoing Assignment of Leases, or any leases or other agreements relating thereto, as fully and with the same effect as if the undersigned were named as the Assignor in said Assignment of Leases. Nothing contained herein shall be deemed to render the undersigned or any partner, officer, agent or employee or any partner, officer or director of any partner of the undersigned (collectively the "Borrower") personally liable upon any obligation provided in the foregoing Assignment of Leases or under any other Loan Document executed in connection with the Note, and Assignee and any party claiming by, through or under Assignee waive and release Borrower from all personal liability for any indebtedness or cause of action for breach of any warranty, indemnity, representation, covenant, undertaking or agreement accruing hereunder or under the Assignment of Leases, and further agree not to seek, take or obtain against Borrower any deficiency judgment for amounts remaining unpaid under the Note or any other Loan Document after all the security for the Note (including, without limitation, hazard insurance proceeds and condemnation awards) has been applied to all amounts owed to Assignee under the Loan Documents, but shall look solely to the Property for satisfaction thereof; provided, however, that the foregoing shall not be deemed to restrict the imposition of personal liability against any party to the Indemnity Agreement of even date herewith executed by the parties in connection herewith as provided therein.

Dated: November 15, 1993

THE 40 EAST OAK LIMITED PARTNERSHIP, an Illinois limited partnership

By: The 40 Corp., an Illinois corporation

By: Ronald Berger  
Name: RONALD BERGER  
Its: President

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

On this 15th day of November, 1993, before me appeared RONALD BERGER, the PRESIDENT of The 40 Corp., an Illinois corporation, the general partner of The 40 East Oak Limited Partnership, an Illinois limited partnership, to me personally known, who, being by me duly sworn, did say that he executed the foregoing instrument as his free and voluntary act and deed and the free and voluntary act and deed of the corporation as general partner of the partnership for the purposes therein contained.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

OFFICIAL SEAL  
DANIEL G. MARRE  
NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXP. NOV. 23, 1996

[Signature]  
Notary Public - Signature

My Term Expires:

NOV. 23, 1996

DANIEL G. MARRE  
Notary Public - Printed Name

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11/11/11

11/11/11

COOK COUNTY CLERK'S OFFICE  
11/11/11

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## EXHIBIT A

LOT 6 (EXCEPT NORTH 8 FEET THEREOF TAKEN FOR ALLEY) IN COLLINS SUBDIVISION OF SOUTH 1/2 OF BLOCK 7 IN CANAL TRUSTEES' SUBDIVISION OF SOUTH FRACTIONAL HALF OF FRACTIONAL SECTION 3, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

ALSO

LOTS 1 AND 2 (EXCEPT NORTH 8 FEET OF EACH OF LOTS TAKEN FOR ALLEY) IN RESUBDIVISION OF LOTS 7 TO 9 IN COLLINS SUBDIVISION OF SOUTH 1/2 OF BLOCK 7 IN CANAL TRUSTEES' SUBDIVISION OF SOUTH FRACTIONAL HALF OF FRACTIONAL SECTION 3, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Pin 17-03-204-059

Street Address : 40 East Oak Street  
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## EXHIBIT B

	<u>Tenant</u>	<u>Square Footage</u>	<u>Date of Lease</u>
1.	My Sister's Circus	1,147	July 24, 1984, as amended August 31, 1992
2.	Berger Financial Services Corp.	3,079	September 1, 1991
3.	Sigmunt Kimmell d/b/a Cote d'or Coiffures	1,054	undated
<del>4.</del>	<del>Marina Tsonekos/Marina's Skin Care</del>	<del>1,135</del>	<del>May 25, 1989</del>
5.	Antionette Sciacca and Irina Bershadsky d/b/a Nail Gallery	1,163	May 19, 1989, as amended April 17, 1991
<del>6.</del>	<del>My Sister's Circus</del>	<del>664</del>	<del>September 18, 1991</del>

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## SCHEDULE I

[No disclosure made as of the date hereof]

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